

Protect
innovations,
don't hide
them



Intellectual property rights
for start-ups



Contents

- 3 Intellectual property rights for start-ups
- 4 Five steps for the perfect start
- 5 Strong partnerships - but safe!
- 5 Security for investors
- 6 Does your own company need technical protection rights?
- 7 Keeping an eye on costs with the right strategy
- 8 Securing the recognizability on the market
- 9 Observe property rights on the market

Meissner Bolte
Patentanwälte Rechtsanwälte
Partnerschaft mbB

Sitz der Gesellschaft: Bremen (Hollerallee 73, 28209 Bremen)
Registergericht: Amtsgericht Bremen PR 393 HB

Registered Seat: Bremen (Hollerallee 73, 28209 Bremen)
Register Court: Local Court Bremen PR 393 HB

Intellectual property rights for start-ups

Start-ups distinguish themselves by using unique technology or by providing a completely new customer experience. Start-ups are faced with the difficult task of using limited resources to quickly make their products available to a customer base and to secure the long-term future of the company by collaborating with suppliers, partners, customers or financial backers. Plagiarism or copies of important features of one's own products by competitors can call into question the pioneering position of one's own company and thus pose a major threat to the achievement of one's own goals.

Industrial property rights offer start-ups a unique tool to meet these challenges and to secure the long-term future of the company. For example, registered property rights such as trademarks, patents or designs can be used to protect your own position: these registered property rights provide a state-certified monopoly that protects your own innovations against imitations.

The early development of a suitable IP strategy should therefore be an important part of business planning. In particular, the selection of suitable intellectual property rights, the development of an international strategy and the identification of the innovations to be protected is of crucial importance. Patents or utility models can be used to protect technical innovations and designs can be used to protect creative aspects. In addition, trademark protection can secure the recognizability of your own company on the market in the long term. In addition to the IP rights listed here, there are other more specialized rights, such as semiconductor or plant variety protection. IP protection can thus provide comprehensive protection for your own innovations.

The key points of the most important protective rights:



Patent

- Protection of technical inventions for a maximum of 20 years
- Examined for novelty and inventive step
- Publication after 18 months



Utility model

- Protection of technical inventions for a maximum of 10 years
- Registered without examination
- No protection on methods/processes



Trademark

- Protection for signs designating goods and services
- Unlimited duration of protection with appropriate extension



Design

- Protection for the appearance of a product for a maximum of 25 years
- Deferment of publication/publication possible up to 30 months

Five steps for the perfect start

The following five steps can be used as a first orientation for the implementation of the optimal strategy to secure your own innovations:

1

Registration of the most important trademarks, designs and domains;

2

Systematic identification of technical inventions within the company and early filing of patent applications for the most important technical inventions;

3

Develop a European or global strategy for intellectual property rights;

4

Continuous assessment of own products in the light of existing property rights on the market;

5

Continuous monitoring of the main competitors and possibly active litigation against counterfeiters.

Strong partnerships – but safe!

Start-ups are in exchange with other companies, e.g. as partners or with suppliers. In each of these constellations, the protection of your own competitive advantages is fundamental. When working with partners, suppliers or customers, intellectual property rights can help to protect one's own innovations from unauthorized imitations and thus make an important contribution to the growth of one's own company.

In cooperation with partners or external service providers, e.g. in the joint development of a product or in research, the following topics, among others, must be regulated in advance:

- 1 Who owns inventions created during a project? Who may use these inventions?
- 2 Who bears the costs of applying for patents for joint inventions?
- 3 What know-how exists on each side before the project starts?

Security for investors

Funders and other investors need the greatest possible assurance that their investments are secure. For many internet start-ups, this means that they must demonstrate a first-mover advantage and develop so rapidly that other companies find it very difficult to catch up. In other industries, product cycles are longer and the risk of technology being copied is more pronounced. In such scenarios, investors can be given

Patents enable clients to give contract manufacturers or external service providers access to their own know-how without running the risk of their own innovations being copied.

When acting as a supplier, it is also important to be able to highlight the unique selling points of your own company. In a tender, a customer usually wants to be able to choose between technically equivalent offers that differ predominately in terms of price. A patent-protected invention can help to prevent this equivalence and create a strong negotiating position.

the necessary security against imitation by protecting innovations with industrial property rights. In addition, industrial property rights can be used to increase the valuation of your own company.

In any case, before a financing round, it should be intensively examined whether the core technologies are already protected by patents.



Does your own company need technical protection rights?

Almost all companies can benefit from the protection industrial property rights provide. However, not every company has to apply for patents. In some cases it is even better to keep your own developments secret. Start-ups should ask themselves the following questions to answer whether they should apply for patents:

1 Is my product technical? Are the technical details of the product visible, even after disassembly?

2 Are there plans to develop the product together with partners?

3 Is the end customer of the product active in a similar field?

Answering these questions sets the course for a successful strategy to maintain the technical lead. This means that products with a technical character, whose technical details are visible or identifiable through testing, can be easily copied. When working with partners, there is a risk that the partner will apply for a patent for the same inventions and thus cause irreparable damage to your own development.

If the end customer is also active in the territory of the own company, there is also the risk that the end customer will develop a substitute for your own product and thus not be dependent on its suppliers.

So if only one of the above questions is answered with „yes“, it should be examined whether technical innovations can be protected by a patent.

The patent allows its owner to prohibit other market participants, inter alia, from offering and distributing the protected object in the domestic market. If a patent application is to be filed for an invention, the Patent Office examines, among other requirements, whether the invention is new and based on an inventive step. An invention is considered to be new if it has not yet been disclosed, e.g. by another patent application or a scientific paper. An invention is based on an inventive step if it was not obvious at the time of application. If the requirements are met, a patent is granted. Novelty and inventive step are thus examined in relation to the filing date or priority. It is therefore important for a patent application to be filed as early as possible.

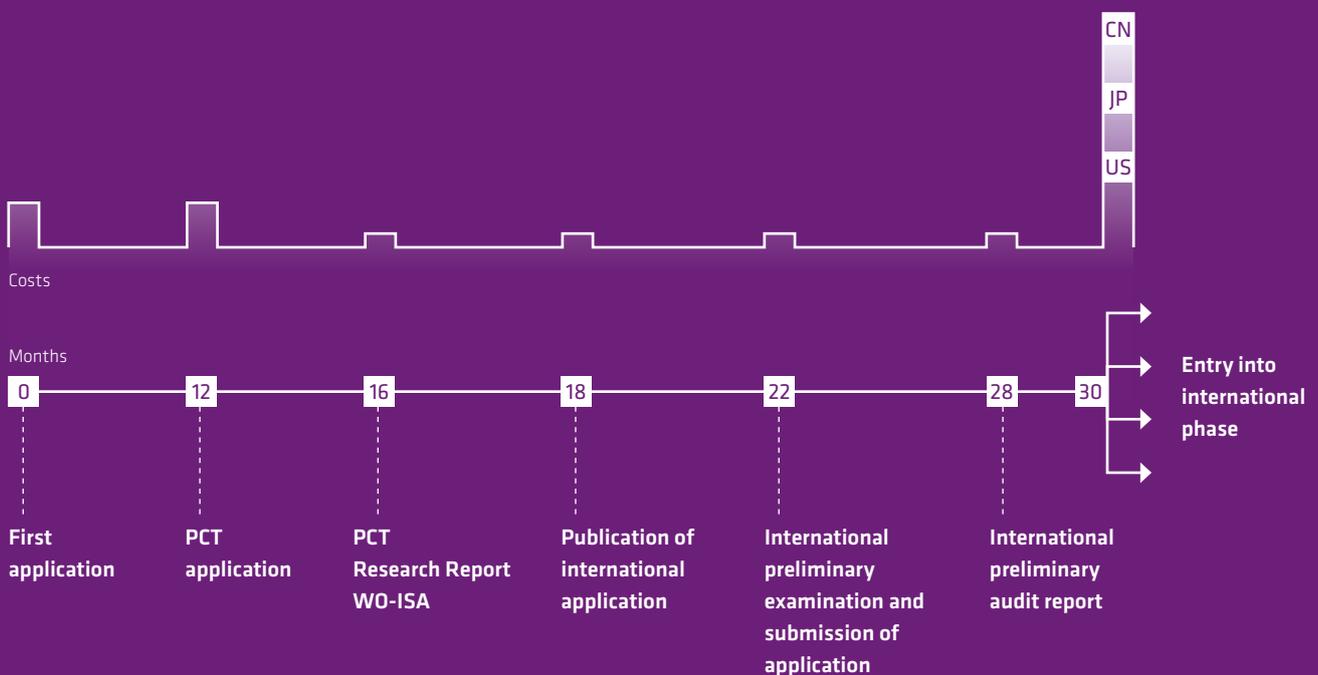


Keeping an eye on costs with the right strategy

Protection for inventions can be obtained in almost any country in the world. However, worldwide protection is not feasible and often not necessary for many start-ups. In many cases, the number of necessary countries can be greatly reduced by a precise analysis of the individual situation. When identifying the countries in which protection should be obtained, founders and decision-makers can use the following questions as a guide:

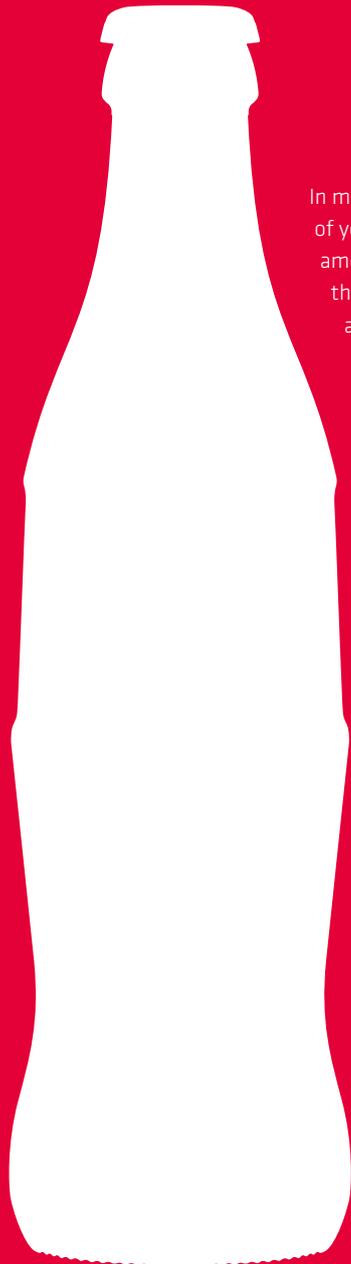
- Where are your own products offered?
- Where are the products produced?
- In which markets should products be offered in the future?
- In which markets are competitors active?

In addition, the PCT procedure allows the costs of an international filing strategy to be deferred and adapted to the current financing situation of your company.
Example:



Depending on the choice of countries for international protection, a substantial part of the filing costs will not be due until month 30. With a well-planned strategy, the costs can thus be adjusted to the current economic situation of the company.

Securing the recognizability on the market



In many cases, the recognizability of your company is a central concern of your marketing strategy. Global corporations are characterized, among other things, by the fact that they have achieved exactly that: building a strong brand. Logos and other signs are thus clearly assigned to individual companies and there is a high degree of recognition.

The trademark as a registered property right helps its owner to achieve and defend this unique selling proposition on the market. Thus, other companies are prohibited from using signs for the same or similar goods and services which could lead to a risk of confusion with a registered trademark.

All signs that are suitable to distinguish your products or services from those of other companies can be protected as trademarks. Logos and characters can also be protected as trademarks, as can short animations or even sound sequences.

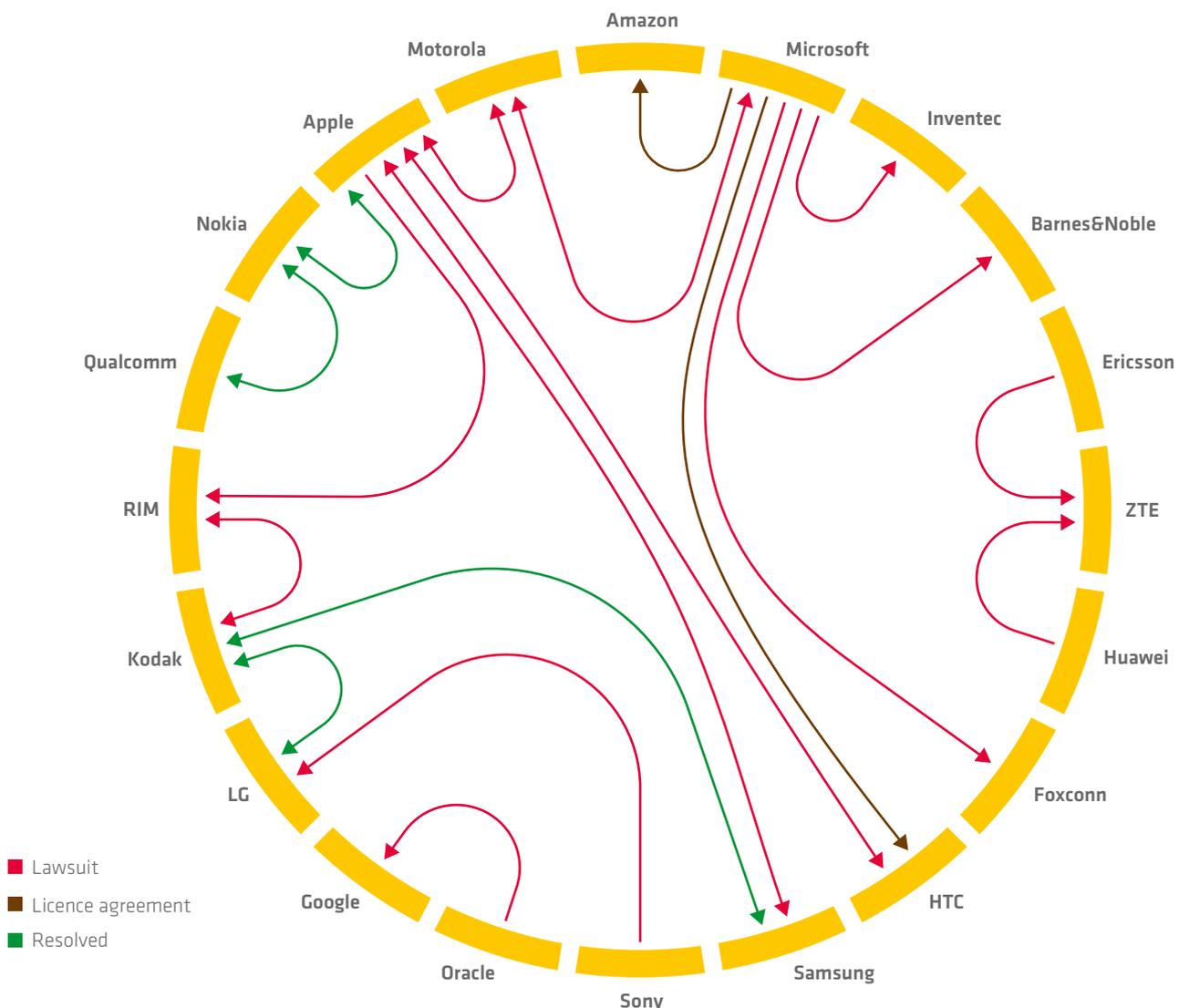
If the protection of a sign as a trademark is desired, it should be applied for as early as possible in order to ensure an early priority date. When applying for a trademark, the following applies: the first applicant obtains the right to the trademark. Such an initial application can be made quickly, for example, by filing an application with the German Patent and Trade Mark Office. Here, too, by choosing a suitable strategy, a large part of the costs incurred can be shifted to a later date, e.g. by using the one-year priority right.

Observe property rights on the market

It is not only important to secure your own innovations in your business planning. The rights of other market participants must also be respected. A comprehensive analysis of existing rights in the light of your products is therefore an indispensable part of product development. This analysis is not a one-off activity, but should be carried out continuously alongside product development. This is the only way to ensure that one's own products do not interfere with the rights of other market participants.

A first indication of existing industrial property rights is provided by the search carried out by the patent offices for your patent applications. Thus, an initial assessment of conflicting property rights can be made without additional costs. Furthermore, the publication of one's own property right applications prevents competitors from obtaining property rights for the same innovations. In summary, a comprehensive filing strategy can reduce the effort for monitoring the market.

Snapshot of the "Smart Phone Patent War" around 2011







It's not about ideas.
It's about making
ideas happen.

Scott Belsky

Behance

OFFICES

Germany

AMBERG

Marienstrasse 3
92224 Amberg
T +49 9621 69 02 50
F +49 9621 69 02 57 0
E mail@amberg.mb.de

EGMATING

Keltenring 4
85658 Egmating
T +49 8095 87 48 68 6
F +49 8095 87 48 68 7
E mail@mb.de

NUREMBERG

Bankgasse 3
90402 Nuremberg
T +49 911 21 47 25 0
F +49 911 24 36 86
E mail@nuernberg.mb.de

AUGSBURG

Bahnhofstrasse 18 1/2
86150 Augsburg
T +49 821 99 17 80
F +49 821 99 21 64
E mail@augsburg.mb.de

GERA

Berliner Strasse 1
07545 Gera
T +49 365 77 30 96 00
F +49 365 77 30 96 01
E mail@gera.mb.de

OSNABRUECK

Rolandsmauer 9
49074 Osnabrueck
T +49 541 35 06 10
F +49 541 35 06 11 0
E mail@meissnerbolte.de

BREMEN

Hollerallee 73
28209 Bremen
T +49 421 34 87 40
F +49 421 34 22 96
E mail@meissnerbolte.de

HAMBURG

Alter Wall 32
20457 Hamburg
T +49 40 89 06 36 00
F +49 40 89 06 36 01 0
E mail@meissnerbolte.de

UK

In co-operation with
Meissner Bolte (UK) Ltd.

DUSSELDORF

Kaiserswerther Strasse 183
40474 Dusseldorf
T +49 211 81 98 48 0
F +49 211 81 98 48 70
E mail@duesseldorf.mb.de

MUNICH

Widenmayerstrasse 47
80538 Munich
T +49 89 21 21 86 0
F +49 89 21 21 86 70
E mail@mb.de

HEBDEN BRIDGE

4a Top Land Country Business Park
Cragg Vale, Hebden Bridge
HX7 5RW, United Kingdom
T +44 1422 84 45 98
F +44 1422 84 52 89
E mail@meissnerbolte.co.uk

