

How to make a winning IP strategy

that is proactive, well-aligned and long term

HØIBERG Patent School

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Agenda

- Meet the speakers
- HØIBERG – brief bullets
 - Why an IP strategy?
- Know your internal assets
- Know your environment
 - Adapt your strategy
 - Q&A

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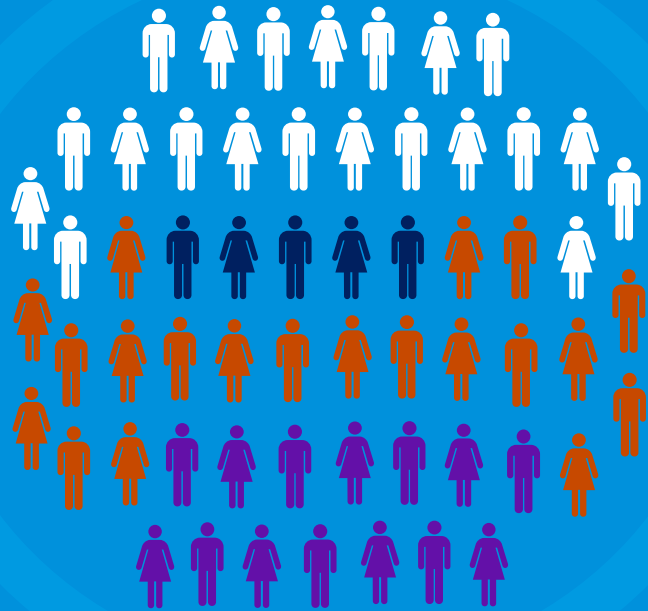


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We are placed where our clients are





60 employees

39 patent attorneys

34 have a PhD degree

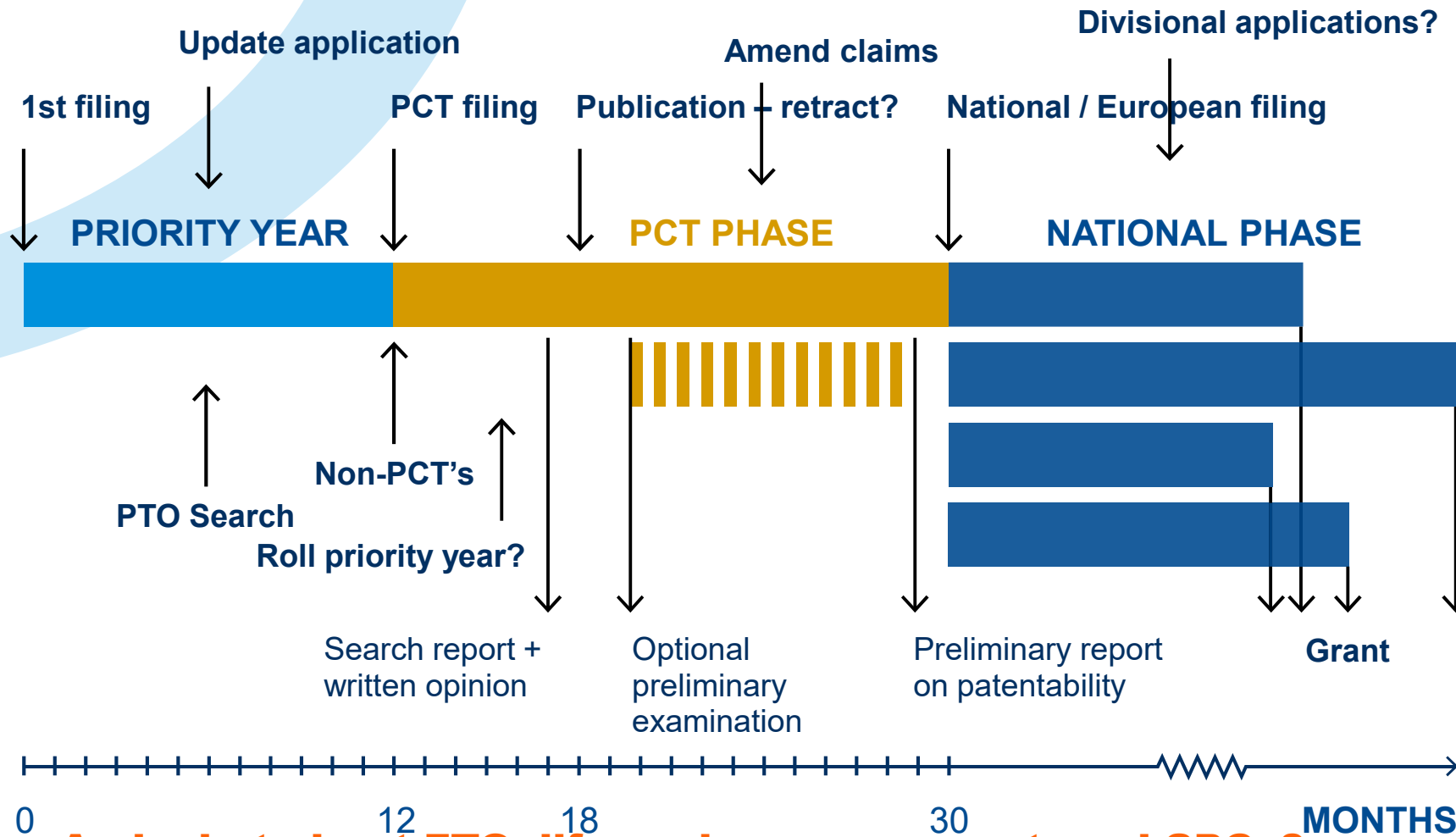
14 are European Patent Attorneys

Why do you need an IP strategy?

First, have you answered the three **GOLDEN** questions?

- What product(s) are you going to sell?
- When will you start selling the product(s)
- Where are you going to produce and sell your product(s)?

Many decision to make during patent prosecution

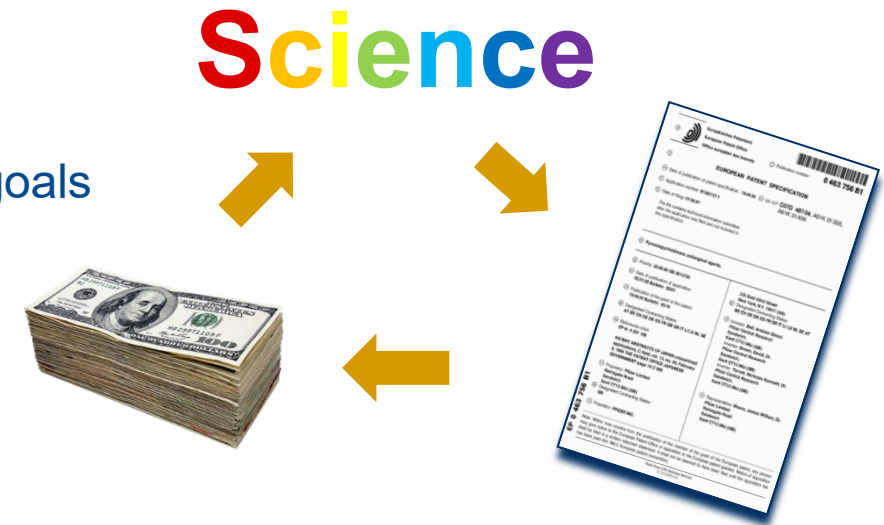


And what about FTO, life cycle management, and SPCs?

Why do you need an IP strategy?

- It will make decisions easier
- It will enable you to keep focus
- It will ensure that your IP goals are aligned with other business goals
- It will ensure that you are well organised e.g. for Due Diligence

- A good business plan always includes an IP strategy
- A winning IP strategy requires winning science and excellence in IP management



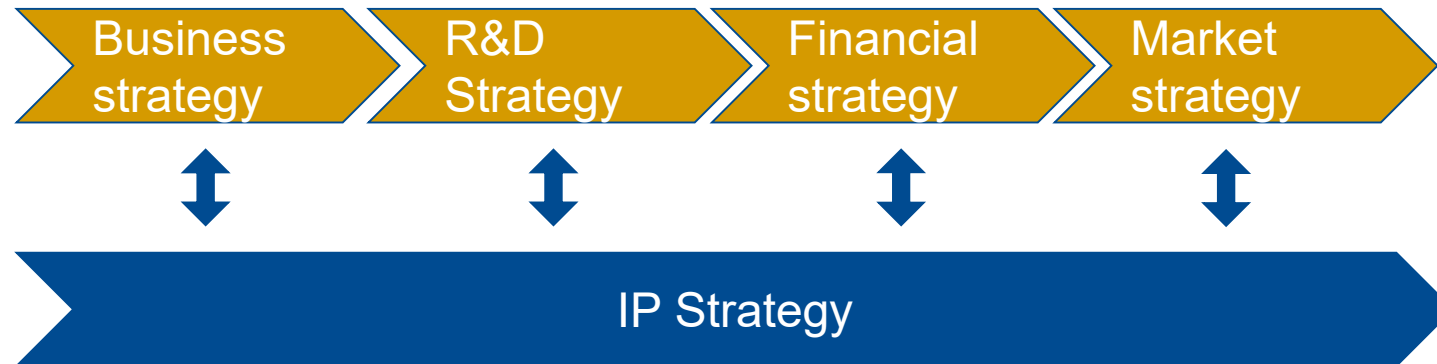
What value does an IP strategy bring?

Start up phase

- A patent strategy can yield significant competitive advantage
- Patents brings differentiation amongst competitors
- Patents can lead to higher valuations when raising investment funds
- Building credibility
- Patents enables entering into collaboration agreements
- Marketing tool

An IP strategy is dynamic

- Need to be maintained and adapted to changes in the business plan
- Need to be USED to serve its strategic purpose





In preparing for battle I have always found that plans are useless, but planning is indispensable.

Dwight D. Eisenhower

1



Know your internal assets

→ Assess, control and package your internal assets IP

2



Know your environment

→ Assess your competition, partner opportunities and market

3



Adapt your strategy

→ The what, when and where of how your product be placed on the market

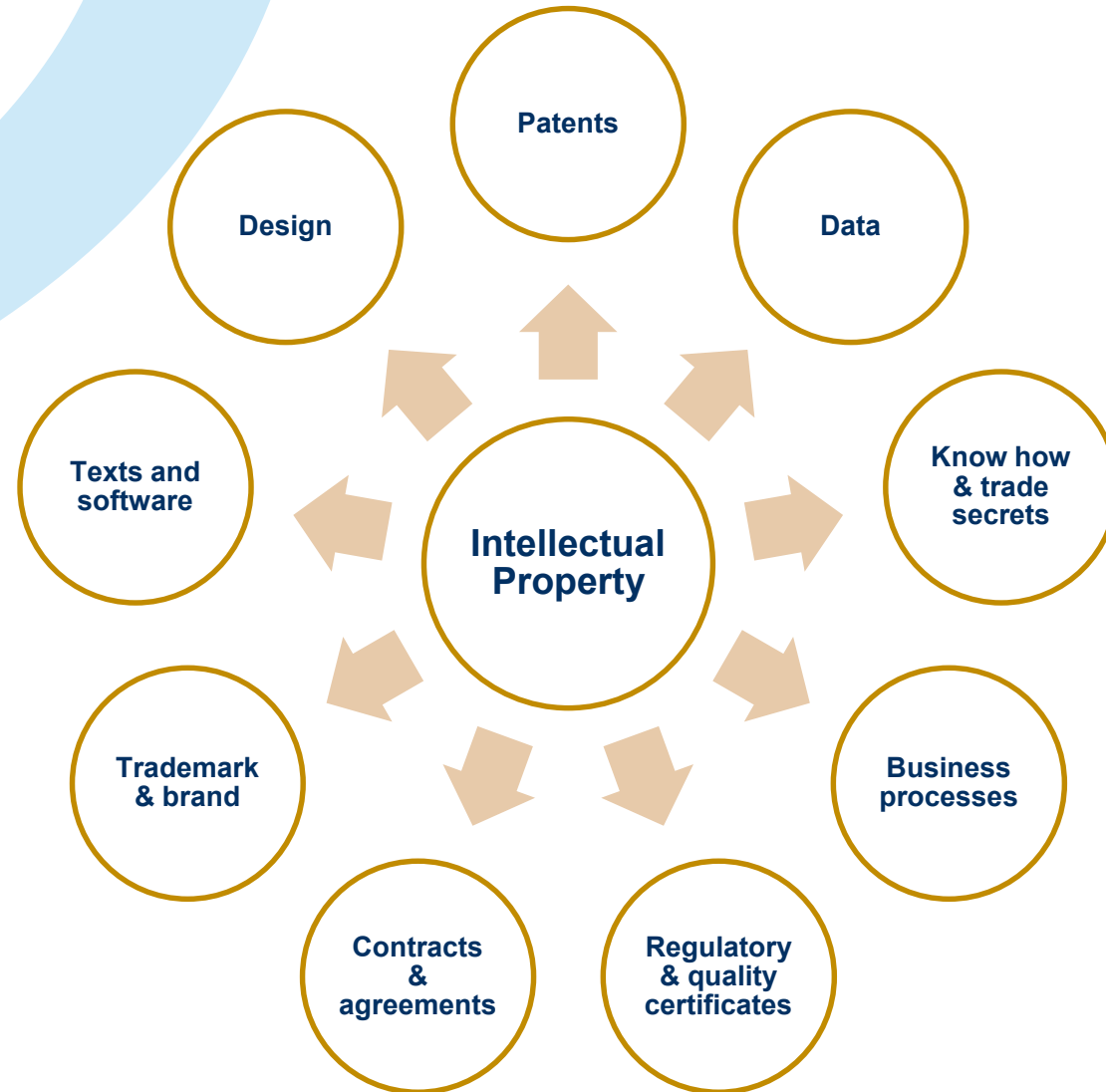
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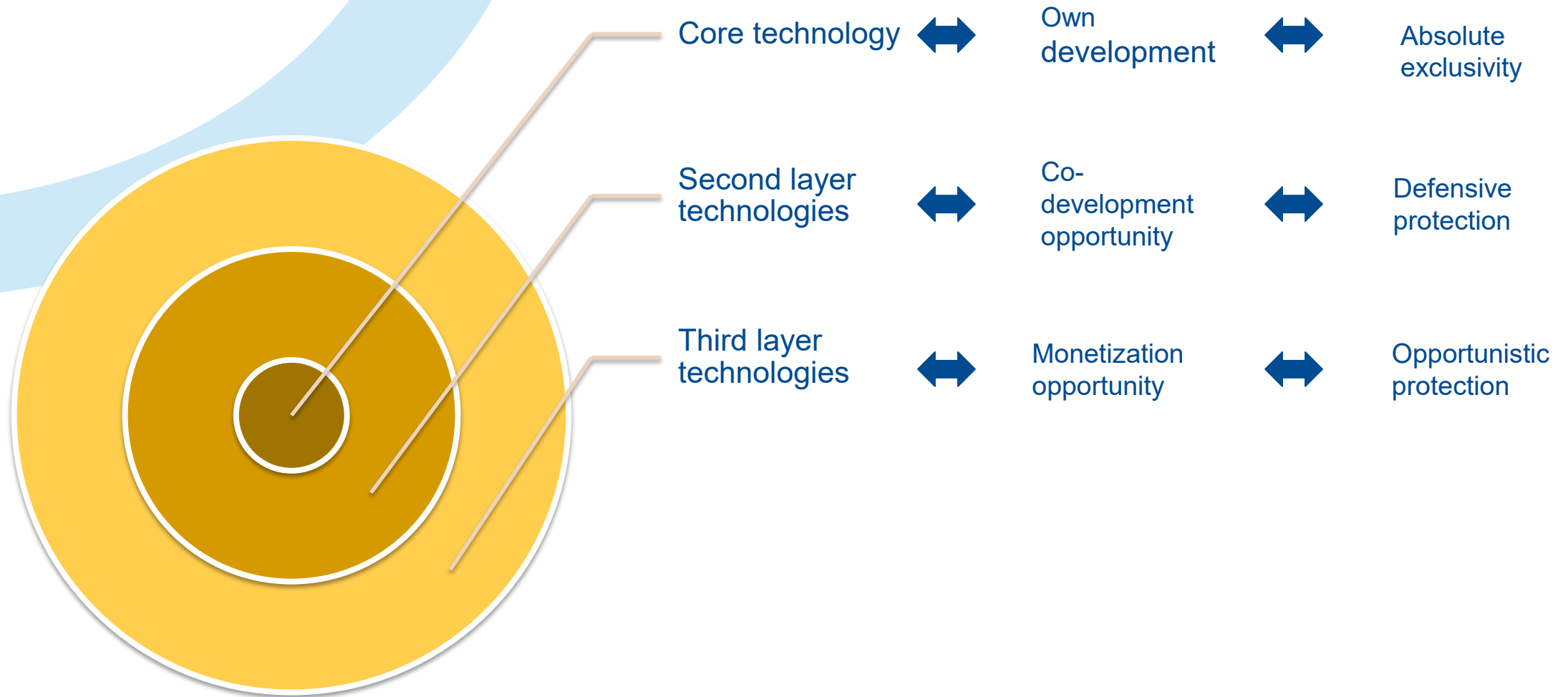
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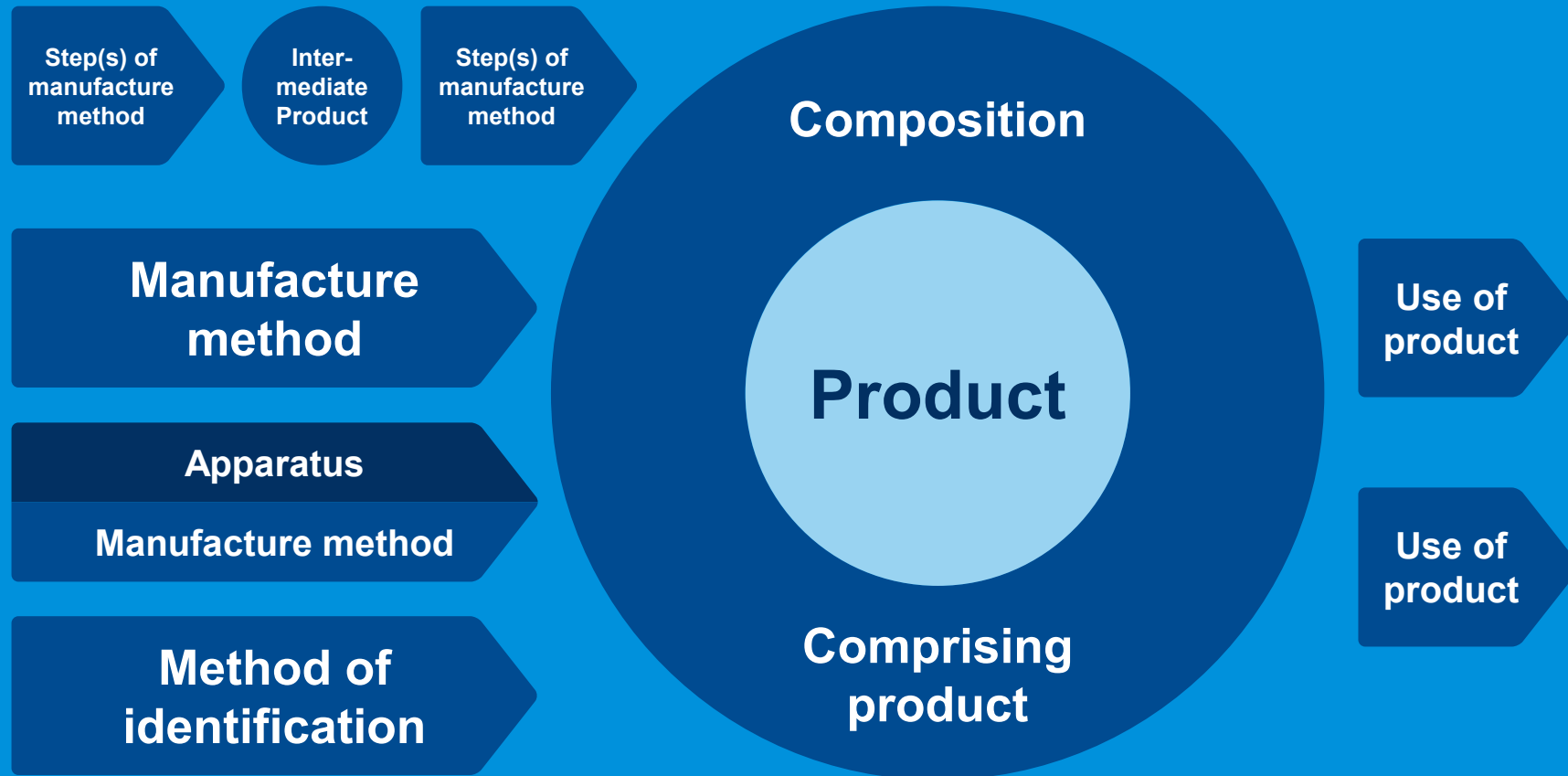
What is Intellectual Property?



Identifying core technology - unique characteristics



Technologies to be patented



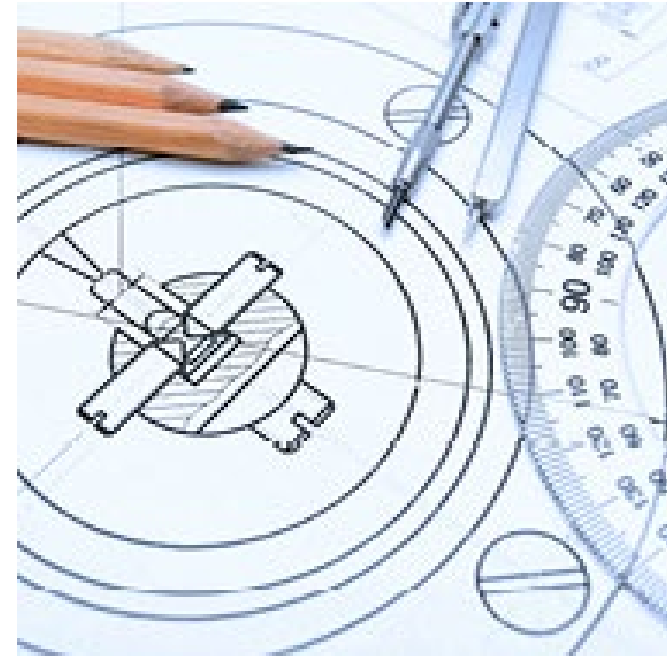
Trademark protection

- A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises
- Examples of signs are a name or a logotype
- National right
- The term of trademark registration is usually ten years. It can be renewed indefinitely on payment of additional fees



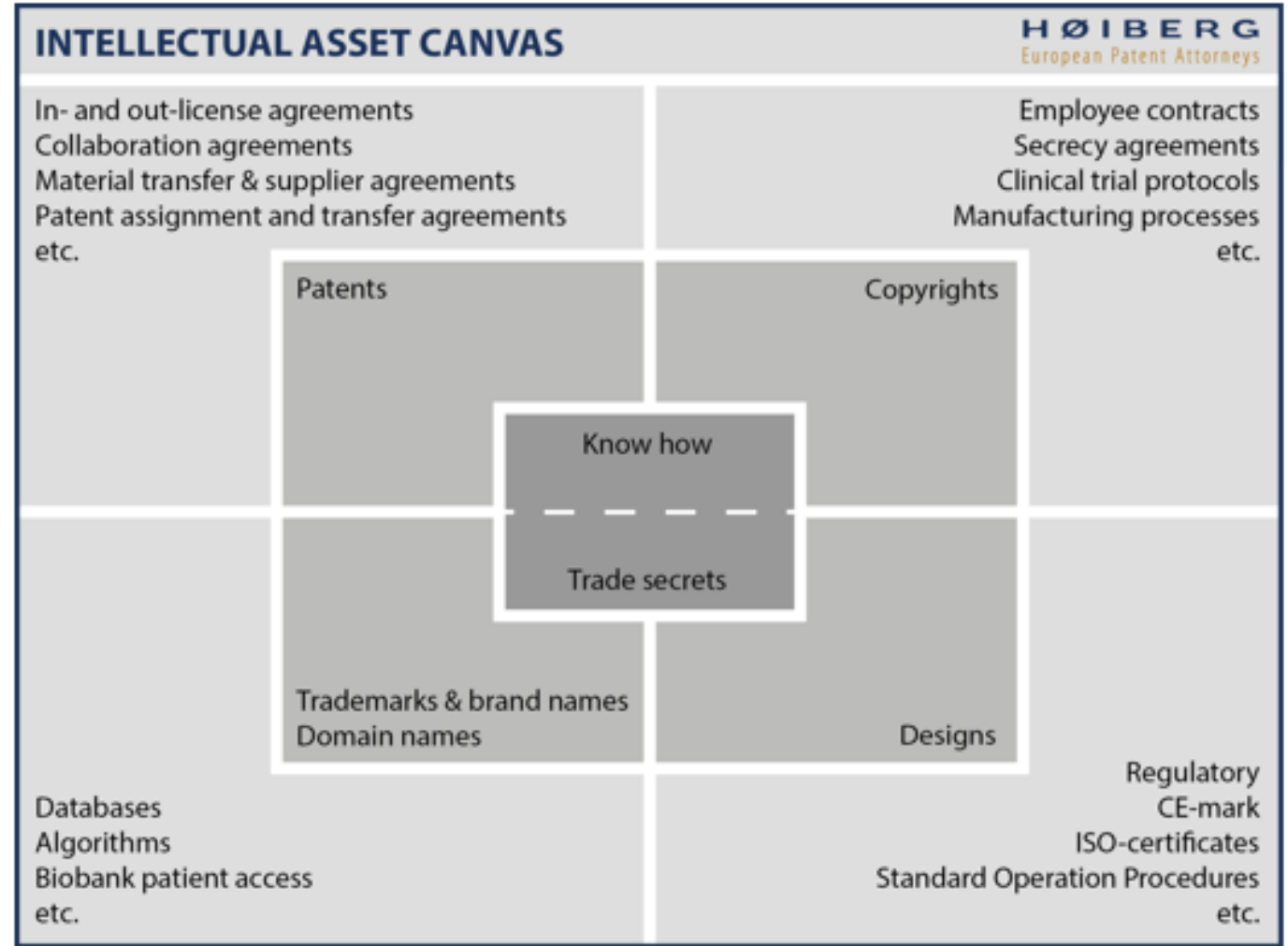
Design protection

- Design protection concerns the exact appearance of a product
- Design of products, graphic symbols and logos can be protected
- Under EU design law, an automatic unregistered design right takes effect from first marketing and lasts for three years
- The same design can be protected by a registered design up until 12 months have passed since it was first disclosed to the public
- A registered design provides a stronger protection than unregistered design
- The term of a design protection is five years after submitted application and can be extended up to a maximum of 25 years



Find a way to structure your internal IP

- Conduct **IP Audit**
 - Organize your existing IP
 - Build DD ready archive
 - Clean up entitlement to your IP
 - Build a strong IP portfolio
 - Scope
 - Enforceability
 - Multi-layered
 - Long term

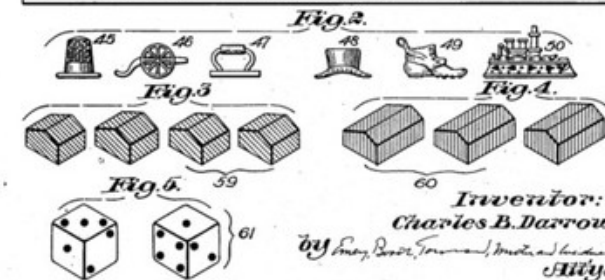


What is the purpose of an IP strategy?

Support the business!

- **Market exclusivity**
 - File own IP rights
 - Plan for enforcement
- **Market access**
 - Freedom to Operate
 - Validity assessment
 - Action plan
 - Invalidation
 - Design around

Dec. 31, 1935. C. B. DARROW 2,026,082
BOARD GAME APPARATUS
Filed Aug. -31, 1935 7 Sheets-Sheet 1



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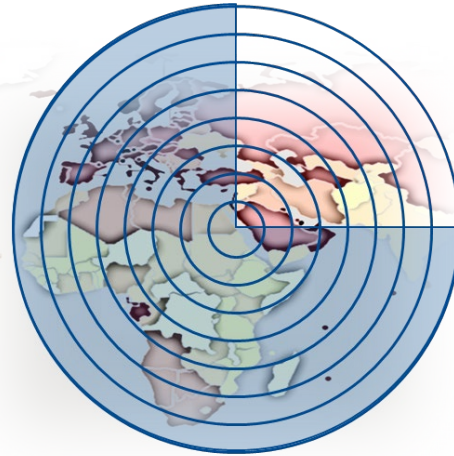


Know your environment

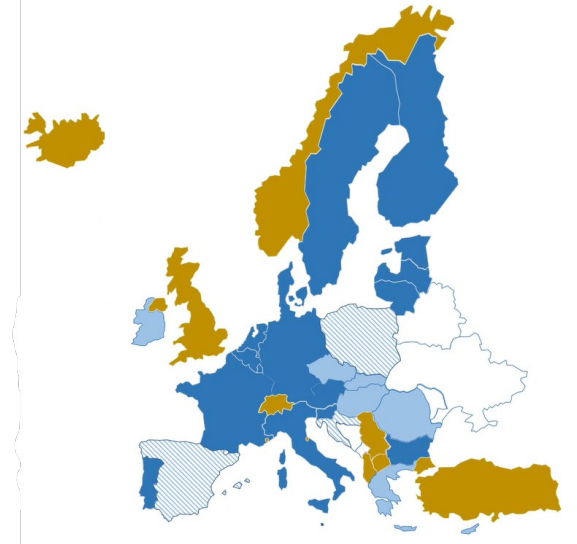
→ Assess your competition, partner opportunities and market

Stay tuned with an everchanging environment

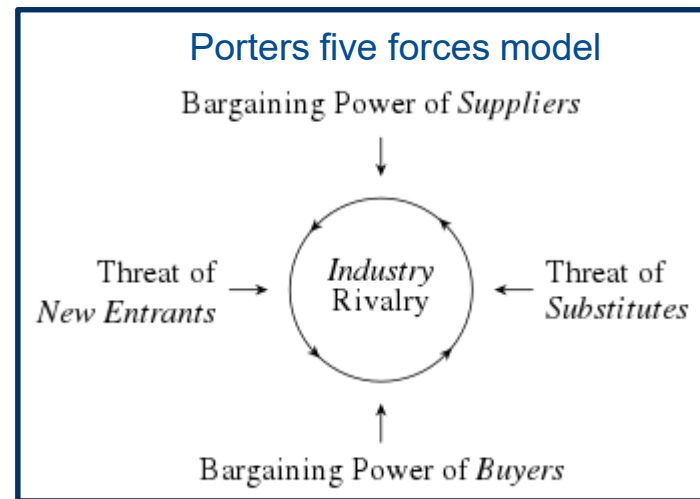
- Technological environment
- Corporate environment
- Political environment
- Geopolitical environment



EP patent with unitary effect



Brexit



Do you have market access?

- Is there market access?
- Direct market access is present when there are no dominating IP rights.
- A dominating right may cover all, or just a small part of the product you wish to market.



Market access -where? Geographical Strategy

Market

- Population
- GDP (Gross Domestic Product)

Competitors

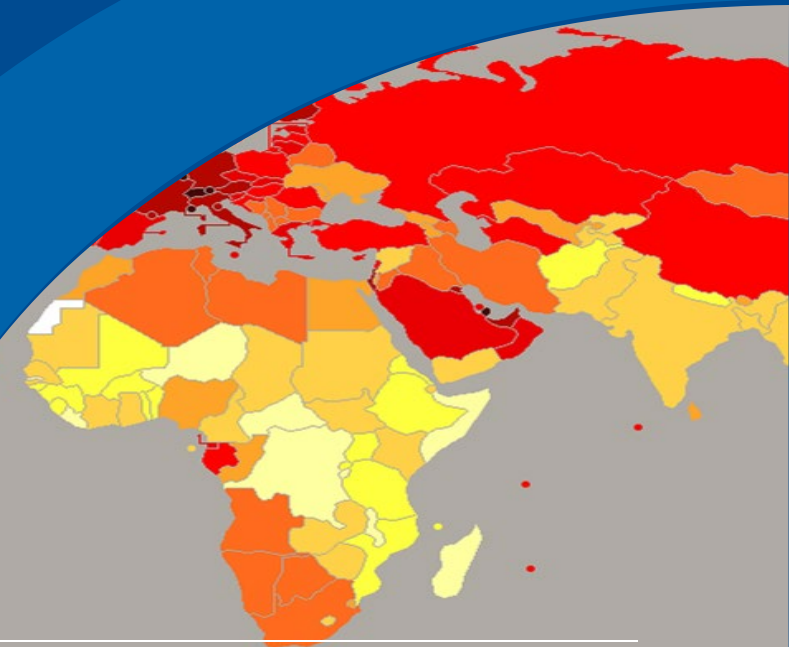
- Manufacturing facilities

Patent enforcement

- Predictability of courts

Type of patent

- Product
- Apparatus
- Method of treatment
- Method of screening
- Method of manufacture

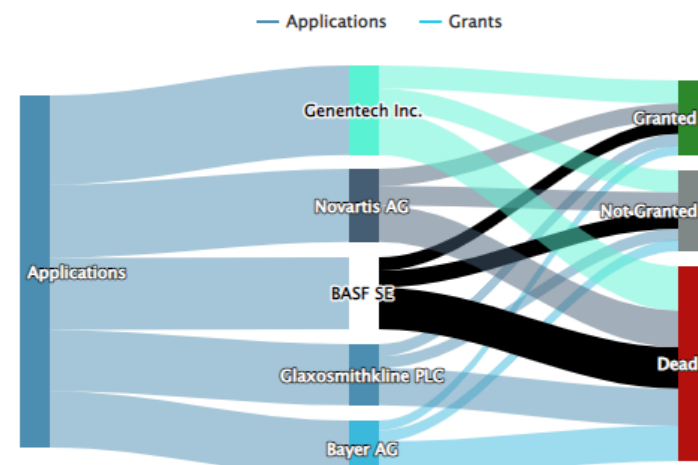
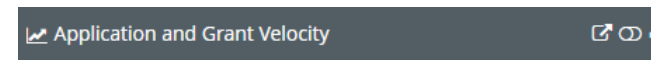


Patent Landscape Analysis

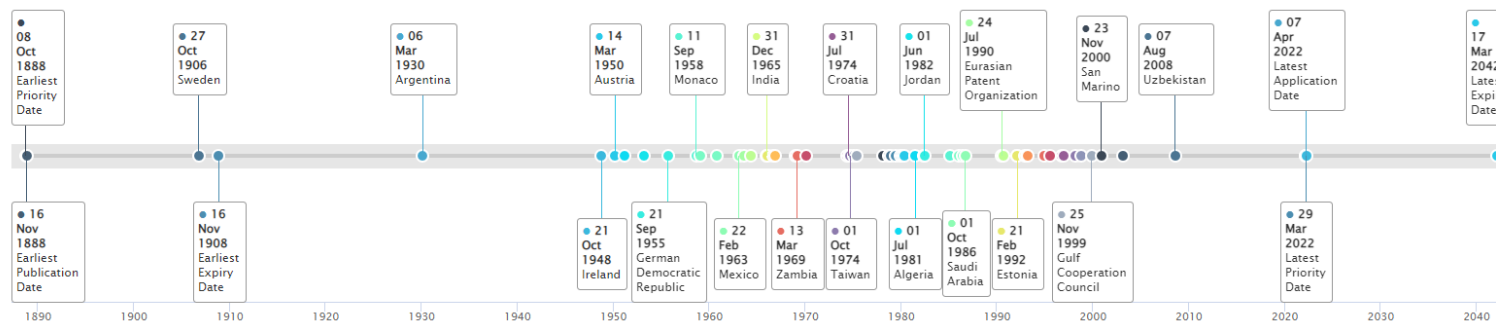
- Patent data contains enormous amounts of information
- Snapshot of the patent situation in a specific technology

Identify:

- technology trends - (infancy, mature or declining phase)
- licensing targets and identify whitespaces
- important owners of the relevant technology
- potential partners and in/out licensing opportunities
- leading innovators in a technology to hire or engage

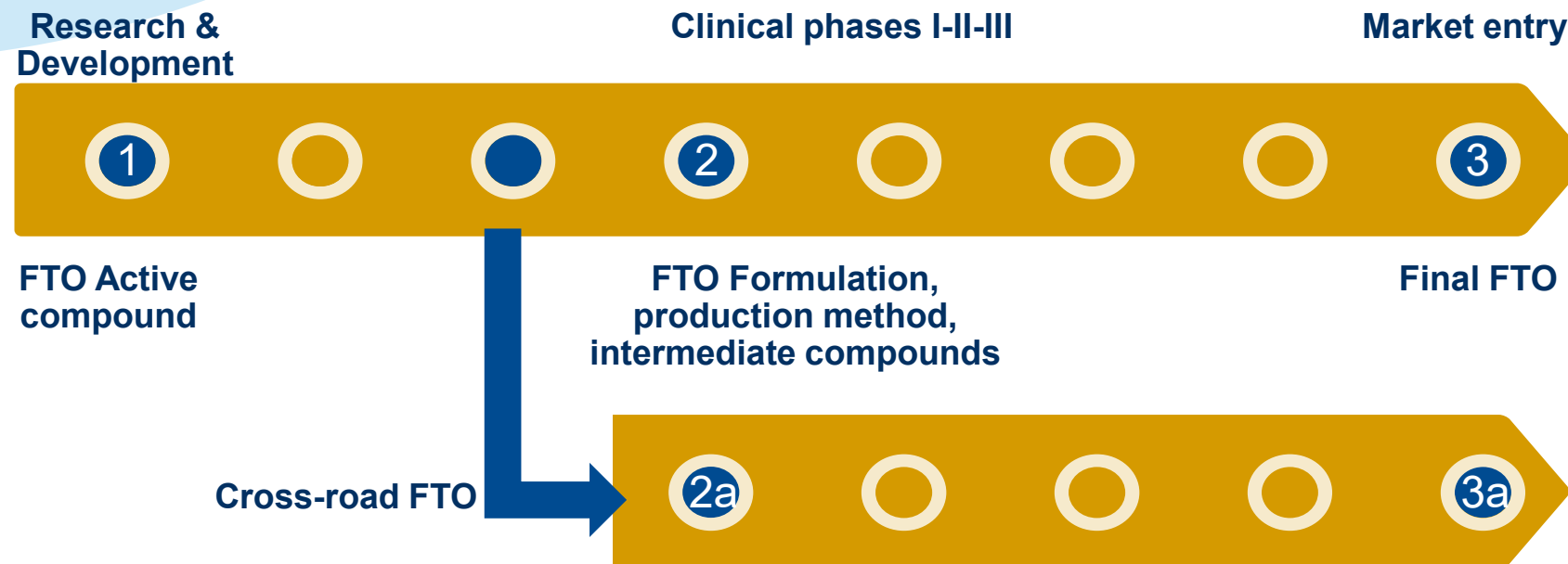


Key Dates Timeline



Freedom To Operate by steps

1. FTO analysis to the generic principle as early as possible
2. FTO updates for each specific product/method before decisions regarding the final product / method are made
3. Final FTO paving way to market
4. Cross-road FTO



3



Adapt your strategy

→ What, when and where will your product be on the market?

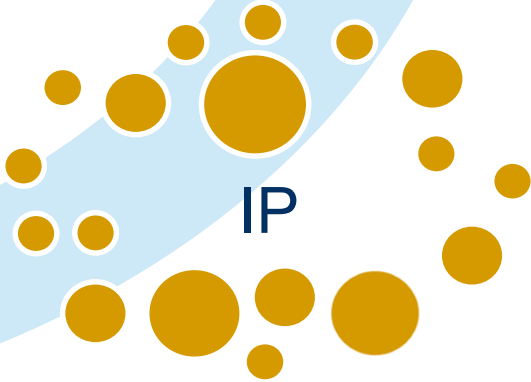
Now, you should have answered the three **GOLDEN** questions

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Towards an IP plan

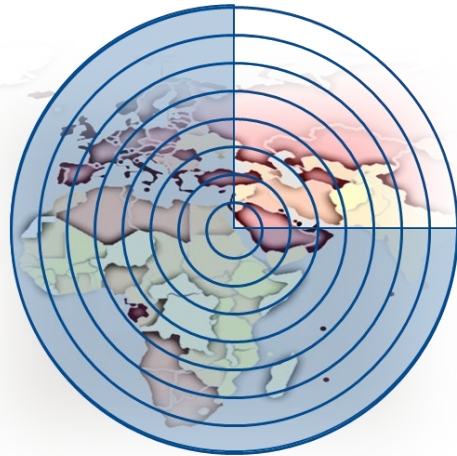
Identify

- Protect
- Secure ownership
- Prioritize



Environmental insights

- Landscape analysis
- Market Access (FTO)
- Competitor monitoring



IP SWOT

Internal

Strength

- Strong core technology patent protection in relevant markets

Weakness

- Limited internal technology pipeline

External

Opportunity

- License agreement w. Company X of method Y
- Possibility of filing divisionals in certain markets

Threat

- Gaps in knowledge of competitive landscape



Enforcement

Does the competition infringe my patent?

- If yes – what are you going to do about it?
- Are you ready to litigate?
- Are you willing to offer a licence?
- It could be a win-win situation!

Keep a close eye on the competition!

- Surveillance



Patent portfolio management

20 years

PHASE 3

20 years

PHASE 2

20 years

PHASE 1

How to develop an IP strategy?

1. Define your business goals

- Products/projects
- Market

2. Set IP goals to support business goals

- What IP is needed to support your business (Brand names, patents etc.)

3. Define quality parameters

4. Decide risk appetite

- Willingness to defend your own IP-rights
- Reaction to IP-threats – potential and real

5. Organise IP-work

- Who decides what?
- Who does what?

IP Strategy that supports your business goals

- Devise a strategy for handling your own rights and deal with competitor rights
- IP SOP
 - Overview of own IP
 - Story for how to handle identified and potential FTO issues
 - Enforcement strategies



IP strategy and management



IP Plan

Apply an IP portfolio perspective where different types of IP contribute to increased valuation over time



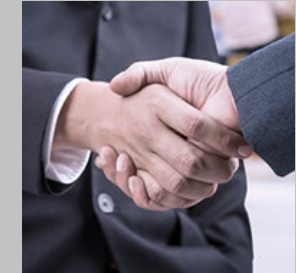
Protect, secure ownership and prioritize

Adapt to ensure:

- Exclusivity
- Uniqueness
- Market access
- Enforceability
- Leverage

IP Partnerships

Manage partnerships and external relations to ensure that core IP is secure and accessible to your company



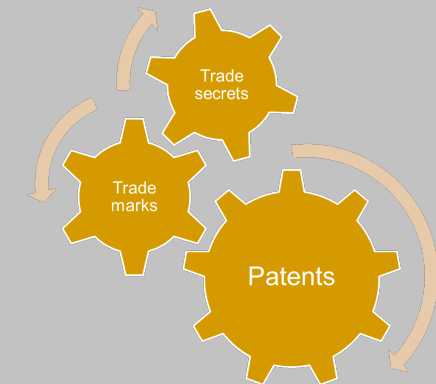
IP Intelligence

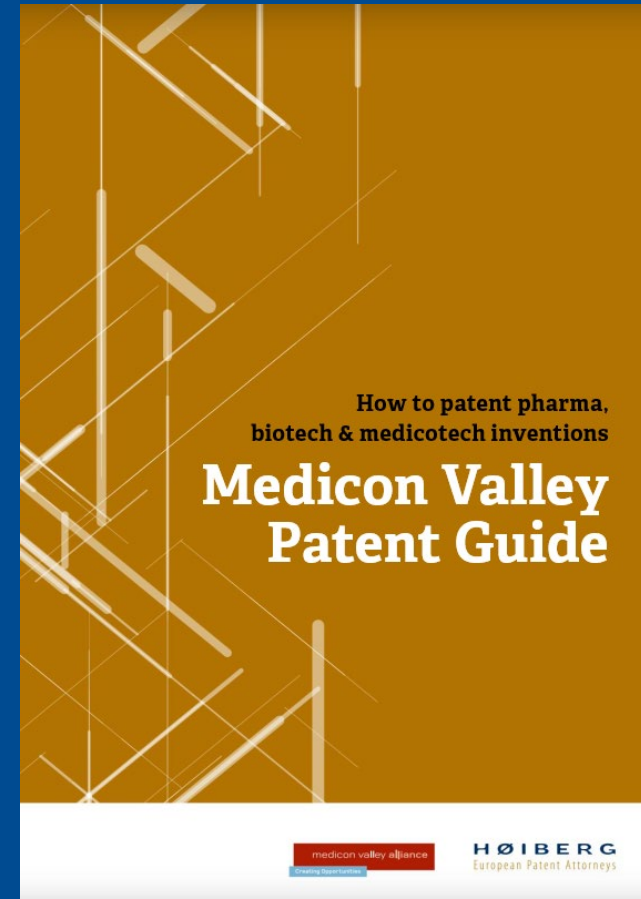
Secure intelligence regarding the environment and competitive landscape



IP Management

Work actively with the IP portfolio by developing new IP, prosecuting and defending existing IP and by using IP as an asset in litigations processes





- [HØIBERG Patent Guide](#)
- [Medicon Valley Patent Guide](#)

**Thank you
for your
attention**