

*Corporate Image, Product Positioning
and Brand Equity: Strategies in Using
Trademarks and Industrial Designs in
Marketing and Advertising*

WIPO ASIAN REGIONAL SYMPOSIUM

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www.wipo.int/sme

Corporate Image, Product Positioning and Brand Equity

- TRUST and RELATIONSHIPS are the bulwark of any enterprise, be it big or small, with a global or local ambit, having a traditional or modern management style, high tech or low tech, leader or follower, and irrespective of it being a part of the old world of 'brick and mortar' or a rising star reliant on e-commerce

Centrality of Knowledge



KNOWLEDGE underpins PERFORMANCE

But...



**Wolfgang Stofer, Director of BMW's
Treasury Department:**

**“Whenever the technology becomes
commoditized, we buy it from third
parties”.**

Building Trust and Relationships

- A Brand is a consistent, holistic pledge made by a company, the face a company presents
- A Brand serves as an unmistakable symbol for products and services
- “Business card” a company proffers on the competitive scene to set itself apart from the rest

Trust is to Business

What Trademark is to Brand

- Brand Equity built on the foundation of a protected Trademark
- Brand/Trademark can:
 - (a) be disposed off separately from other company assets (Free-standing Institutions); and
 - (b) give rights that can be legally protected

Brand/Trademark

- Trademark: Legal concept
- Brand: Marketing concept
- Registration of a brand adds value as it protects its other inherent assets
- Brand profile and positioning may vary over time, but trademark protection remains the same

Creating/Designing a Trademark



- **Inherently distinctive**
- **Easy to memorize and pronounce**
- **Fit the product or image of the business**
- **No legal restrictions**
- **Positive connotation**

WHAT IS A TRADEMARK?



- Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark.
- Words including personal names, letters, numerals, figurative elements (logos), combination of colors, sounds, smells, etc
- Visually perceptible; 2D or 3D (shape)

Definition of a Brand



(1) Defines the differential features of a product or service:

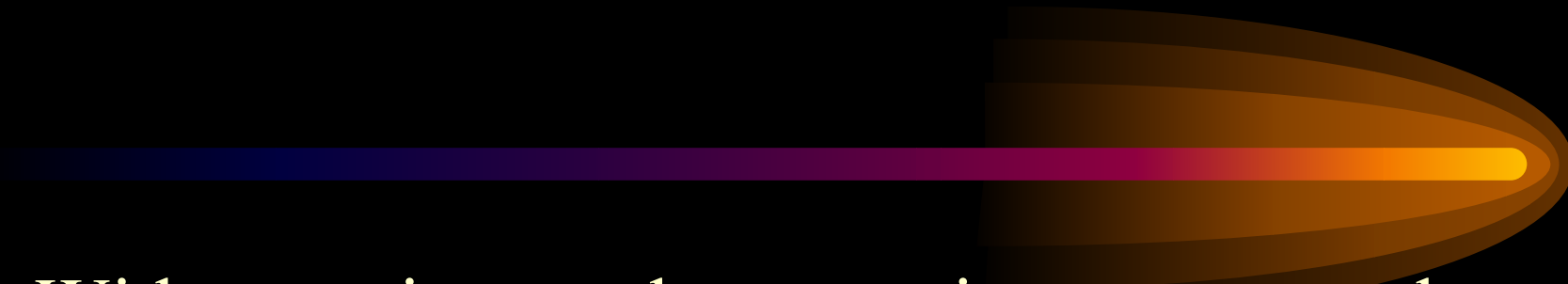
- Real or Imaginary
- Rational or Irrational
- Tangible or Intangible

Definition of a Brand Contd...

(2) Constitutes an image that creates a personal experience:

- Own
- Third party
- Imaginary

Definition of a Brand Contd...


- 
- (3) With conscious and unconscious contents that the consumer projects and deposits on it;
 - (4) Constitutes part of and builds up his/her identity;
 - (5) Generates certain perceptions, attitudes and behaviors and enables fulfillment in their lives

Brand Identity



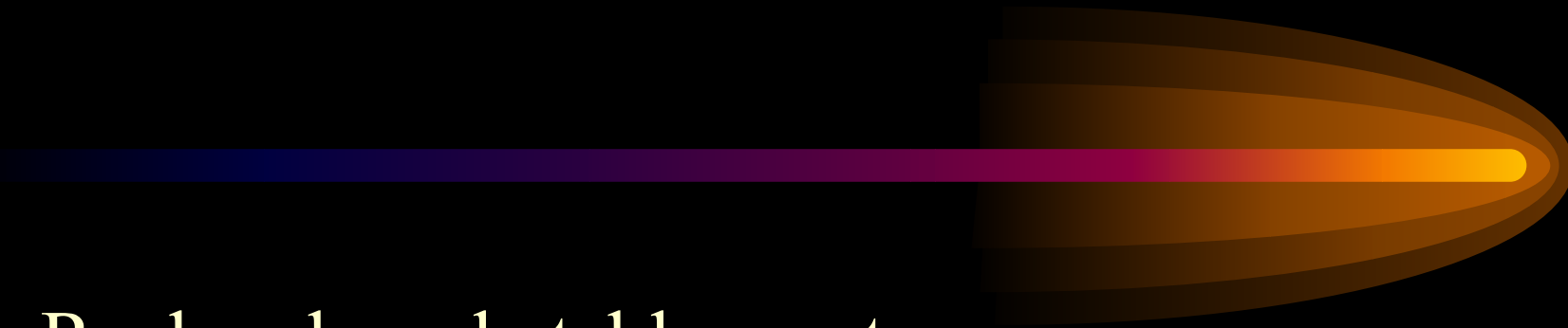
- **Mind share (cognitive level)**
- **Heart Share (Emotional relationship)**
- **Buying intention share**
- **Self share (self-expression and self-design)**
- **Legend Share (cultural-sociological proposition; legendary; mythological)**

Role of Brands: For the Company




In a highly competitive world where manufacturers are losing their pricing power, branding is seen as a way of clawing back some of the lost influence.


Role of Brands: For the Company

- 
- Real and marketable asset
 - Higher profit margin (Price Premium)
 - Incremental cash flow
 - Reduces cash flow sustainability risk


Role of Brands: For the Company

- 
- Accelerates speed of cash flow
 - Increases bonding and customer loyalty
 - Increased market share
 - Entry barrier
 - Limits growth of competitors


Role of Brands: For the Company

- 
- Requires lower investment levels
 - Better negotiating position with trade and other suppliers
 - Facilitates higher product availability (better distribution coverage)
 - Dealers order what customers explicitly request


Role of Brands: For the Company

- 
- Extends products' life cycle
 - Allows lower cost brand extensions
 - Can be the basis for international expansion
 - Provides legal protection; licensing; franchising
 - Buffer to survive market or product problems

Role of Brands: For the Company

- 
- Value of Brands is a key determinant of enterprise value and stock market capitalization
 - Financial markets reward consistently focussed brand strategies
 - Brand management a vital ingredient for success in corporate strategy

But...

- 
- Brand Building Requires Time and Money;
 - Brand Nourishing Should be a Continuous Process;
 - Higher Profile/Exposure, Greater its Vulnerability;
 - Can be Target of Counterfeiting/Criminal Activities;

Time required...



“It took seven years of marketing before car buyers began to recognize that the BMW brand was distinctive”: Jorg Zintzmeyer, board member of Interbrand, p 33 of FORBES Global, July 22, 2002 in “The best-driven brand” by Nigel Hollway

So...



The cost of building a brand can be very substantial over a period of time. That is why buying a brand sometimes makes sense to many companies.

Morgan Stanley's Pettis Report on the relationship of corporate brand strategy and stock price shows that....

- “Smart strategies can result in stock price appreciation by 2 to 9%”
- “Positive Correlation between corporate improvements in brand strategy programs and a positive stock market return
- Starbucks: P/E ratio of 47!

Aaker and Jacobson's research paper entitled "The Financial information Content of Perceived Quality" demonstrates that...

“Brand building for 34 major U.S. corporation did positively pay off where it really counts in our system- for the shareholder. Not only is stock market return positively related to ROI, but to changes in brand strategy programs as well”

COMMON MISTAKES
of
High Technology Industries contd..



Tend to think of Brand
as a TECHNICAL
FEATURE

Brand/Trademark Contd...

- In highly competitive markets brands disappear much faster than their trademarks protection period, or are adapted to protect a different product over time;
- In many countries, to enforce trademark rights, the owner of the trademark has to provide evidence or proof of use of the mark in relation to the goods or services specified in the trademark register, aside from proof of infringement.

Creating a New or Stronger Image...



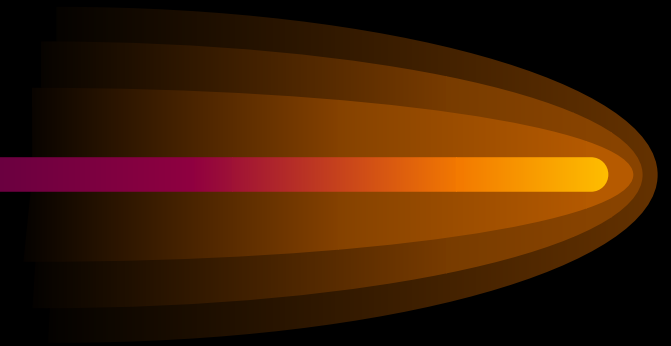
Requires...

A viable product or service

Positioning...

VOLVO = SAFETY

UNIQUE VALUE PROPOSITION



COMMON MISTAKES
of
High Technology Industries



- Promote their Brands based on a list of features or attributes

“Brand” Companies

Nike...


Adidas...

Reebok...

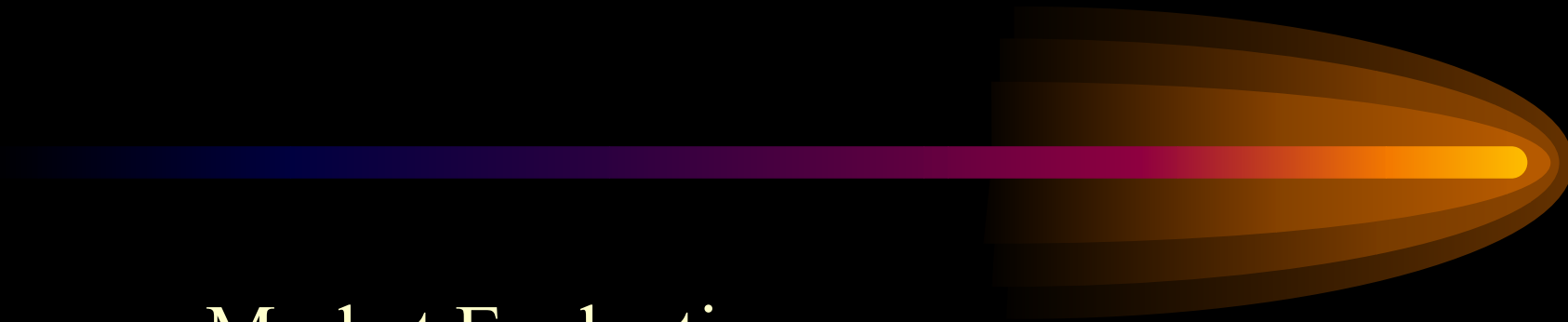
Levi-Strauss...

...Own No Factories

Proactive Protection Program

- 
- Trademark Search/Investigation
 - Domain Name Investigation/Internet Search
 - Counterfeiting Investigation
 - Grey Market Investigation
 - Market Evaluation

Proactive Protection Program contd...

- 
- Market Evaluation
 - Factory/License audits
 - Consumer Agency Audit
 - Human Rights Audit

Value of Strong Brand



A Strong Brand brings with it the opportunity to raise the profile of a product and the company that sells it, setting them apart from rivals in the marketplace.

Value of Strong Brand Contd...

- **A Strong Brand can also command a price premium for its producer, and can reduce the price elasticity, that is, soften consumer reaction to price increase/change**

Value of Strong Brand Contd...

- **A Strong Brand can reduce the risk that new product launches will flop and can be used as a platform for successful brand stretching (including launching a completely new product segments or sector)**

Top Luxury Brands (FutureBrand)



Four Measures of Brand Quality

- (1) Degree of control of distribution channel
- (2) Effectiveness of marketing
- (3) Media visibility
- (4) Influence of brand on purchase decision

Top Luxury Brands (FutureBrand)



Rank	Brand	Total
1	Absolut	29.6
2	Harley-Davidson	29.5
3	Tiffany	28.7
4	Ritz-Carlton	27.3
5	BMW	27.1
6	Chanel	26.8

Value of a Premium Brand



Premium autos have a higher resale value, stronger brand loyalty and bigger profit margins than mass-produced cars. This in turn enables the premium car makers to spend more on Research and Development (R & D) to make better, more advanced cars with a powerful brand image.

Drivers and Indicators of Brand Strength



DRIVERS

- Perceived Quality
- Brand Knowledge
- Brand Positioning
- Brand Identity

INDICATORS

- Willingness to pay a price premium
- Acceptance of brand extensions
- Brand loyalty
- Brand's future prospects

Value of a Brand = Brand Equity



A Company's Most Important Asset;

Like the Reputation of a Person!!!

Brand Equity (Aaker)



- Name Awareness (precondition)
- Brand Loyalty (at the core)
- Perceived Quality (purpose, alternatives)
- Brand Associations (security, confidence, exclusivity)
- Other Brand Assets (Legal and institutional benefits; Trademark, markets, distribution channels)


A Brand's significance and contribution to success expressed as a monetary value

Around half of the capitalized value of companies worldwide consists of brand and name rights, which means that a brand, or brand value, can literally be a company's most valuable asset

Sale and Restructuring of Corporate Groups

A prudent buyer of a business would like to have the right, either by license or ownership (transferred by assignment), to use the goodwill attached to the business's trademark(s)

Hierarchy of Brands: *House Brand*



House Brands: “Family” Branding, when an existing product or service line is extended and/or where the business seeks to capitalize on the brand’s reputation in a new unrelated business area

Hierarchy of Brands: House Brand Contd...

Examples of House Brands:

- **GENERAL ELECTRIC**
- **WOOLWORTH'S**
- **CADBURY**

Multibrand Strategy

- Estee Lauder: Controls 50% of U.S. top-drawer product sales by buying up niche brands that cater to different age or affinity segment
- Nissan: It has a market capitalization double that of Renault, even though Renault owns 44.4% share of Nissan and Nissan owns only 15% of Renault. The implication is that investors view Renault as close to worthless apart from its ownership of Nissan share. Nissan is reconstituting its technology, rebuilding its brand

Multibrand Strategy




- Shiseido: Mimicking the multibrand strategy of Estee Lauder, Shiseido has some 80 brands, mostly sold inside Japan. Partnership with Limited Brands, one of world's best retail outfits to develop a new chain of specialty stores. Shiseido manufactures the products for the shops called Aura Science; Limited handles everything else

Multibrand Strategy



- UNILEVER: Profits in 2001 were boosted by sale of a number of brands, part of a plan to push such core brands as ‘Dove’ soap and Lipton tea while shedding other goods, such as Elizabeth Arden makeup. Plans to slim the product portfolio to only (!) 400 brands by 2004. That’s still too many, but it is fewer than the 900 that UNILEVER now offers

Issues that can affect brand value

- 
- New inventions
 - Adaptability to change (Management, Employees)
 - Changes in consumer tastes
 - Situation and trends in the economy
 - Industry trends and brands trends
 - Impact of technological developments

Issues that can affect brand value

- Impact of changes in channels of distribution
- Actions of competitors
- Evolution of costs
- Investments in brand image development
- Political, legal and regulatory environment
- Litigation, counterfeiting, etc

Issues that can affect brand value


- Cultural environment

- Specific events:

(1) Bridgestone-Firestone and Ford's problems, denials, product recall and mutual blaming.

(2) Enron, (3) Andersen (4) Snow Brand Milk Products (5) WorldCom (5) Xerox


Brand consistency is a key goal that a company should achieve over time.



It implies consistent consumer understanding through:

- **Consistent brand equity positioning**
- **Consistent consumer bonding**

Major enemies of brands

- 
- Under nourishing
 - Excessive milking
 - Excessive line extensions
 - Excessive repositioning
 - Excessive promotions

Other problems with a brand



- Negligence and lack of cultural insight and sensitivity

(1) Chevrolet launched “NOVA” only to learn that in Spanish the brand means “Does not work”!

(2) Volkswagen with its “Jetta” model, which means bad luck in Italy

Other problems with a brand contd...



- Negligence and lack of cultural insight and sensitivity

(3) Procter & Gamble= Japanese market

(4) Pepsi's Taco Bell Brand= Mexico City

Other problems with a brand contd...

- Negligence and lack of cultural insight and sensitivity

(5) Mitsubishi's 4x4 "*Pajero*" vehicle=In Spain and Argentina, they had to change "*Pajero*" to "*Montero*" as it translates to: "he, who masturbates, frequently"

Other problems with a brand contd...

- Negligence and lack of cultural insight and sensitivity

(6) Well-known Italian mineral water brand “Traficante” in Spanish means a drug dealer.

Other problems with a brand contd...

- Brands becoming Generics: Some brands become so popular and successful over time that they become generic: Examples:
 - (1) DuPont's "nylon" and "rayon" brands;
 - (2) ICI's "cellophane"; (3) Bayer's "Aspirin"
 - (4) IBM's "PC" brand; (5) Cynamid's "Formica"

Brand Valuation Models (I)

- Market Approach: Based on similar or comparable brands
- Cost approach or Net Book Value
- Cost of Reproduction or Recreation
- Price Premium
- Real Option Method
- Royalty Relief
- Economic Use or Income Approach
- Economic Value Added
- New Generation Models on the market

Brand Valuation Models (II)



- Business finance models (Quantitative)
- Psychographic/behaviorally oriented models (Qualitative)
- Composite financial/behavioral models
- Input/output and portfolio models
(Establish a relative Brand value Index)

Importance of monetary value

- It serves as a corporate planning and monitoring tool--for instance, in terms of budgeting brands at companies with multiple brands.
- At the same time, brand value is also used as a yardstick to measure success and a basis for compensating brand management.
- Thus brand value functions as an evaluation tool for the marketing concept as a whole.

Importance of monetary value

- Strategic brand decisions can be made by brand management thanks particularly to ongoing tracking of a company's brand value and/or comparison with the brand value of competing brands
- FORD paid Euro 6,2 billion for the Jaguar brand

Management of Brands



- Registration and renewal; domestic or abroad
- Trademark/Brand Audit
- Assignment (with or without the business)
- Licensing (Exclusive or non-exclusive; Quality Control; registered user)
- Franchising
- Managing Tax Liability (M & A; Divestiture)
- Insurance

Management of Brands



- Counterfeiting
- Parallel Importation
- Digital trademarks/domain name conflicts
- Co-branding
- Dilution or misleading use
- Advertising
- Marketing
- Copyright

Management of Brands



Corporate Restructuring Options:

- Forming subsidiaries
- Outsourcing key operations
- Transferring discrete operations (such as manufacturing and product design) within the country or abroad
- Defining the scope of what is licensed (segmentation of the market; territorial or online, range of products, services)

Management of Brands

- Brand core development
- Brand positioning
- Brand differentiation
- Brand penetration via the marketing mix
- Brand stretching
- Brand strategy/brand architecture
- Brand transfer
- Brand globalization
- Trade marketing

Role of Design

"The goal of design is to sell" he said, and to drive the point home he added " the loveliest curve I know is the sales curve."

- Raymond Loewy

" Between two products equal in price, function and quality, the better looking will outsell the other."

- Raymond Loewy

Role of Design



- Design provides the overall appearance, form-factor, layout, style and balance of the product, within the context of branding expectations.
- The visual appearance of a product cannot be added at a late stage in a project. It has to be fully integrated into the conceptual design. Thus this role has to be active throughout the project, making strong contributions at every design phase.

Role of Design



Industrial Design is defined as the professional service of creating and developing concepts and specifications that optimize the function, value and appearance of products and systems, for the mutual benefit of both user and manufacturer.

Role of Design



- In the retail environment purchase decision is based on a number of variables - the consumer's perception of the brand, brand recognition and indeed the aesthetic appeal of the product itself.
- http://www.sonicrim.com/red/us/commune/papers/chung_STONE.pdf

Role of Design


- *Magnesium was the new Titanium at the ICFF - International Furniture Fair in New York. Welsh designer Ross Lovegrove's magnesium built Go chair epitomizes the hype of the new forms and materials, which has brought design closer to fashion.*
- It seems as if fashion and design have been paired off almost inseparably. This affair has brought design under the same rules as fashion.

International Treaties



- Paris Convention
- Nice Classification (Goods and Services)
- Vienna Classification (Figurative Elements)
- Trademark Law Treaty
- Madrid Agreement and Protocol
- TRIPS Agreement of WTO

THE MADRID SYSTEM



Objectives and Basic Features
Relationship Agreement and
Protocol
Safeguard Clause

OBJECTIVES



Registration and Administration of
Trademarks in up to 70 Countries


- through a single procedure
- with a single administration
- in a single language

BASIC FEATURES



- One System - Two Treaties
- Closed system
- Single international registration
- Effect of national application or registration
- Basis for international registration

One System - Two Treaties



Madrid Agreement Concerning the
International Registration of Marks (1891)

Protocol Relating to the Madrid Agreement
(1989)

Closed System



- Attachment necessary
 - establishment
 - domicile
 - nationality
- Office of Origin

Single International Registration



- Common Regulations
- International registration
 - under Agreement
 - under Protocol
 - mixed
- National effect in designated countries
 - “bundle of rights”

Procedure



- Indirect application
 - via national office
 - formal examination
 - registration
 - notification and publication
 - refusal (or not)

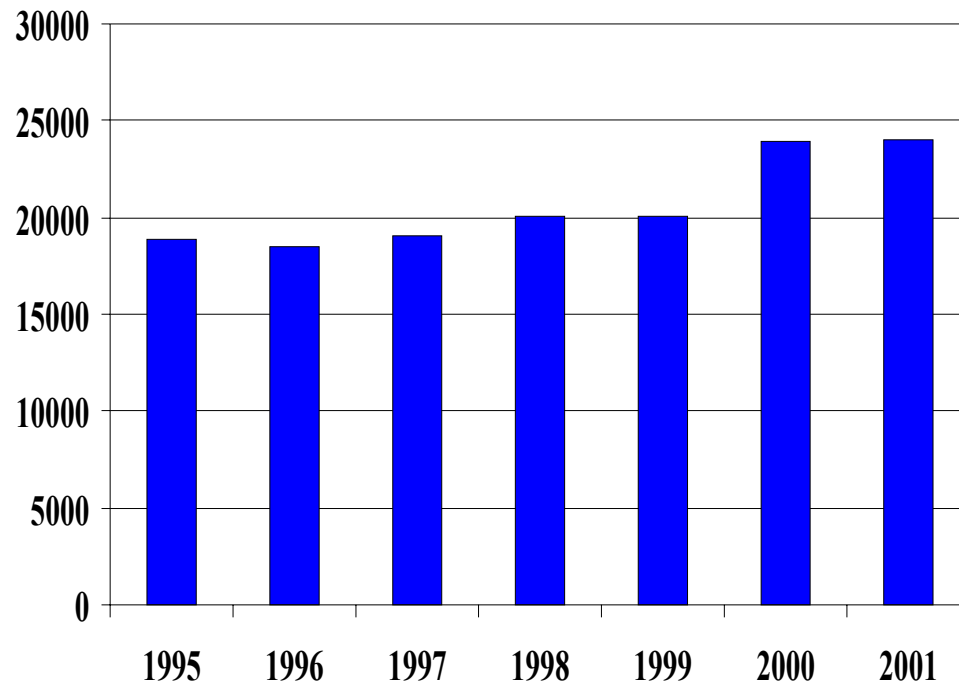
Bundle of National Rights



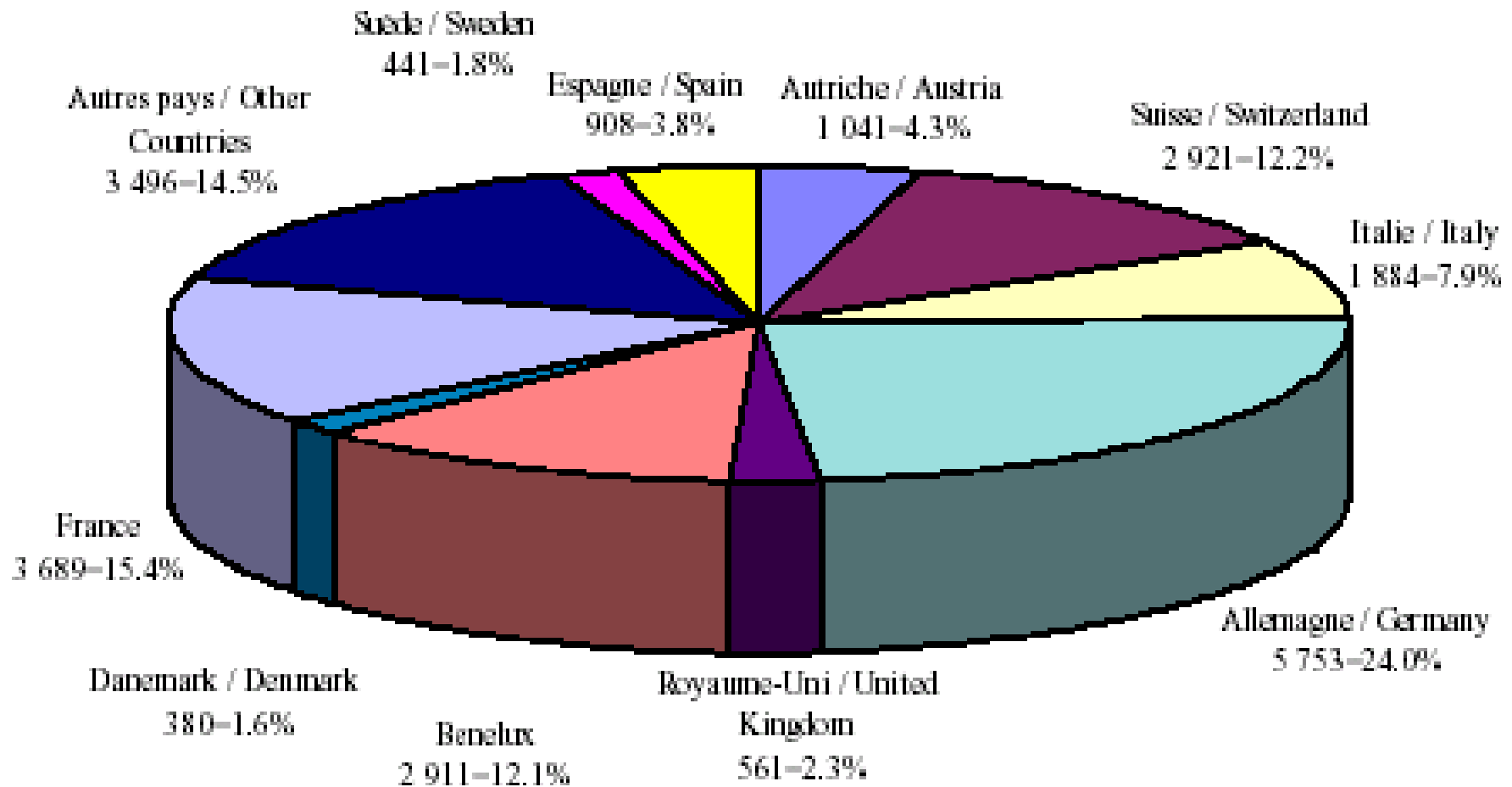
- National (designated) Offices determine
 - substantive conditions of protection
 - applicable procedure if refusal
 - scope of protection

International Registrations

(1995-2001)



Enregistrements par pays d'origine
Registrations by Office of Origin



Agreement and Protocol



Comparison

Comparison



- Basis of the international application
 - entitlement
 - language
- Refusal of protection
- Fees
- Transformation
- Regional Systems
- Safeguard Clause

Basis of the International Application




- National registration (A)
- National registration or application (P)
- Entitlement
 - cascade (A)
 - applicant's choice (P)
- Language
 - French (A)
 - French or English (P)

Refusal of Protection

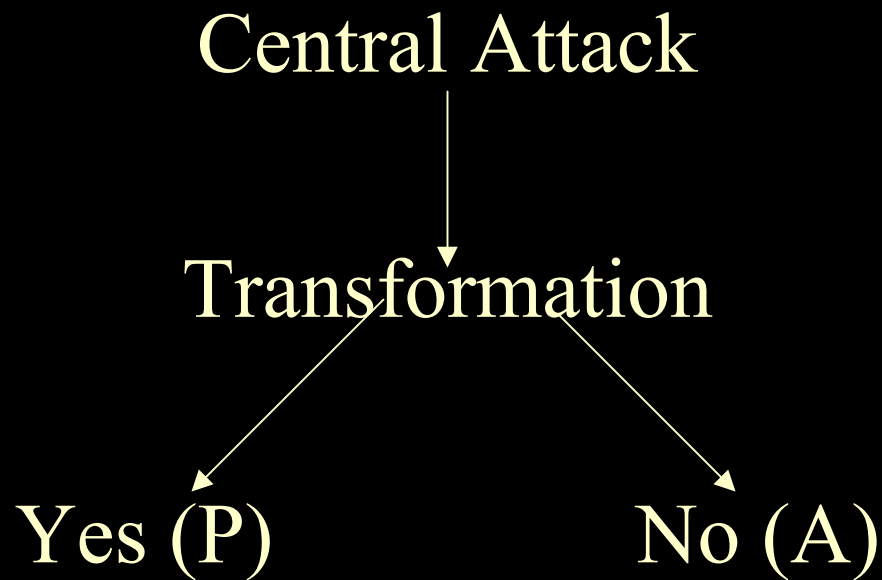


- 12 months (A)
- 12 months or 18 months (P)
 - or more in the case of an opposition

Fees

- 
- Complementary fee per designation (CHF 73) (A)
 - Option for individual tax per designation

Transformation



Contracting Parties



- States (A)
- States and certain Intergovernmental Organizations (P)

Safeguard Clause



Between Contracting Parties to the Agreement and the Protocol, the Agreement is applicable