

Introduction to IP

GENERAL INTRODUCTION

The different types of IP (I)

Legal right

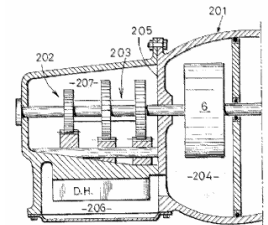
What for?

How?

Patents

New inventions

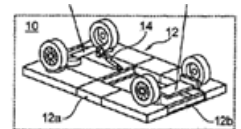
Application and examination



Utility models

New inventions

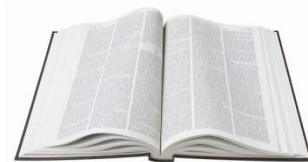
Application and registration



Copyright

Original creative or artistic forms

Exists automatically



The different types of IP (II)

Legal right

What for?

How?

Trade marks

Distinctive identification
of products or services

Use and/or
registration

Registered
designs

External appearance

Registration

Trade secrets

Valuable information
not known to the public

Reasonable efforts
to keep secret



One product - many IP rights

Trade marks

- NOKIA
- Product "208"
- Start-up tone

Copyright

- Software
- User manuals
- Ringtones
- Start-up tone
- Images



Patents and utility models

- Data-processing methods
- Operating system
- Operation of user interface

Designs

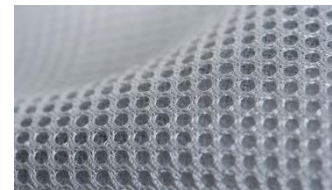
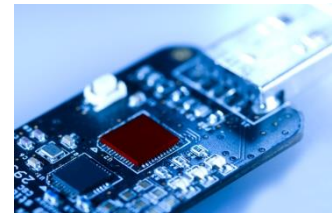
- Form of overall phone
- Arrangement and shape of buttons
- Position and shape of screen

Trade secrets

- Some technical know-how kept "in-house" and not published

The importance of intellectual property (I)

- IP is an essential business asset in the knowledge economy
 - Sandvik AB: innovative high-technology tools and steel technology
 - ARM Holdings: licenses its technology to microprocessor companies
- IP protects small innovative firms
 - W. L. Gore & Associates: GORE-TEX®
 - Dolby Laboratories: invented noise-reduction technology

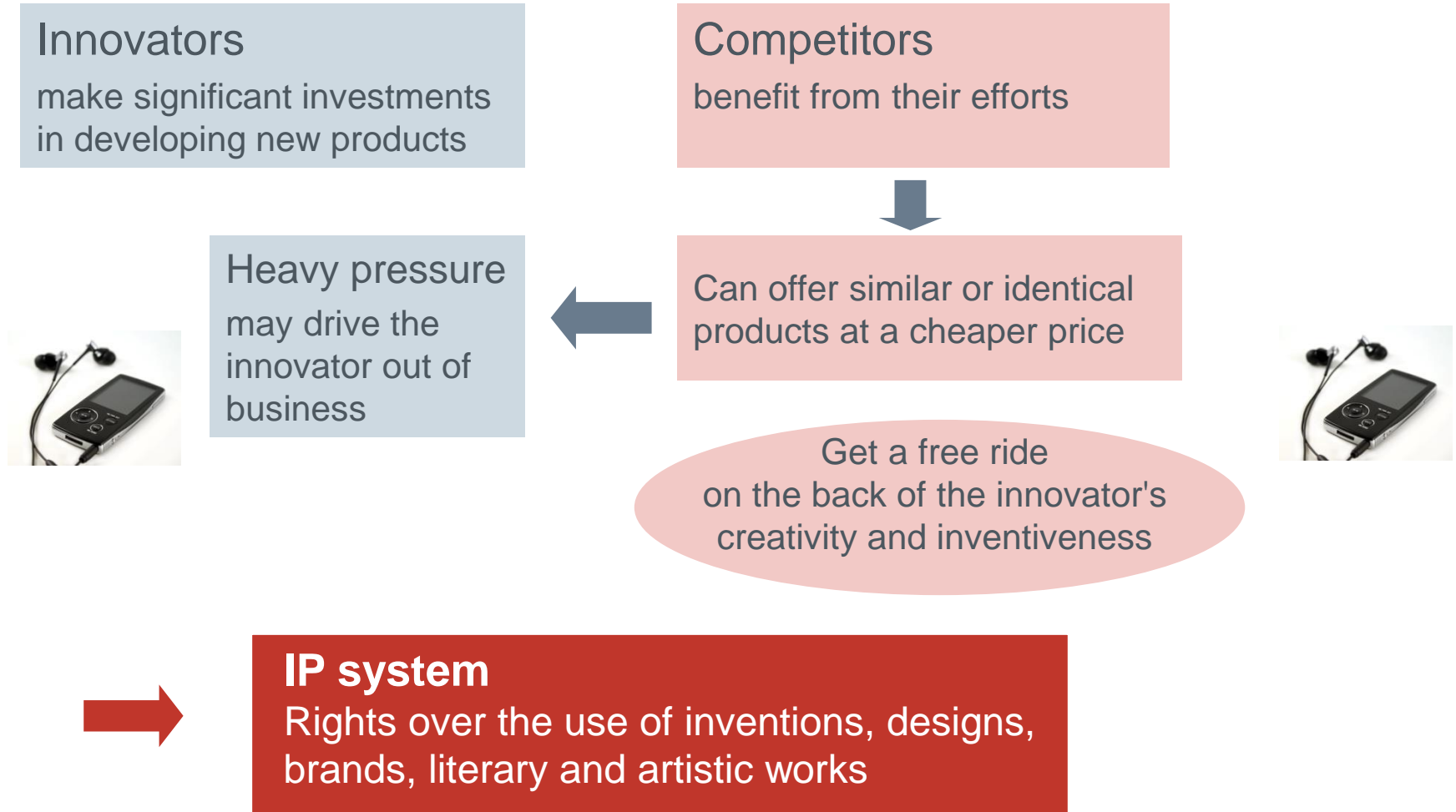


The importance of intellectual property (II)

- IP is needed to enable the release of IP into the public domain under controlled conditions.
 - General Public License (GPL): Linux
 - Creative Commons License
- IP helps guarantee standards for public benefit by means of licensed trade marks.
 - Fairtrade International (FAIRTRADE)
 - Forest Stewardship Council (FSC)



The IP System



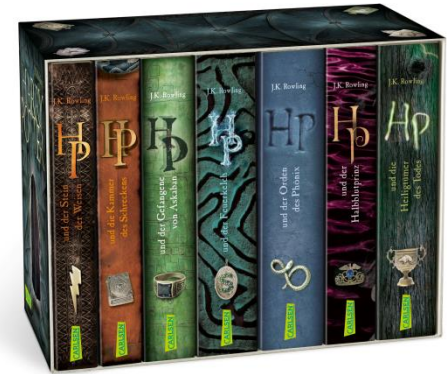
Examples of valuable intellectual property



Coca-Cola®



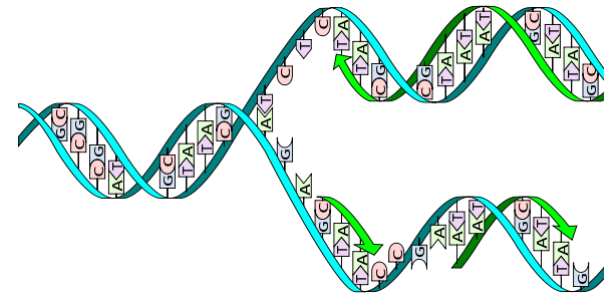
Apple® iPod touch®



Harry Potter





Polaroid® instant camera



DNA copying process

PATENTS

What is a patent?

(19)  (11)  EP 1 535 121 B1

(12) EUROPEAN PATENT SPECIFICATION

(45) Date of publication and mention of the grant of the patent: 25.08.2010 Bulletin 2010/34 (51) Int. Cl.: G05B 19/02 (2006.01) G05B 19/00 (2006.01)

(21) Application number: 03728962.6 (86) International application number: PCT/US2003/015459

(22) Date of filing: 16.05.2003 (87) International publication number: WO 2003/100553 (04.12.2003 Gazette 2003/49)

(54) SYSTEM AND METHOD FOR AUTOMATICALLY SETTING UP A UNIVERSAL REMOTE CONTROL
 SYSTEM UND VERFAHREN ZUM AUTOMATISCHEN EINRICHTEN EINER UNIVERSELLEN FERNBEDIENUNG
 SYSTEME ET PROCEDE PERMETTANT DE REGLER AUTOMATIQUEMENT UNE TELECOMMANDE UNIVERSELLE

(84) Designated Contracting States: AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IT LI LU MC NL PT RO SE SI SK TR • LILLENES, Robert, P., Cypress, California 90630-4841 (US)
 • ARLING, Paul, D., Irvine, CA 92620 (US)

(30) Priority: 20.05.2002 US 151635

(43) Date of publication of application: 01.06.2003 Bulletin 2003/22 (74) Representative: Stephen, Robert John Olszang LLP 90 High Holborn London WC1V 6XX (GB)

(73) Proprietor: UNIVERSAL ELECTRONICS, INC., Cypress, CA 90630-4841 (US)

(72) Inventors: • HAYES, Patrick, H., Mission Viejo, CA 92691 (US)
 • CONWAY, JR., James, N., Laguna Beach, CA 92651 (US)

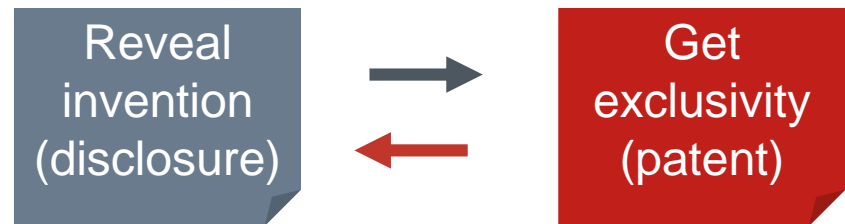
(56) References cited: EP-A- 1 198 069 EP-A2- 0 780 990
 WO-A-2007/738 WO-A-01/91910
 WO-A-01/69967 US-A- 5 410 326
 US-A- 5 646 608 US-A- 5 742 730
 US-A- 6 104 334

EP 1 535 121 B1

Note: Within nine months of the publication of the mention of the grant of the European patent in the European Patent Bulletin, any person may give notice to the European Patent Office of opposition to that patent, in accordance with the Implementing Regulations. Notice of opposition shall not be deemed to have been filed until the opposition fee has been paid. (Art. 99(1) European Patent Convention)

Printed by name: TSP/PAK/2/0

- A legal title which grants the holder
 - the exclusive right to prevent others from making, using or offering for sale, selling or importing a product that infringes his patent without his authorisation
 - in countries for which the patent was granted
 - for a limited time (up to 20 years).
- In return for this protection, the holder has to disclose the invention to the public.



Patents are granted in nearly every country in the world!



Patent applicant



Public

What exactly can be patented?

Patents protect inventions which solve technical problems:

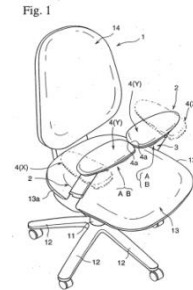
- chemical substances, pharmaceuticals



- processes, methods, uses



- products, devices, systems



For an invention to be patented, it must usually be

- ✓ **new** to the world (i.e. not available to the public anywhere in the world)
- ✓ **inventive** (i.e. not an "obvious" solution), and
- ✓ susceptible of industrial application



In most countries, patents are not granted for business methods or rules of games as such, or for methods of treatment, diagnostics and surgery on the human or animal body.



DATABASES

What is a database?

- A database is a collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means.

Scope of protection

- Directive 96/9/EC on the legal protection of databases
- Copyright protection
 - Structure
 - Originality
 - Authorship
 - Limited protection
- *Sui generis* protection
 - Contents
 - Investment
 - Maker
- Computer programs excluded

Rights and limitations

- Copyright
 - Restricted acts
 - Exceptions

- *Sui generis* right
 - 15 years
 - Prevent:
 - Extraction
 - Re-utilisation

TRADE MARKS

What is a trade mark?

- A trade mark is any sign, capable of being represented graphically, which distinguishes the goods and services of one undertaking (company or organisation) from those of another
- Many different types: word, figurative, colour, shape
- Absolute grounds for refusal
 - Distinctiveness
- Relative grounds for refusal
 - When peaceful co-existence of marks is impossible

Routes for registration

- National
- International
- EU
 - European Union Trade Mark

Scope of protection

- Exclusive right, but
 - principle of speciality
 - principle of territoriality
- Potentially perpetual (renewal every ten years)
- Risk of loss of protection if:
 - not used after five years
 - found to be invalid
- Allowed uses

DESIGNS

What is a design?

- A design is the outward appearance of the whole or parts of a product resulting from its features.
- A product is any industrial or handicraft item.
- Requirements for protection
 - Novelty
 - Individual character
- Some exclusions

Registered and unregistered design rights

- National
- International
- EU
 - registered Community design
 - unregistered Community design



Scope of protection

- Exclusive right
- Principle of territoriality
- Duration
 - registered design rights: maximum 25 years
 - unregistered design rights: 3 years
- Allowed uses

GEOGRAPHICAL INDICATIONS

What are geographical indications?

- Geographical indications identify a good as originating in the territory of a country or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
- Protection under EU legislation


Protected geographical indication (PGI)	Protected designation of origin (PDO)
 The logo for Protected Geographical Indication (PGI) is a circular emblem with a blue outer ring containing the text "PROTECTED GEOGRAPHICAL INDICATION" and twelve yellow stars. The center features a yellow background with a blue stylized landscape of hills and a sun.	 The logo for Protected Designation of Origin (PDO) is a circular emblem with a red outer ring containing the text "PROTECTED DESIGNATION OF ORIGIN" and twelve yellow stars. The center features a yellow background with a red stylized landscape of hills and a sun.

Difference between PGIs and PDOs

- Stricter conditions apply to PDOs:
 - Link between place name and product is essentially or exclusively due to the particular geographical environment.
 - All stages from production, processing and preparation are located in the defined geographical area.

UTILITY MODELS

What is a utility model?

(19)  Deutsches Patent- und Markenamt

(10) DE 20 2012 006 551 U1 2012.09.27

(12) Gebrauchsmusterschrift

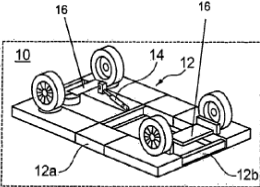
(21) Aktenzeichen: 20 2012 006 551.3 (51) Int Cl.: G09B 9/042 (2012.01)
 (22) Anmeldetag: 06.07.2012
 (47) Eintragungstag: 06.08.2012
 (43) Bekanntmachungstag im Patentblatt: 27.09.2012

(73) Name und Wohnsitz des Inhabers:
 AUDI AG, 85045, Ingolstadt, DE

Die folgenden Angaben sind den vom Anmelder eingereichten Unterlagen entnommen

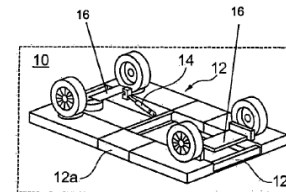
(54) Bezeichnung: Fahrsimulator zur Bewegungssimulation eines Kraftfahrzeugs

(57) Hauptanspruch: Fahrsimulator (10) zur Bewegungssimulation eines Kraftfahrzeugs, umfassend eine Bodenplatte (12) auf der ein Versuchskraftfahrzeug abstellbar ist, sowie mehrere an der Bodenplatte (12) angeordnete und mit dem Versuchskraftfahrzeug in Wirkverbindung stehende Aktoren (14) zur Simulation von Vertikal- und/oder Längs- und/oder Querbeschleunigung und/oder Nick- und/oder Rollwinkel des Versuchskraftfahrzeugs, wobei die Aktoren (14) über mindestens eine am Unterboden des Versuchskraftfahrzeugs befestigbare Adapterplatte (16) mit dem Versuchskraftfahrzeug in Wirkverbindung stehen.



- A utility model grants the holder the exclusive right to prevent third parties from:
 - exploiting an invention (e.g. making, using, offering for sale)
 - without authorisation in the country where the utility model was registered for a short period (3 to 10 years).
- The holder has to disclose the invention to the public.

Reveal invention (disclosure)



Get protection (utility model)

Scope of protection compared with patents

Utility models

- Registered territorial IP right
- Available in limited number of countries
- No central filing in Europe
- Protection for 3 -10 years
- Search reports in some countries only
- Registered and published after a few months
- Generally no substantive examination (novelty, inventiveness)
- Reviewed only in revocation or infringement proceedings

Patents

- Registered territorial IP right
- Available in most countries
- Central filing possible (e.g. EPO for Europe)
- Protection for up to 20 years
- Search reports standard
- Application published after 18 months
- Substantive examination (novelty, inventive step)
- Grant or refusal after substantive examination procedure

PLANT VARIETY RIGHTS

What are plant variety rights?

- Exclusive exploitation rights for new plant varieties
- Four requirements for protection:
 - novelty
 - distinctness
 - uniformity
 - stability
- Right holder = breeder
- Obtained through registration

Scope of protection

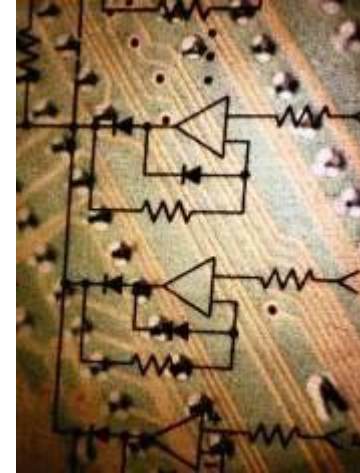
- Duration
 - At least 20 years
 - At least 25 years for varieties of vine and tree species
- Subject-matter
 - Propagating material
 - Harvested material
- Acts subject to authorisation
- Exceptions

SEMICONDUCTOR TOPOGRAPHY RIGHTS

What are semiconductor topography rights?

Semiconductor topography rights protect layout designs of integrated circuits.

- Three-dimensional components and layers and their interconnections
- Copying relatively easy
- Reverse engineering accepted practice



Substantive requirements

- Original, i.e. the result of the creator's own intellectual effort
- Not commonplace

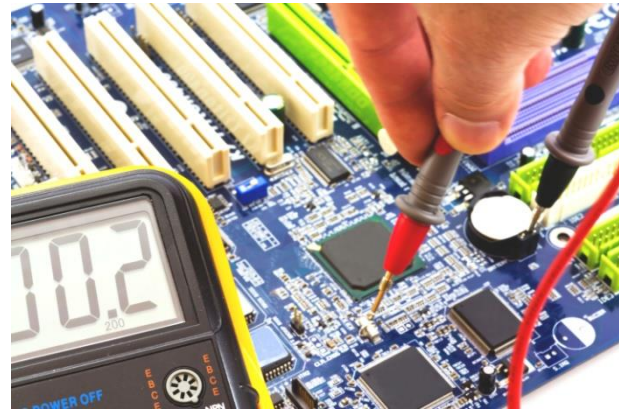
Formal requirements

TRIPS member states may prescribe:

- registration
- disclosure of electronic function
- registration fee
- commercial exploitation

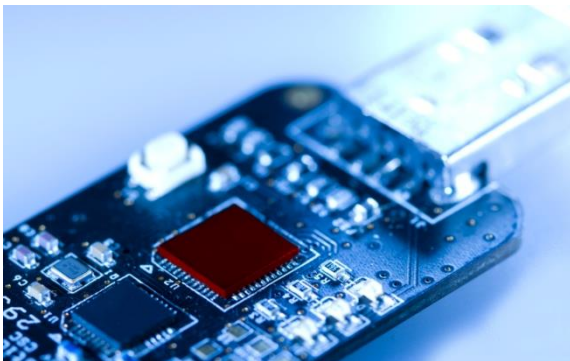
Scope of protection

Rights prevent others from reproducing, selling or importing part or all of the protected design and of products incorporating it



Duration of protection

10-15 years from the date of creation of the layout design



Exceptions and limitations

- No infringement if for private use, research or teaching
- Reverse engineering to foster innovation
- Independent creation of an identical design
- Innocent infringement

COPYRIGHT

What is copyright?

- Copyright protects any production of the human mind, such as literary and artistic works.
 - This production must be an expression and not a mere idea.
 - The expression must be original.
- Copyright creates a special legal relationship between authors and their work.
- It confers legal protection for a limited period of time.

Scope of protection

- Economic rights
 - relate to the economic exploitation of the work
 - are freely transferable or licensable
- Moral rights
 - relate to a moral interest of the author
 - are always retained by the author
- Exceptions and limitations
- Infringement and remedies

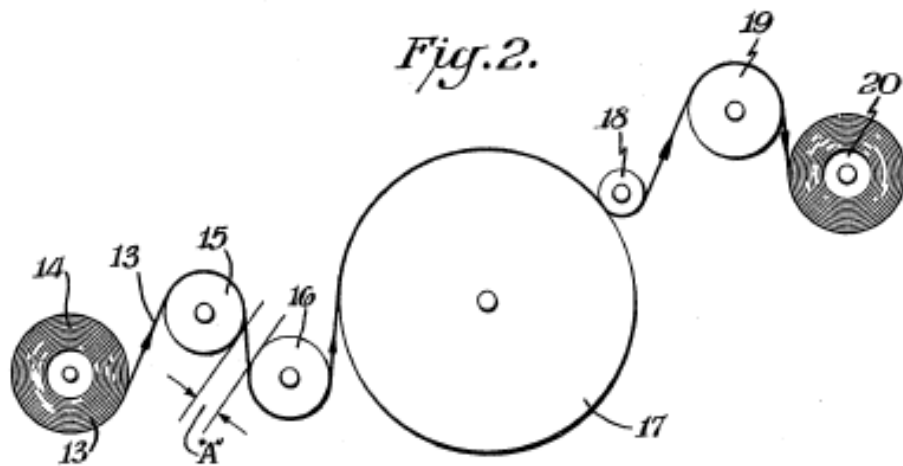
TRADE SECRETS

What are trade secrets?

- Information that
 - is not generally known or easily discovered
 - has a business, commercial or economic value (actual or potential) because the information is not generally known
 - is subject to reasonable efforts to maintain secrecy

- Unlimited life, provided the information does not become public knowledge.

Scope of protection



Products/processes
where reverse
engineering is
difficult

Images from www.coca-cola.com

Means of protection

Practical

- Limited access to information
- "Need to know"
- Encryption of data
- Monitored entry to installations

Contractual

- Restrictive covenants in employment contracts
- Non-disclosure agreements

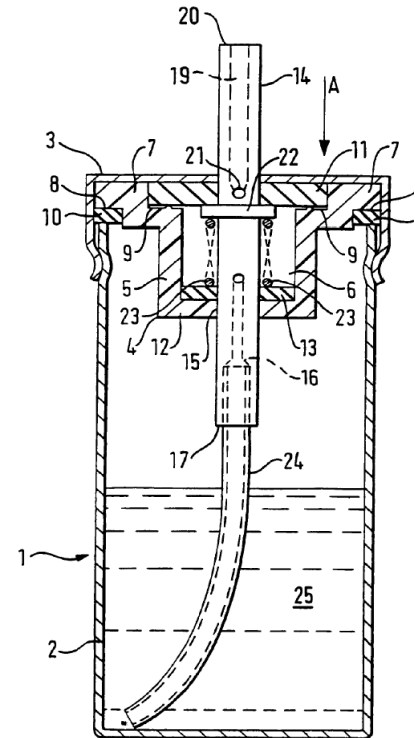
IP in the real world

A practical exercise to help you decide what IP to use and when

An anti-allergy sprayer and spray

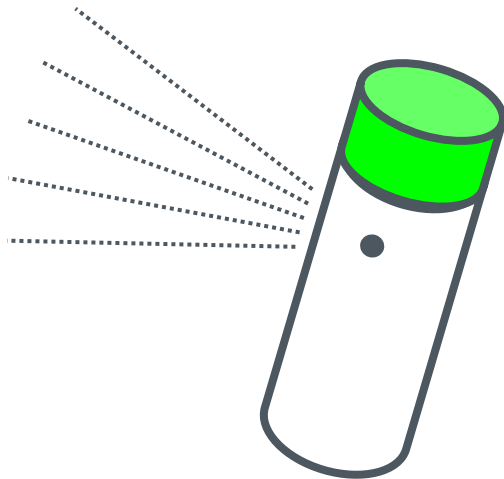


NEBU-ALLERG



Which elements can be protected?

- Medicinal product
- Nozzle
- Pumping system
- Sprayer can



- Brand name:
 - "NEBU-ALLERG"
- Logo
- Slogan:
 - "Press green for go!"
- Domain name
- Advertising material

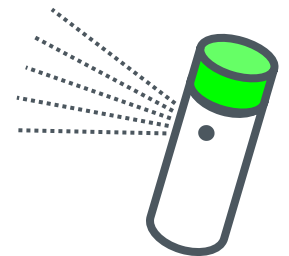
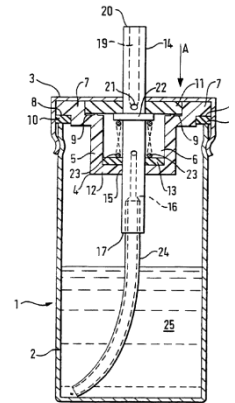


Patents and designs (I)

Medicinal product

Patents for

- the active ingredient?
(the "chemical X")
- the method of making X?
Better as a trade secret?
- the formulation?
(combination of X with other ingredients)
- ~~– the method of use?
(i.e. treatment of allergies using X)~~



Patents and designs (II)

Nozzle

- patent
- utility model

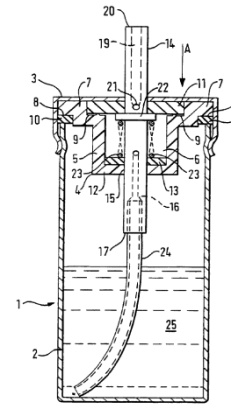
Pumping system

- patent
- utility model

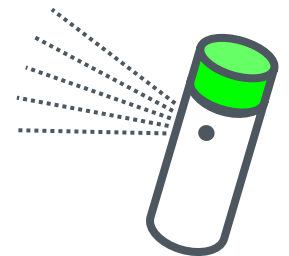


Sprayer can

- designs: registered and unregistered
- trade mark



But who owns all this IP?



Trade marks, copyright and domain names

- **Brand name:** NEBU-ALLERG **trade mark** ®
- **Logo:** **trade mark** ®
- **Slogan:** "Press green for go!" **trade mark** ®
- **Advertising material:** **copyright** ©
- **Domain names:**
 - www.nebu-allerg.com
 - www.thegreenbutton.com



Who owns all this IP?

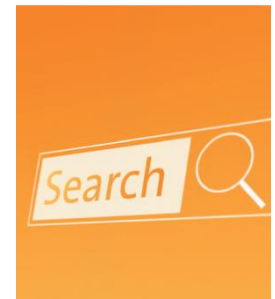
What next?

- Patents - search for free in Espacenet's 90+ million documents
- Trade marks and designs - search for free in eSearch plus
- Seek professional advice
 - Is your invention novel, inventive and patentable?
 - Do you risk infringing other people's rights?
 - Who could you license it to?
 - Who could you license from?
 - Who are your potential customers, suppliers and competitors?



Espacenet

Free access to
90 million patent documents worldwide



TMview