

other chapters are built upon. This will equip the reader with information necessary to successfully concern himself with the theory and practice of both brand and IP valuation.

## 1.1 Objectives and Structure of this Thesis

### 1.1.1 Objectives

#### 1.1.1.1 Structured Examination of Fundamental Valuation Issues

The importance of the extremely complex art and science of brand valuation is increasingly being recognised. Coming along with this is a soaring amount of literature from around the globe, dealing with all major aspects of brand valuation and exploitation. Keeping in mind this fact, which is reflected by the more than three hundred currently existing brand valuation methods,<sup>7</sup> it seems that the more one looks into the issue of brand valuation, the more questions and unresolved issues appear<sup>8</sup> and the more apparent the need for systematisation becomes. This is why one major objective of this work is the structured discussion of fundamental issues pertaining to valuation of intellectual property. Once the basis for a thorough understanding of value will thus be set, detailed issues relating to IP value can and will be analysed, exemplified with trade marks and brands respectively.

#### 1.1.1.2 Improvement of Tradability of IP as Assets: Reduction of Information Asymmetries and of Risks

As will be discussed in detail in chapter three, there is a clear implementation gap, i.e. a discrepancy between the current status of considerable disaccord as to the most suitable brand valuation thinking and method(s) and the desired stage of systematic well-accepted approaches to and methods of brand valuation. The study at hand identifies and analyses that problem.<sup>9</sup> It intro-

7 *Amirkhizi*, “Suche nach der Weltformel”. Cf. also *infra* at 3.1.1. and fn. 341.

8 One could say, along the lines of Socrates, “I know what I do not know” (*Platon*, Apology of Socrates: “Obviously I am . . . a little wiser, for I do not believe to know what I do not know.”).

9 A problem exists wherever there is a recognised disparity between the present and the desired state. Hence, solutions allocate all available resources in order to reduce this disparity, cf. *Michalewicz/Fogel*, *Modern Heuristics*, p. 1 et seq.

duces a systematic integrated instrument to contribute to its solution, i.e. to the improvement of brand and IP valuation quality (and thereby to the frequency of its practical application). Key to such improvement of quality in the course of management strategic, or future-related, valuations is the reduction of asymmetries of information<sup>10</sup> and of risks.<sup>11</sup>

Such improved valuations, if widely recognised and applied, allow for increased market transparency<sup>12</sup> and tradability of intellectual property<sup>13</sup> assets. In addition, they enable enhanced risk assessment, which helps businesses to lower their cost of capital.<sup>14</sup>

### 1.1.1.3 Value Implications of Trade Mark Law

Academic writers on brand valuation hardly ever touch the issue whether there are legal aspects which influence brand value and, if there are, which implications such influence has.<sup>15</sup> However, a few brand valuation methods utilised in practice contain some references to legal aspects such as the questions whether and where there exists a registered trade mark.

This work shall, therefore, make a point of systematically and comprehensively scrutinising aspects of trade mark law which could have a relation to brand value, in order to find out whether there is such relation and, if yes, which implications it has. It shall thereby be elaborated whether the importance of legal aspects is duly reflected in academic writings and especially in practice.

10 Cf. 1.4.1.5.

11 These inevitably accompany any future-related valuation, as it constitutes an estimate, cf. 1.2.

12 As intellectual property rights are highly unique and contextual, it would be unrealistic to postulate markets for intellectual property which are as transparent as markets for frequently traded tangible assets such as real estate. However, the current situation can be improved by providing a means to facilitate tradability through reduction of risks and of asymmetry of information. This will be discussed in chapter four.

13 The problems of market intransparency and market failure exist not only with respect to trade marks and brands but also regarding (other) intellectual property in general.

14 Cf. 1.4.1.5.

15 The only European legal publication accessible to the author of this work is *Reese, Die Bewertung von Immaterialgüterrechten*, which deals with valuation of patents, trade marks, copyright and designs and treats legal aspects of value in a rather cursory way.

#### 1.1.1.4 Valuation and Evaluation

Valuation, be it financial or non-financial, gives the appraiser a particular, on-the-spot analysis of the asset's worth. However, it is usually not able to provide information on the asset's role within the business strategy of the proprietor. However, such information is very useful for a comprehensive IP assessment in a forecasting situation. Particularly, utility and value of intellectual property are, compared to those of tangible assets, especially dependent on the context in which these assets stand (such as existing or missing support by other assets) – both within the proprietor entity and beyond.<sup>16</sup>

In consequence, assessment of intellectual property for strategic, or forecasting, purposes should not amount to mere valuation but rather be complemented by evaluation in case a comprehensive contextual assessment is desired. Intellectual property evaluation denotes the process of tying valuation into the overall strategy of a company. With respect to brands, for example, this means that the effectiveness of marketing and brand management strategies can thus be controlled and managed.<sup>17</sup>

References as to how intellectual property can properly be evaluated will therefore be made throughout this work.

The statement that one can only manage what one can value has been a central incentive for writing this book. The author hopes to give interested brand managers, investors and other strategic decision makers thought-provoking impulses and tools to improve understanding of intellectual property valuation coherences as well as practical strategic decision making.

#### 1.1.2 Structure

The structure of this study is dictated by its main objectives. These are, as stated above, to systematically discuss and analyse the fundamental issues of intellectual property and brand valuation and to improve tradability of brands and intellectual property as assets.

<sup>16</sup> Cf. 1.4.1.2.

<sup>17</sup> Cf. e.g. *Brand Finance*, Current Practice in Brand Valuation, p. 21 et seq. and *Esch/Geus*, Ansätze zur Messung des Markenwerts, p. 1269.