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An economic analysis of the rise of service marks

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OUTLINE

- ❑ Functions of trademarks: economic rationale and history
- ❑ The rise of service marks: economic factors
- ❑ Some basic empirical observations
- ❑ Discussion and conclusion

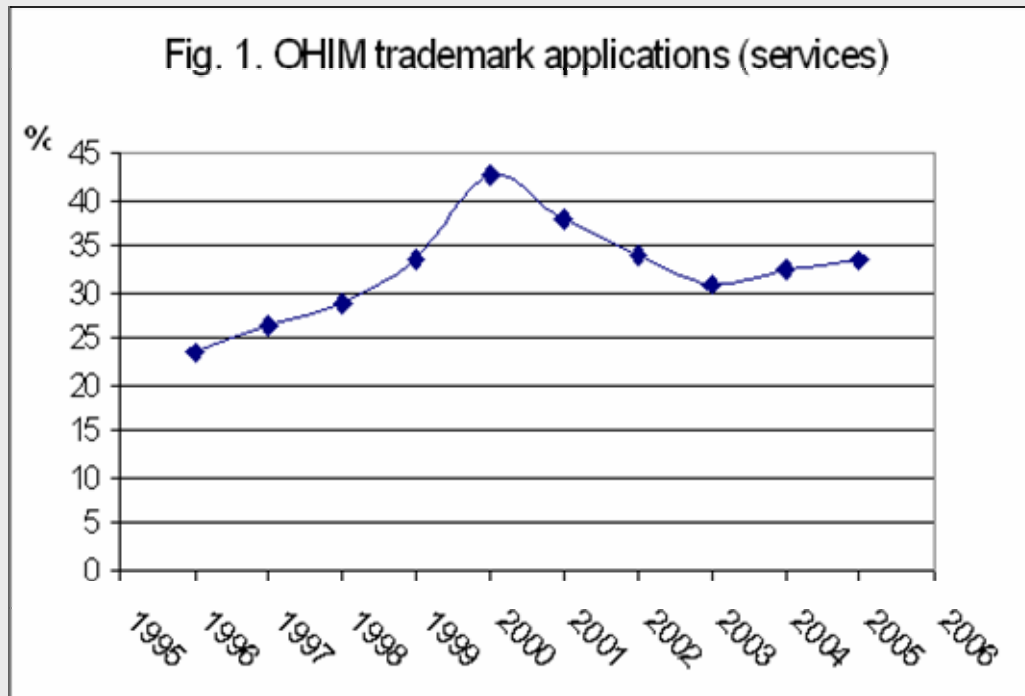
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- Economic functions of trademarks and trademark protection:
 - Reduction of consumers' search costs
 - Constant (not necessarily high) quality of products
 - ["well-known" marks: protection even without a risk of confusion]
- This theoretical framework concerning trademarks and trademark laws has been elaborated primarily in relation to the trade of goods, because
 - Traditional economic analysis regards goods
 - Diffusion of trademarks and evolution of trademark laws
- Wilkins (1992, BH): "the development of big modern US corporations during the nineteenth century led to greater attention to brand names"
 - Large dimensions: economies of scale and scope
 - Separation of producer and consumer through a distribution chain
 - The reputation of the seller and the quality of goods could no longer be ascertained through the "intimacy" of buyer and seller
 - The name and reputation become intangible property rights that require legal support

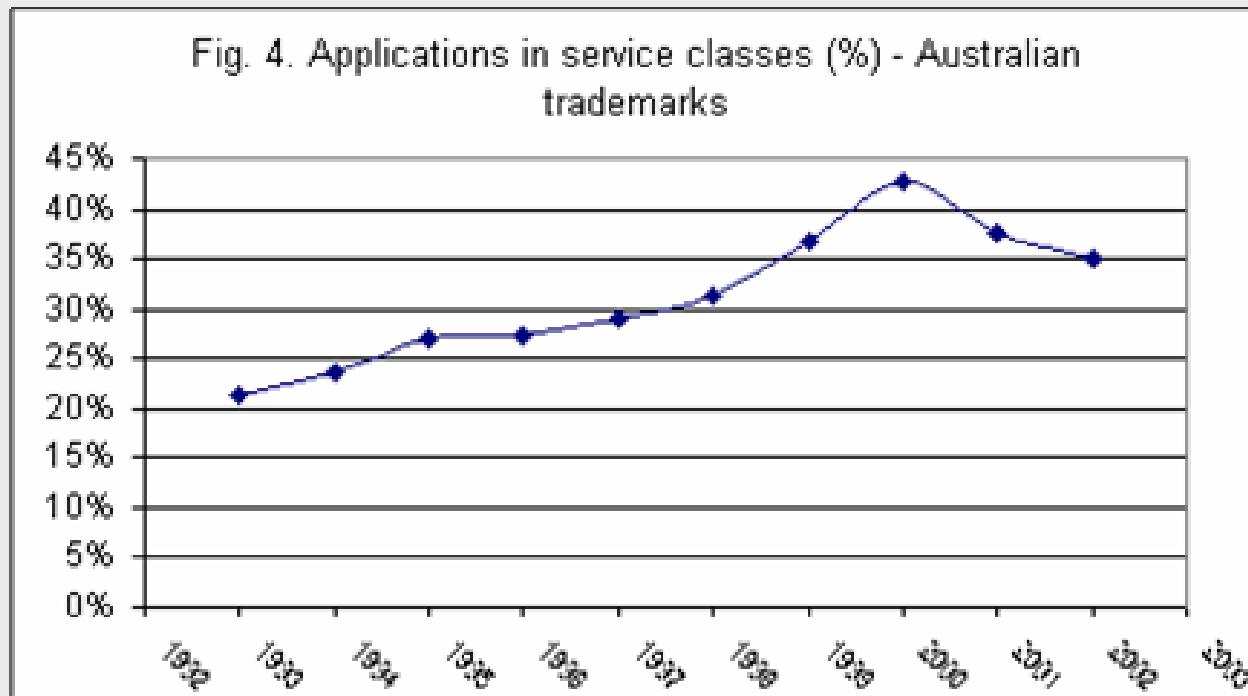
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- Is Wilkins' explanation appropriate for services?
- In most services, the relationship between buyer and seller is a direct one; less attention to brand names
 - Financial services
 - Medical services
 - Legal services
 - Temporary accommodation
 - Etc
- Actually, services account for only 30-40% of total trademark applications in advanced countries
- Counter-argument. Services are often described as *experience* (and *credence*) *goods*: the more difficult it is to ascertain the quality of goods and services, the higher the recourse will be to trademarks

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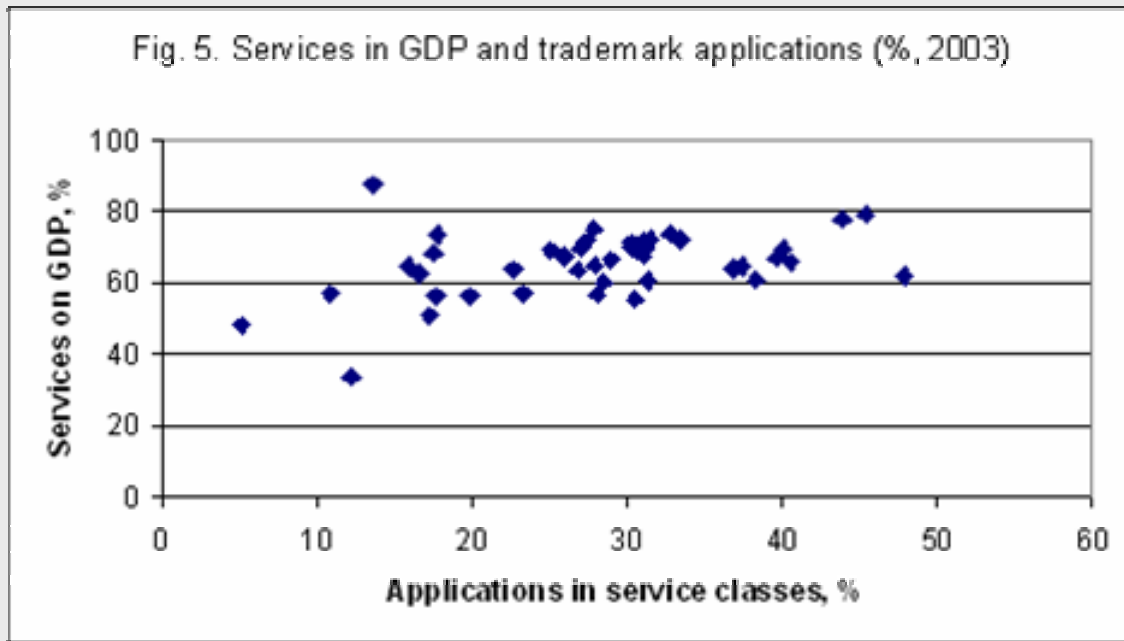
Factors responsible for the rising importance of service trademarks

- ✓ Structural change
- ✓ Tradability of services (developments in technology, computerised information processing systems, telecommunications, transportation, Internet)
- ✓ Decline of human intermediation in many services
- ✓ Liberalisation of markets and privatisations: telecommunications, media markets, education, post and transportation
- ✓ Product quality competition: service differentiation, pre and post-sale services
- ✓ (Easy of imitation: are services more easily imitable than goods?)

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- Although growing, the share of services in total applications seems quite low (share of services in the 2001 GDP: 47% in LI countries, 55% in MI countries, and 71% in HI countries) – possible explanations (and replies):
 - Figure 1 concern *all* countries which presented trademark applications in the years under review, but
 - the most active countries in trademarking are the most advanced ones
 - services account for only about 25% of total world trade, but
 - services hold a minority position in *national* trademark applications too
 - imports of services in 2004 accounted, respectively, for 8% and 8.5% of the GDP of the 25 member states, but
 - many European firms are likely to consider the community trademark as somewhere in the middle between a national and an “international” trademark
 - companies customize (differentiate) their services to the needs of a specific client, rather than formally distinguishing them through the creation of different trademarks

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- Other issues and future research:
 - Where human intermediation is still important?
 - Market structure and trademarks
 - Impact of institutions, R&D activities and foreign direct investments
 - Classification system