



INTELLECTUAL PROPERTY FOR STARTUPS

Tuesday, May 30th 2017

IBCL Sponsors



Event Sponsor



Agenda

- Welcome speech
- Conference moderated by Martin GUERIN, Nyuko
 - Stéphane SPEICH, Dennemeyer & Associates
 - Rohit KUMAR, Research Wire
 - Olivier LOMBARDO, Dennemeyer & Associates
 - Serge QUAZZOTTI, Intellectual Property Institute of Luxembourg
- IP for startups in practice
- Q&A session
- Networking cocktail

A large, solid red triangle pointing downwards from the top right corner of the page, with a thin white border.

nyuko—

Entrepreneurs' acceleration

Nyuko Programs

nyuko

Nyuko Acceleration Cycles (NAC)

Garage band / Opening band

More than **65** applications received, more than **25** selected

1,2,3 Go contest

Innovation in the Great Region

More than **160** applications received, more than **40** selected

1,2,3 Go Social

Supporting the circular economy

More than **25** applications received, **7** selected

Business Mentoring

Fruitful relations for young and experienced entrepreneurs

24 matches

Nyuko Programs

Fund raising

More than **6** million euros raised in **7** fundraisings

Coworking space

More than **50** coworkers, nomad or resident

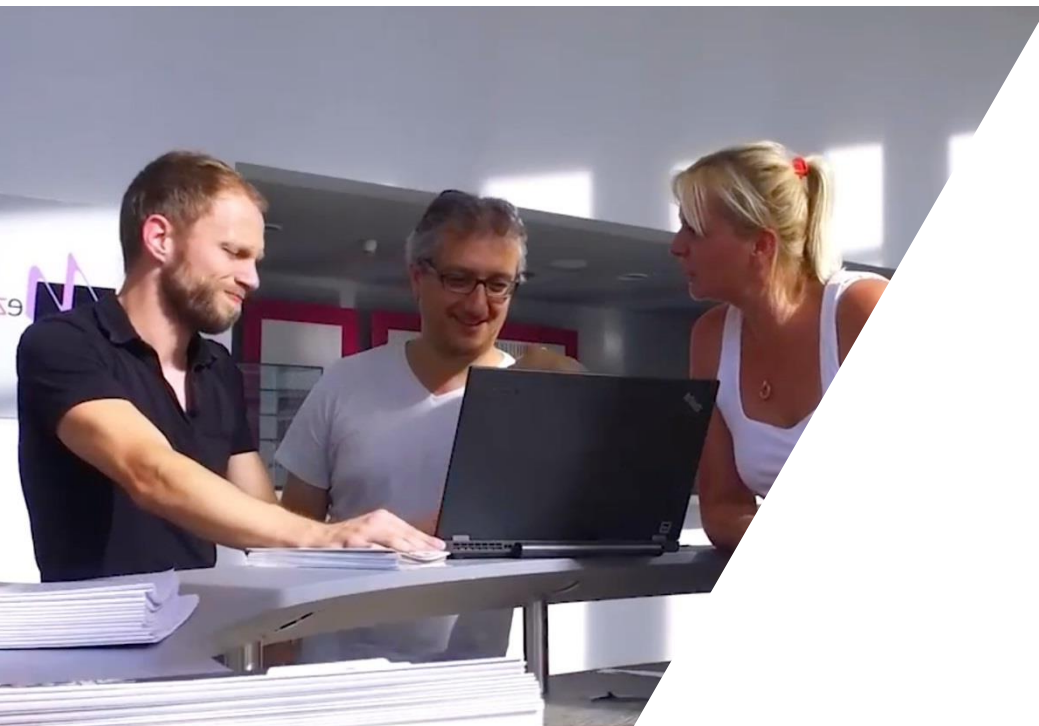
Open innovation

More than **15** corporate members



"By being here at nyuko, I could get easier connections while enjoying an entrepreneur-friendly environment. It really helped us."

Bert Boerman, co-founder of Governance.io
(former coworker at nyuko, raised funds with nyuko, Fintech award 2016 winner)



"Warm thanks to the team for your time. We are really glad to be part of this adventure with nyuko on our side!"

Yann Caroff, co-founder of Gig&Go

Contact us !

nyuko.lu





Mr. Stéphane SPEICH

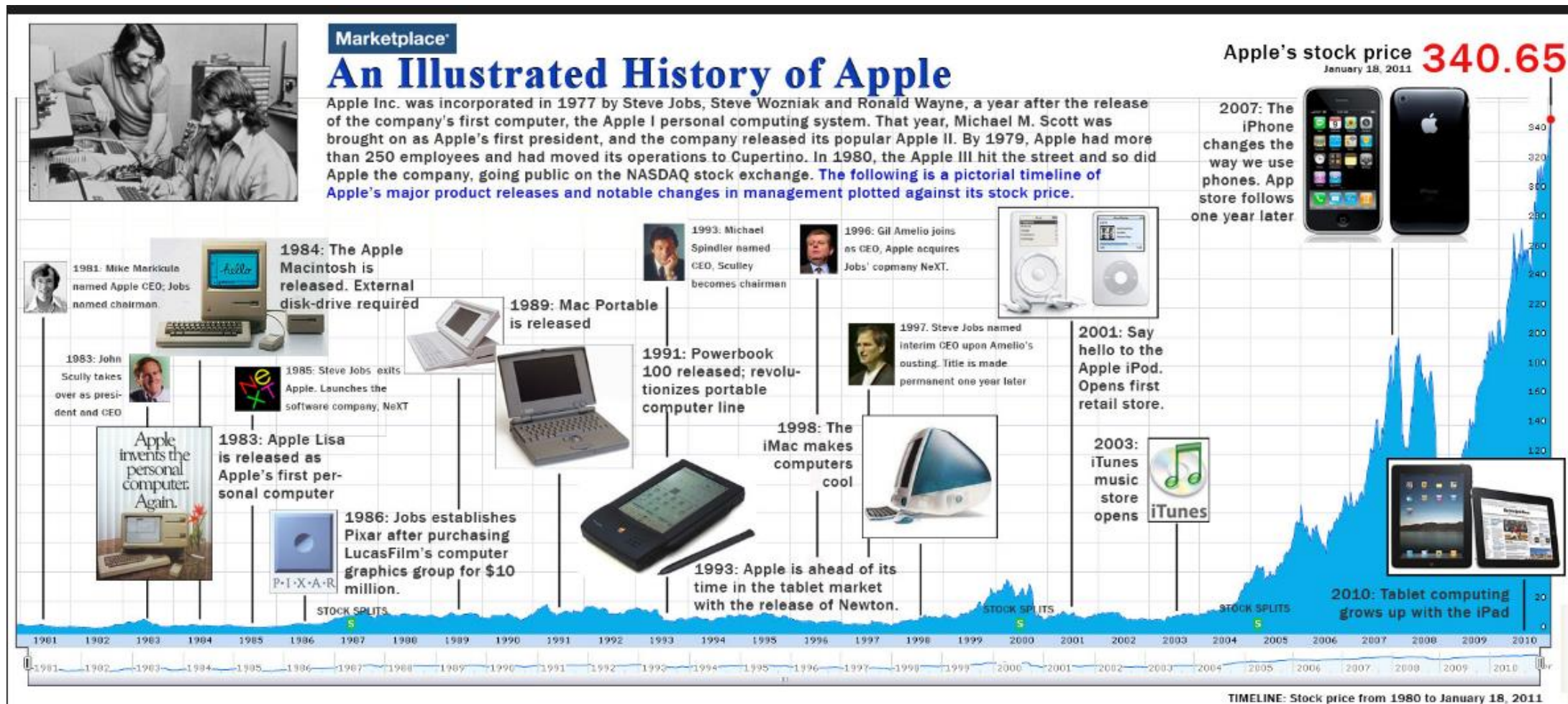
European Patent Attorney
Patent Attorney (LU, BE, FR)
Patent assessor (DE)

Denmeyer & Associates S.A.
sspeich@denmeyer-law.com

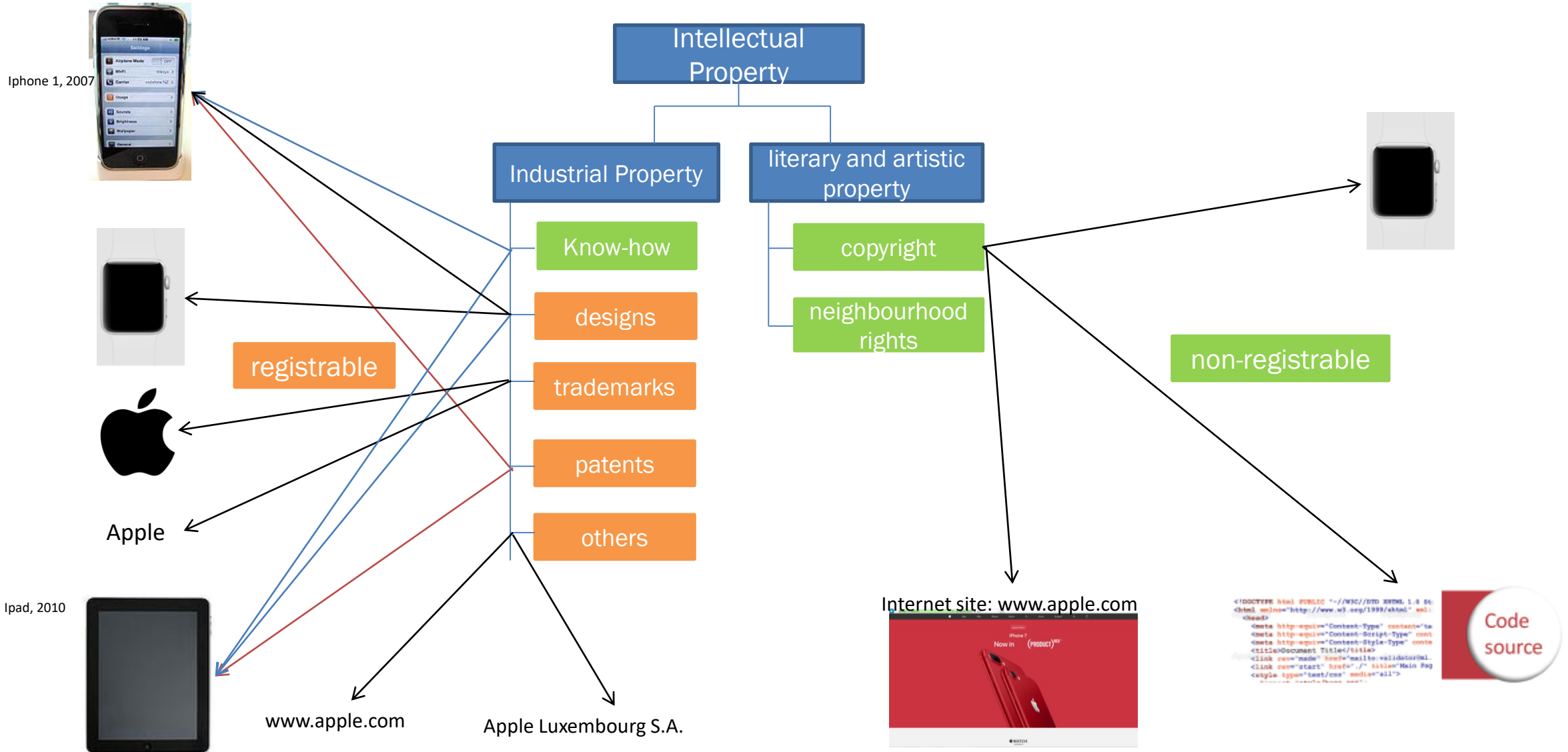
IBCL Conference Luxembourg

30.5.2017

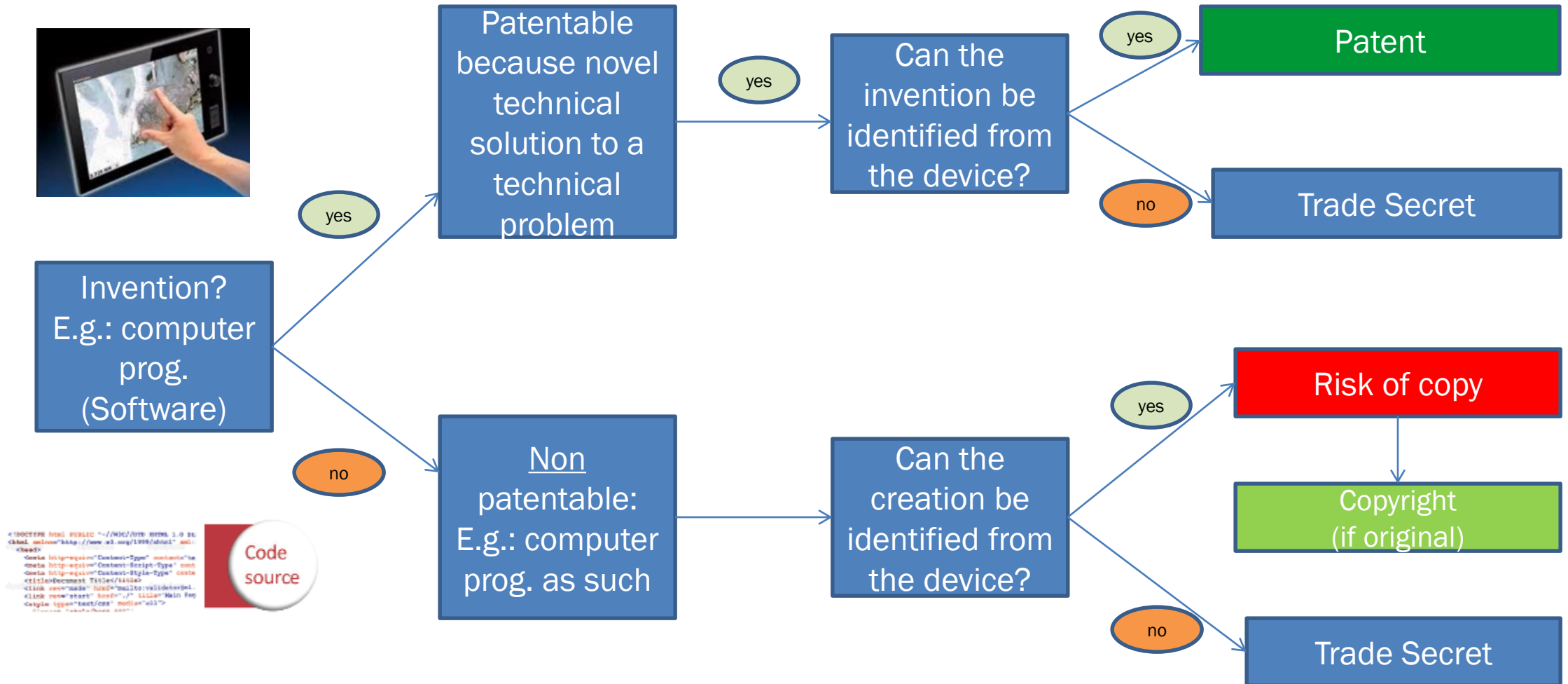
What is Intellectual Property? Study of the Apple case



What is Intellectual Property? Study of the Apple case



Patent or not patent?



-
- Some anecdotes of my professional experiences:
 - Exhibition
 - Oral disclosure
 - Employee's invention
 - Inventor / applicant (assignment of rights)
 - Infringement (claim 1) – infringement by equivalence

vendredi 14 janvier 2011 / www.lesessentiel.lu

VWEDP

Le génie à la fourgonnette mate le géant Microsoft

JUSTICE - Un Australien va encaisser le pactole après une âpre lutte devant les tribunaux contre la firme de Redmond.

Un inventeur en série, avec plus de 40 découvertes reconnues, a finalement eu gain de cause auprès d'une cour d'appel américaine. La justice a statué que Microsoft avait indûment exploité un brevet antipiratage de Ric Richardson sur Windows XP et dans la suite bureautique Office. Tout n'a pas été facile pour cet homme, qui a pris l'habitude de travailler dans une fourgonnette, sa «DickMobile», garée dans sa propriété, du côté de Byron Bay.

Pour faire valoir ses droits, il a commencé à fréquenter les



Ric Richardson, 48 ans, ici au travail dans sa «DickMobile».

tribunaux en 2003. «Des gens ont écarquillé les yeux quand ils ont entendu pour la pre-

mière fois que je voulais poursuivre en justice Microsoft», explique-t-il au «Sydney He-

rald Tribune». En avril 2009, Ric pensait enfin avoir triomphé quand un juge lui avait donné raison, avec un montant de 300 millions d'euros de dommages à la clé. Mais, six mois plus tard, l'autorité de recours avait annulé la décision, faisant pencher la balance en faveur de Microsoft. Heureusement pour Ric, les juges viennent de rétablir le premier jugement.

Un autre procès devra cependant fixer les modalités du calcul de l'indemnité. La cour n'entend en effet plus se baser sur «la règle des 25 %». Cette dernière prévoyait jusqu'ici qu'une société qui utilise une licence doit rétribuer son propriétaire à hauteur de 25 % de la valeur du produit. Ric Richardson risque ainsi de voir ses prétentions pécuniaires revues à la baisse.

Thank you for your attention, any question?



Mr. Stéphane SPEICH
Patent Attorney (FR,LU,BE)
European patent attorney
Dennemeyer & Associates S.A.

researchwire

DECODING IP RIGHTS FOR STARTUPS



Rohit Kumar
Rohit.kumar@researchwire.in

Vlingo Story

Timeline of a startup

Launched
Android app.

- \$ 6.5 M in round A

Patents Lawsuit
by Nuance in
2009

- Nuance wanted to take over Vlingo since it was founded

3 years of
patent battles
till 2012

- Acquired by Nuance by end of 2012 for undisclosed terms

2007

2008

2009

2010

2012

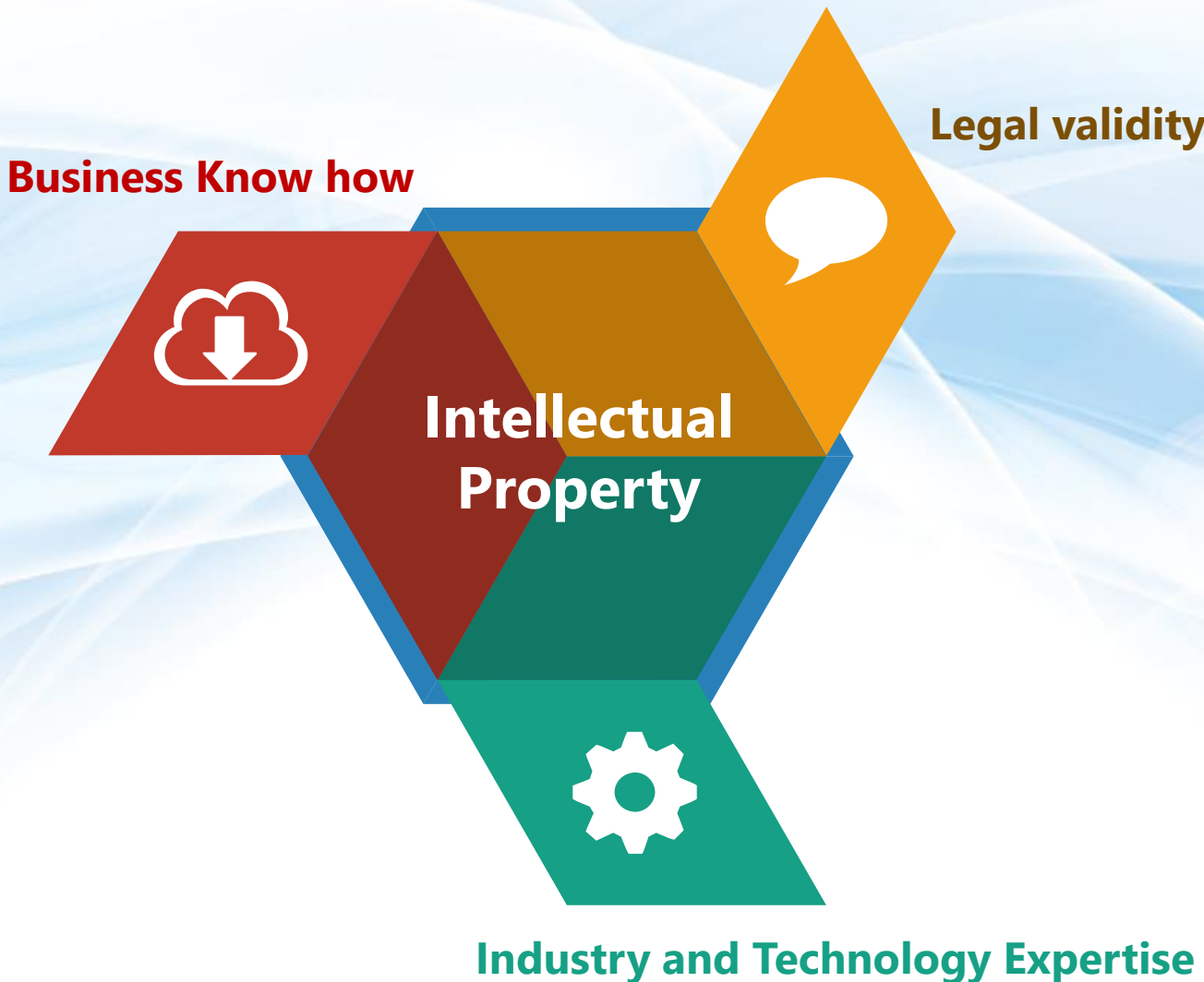
Growth with
Series B

- \$ 20 M in round B
- Exclusive Yahoo deal

Gains close to 5
M User by 2009

- Exclusive deals with Yahoo, Samsung, Nokia, and RIM

Value of intellectual property



- Intangible assets account for 80% of a business's value. For early-stage companies, that number is more like 90%.¹
- IP is a legal framework to safeguard firms intangible assets such as
 - Know how – Trade Secrets
 - Innovation - Patents
 - Message - Copyright
 - Reputation – Trademark
- There are various ways IP values can be actualized.

Do investors value IP?

- **Venture capitalists/ Investors prefer to invest in tech startups who patent their ideas**

- *According to a 2008 Berkeley Patent Survey, venture-backed startups had a median of 6 patents or applications, while startups without venture capital tended to hold no patents or applications*

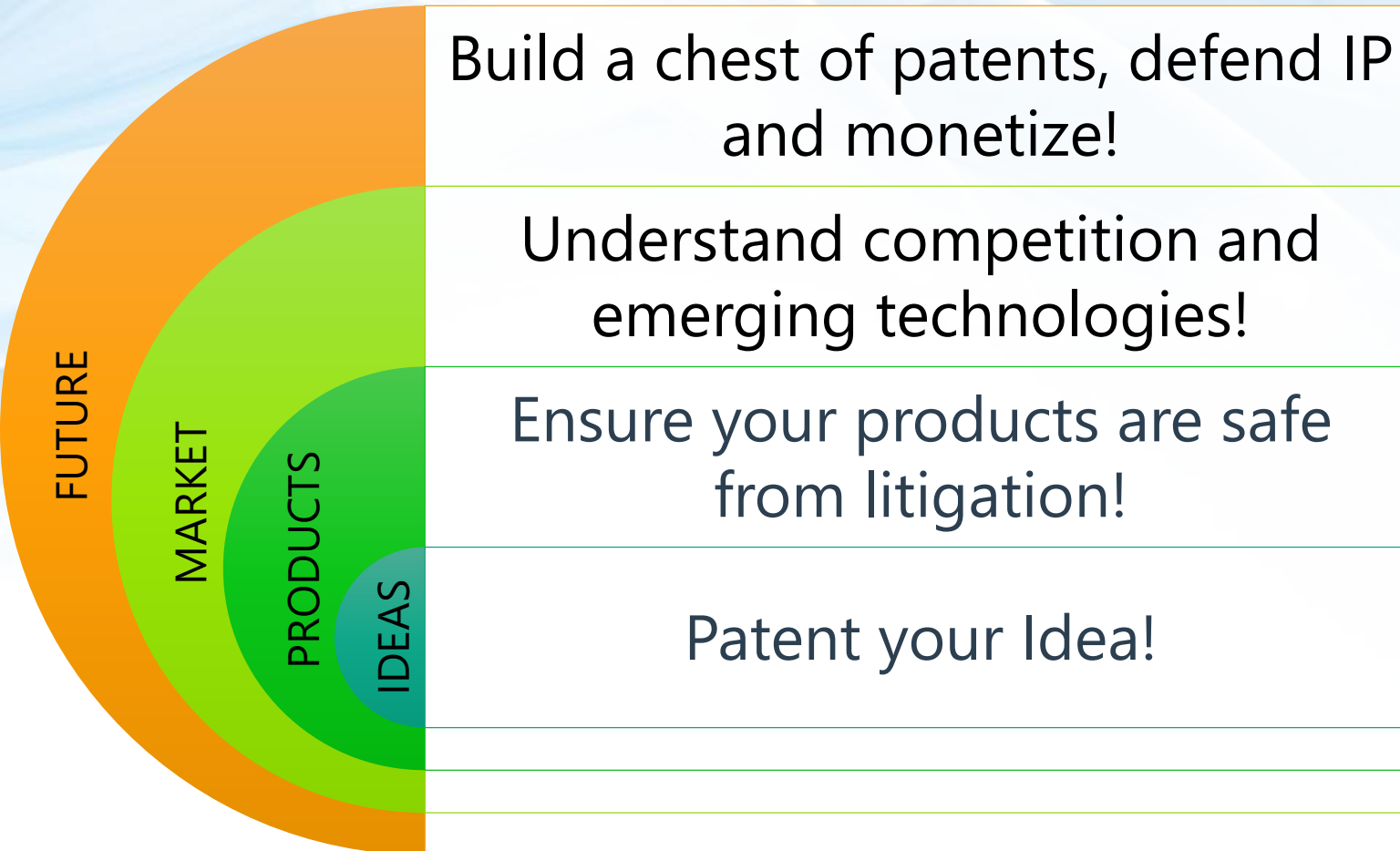
- **VCs/Investors would very often ask these questions**

- What IP have you already protected or can you still protect?
- Do you have freedom to operate?
- Do you own the IP you purport to have?
- What kind of IP you have
 - Trade secrets – Risky
 - Patents – Expensive
 - Me too – IP only on brand and reputation



What should a startup do?

Effective IP strategy for a startup must be decided by business reasons rather than budget constraints



Patent portfolio analysis and monetization

Competitive / Technology analysis

FTO Search, Clearance search, Product search

Patentability Search, Novelty Search.

Best Practices for Startups

WRITE YOUR AGREEMENTS

IP Assignment, NDAs, Employee confidentiality and non compete clauses, Partner/vendor agreements

LOOK BEFORE YOU LAUNCH

Make sure you are not infringing on others IP rights. Also check if your ideas are well protected

DO NOT DIY

Understanding IP rights are important and it is better to take advice from experts rather than DIY or use a cheap alternative



BEWARE OF THE EPD

One year after an Enabling Public Disclosure (EPD), you CANNOT patent that product or invention

ADDRESS, LOCATION & DATE

Understand in which geographies you are protected and know your priority dates for right protection

CULTURE OF AWARENESS

From the beginning create and enforce a company culture where IP is respected and protected

Thank You!



www.researchwire.in



ResearchWire Europe
8, Rue des Roses,
Bereldange
Luxembourg

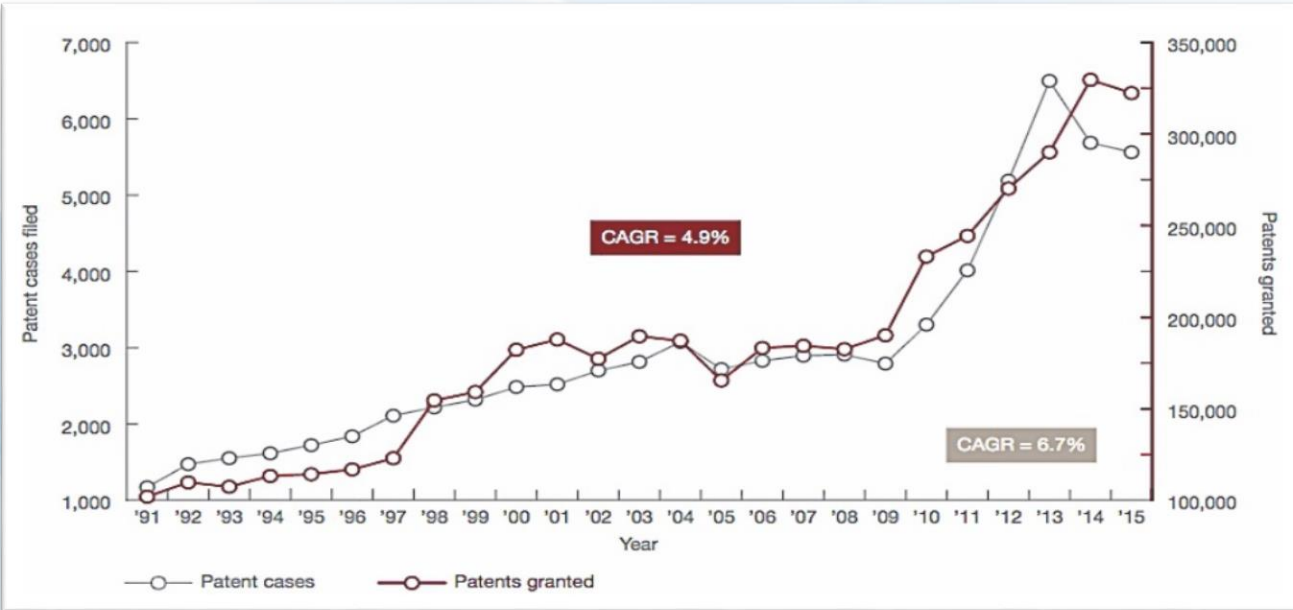


Rohit.kumar@researchwire.in



+352 661 50 29 00
+91 (22) 41225210

Value of a Patent



- **300,000+** patents are granted every year
- **6000 +** patent litigations are fought every year and number is increasing

Fig 2: Top ten largest initial adjudicated damages awards: 1996–2015

| Year | Plaintiff | Defendant | Technology | Award (in \$M) |
|------|-----------------------------|--------------------------------------|---|----------------|
| 2009 | Centocor Ortho Biotech Inc. | Abbott Laboratories | Arthritis drugs | \$1,673 |
| 2007 | Lucent Technologies Inc. | Microsoft Corp. | MP3 technology | \$1,538 |
| 2012 | Carnegie Mellon University | Marvell Technology Group | Noise reduction on circuits for disk drives | \$1,169 |
| 2012 | Apple Inc. | Samsung Electronics Co. | Smartphone software | \$1,049 |
| 2012 | Monsanto Company | E. I. du Pont de Nemours and Co. | Genetically modified soybean seeds | \$1,000 |
| 2005 | Cordis Corp. | Medtronic Vascular, Inc. | Vascular stents | \$595 |
| 2015 | Smartflash LLC | Apple Inc. | Media storage | \$533 |
| 2004 | Eolas Technologies Inc. | Microsoft Corp. | Internet browser | \$521 |
| 2011 | Bruce N. Saffran, M.D. | Johnson & Johnson | Drug-eluting stents | \$482 |
| 2014 | Masimo Corporation | Philips Electronics N. America Corp. | Device measuring blood oxygen levels | \$467 |

- **Microsoft paid \$ 1.53 billion to Lucent for infringing the patent for MP3 Technologies**
- **Samsung paid more than \$ 1 billion to Apple for infringing their patent for Smartphone software**

Table 1. Aspects of patent value: patents as corporate assets and commercial tools

| Aspect | Value |
|------------|--|
| Offensive | <ul style="list-style-type: none">• generate patent license revenues• increase market reach• support technology licensing• establish monopoly• litigation and enforcement• protect market share |
| Defensive | <ul style="list-style-type: none">• deter others from copying• discourage potential infringers• improve balance of patent power• forestall third-party lawsuits |
| Strategic | <ul style="list-style-type: none">• acquire venture capital• improve chances of securing other investment• improve negotiating position• licensing/cross-licensing of third-party technology• license for other business value• improve quality of liquidity• assist in initial public offering or other exit event, such as merger or acquisition |
| Leadership | <ul style="list-style-type: none">• enhance product/quality image• underscore innovation culture• demonstrate technology leadership• establish technology ownership |



Olivier **Lombardo**
Head of Trademark Department

Dennemeyer & Associates
olombardo@dennemeyer-law.com

IBCL Conference Luxembourg

INTELLECTUAL PROPERTY FOR STARTUPS

May 30, 2017





Single
Enga
Divo
 It's O
Sep
In a
Mar



**IP is secondary and not
worth protecting it ?**



IP is secondary...

- ✓ **My money is worth being invested in business development!**
- ✓ **I have no risk if I don't protect my IP!**
- ✓ **I am the first on this segment and I don't have any competitor!**

WRONG!

IP is not secondary!

- ✓ Your IP is the result of important human and financial investments!
- ✓ **Apply for IP and get an exclusive right that will help you to:**
 - ✓ **Defend your property:** access to efficient legal remedies
 - ✓ **Secure external investments:** gives credibility to your project, attract venture capitalists, investors, collaborators
 - ✓ **Benefit of your investments:** royalties payment from licensing, assignment, possible tax incentives

**IP is complicated,
where should I start?**

- Single
- Engaged
- Divorced
- It's Complicated**
- Separated
- In a Relationship
- Married

Where to start?

✓ One idea, one product or service, many solutions...

| | Innovative product | Innovative service | Non innovative product Non innovative service |
|----------------|---|--|--|
| What business? | Disruptive technology | First on the market | New competitor |
| What to aim? | <ul style="list-style-type: none">▪ Patent▪ Secret▪ Trademark | <ul style="list-style-type: none">▪ Trademark▪ Design | <ul style="list-style-type: none">▪ Trademark▪ Design |

**IP is expensive, I
rather postpone
these disbursements!**



IP is not always expensive !

| | Patent | Secret | Trademark | Design | Copyright |
|----------------------------------|---------|------------|-----------|---------|-----------|
| Minimum Protection Costs (LU/BX) | 5.000 € | 1.000 € | 240 € | 150 € | 35 € |
| Maintenance Cycle (LU/BX) | Yearly | Continuous | 10 years | 5 years | None |
| Protection Level | Secure | Risky | Secure | Risky | Risky |

- ✓ IP can be inexpensive depending on your business and the part of risk you are ready to accept

**I'm a start-up what
should I focus on?**



What to focus on in the creation stage?

- ✓ **On the IP side: get protected as soon as possible**
- ✓ On the business side: the start-up stage is the most critical one, no money but so many things going on (creation, ideas,...)
- ✓ **Beware! No protection of ideas or concepts!**
- ✓ Put down on paper every creation, prototype of product or service!

What to focus on in the creation stage?

- ✓ **Apply regularly for copyright using “i-depôt”**
 - ✓ Protection from the date of creation if original
 - ✓ Bill of spécifications, preparatory work, brainstorming session, source code...
- ✓ **Define your identity and apply for a trademark**
 - ✓ Protection from the filing date
 - ✓ Add economical value to your trademark by communicating everyday on it
- ✓ **Use contractual solutions**
 - ✓ Transfer of copyright from stakeholders of brainstorming session or creation done on order
 - ✓ Non-disclosure agreements, employee confidentiality and non competition clauses

Gerard Baden-Clay cheated on his wife, then killed her, and dumped her body in the ocean. He immediately tried to claim her life insurance. During his murder trial, he denied any involvement. But now, the father-of-three could leave prison after an appeal court found he did not murder his wife.

THE LAW IS AN A

FULL COVERAGE FROM DAVID MURRAY



KEEP
CALM
AND
DROP THE
CLICHES

Thank you for your attention!

Questions?



Case study



Intellectual Property in Luxembourg - Organisation of public services -

Serge Quazzotti
Director

Institut de la Propriété Intellectuelle Luxembourg – IPIL
serge.quazzotti@ipil.lu

Intellectual Property for start-ups

May 30th 2017

Indian Business Chamber of Luxembourg





Organisation of IP in Luxembourg

IP Office

- Intellectual Property Office - Ministry of Economy (Director Mr Lex Kaufhold)
part of General Directorate research, IP and new technologies
- Implementation and management of legal framework and instruments for protection of IP rights:
 - Patents
 - Trademarks
 - Design rights (*dessins et modèles*)
 - Author rights
- Representation of Luxembourg in European Union and international IP organisations
 - Benelux Office for Intellectual Property (BOIP) – Benelux TM and design
 - European Patent Office (Munich)
 - European IP Office (Alicante) – European Union TM and design
 - World Intellectual Property Office (Geneva) – International Patent (PCT), International trademark, international design



Organisation of IP in Luxembourg

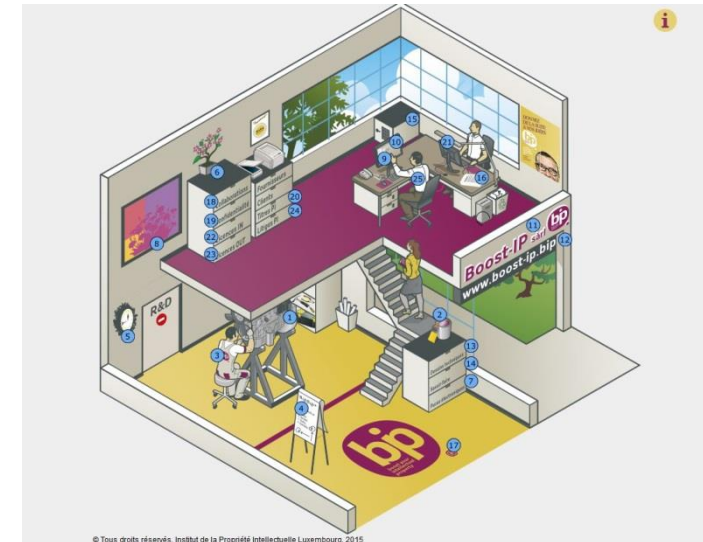
IPIL – Intellectual Property Institute Luxembourg

- awareness and training
 - events, conferences, e.g. IP day (26 April), Afterworks roadshow (October)
- support services
 - Helpdesk, first line support, e.g. Boost IP
 - specific support services, e.g. patent searching/landscaping/technology watch/competitive, scientific & technological intelligence
 - Specialised IP library
- studies for government
- coordination of public IP policies
 - synergies with all major stakeholders, e.g. IP professionals, incubators, Uni.lu, research organisations, Luxinnovation, sector representatives, ...
- International development
 - Networking cooperation with internat. stakeholders
 - Cooperation in EU and internat. activities and projects, e.g. European IPR helpdesk, EU knowledge transfer society ...



Useful links and information resources

- IP laws
 - Website IP Office : www.gouvernement.lu/4349915/propriete-intellectuelle
- IPIL IP toolbox : ipil.lu/fr/sensibilisation-et-accompagnement-en-propriete-intellectuelle/la-documentation-et-boite-a-outils-de-lipil/
 - IP in a picture
 - IP guides
 - Fact-sheets, e.g. on how to integrate IP during the creation of a company on how to manage creations in a company on how to file a Benelux trademark, ...
- European IPR helpdesk : www.iprhelpdesk.eu
 - Library with fact sheets, case studies, templates ...





Thank you for your attention



Institut de la Propriété Intellectuelle Luxembourg

134, route d'Arlon
Strassen
Tél. 247 – 80210
info@ipil.lu



All of our services are offered free of charge.



IP for startups in practice



www.luxai.eu

- Dr. Pouyan Ziafati, CEO & Founder



www.trustseed.com

- Dr. Stéphane Amarger, Chief Innovation & Marketing Officer

Q&A session

Sponsors and partners

Event Sponsor



IBCL Sponsors



Media partners



Thank you!

Please follow  on:

www.ibcl.lu

