

Exploitation of IP Assets: The importance of Marketing Strategies, Licensing and Franchising in the Agribusiness sector

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Outline

- ❖ Exploiting IP assets in marketing Strategies
- ❖ Exploiting IP assets: the importance of licensing
- ❖ Exploiting IP assets in: the importance of franchising



The importance of the new Economy

- Reason the “new economy”: Knowledge making more effective use of resources - 1950 knowledge component in manufactured goods 20%, 1990s 70%
- Globalization
- Development of ICT
- Application of knowledge, key to competitiveness



The IP System

- Provides a **legal means** for **protecting creativity and knowledge**; patents, TM, copyrights, design rights etc provide the creator the means to prevent others from using his knowledge creativity
- Ensures the **continued production of knowledge** and its dissemination
- By providing protection the IP system gives more than the right to prevent others, it **creates valuable tradable** (intangible) **assets**.



IP Assets: valuable assets

- Like physical assets, IP assets could be creatively and profitably exploited
- Ways of exploiting IP:
 - Direct Exploitation of the IP – Do It Yourself or Joint Venture
 - Allowing others to use the IP – Licensing, Franchising and/or Merchandising

2009 Rank	2008 Rank	Brand	Country of Origin	Sector	2009 Brand Value (\$m)
1	1		United States	Beverages	68,734
2	2		United States	Computer Services	60,211
3	3	Microsoft	United States	Computer Software	56,647
4	4		United States	Diversified	47,777
5	5	NOKIA	Finland	Consumer Electronics	34,864
6	8		United States	Restaurants	32,275



Exploiting IP in Marketing Strategies

The concept of branding

- “Brand” : **combination of tangible and intangible elements** (trademark, design, logo and trade dress, and the concept, image and reputation which those elements) transmit **with respect to specified products and/or services.**
- Branding = emotional link with customers with distinctive signs.



Exploiting IP in Marketing Strategies

Importance of IP in Branding strategies (labeling, packaging and promotional materials)

- Trade Marks (product mark, collective mark, certification mark)
 - Industrial Designs
 - Geographical Indications
- are business branding tools
- **Aimed at**
 - Promoting product recognition
 - Promoting customer loyalty
 - Promoting repeat business
 - Enhancing the reputation of the product and its producer
 - Guaranty the consistency of the product's quality
 - **Tools used to capture economic benefits to a business**



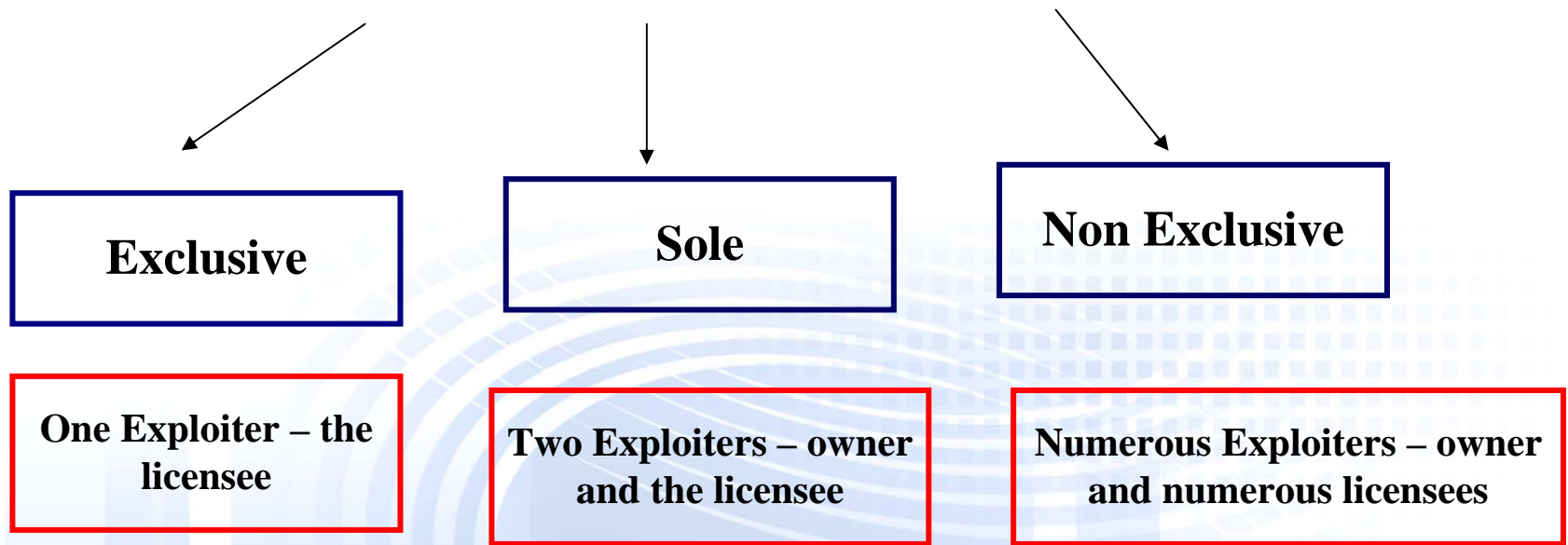
Exploitation of IP in Licensing

- A licensing agreement is a **contract** between an **intellectual property rights owner** (licensor) and **another who is authorized to use such rights** (licensee) in exchange for an agreed payment (fee or royalty) in **a specify period**.
- Licensing is only relevant where there is an IPR
- Territorial nature of IPR



Exploitation of IP in Licensing

Scope of rights



Exploitation of IP in Licensing

Why to license?

- **For the Licensor**
 - Earn revenue
 - Strengthening relations with partners in the value chain
 - Capital savingt
 - Expanding an existing business (extending your territory or the nature of business)

 - Access to markets
 - Turning infringer/competitor into a partner
 - Create standard
- **For the Licensee**
 - Starting a new business
 - Access to new technologies and know how
 - Possibility of creating innovative products
 - Settle infringement dispute
 - Manufacture standardized product
 - Lower costs



Exploitation of IP in Licensing

Why Not License?

■ For the licensor

- Create competitor
- Bad choice of licensee could damage reputation
- Lose control of proprietary information

■ For the Licensee

- Royalties add cost
- Secrecy requirements
- Administrative burdens - audits, reports etc
- May be obliged to grant back improvements



Exploitation of IP in Licensing

Preparation

1. IP Audit - Patent Information

- ✓ Market opportunities: general information on the relevant market
- ✓ Potential partners: research institutions/companies active in that market and their products
- ✓ Existing technologies used by such companies
- ✓ On going R&D about relevant technologies
- ✓ Prevalent licensing practices in the relevant markets and products

2. Analyze your strengths and weaknesses

- ✓ Develop the technology or license it

3. Prepare summary of key issues

- ✓ Prepare licensing agreement



Licensing in Agribusiness sector

Structure of a licensing agreement

- ✓ What is licensed?
- ✓ At what price? (cost and payment schedule)
- ✓ To whom?
- ✓ For what purpose?
- ✓ For how long?
- ✓ Under what conditions (warranties, disclaimers, indemnification)



Licensing in Agribusiness sector

Agribusiness opportunities

- **Technology Transfer (from Research Centers to Agribusiness sector)**

Introduction and dissemination of improved technologies such as improved varieties, improved cultivation practices, agro-processing and storage technology...

- **Clusters development opportunities** with public and private partnerships in agricultural research



Licensing in Agribusiness sector

Agribusiness opportunities

- **Certification marks** licensed that could guaranty the quality
- Promote **technology ownership by farmers** that could be licensed with plant breeders' rights
- **Joint Ventures opportunities** between universities, research centers and private sector
- **Source of revenue** for SME in the agribusiness sector
- **Access to new markets** with improved products



Licensing in Agribusiness

Case Study: RELMO: Argentinean Seed Company

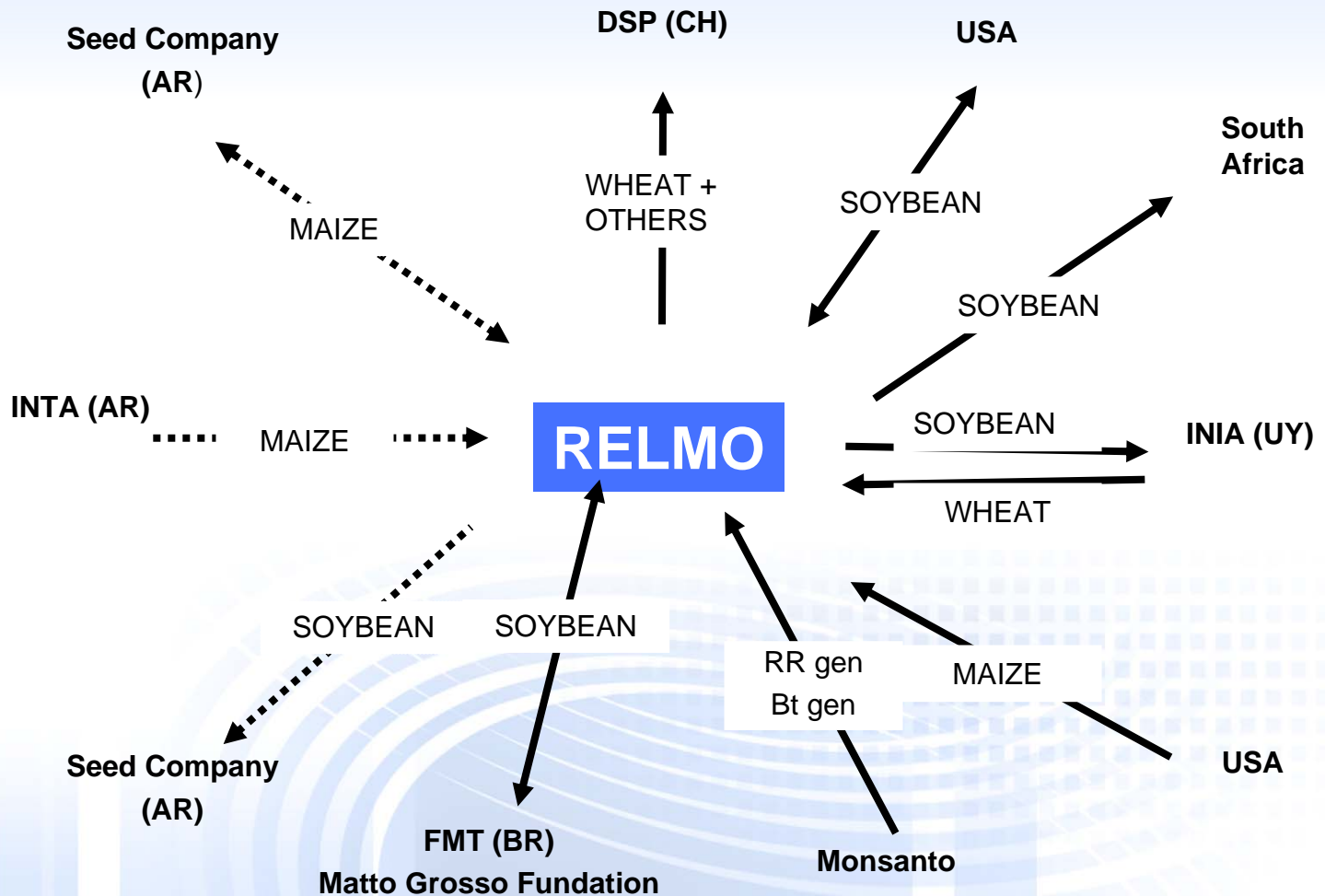
RELMÓ is a typical family company belonging to the Ferrarotti family. The origins of RELMÓ are to be found in the Ferrarotti Countryside Organization (OFPEC) which was established in the 1960s as the first company to devote itself to the genetic improvement of soybean. OFPEC was responsible for the program that led to the registration of the first Argentinean variety in 1980. The company now has 37 employees, of which 17 are directly involved in research and development.

http://www.wipo.int/sme/en/case_studies/relmo.htm



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Licensing in Agribusiness



Franchising in Agribusiness

What is a franchise?

- A **specialized license** where the **franchisee is allowed** by the franchisor in return **for a fee** to use a **particular business model** and is licensed a bundle of IP rights (TM, service marks, patents, trade secrets, copyrighted works...) and supported by training, technical support and mentoring
- All **franchisees are licensees** but not all licensees are franchisees



Franchising in Agribusiness

Why enter into a Franchise?

- Lower risk of failure
- Recognizable image
- On going support
- Easier to obtain financing
- Benefit from franchisors R&D

Why not enter into a Franchise?

- All IPR owned by the Franchisor
- Payment of fees
- Obligated to follow the business model
- Depend on the success of the Franchisor

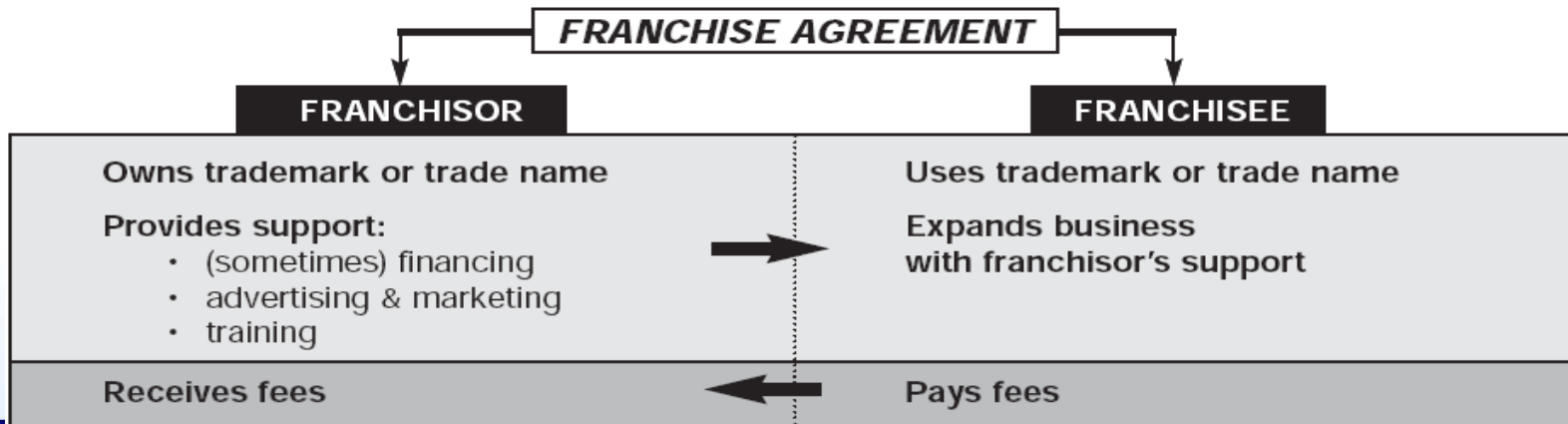


Franchising in Agribusiness

What are the legal issues of Franchising?

The two main franchising legal documents are the:

- ✓ **Non-Disclosure Document:** Confidentiality agreement- contract between franchisor and franchisee to keep the information secret
- ✓ **Franchise agreement**



Franchising in Agribusiness



- 70% of McDonald's worldwide restaurant businesses are owned and operated by independent businessmen and women, the franchisees
- right to use the trademarks, signs, equipment, formulas and
- specifications for menu items, methods of operation, inventory control, marketing, etc.
- 9 months full-time **training**
- **uniformity**: standard branding, menus, design layouts, administration systems
- passion for enhancing and protecting the McDonald's **brand**
- **quality control** tests



Franchising in Agribusiness

From Fast-Food Wagon to Successful Business — Fast S.A. Enterprises (Paraguay)



- Started in 1992 under the name Pancholos as a fast-food retail wagon attended by two people.
- In 1997 Pancholo: protection of trademarks
- Pancholos is working on a franchising plan with a view to expanding and breaking into new markets.



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Franchising in Agribusiness

Opportunities for Agribusiness sector in Tanzania

Gives the franchisor the chance to expand his business through other people's time, money and organization. Meanwhile, the franchisee benefits in terms of being able to use a successful business system and an established brand name. He is also provided assistance not just during the start up period (e.g. site selection, training of people) but also during operation (e.g. market promotion, product development).

- **Who Benefits?**

- Franchisor – Growth
- Franchisee – Sustainable profitable business
- Staff – Terms and conditions of employment
- Customer – Standards/ Complaint mechanism
- Government – Licence/ taxation compliance; Economic Growth



Conclusion

- To survive and flourish in the global business environment where competition is acute and product cycles are short, business have to find **new ways of being competitive**.
- **Identifying IP assets** and strategically using and leveraging them is crucial in this environment.
- **Licensing** is an efficient way of maximizing IP assets



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