

The Significance of Socialistic brands within the Trademark System



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Socialistic brands



Used to distinguish commodities offered during the **period of socialism** within a **given territory** belonging to the **Socialist Bloc**



Each such territory has its own, unique socialistic brands



Subject to particularities of **socialist culture, socialist market rules** and **various inconsistent legal rules**



Ostalgia



Trademarks today



Autonomous, complex figures



Carry within themselves a **personal relationship with the end-user**



Consumers use trademarks in order to **communicate with each other through consumed commodities**



Modern branding - create an active emotional response



Appeal to **memories, identities and feelings** of consumers

Socialistic brands (2)



Characterized by high differential value and being carriers of **unique messages**



Effect of socialistic signs on a post-communist society is far from limited to the part of society that experienced socialism first-hand (sociology, semiotics, psychology, anthropology)



Very different than ,vintage brands'

Socialistic brands (3)

Shared historical pedigree:



Intensively used for a substantive time within a given territory



Little competition in the product market



Low incentives to invest in the product quality / brand



Scarcity of goods

Modern branding



Dominance of so-called **emotional branding**



Blurring the line between the cultural and commercial meanings of signs



Main goal of any trade mark strategy is to **establish, strengthen and stabilize association**



Appeal to **memories, identities and feelings**



This is **time and resources consuming**



Signs that already carry unique and strong cultural meanings sought after

Trademarks today (2)



Role of the trade mark in branding could be described as that which **obscures the origin**



Create, establish and protect a superior myth

Socialistic brands (4)

In trademarks strategy:



At the center of their bond with consumers **strong and uniquely acquired cultural meaning**



Derives from their **collective use** by a particular society



Significantly contributes to the **selling power**



An undertaking entitled to **legally sanctioned exclusivity** over these signs hold a **uniquely advantageous position**

Trademarks:

-  Distinguish commodities of particular source from other commodities
-  Potentially perpetual term of exclusivity
-  Lower consumer search costs
-  Incentivize investment in quality of commodities
-  TM law is competition neutral

Socialistic brands

☉ Should these signs be treated **differently** from the point of view of trademark law?

☉ If yes, then what are the **legal consequences?**

Modny stroj

unjustifiable appropriation

Trademarks:



~~Distinguish commodities~~ of particular source from other commodities



Potentially perpetual term of exclusivity



~~Lower consumer search costs~~



~~Incentivize investment in quality of commodities~~



~~TM law is competition neutral~~

Unjustifiable appropriation

Two scenarios of Socialistic Brands:



Abandoned Socialistic Brands



In most cases should remain **outside of the scope of TM exclusivity**



Socialistic Brands which are in continuous use



Allowed in most cases, if the current owner is a **legal successors** of the original users



(source:

(sources:source: http://www.oldradio.pl/foto_schematy/rekI00129.jpg; source: <http://www.sklepunitra.pl/>; <http://olx.pl/oferta/sluchawki-unitra-sn50-oryginalne-opakowanie-z-gwarancja-z-1975r-CID99-IDaMohh.htm#a7499357c9>; <http://bufetp.pl.com/2013/05/25/srodek-transportu-dla-wyjatkowych-towarow/> <http://www.ekonomia.rp.pl/galeria/706165,1,1072971.htm#bigImage>)

Case study: Herbapol

Continuous use by a legal successors -
not always a clear case...



Legal means of addressing the unjustifiable appropriation

Trademark law:

- Generic / Descriptive
- Registered in Bad Faith
- Contrary to public policy
- Other grounds of refusal

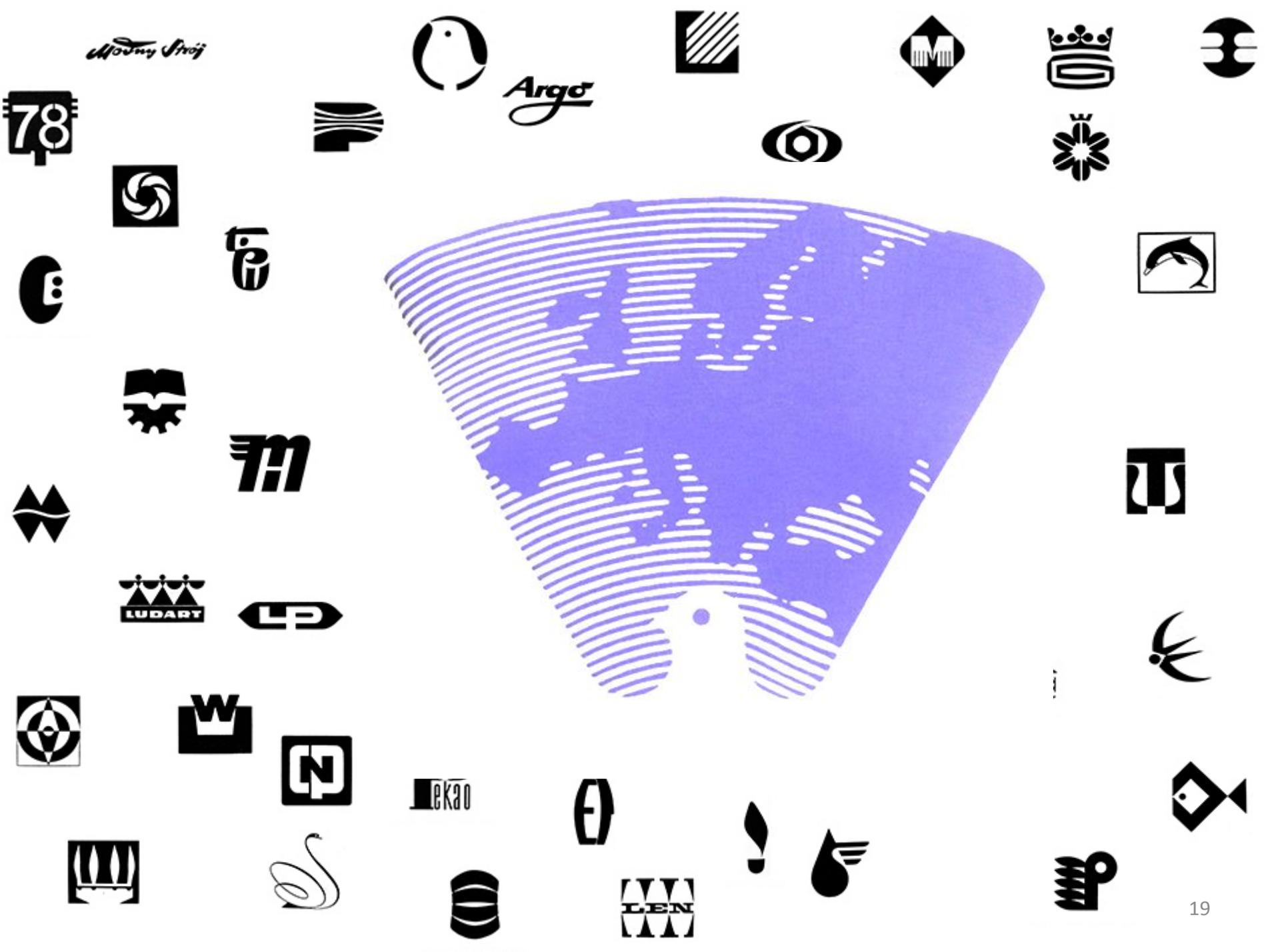
General issue: legitimacy

Residual Goodwill ?

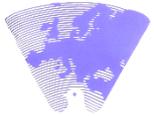
Other IP rights?



Only a Socialistic Brands dillema?



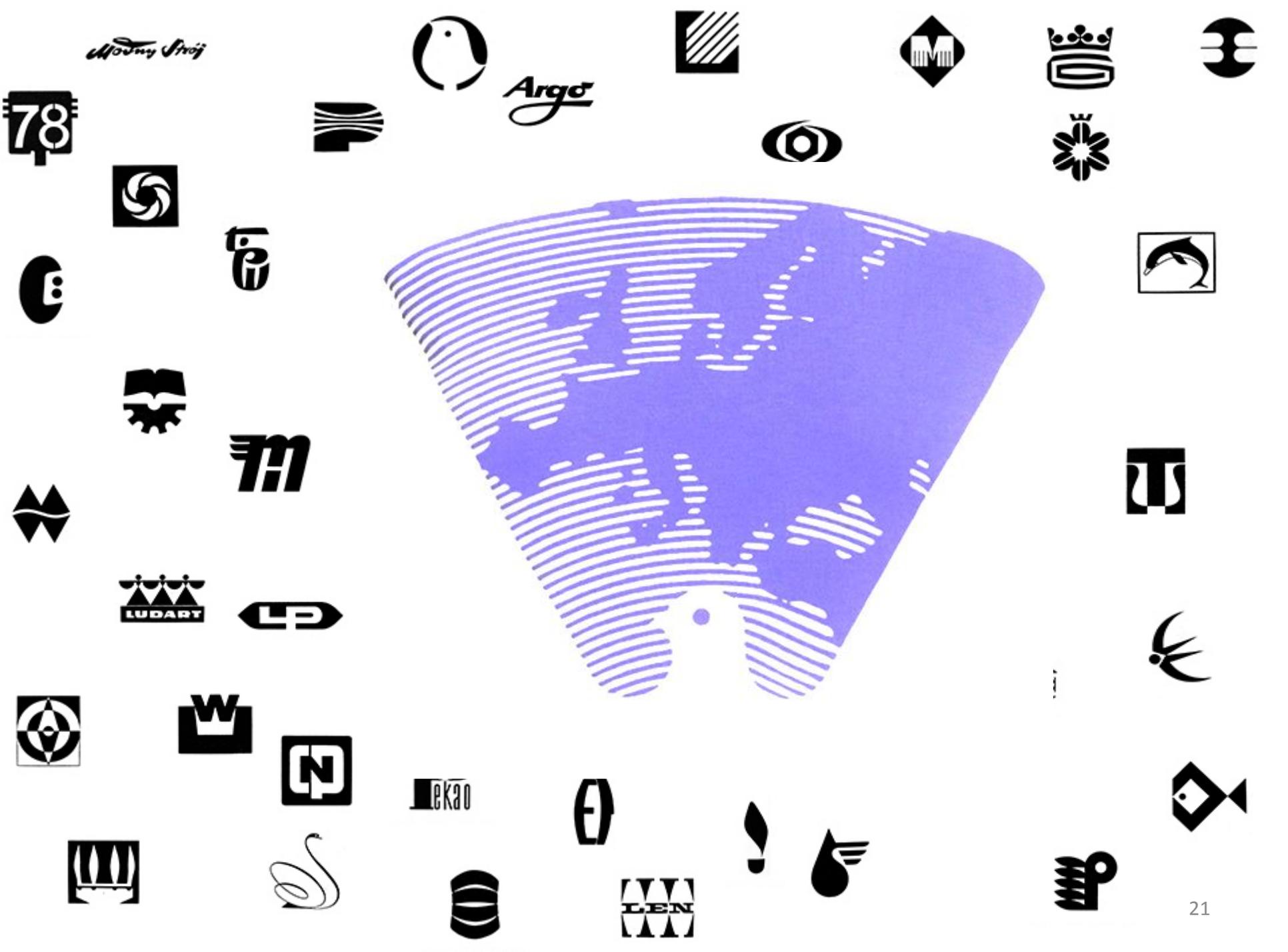
Conclusion

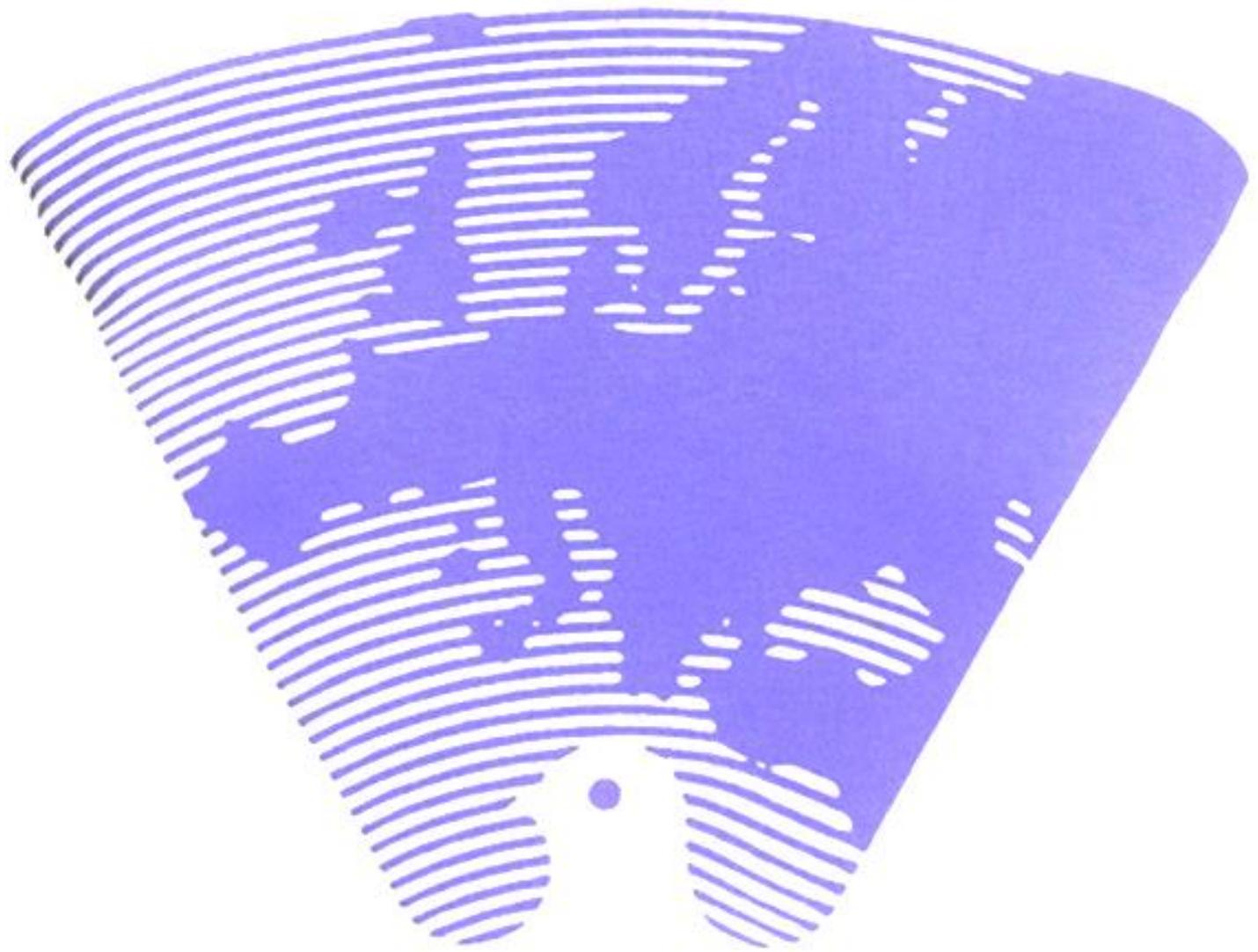


Selling power of a trade marks results not only from the efforts of past or current proprietors, but also from their collective use

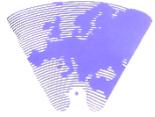


Need to recognize the diversity of stakeholders and the various social, cultural and economic interests involved

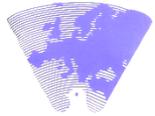




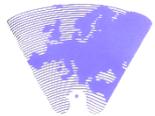
Conclusion (2)



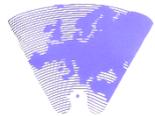
Interpretation of existing legal norms



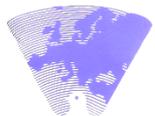
Need of a **correction course**



Recognize that all legal norms relating to exclusivity over information not only enable but **shape the commercial conduct**



There is **no separate legal policy**
it's necessarily **always economical and cultural public policy**



Information exclusivity asymmetry =
power asymmetry

Modny Strój



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(all graphical design - III Polish Graphical Design Exhibition)

