

PATENTS & IPR

Agenda:

- **Intellectual Property Law: the basics**
- **Eight components in the protective shield:**
 1. *The Patent*
 2. *The Utility Model*
 3. *Design*
 4. *Trademarksbrand*
 5. *Secrecy*
 6. *Niche Protection*
 7. *Speed Protection*
 8. *Brain drain plumbing*
- **Valuation of IPR**
- **Buying and selling IPR**
- **The Capital Conflict**
- **Protection Strategies**

IP By Definition:

Intellectual property (IP) is exclusive rights to creations of the mind

Under intellectual property law, owners are granted certain exclusive rights to a variety of intangible assets, e.g. musical, literary, and artistic works; discoveries and inventions.

Common types of intellectual property are:

- **Copyright**
- **Trademarks**
- **Patents**
- **Industrial design rights**
- **Trade dress (design – appearance)**
- **Trade secrets (in some jurisdictions)**

Intellectual property and its commercial exploitation is regulated by national law and international conventions



Protecting your IP (The Protective Shield)

PATENT

Global, efficient, expensive, resource consuming

UTILITY MODEL (Poor Man's Patent)

National - local, cheaper, risky (no novelty search, less requirements)

DESIGN PROTECTION

National, decisive in certain business areas

TRADEMARKS, BRANDS

National, crucial when leaving your niche

SECRECY

Can be cost-efficient, is risky, requires secrecy agreements with employees => extra payments

NICHE PROTECTION

Patent not worthwhile

SPEED PROTECTION

Patent useless

KEEP the BRAINS!

They contain your knowledge



THE PATENT

A geographically and time limited **monopoly on sales and production** of products, whose function rely on **processes, procedures or constructional embodiments, which are described in the patent**

claims. (Monopoly = right to prevent others from doing business within your field – and you have to exercise your rights proactively)

To obtain a patent requires

Novelty

Unknown to Mankind

Usefulness

In a commercial-industrial context!

Inventiveness

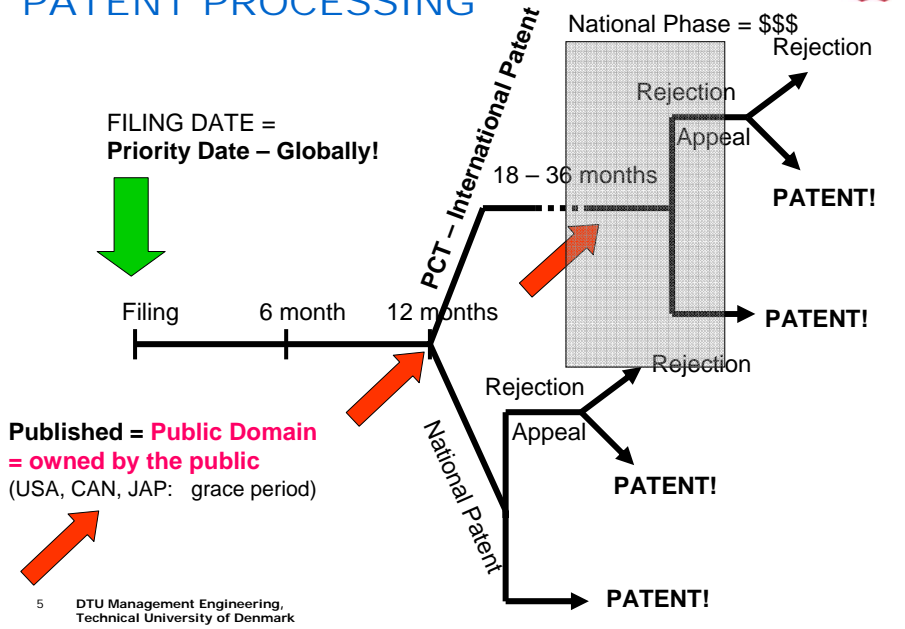
Not obvious to the skilled but unimaginitive specialist

Not offensive to public moral

Not diagnostic methods

National differences within software & biotech

PATENT PROCESSING

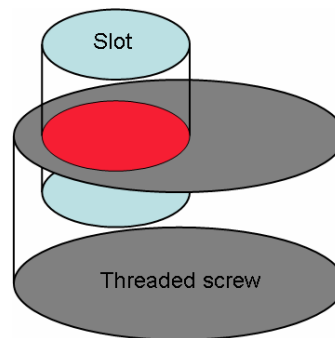


Patents - interaction and impact



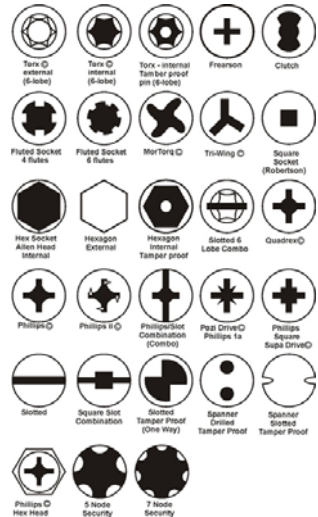
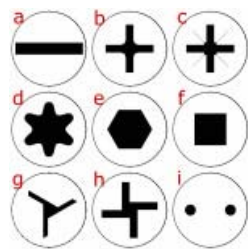
Any one **may file a subsidiary patent on an invention, which improves an existing and patented invention**

No one **is allowed to exploit the subsidiary patent without the permission of the owner of the existing patent**



Subsidiary patents are door-openers to cooperation and license revenues

Subsidiary patents are door-openers to cooperation and license revenues - and only Man's fantasy sets the limits



The Novelty Search:

- Identify your Freedom-to-Operate
- Look your competitors over their shoulders
- Find yourself a domain: make your claim

Derwent World Patents Index: database containing patent applications and grants from 44 of the world's patent issuing authorities. [click here](#)

The Google Patent Search Engine:
<http://www.google.com/patents> : 8 mio. US Patents

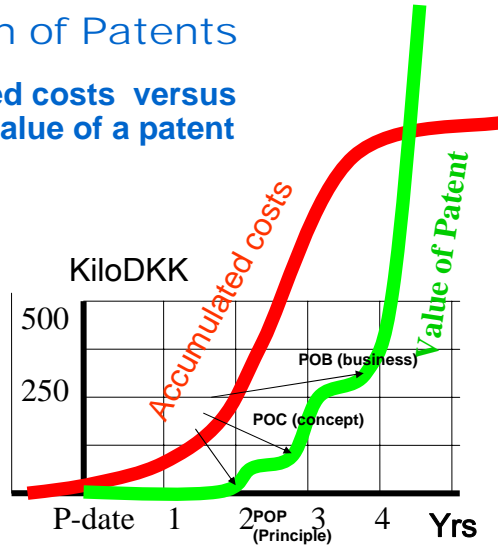
European Free Search Facility:
<http://www.espacenet.com/index.en.htm>

Free patent search online:
<http://www.freepatentsonline.com>

Overview of internet databases: [click here](#)
Other usefull links: [click here](#)

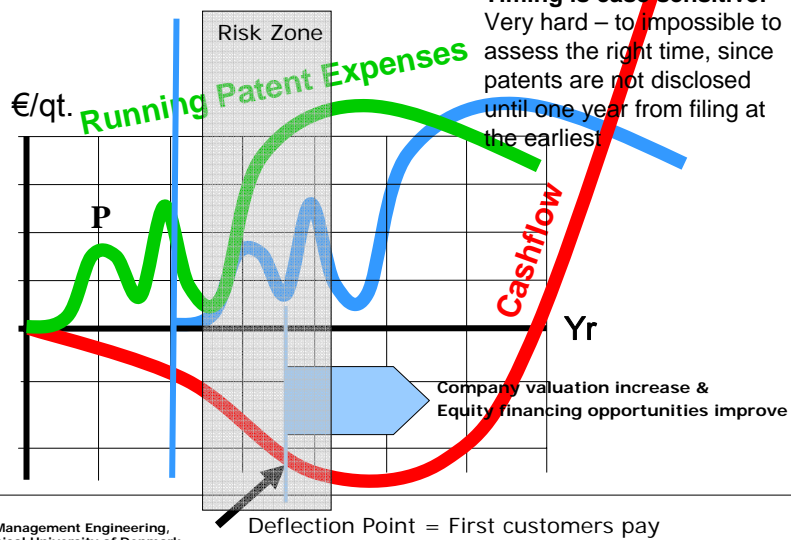
Valuation of Patents

Accumulated costs versus perceived value of a patent



The Capital Conflict

Time of Filing is essential
Timing is case sensitive!
 Very hard – to impossible to assess the right time, since patents are not disclosed until one year from filing at the earliest



Selling Patents (Tech-trans)

1. Valuation

Commercial verification increases valuation

2. Tactics of Negotiation

- Hire professionals – the process is complex
- Non-disclosure agreements before hand outs.
Include response deadlines, and non-attack obligations
- Keep a distance to major expenses
- Beef up your staying power

3. Sales procedure

- Serial or parallel contacts to potential buyers?
- Exclusive or non-exclusive licensing agreements?
- Hybrids? (Regional exclusive licensing agreements)?

Protection Strategies, IP

1. Production

Secrecy agreements, niching, stock options, Non-compete obligations, patents, design, trademarks

2. Consultancy

Non-compete obligations, stock options, niching

3. ICT

Speed protection, niching, stock options, secrecy agreements, non-compete obligations – and patents

4. Biotec

Patents, stock options