

What is Intellectual Property?

Intellectual Property Experts

Christina Gates

Ph.D. EPA CPA RPA RTMA

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What is Intellectual Property?

- Protection for creations of the intellect
- Patent - technical, functional innovations & inventions
- Trademark – Symbols, names, brands used in commerce, goodwill of traders
- Designs -product aesthetic or appearance
- Copyright - right to stop others copying literary and artistic works

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Why protect IP?

- Competitive advantage
- Prevent counterfeiting/copying
- Property rights which can be assigned or licensed
- An asset on balance sheet
- But – disclosure in return for monopoly

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Patents

- Property that gives a temporary monopoly for a particular technology
- It is an exclusive right that allows you to prevent others from using your invention
- Term is 20 years from the date of filing, or 10 years for short-term patents (or utility models)
- Not extendable except for drugs

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Patents (cont..)

- Territorial - Irish patent only gives you exclusive rights in Ireland
- Convention priority system
- Must file initial application before disclosing invention to the public – except in the US which has a grace period

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Trademarks

- Operate as a guarantee of source and of quality
- A trademark should not directly describe the goods or services for which it is used
 - you can't appropriate for your business, a word others should be entitled to use

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Trademarks (cont..)

- Invented word which has no meaning in any language is ideal e.g. KODAK, PANADOL
- Fanciful version of a word or words may contain an allusion to the goods or services e.g. WEETABIX, TAYTO, EIRCOM
- Dictionary word, applied out of context, e.g. APPLE
- “Covertly” descriptive words e.g. Night Nurse, Airbus, Baby Dry

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Co-operation between Design, Trademark and Patent protection

For example, **Lenor**[®] fabric softener

Design



Trademark
“Lenor” Label



Patent

Possible protection for composition of fabric softener

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Patents

- Novel: Invention does not form part of state of the art
- Inventive Step: Invention is not obvious in view of prior art : lower inventive step requirement for utility models / petty patents
- Sufficiency: Must teach someone how to repeat the invention and support the breadth of your claims.

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What is Novelty

- Prior art is everything made available to the public before the filing date
- Invention cannot have been disclosed without an obligation of confidentiality
- Conference talk, Poster presentation, Scientific publication, Display of the invention, Providing a sample are all disclosures
- Grace period for US and Canada, but other countries have limitations

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How to identify an Invention

- What problem do you solve?
- Is your solution obvious?
- Is there a need for your invention?
- How easy would it be to adopt your invention?
- Use an information disclosure form

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What do you want to protect?

- Identify the essential features of the invention
- Identify preferred or advantageous features of the invention
- Be clear about what someone else would copy

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When should you file?

- Balance the need to file with having enough information to support the application
- Too early and you may not understand what makes the invention work
- Too late and someone else beats you to the patent

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Unpatentable Subject Matter

- Computer implemented Inventions & Business Methods
- Medical diagnostic and treatment methods

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Reading Patent Documents

- Patents and published patent applications arranged under several headings
- Field of the invention
 - Gives general technological field
- Background to the invention
 - Sets out state of the art
 - Often recites earlier patents / patent applications
 - Sets up the problem(s) to be solved by the present invention

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Reading Patent Documents (cont..)

- Object of the invention
 - Sets out each of the aims/problems to be solved
- Summary of the invention
 - Sets out essential features of invention in broad terms
 - Usually echoes claim wording
 - Preferred and optional features are also described
- Brief description of the drawings

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Reading Patent Documents (cont..)

- Detailed description of the drawings
 - Describes embodiment(s) of the invention in specific terms
- Claims
 - Most important part of the patent/application
 - Define the scope of protection granted (or sought)

Reading Patent Documents (cont..)

- Dependent claims
 - Set out additional features not essential to the invention, but which are preferred or optional
 - Represent fallback positions for the patentee, should the independent claims be found invalid in future

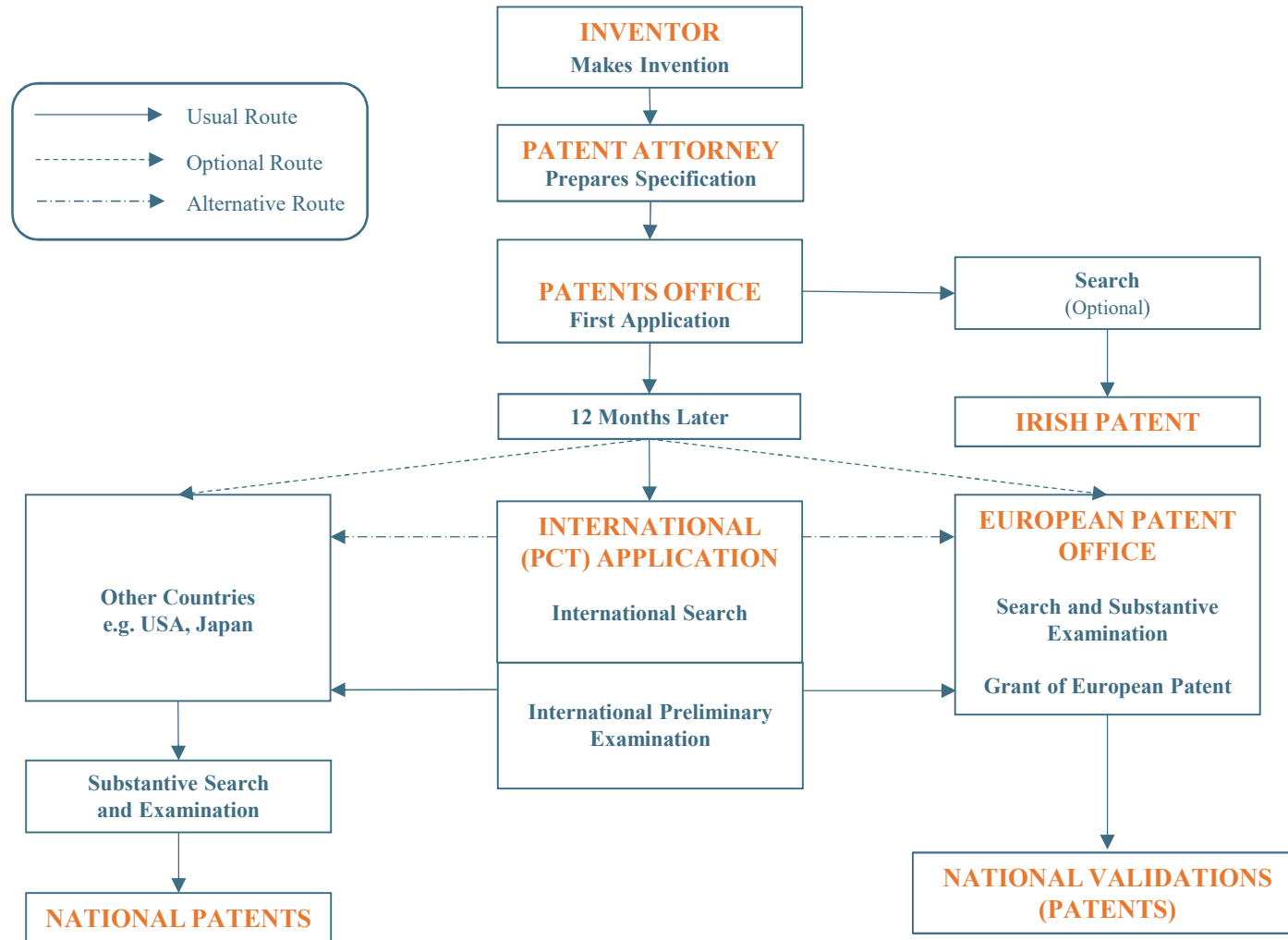
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Reading Patent Documents (cont..)

- Independent claims
 - Broadest protection
 - Set out essential features of the invention, e.g. a + b + c
 - Infringing articles must at least have all of the features of an independent claim
 - Can also have additional features as long as all claimed features are present
 - So, article with features a + b + c + d will infringe but article with features a + b + d will not

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Unitary Patent

- Protection in up to 26 EU Member States in a single application to the EPO
- The Unified Patent Court (UPC) deals with infringement and validity of both Unitary Patents and European patents
- Should be less costly
- Patent stands or falls in all 26 countries
- Not in effect yet

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Claiming Priority

EPO decision G2/98, priority of a previous application can only be acknowledged if the skilled person can derive the subject matter of the claim directly and unambiguously, using common general knowledge, from the previous application as a whole.

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Freedom to Operate

- Very costly
- Done approaching commercial launch of a product
- To determine what IP you might be infringing

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Pitfalls

- Disclosing the invention before filing
- Not using an NDA/Confidentiality Agreement
- Not agreeing IP ownership when cooperating
- Re-inventing the wheel

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Questions?

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Intellectual Property
Experts

Christina Gates

European Patent and Trade Mark Attorney

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