

From idea to market – Developing an IP strategy: recognise, protect and exploit your ideas

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08.11.2017

Outline

How to recognise an idea and what to do first

Potential commercial value of an idea

Patents: the most important dos and don'ts

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How to recognise an idea?

- **Ideas = know-how**
- Is know-how valuable? → consider protection using IP rights
- Most IP rights require new (undisclosed) ideas of a certain quality
- Check your recent activities:
 - Core products? → C-level decisions
 - New developments? → Activities of R&D department
 - New business activities? → Activities of marketing department
- Technical ideas? → potential invention
- Non-technical developments/activities → protection required?



First steps

- Think of establishing reporting processes
 - Employees are often obliged to report inventions
- Who owns the IP?
 - Verify contracts for transfer of IP rights
- **Don't disclose** the idea
 - Stop/postpone any publishing
 - Stop/postpone any advertisements/announcements/presentations
 - If required, use NDAs
- Evaluate the idea

Strategy

- Protect your business
- Be aware of IP of your competitors
- Exploit your IP
 - Build a basis for cooperation
 - Transfer your IP
 - Enforce IP

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What is more valuable?



Fundamentals of economic theory

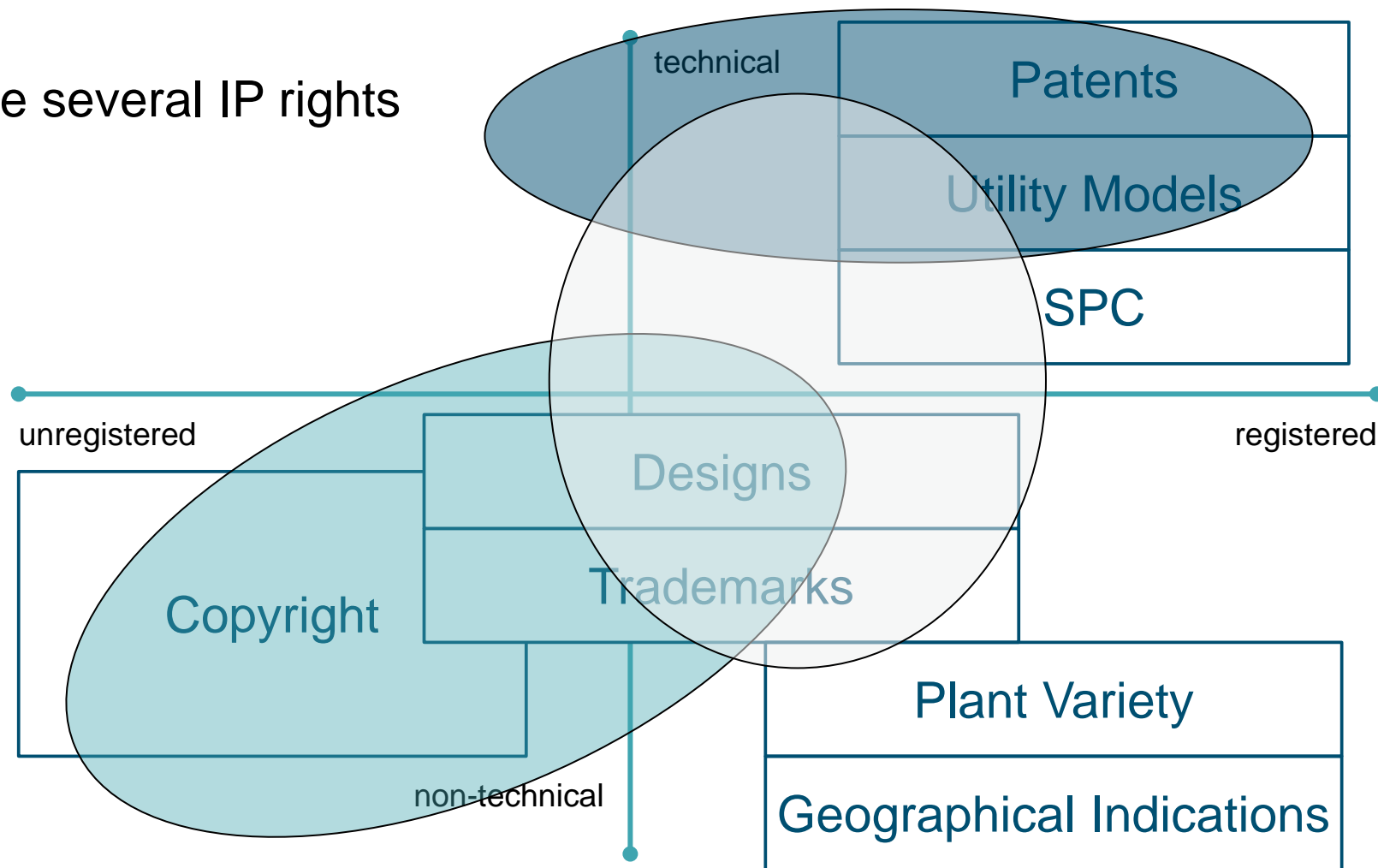
- The value of something is driven by its **scarcity**
- Know-how is only valuable if its scarcity can be maintained
- If know-how can be derived from product, scarcity cannot be maintained!
- In case know-how cannot be derived:
 - Examples
 - Production methods with no footprint on final product
 - Certain material compositions
 - Secret know-how secret could maintain scarcity
- All other cases → scarcity cannot be conserved
 - Protect using IP rights

Value of know-how

- Can know-how be kept secret?
 - Know-how cannot be derived from the product
 - Skills that are impossible to copy
- Identify suitable IP rights
 - Suitability of know how
 - Technical, undisclosed or recently disclosed & inventive?
 - Aesthetic, undisclosed or recently disclosed & individual character?
 - Branding, distinctive & non-descriptive?
 - Original and individual works?
- Identify potential customers, suppliers and competitors
 - Who could you license it to?

IP Rights

Use several IP rights



Unregistered IP rights

- Valuable know-how?
- Document creation/publication process
- Make sure your know-how can be identified as yours
- Ensure rights have been transferred from author, originator or designer

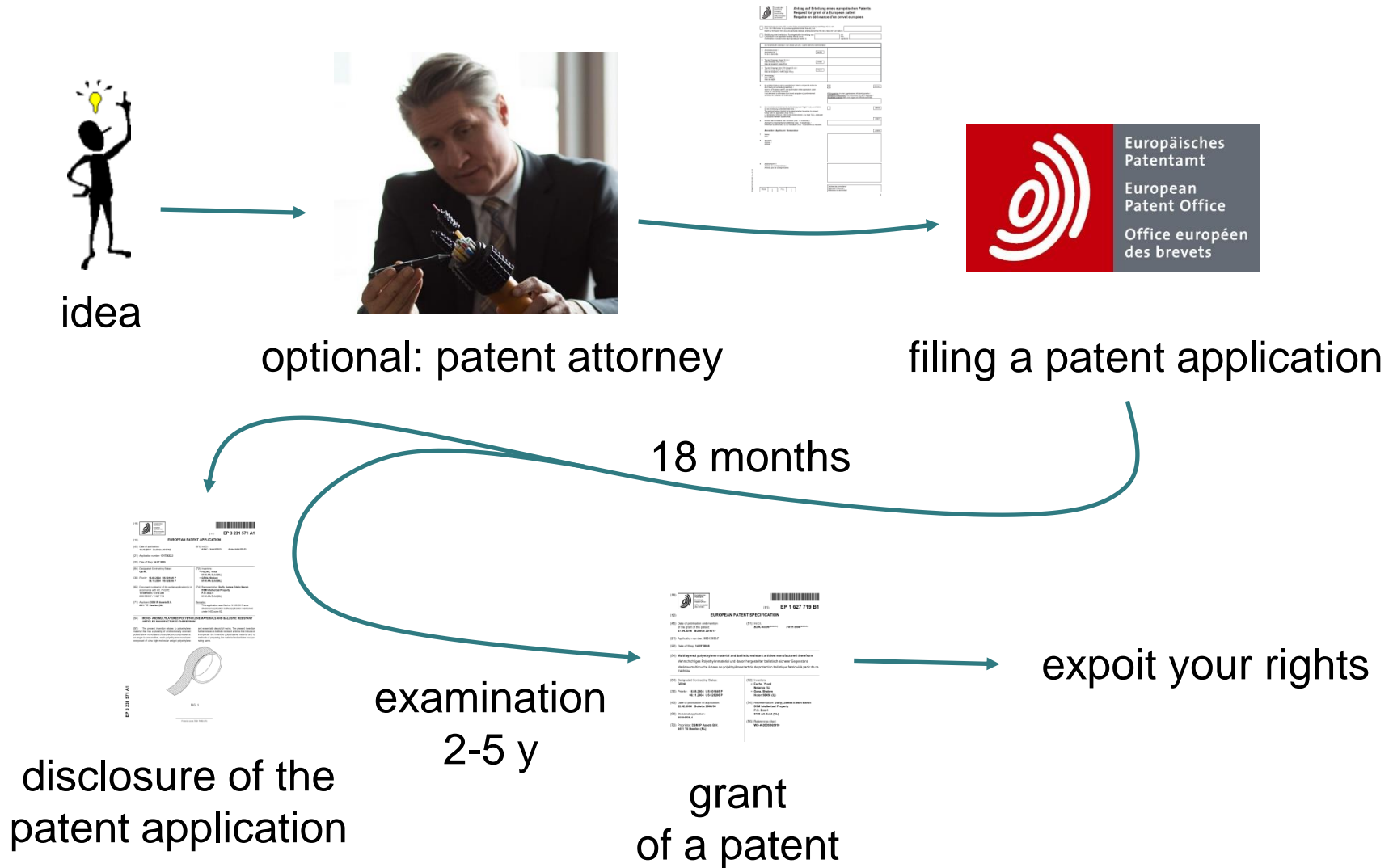
Registered IP rights



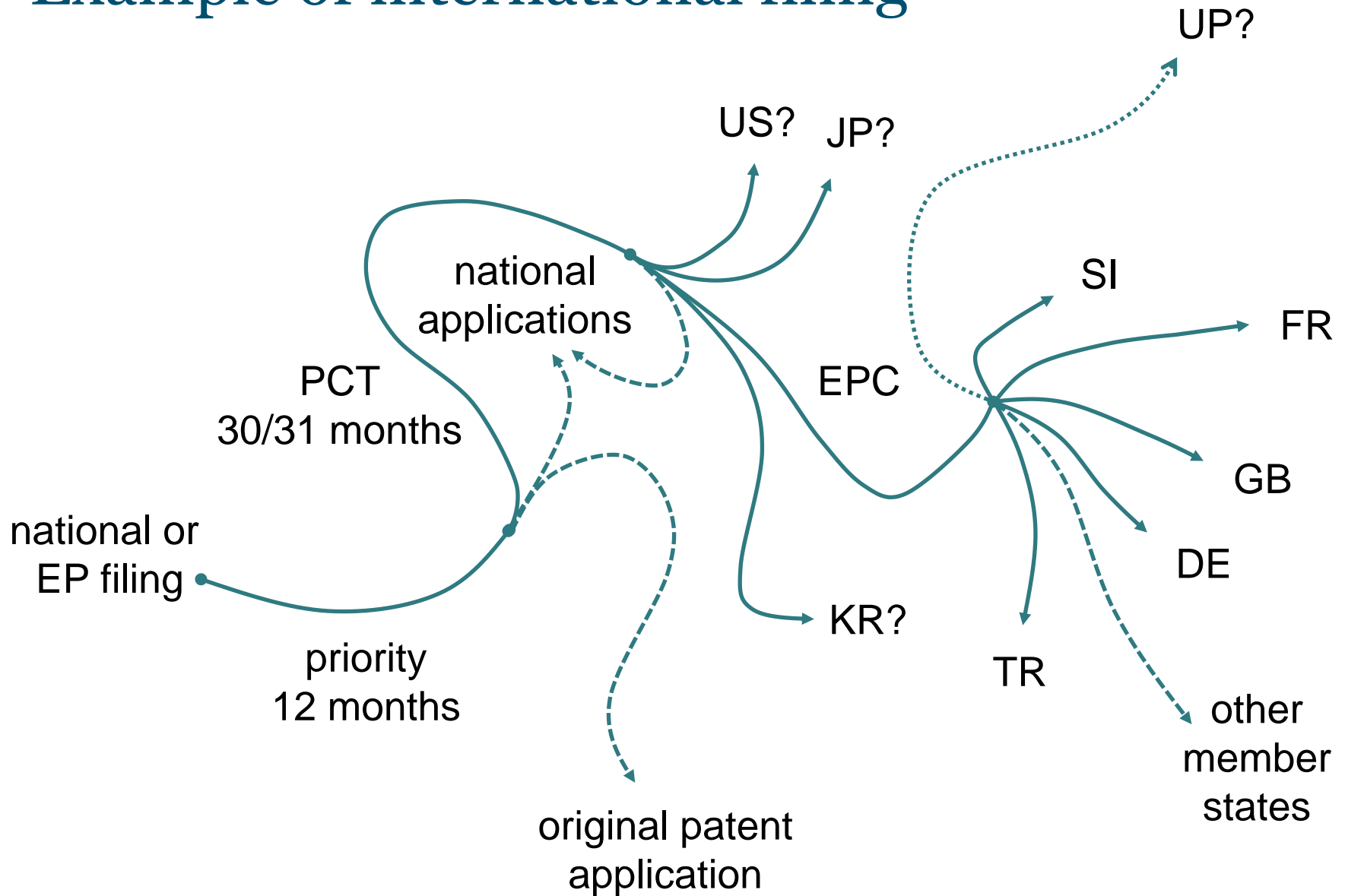
- Valuable know-how?
- Where to file/register?
 - There is no “worldwide IP right”: IP rights are national or regional
 - Identify countries/regions of interest
 - Competitors
 - Target market and production sites (own and competitors)
 - Costs
- How to file
 - Start in one country
 - Use priority right
 - Use regional or international filing/registration procedures



Registered IP rights: Patents



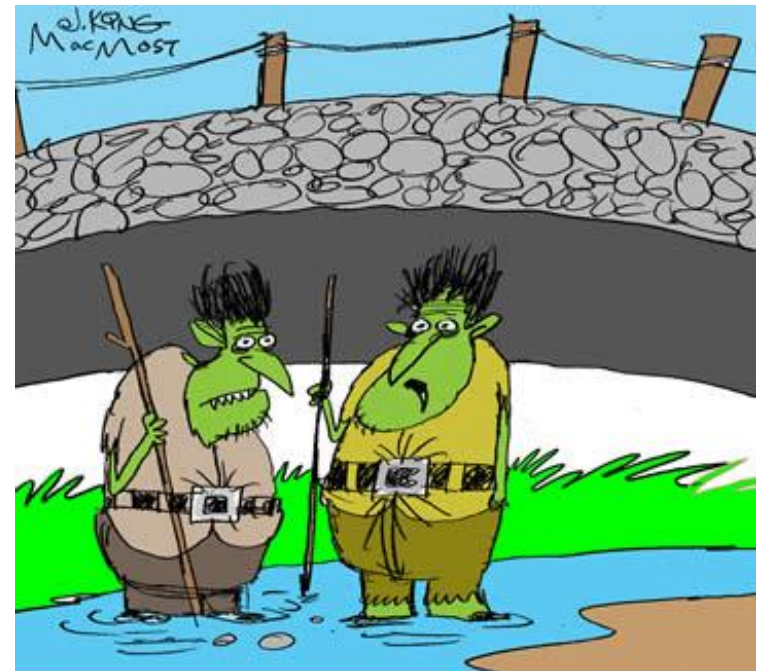
Example of international filing





Exploit your IP rights: Patents

- Protecting products and processes
 - Increasing turnover and profits
 - Attracting investors
- Blocking competitors
- Licensing
- Cross-licensing
- Trolling
- Building reputation & valuable assets
- Unused – deterrent effect



"My brother became a patent troll and he now lives under one of those billion-dollar fancy suspension bridges."

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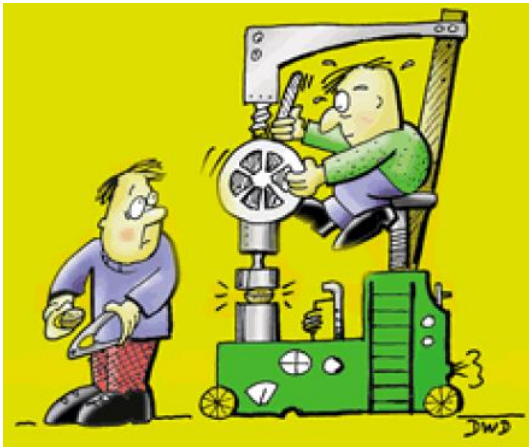
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Patents: DOs

- Identify inventions quickly and completely
 - Is invention novel? Some improvements? Valuable? → go for it
 - Get a complete description of the invention: you cannot add anything later on (e.g., during examination)
 - Describe potential development in the area: follow-up products
- Draft a complete patent application. In many cases, you cannot heal mistakes/errors later on.
- Generalize the invention with regard to follow-up products.
- Identify inventors
 - ensure that rights are with the applicant.

→ Consider professional advice

„The seven deadly sins of the inventor“ according to the EPO



1. The invention is more complex
than the problem merits
→ value?



3. The invention
isn't new
→ patentability!



Source: www.epo.org/topics/patent-system/seven-sins.html

„The seven deadly sins of the inventor“ according to the EPO



4. The invention isn't kept secret
→ patentability



6. The inventor has an unrealistic idea of the value of his invention.

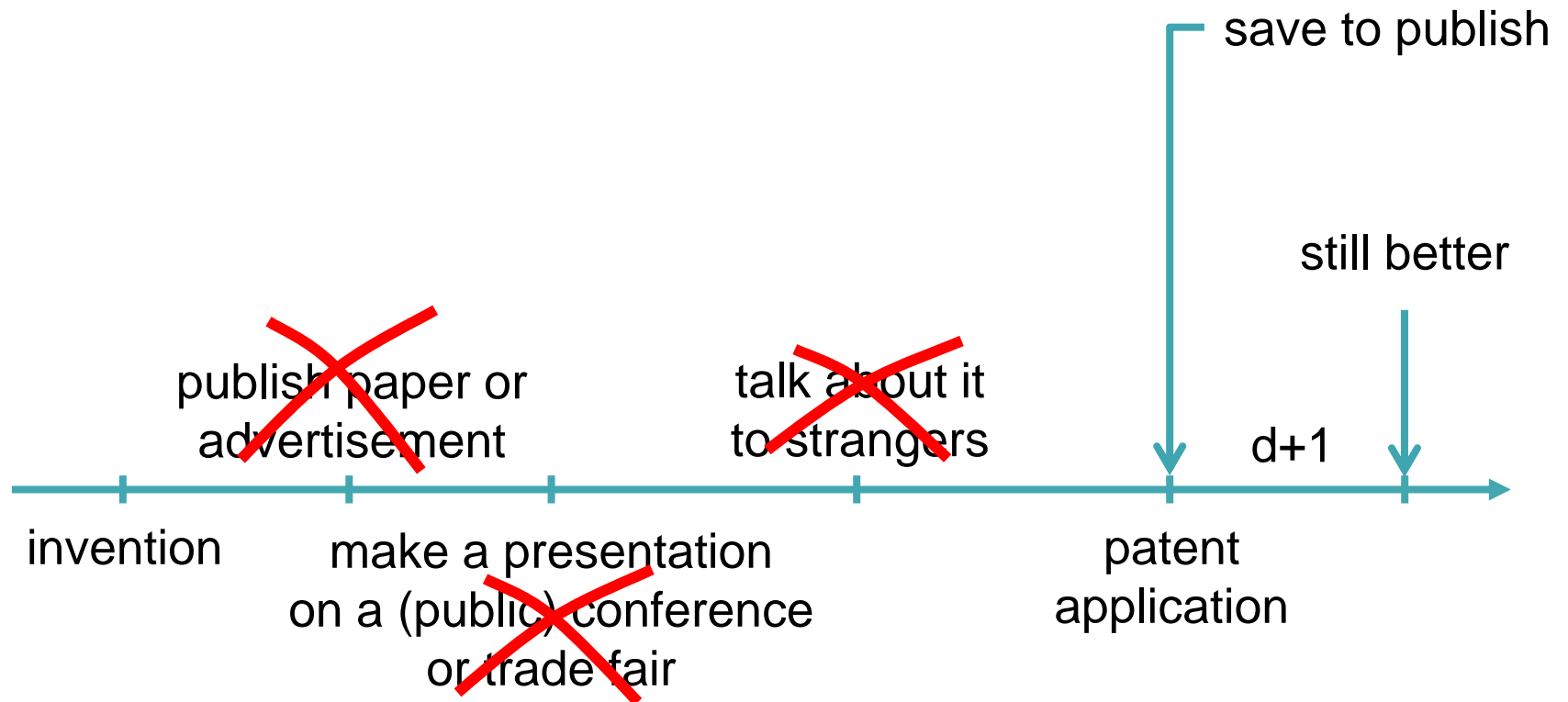


Further DON'Ts

- Don't think about the inventiveness requirement to strictly
 - slight improvements could be non-obvious
- Don't get frustrated if you get a negative first opinion on novelty and inventiveness from a Patent Office.
- If any “don'ts” occurred for a valuable invention

→ Get professional advice

Once again: Keep invention secret



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Thank you for your kind attention

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