

SELECTED CONTEMPORARY ISSUES IN THE FIELD OF TRADEMARKS



FRANCK FOUGERE

CONTEMPORARY ISSUES

A WORLD OF BRANDS

CHINA

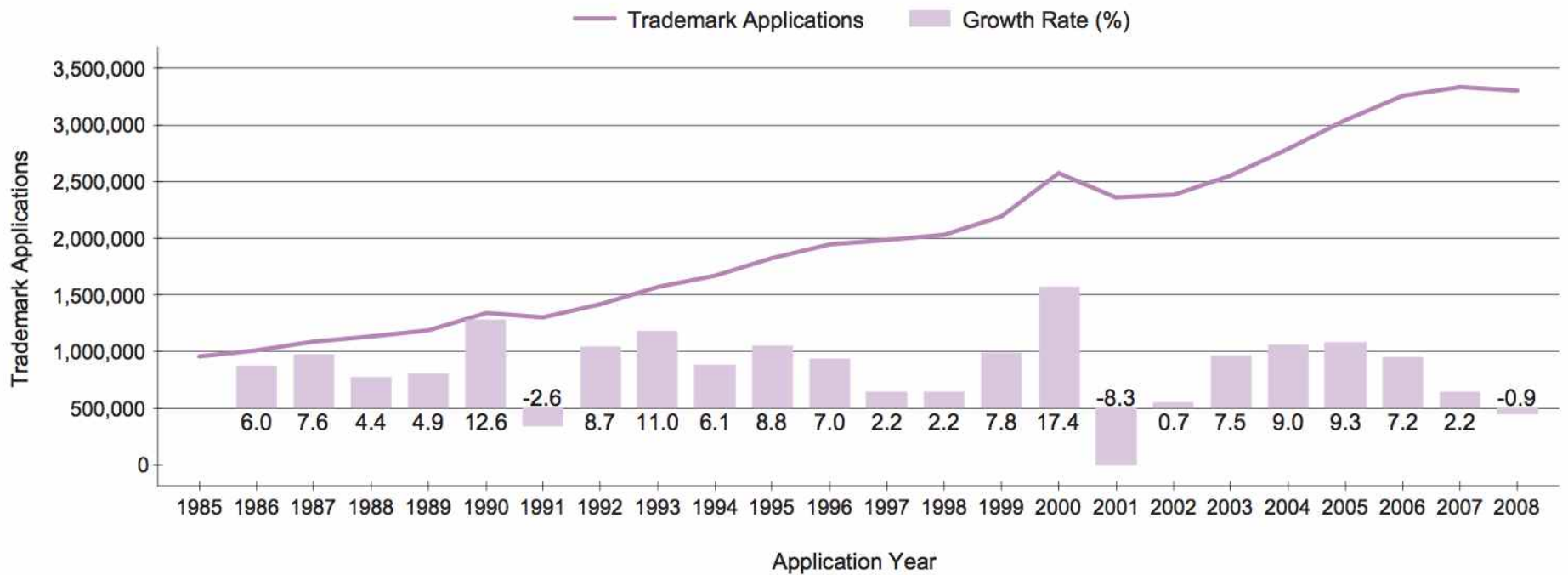
COUNTERFEITING

INTERNET (SEE TOPIC 8)

A WORLD OF BRANDS

Figure B.1.1a Trend in total trademark applications and registrations

Trademark applications



TOP 10 BRANDS

+	Rank	Previous Rank	Brand	Country of Origin	Sector	Brand Value (\$m)	Change in Brand Value
+	1	1		United States	Beverages	70,452	2%
+	2	2		United States	Business Services	64,727	7%
+	3	3		United States	Computer Software	60,895	7%
+	4	7		United States	Internet Services	43,557	36%
+	5	4		United States	Diversified	42,808	-10%
+	6	6		United States	Restaurants	33,578	4%
+	7	9		United States	Electronics	32,015	4%
+	8	5		Finland	Electronics	29,495	-15%
+	9	10		United States	Media	28,731	1%
+	10	11		United States	Electronics	26,867	12%

www.interbrand.com

TOP 20 BRANDS

+	11	8	 TOYOTA	Japan	Automotive	26,192	-16%
+	12	12	 Mercedes-Benz	Germany	Automotive	25,179	6%
+	13	13	 Gillette	United States	FMCG	23,298	2%
+	14	14	 CISCO	United States	Business Services	23,219	5%
+	15	15		Germany	Automotive	22,322	3%
+	16	16		France	Luxury	21,860	4%
+	17	20		United States	Electronics	21,143	37%
+	18	17		United States	Tobacco	19,961	5%
+	19	19	 SAMSUNG	South Korea	Electronics	19,491	11%
+	20	18	 HONDA	Japan	Automotive	18,506	4%

GLOBAL BRANDS FACE CHALLENGES...

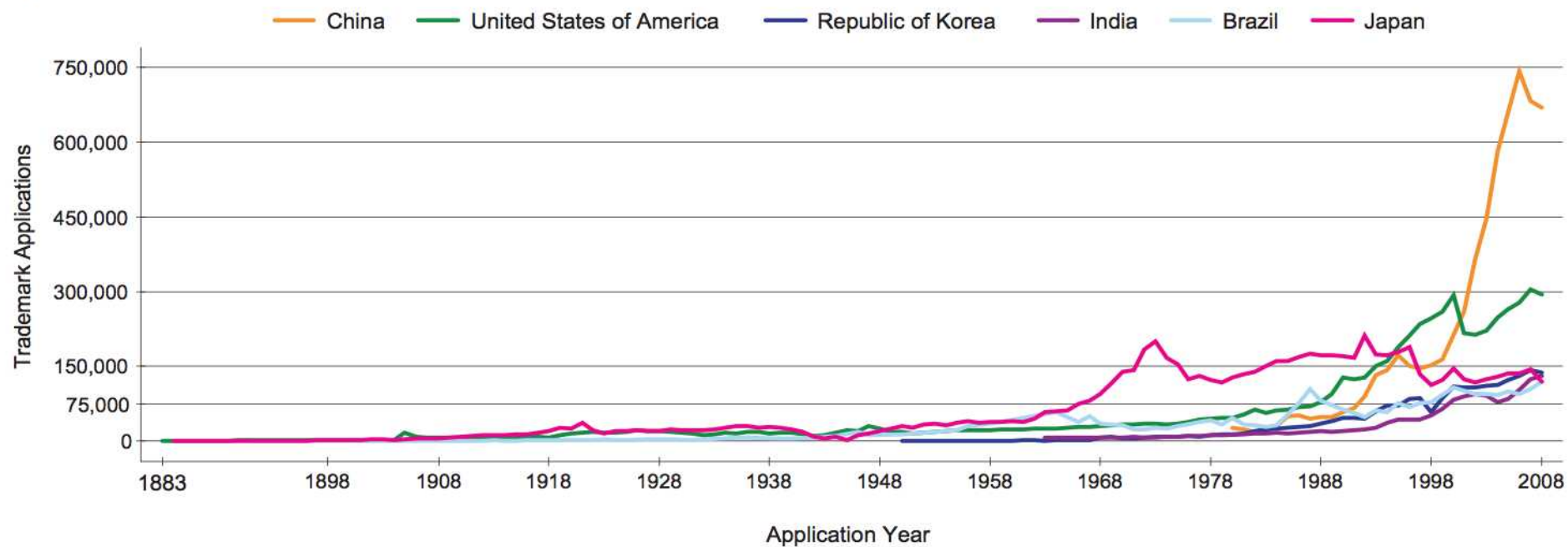
- COUNTERFEITING/PASSING-OF
- BRAND IMAGE
- VALUATION
- GENERICIZED TRADEMARK
(ASPIRIN, TIPP-EX, THERMOS, HEROIN)



CHINA

The total amount of trademark applications filed with the **CTMO has exceeded 1 million in 2010**, i.e. 1.003 million, significantly increased from 2009 by 21 %.

Figure B.2.1 Trend in trademark applications at selected IP offices



China is confronted with major challenges regarding TM protection:

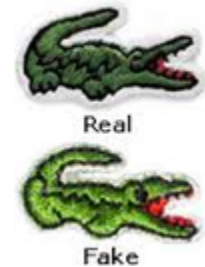
- Availability issue
- TM disputes (squatting, non-use etc...)
- Counterfeiting

COUNTERFEITING

WHY?

CREATE A CONFUSION BETWEEN ORIGINAL PRODUCT AND COUNTERFEIT PRODUCT TO:

- TAKE OVER IP RIGHTS, TECHNOLOGY OR KNOW-HOW;
- APPROPRIATE A BRAND IMAGE/NOTORIETY
- PROFIT FROM INVESTMENTS MADE BY ORIGINAL OWNER (MARKETING/R&D ETC...)



A LONG STORY ...



ROMAN AMPHORA
(MUSEUM OF COUNTERFEIT
GOODS, PARIS)

« CHINESE CALLIGRAPHY »
ART OF COPY



TODAY...



THE GREY ZONE: PASSING-OF



Mercedes Classe C vs Geely Merrie 300

THE GREY ZONE: PASSING-OF



Smart vs. Chinese Smart

THE GREY ZONE: PASSING-OF



BMW 7 vs BYD F6

THE GREY ZONE: PASSING-OF



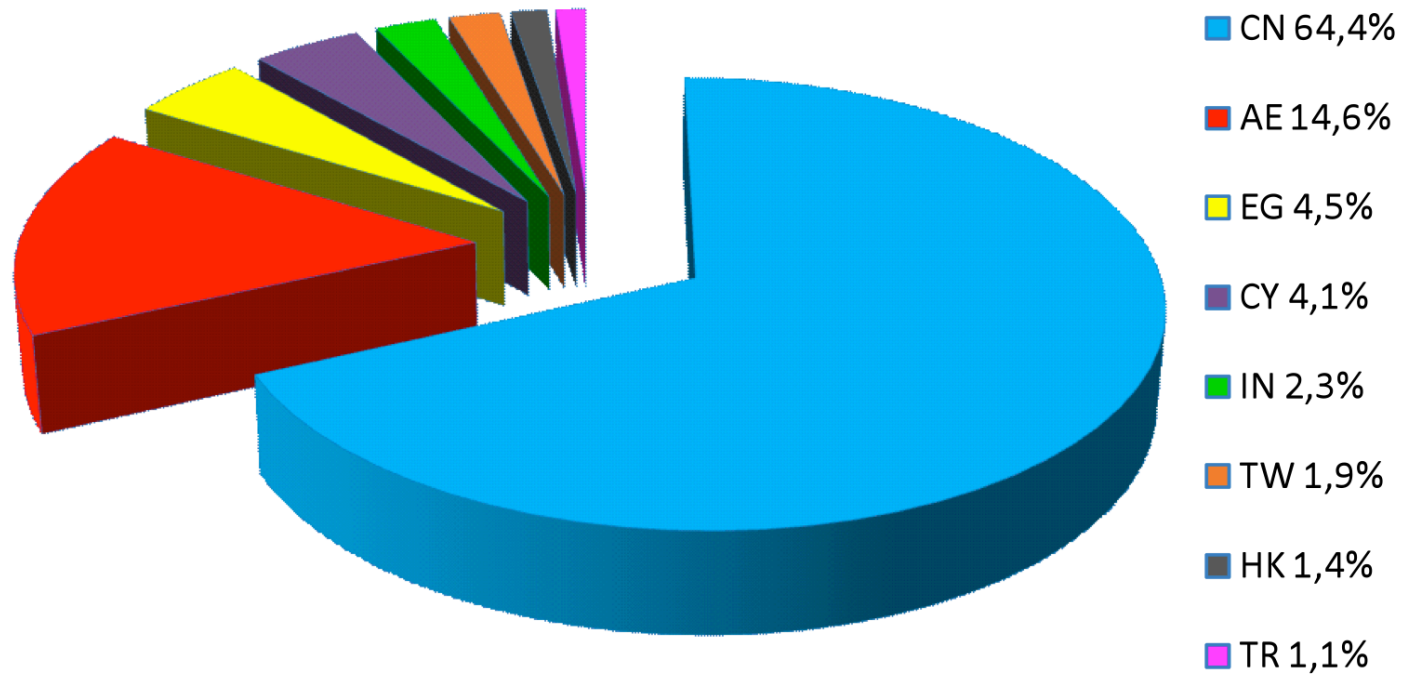
BMW vs BYD

A FEW NUMBERS...

- **250 BILLION DOLLARS PER YEAR (2009)**
- FAKE MEDICINES REPRESENT **10%** OF WORLD PHARMACEUTICAL MARKET (WHO)
- **11%** OF COUNTERFEIT GOODS SEIZED AT EU BORDER ARE CONSIDERED DANGEROUS
- IN A FEW ASIAN COUNTRIES (SUCH AS CAMBODIA) SOME MEDICINES ARE WIDELY COUNTERFEIT (MORE THAN **50%** FOR ARTESUNATE IN RURAL AREAS)

ORIGIN

COUNTRIES OF PROVENANCE (2009 EU STATISTICS)



FAKE MEDICINES

1-6% OF MEDICINES SOLD IN DEVELOPED COUNTRIES ARE COUNTERFEIT

ALL KINDS OF MEDICINES :

- ANTIBIOTICS, VACCINES
- ANALGESICS, ANTIHISTAMINIC
- COMFORT MEDICINES (VIAGRA[®], CIALIS[®]...)



THESE MEDICINES CAN CAUSE DEATH, FAILURE OF TREATMENT AND DRUG RESISTANCE.

EXAMPLES

- 1995: **PASTEUR AND SMITHKLINE ANTI-MENINGITIS VACCINES IN NIGERIA:**
3 000 PEOPLE DIED.
- 1990-2006: **CAOUGH SYRUP CONTAINING DU GLYCOL ETHYLENE:**
89 CHILDREN IN HAITI, 30 BABIES IN INDIA, 21 PEOPLE IN PANAMA
- SINCE 2006: **TAMIFLU** (5 000 COUNTERFEIT BOXES SEIZED IN UNITED KINGDOM IN 2006)

HOW TO TELL THE DIFFERENCE?



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FOOD PRODUCTS

- **1,9 MILLION** COUNTERFEIT FOOD PRODUCTS SEIZED AT EU BORDERS IN 2008
- BABY MILK (DOZEN OF DEATHS IN CHINA)
- FANTA: 4 000 FAKE BOTTLES SEIZED IN FRANCE
- “MÉCHOUIA” SALAD, 65000 POTS SEIZED IN FRANCE IN 2006
- FAKE TUNA IN THAILAND EXPORTED TO THE MIDDLE-EAST



TOYS

- **12% OF EUROPEAN MARKET**
- **LEAD**
- **FAKE BATTERIES**



SPARE PARTS

- 2% OF SPARE PARTS FOR PLANES: CONCORDE (2000)
- **166 AIRPLANE ACCIDENTS** IN USA IN THE LAST 20 YEARS CAUSED BY COUNTERFEIT SPARE PARTS
- **10 %** OF US PLANES CONTAIN FAKE SPARE PARTS
- **5 % TO 10 % OF CAR SPARE PARTS** IN EU ARE CONSIDERED TO BE FAKE



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