

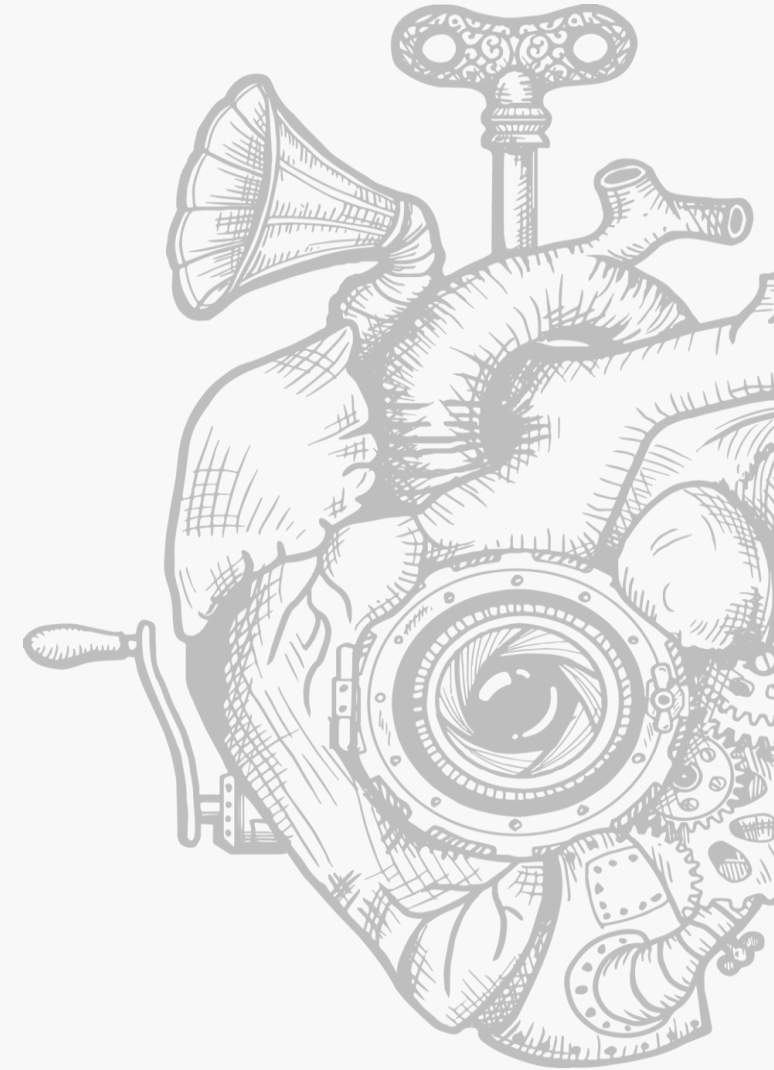
Beyond Patents and Trademarks - How IP Fits into a Business

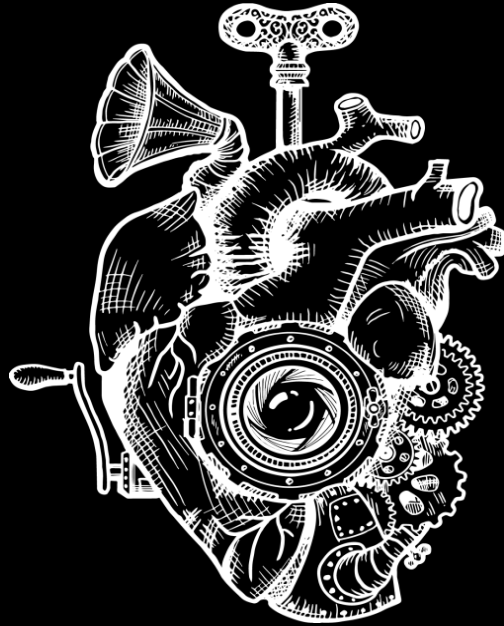
Why IP Decisions Shape Your Business Earlier Than You Think

SUZANNE RENES

Sr. Dutch & European Patent Attorney
Nippon Desk Team Lead

T +32 470 17 67 91
E suzanne.renes@ifori.be





Brief Refresh: What Is Intellectual Property?

Intellectual Property Protects Creations of the *Human Mind*

IP covers a group of legal rights that protect different types of creations (in very simple terms):

Patents protect **inventions**

Trademarks protect **signs to distinguish goods and services** of a company

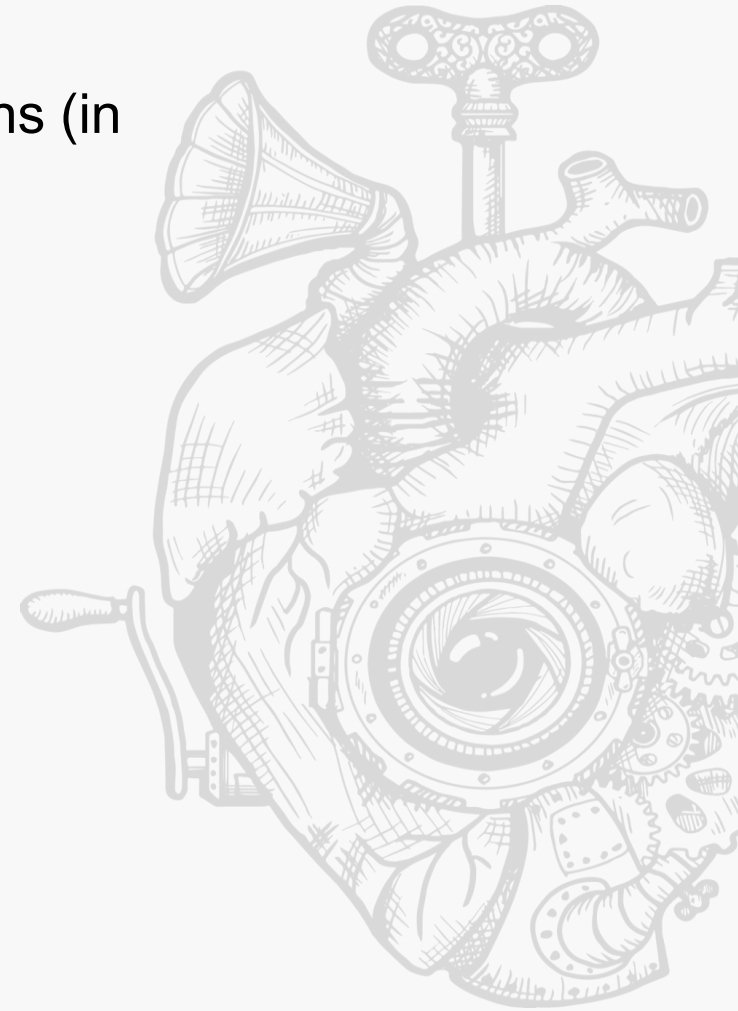
Copyrights protect **literary and artistic works**

Designs protect the **external look and feel** of a product

Trade secrets protect **valuable, confidential business information.**

Most of these rights are limited to national or regional protection and different laws apply per jurisdiction.

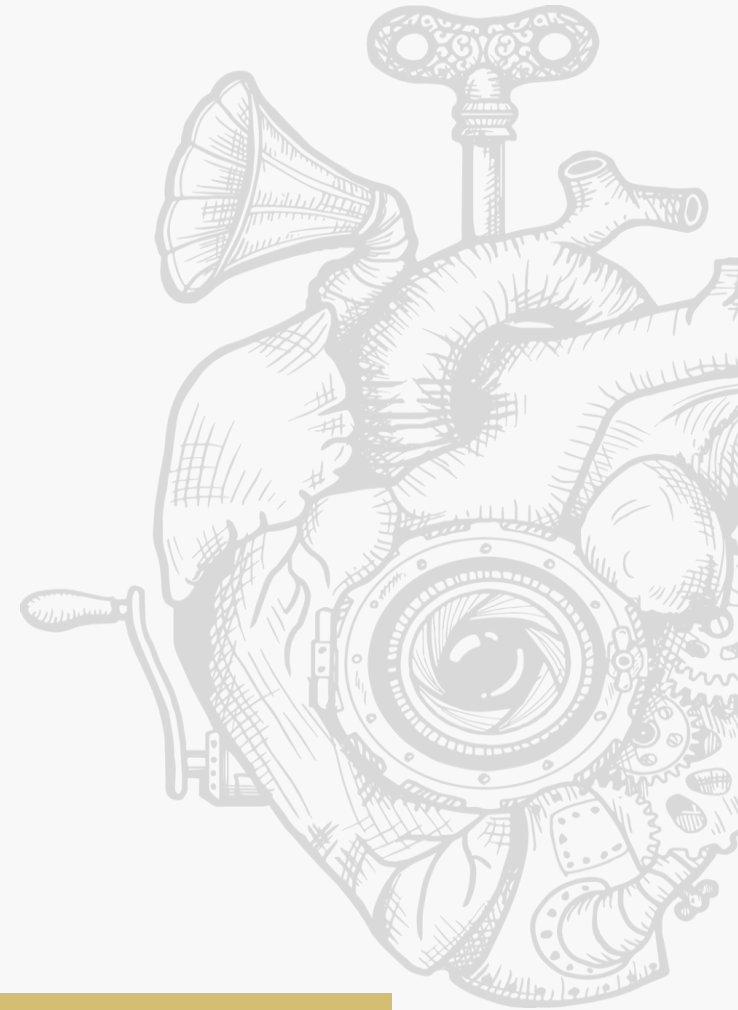
Each IP right protects a different *business asset!*

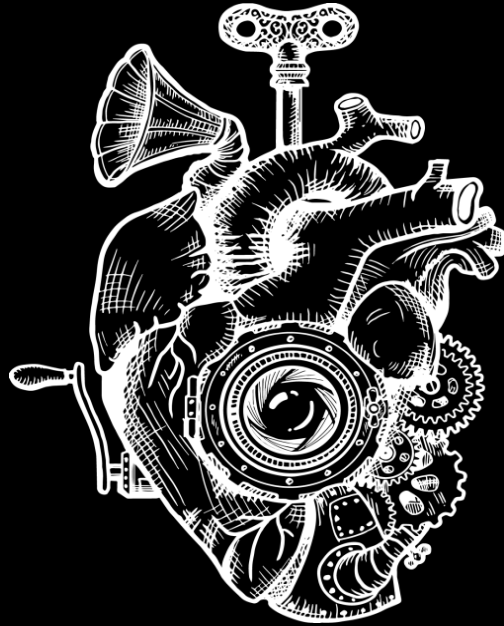


Common Misconceptions About IP

- ❖ “We can deal with IP later.”
 - This may very well come back to bite you later when somebody discloses something you need/use.
- ❖ “Now that we have IP we are free to go to market.”
 - IP is a right to *prevent others* from copying you, but it DOES NOT give you the right to *freely use* your IP.
- ❖ “The cost of IP outweighs the benefits.”
 - Short-term it may appear this way, but in the long run, having a solid IP portfolio will *save* you money.

Make no mistake: Without IP long-term growth becomes *complicated*.





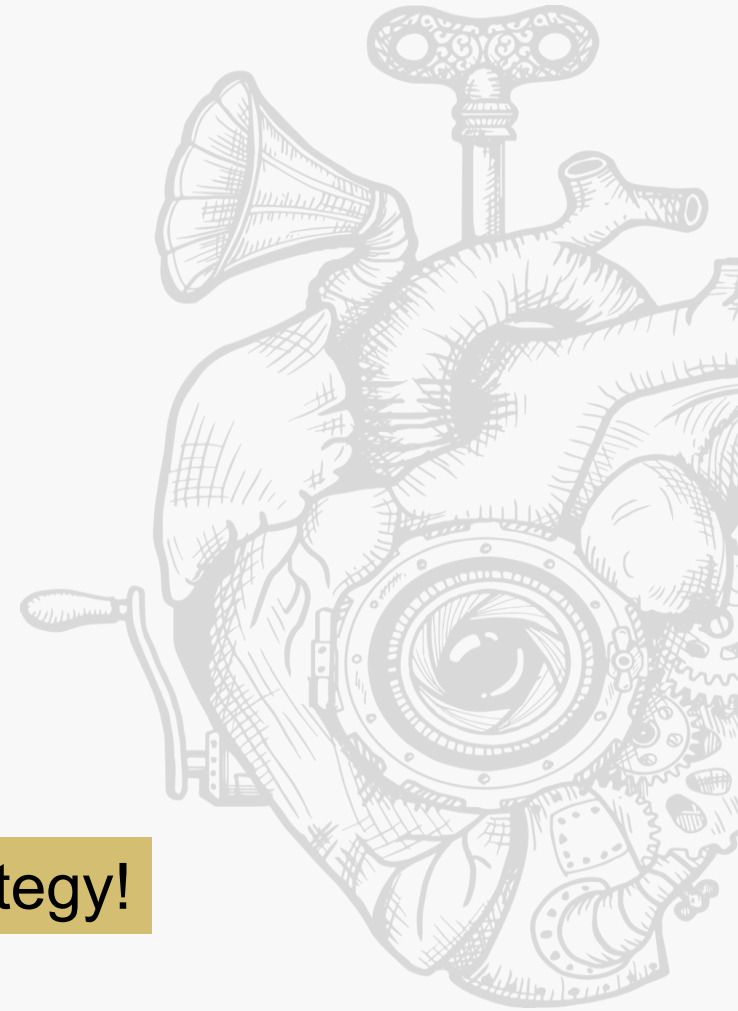
Where Does IP Strategy Fit into a Business Strategy?

Short Answer: Everywhere.

IP is important for:

- ✓ Product Strategy
- ✓ Marketing
- ✓ R&D
- ✓ Finance
- ✓ Legal

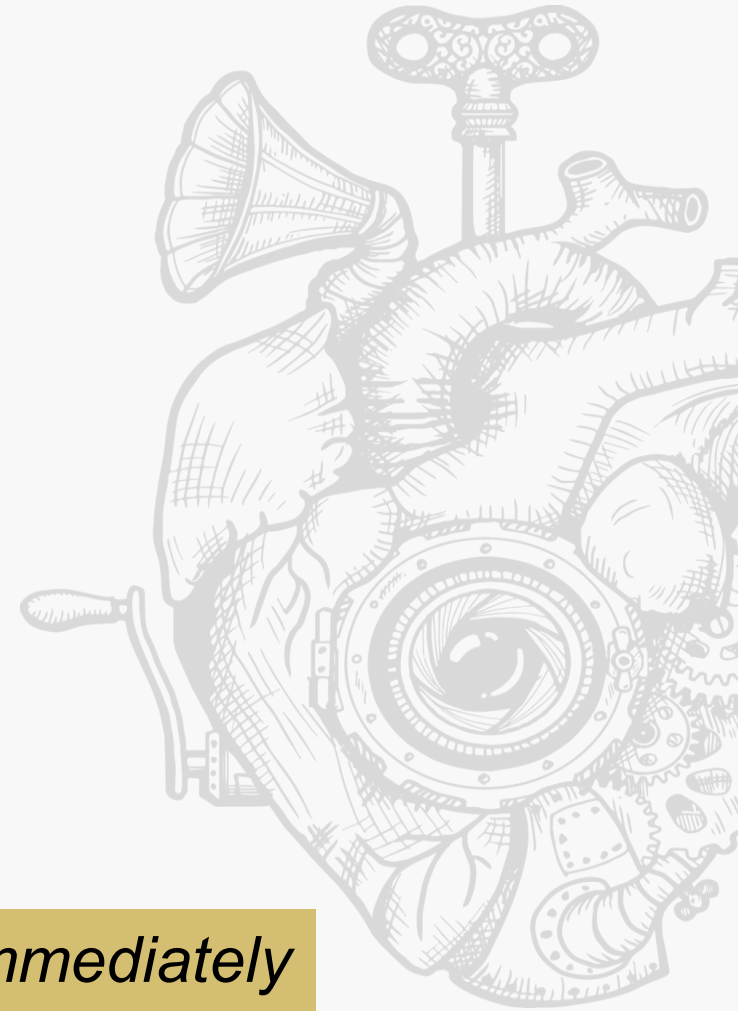
IP is found in *all aspects* of a business strategy!

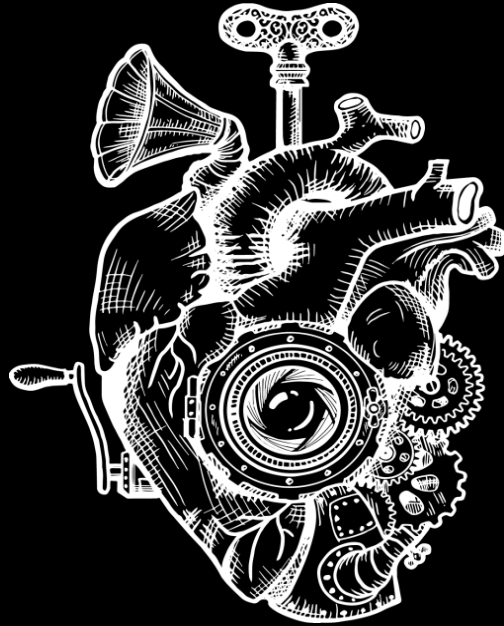


In broad terms, IP has a role in:

- ✓ Creating a **competitive advantage**
- ✓ Generating **revenue**
- ✓ Shaping your **innovation strategy**
- ✓ Managing **legal** and **commercial risk**
- ✓ Increasing your company's **value** to potential investors
- ✓ Enabling **partnerships** and **collaborations**
- ✓ Creating your **market expansion strategy**
- ✓ Managing and protecting your **know-how**

The benefits/consequences may not be visible *immediately* but will have a big impact in the *long term*.





The Role of Each IP Right in the Business Strategy

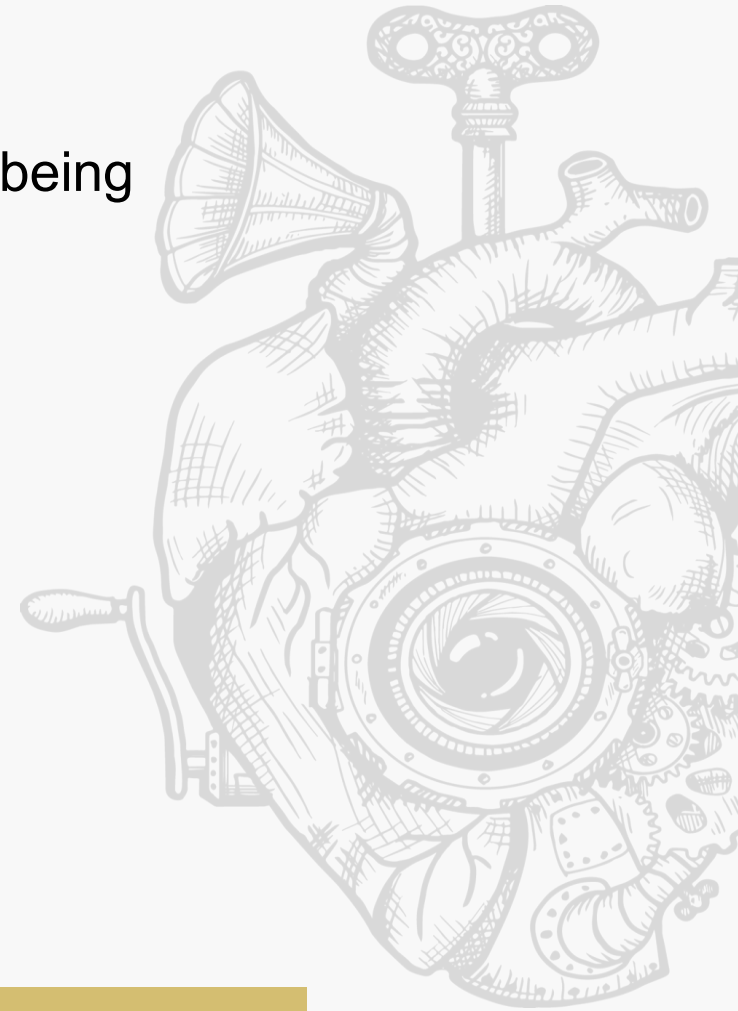
The Role of Patents

The core role of patents is to **protect a company's innovation** from being **copied** by competitors.

However, patents also:

- Create **barriers to market entry**
- Help sustain **market leadership**
- Provide **opportunities** to obtain funding
- Give **leverage** against competitors
- Open up paths for **collaboration**
- Create an income flow through **licensing**

A patent portfolio is not about *quantity* – but *positioning!*



The Role of Trademarks

The function of a trademark is to ensure a company can be **distinguished** from its competitors.

But besides that they can be used to:

- Build a **reputation** and an **image**
- Create a **loyal customer base**
- Open up the possibility of **franchising**
- Enable **premium pricing**

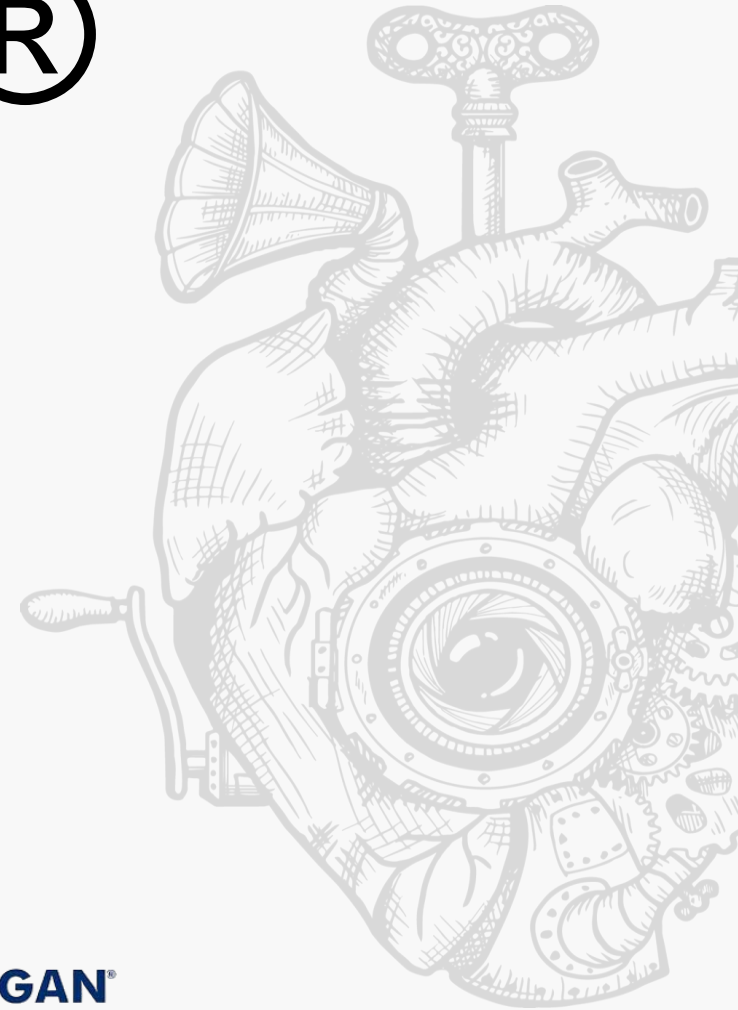
Strong trademarks *enable growth!*

TM ®

Coca-Cola



DAFALGAN®
PARACETAMOL



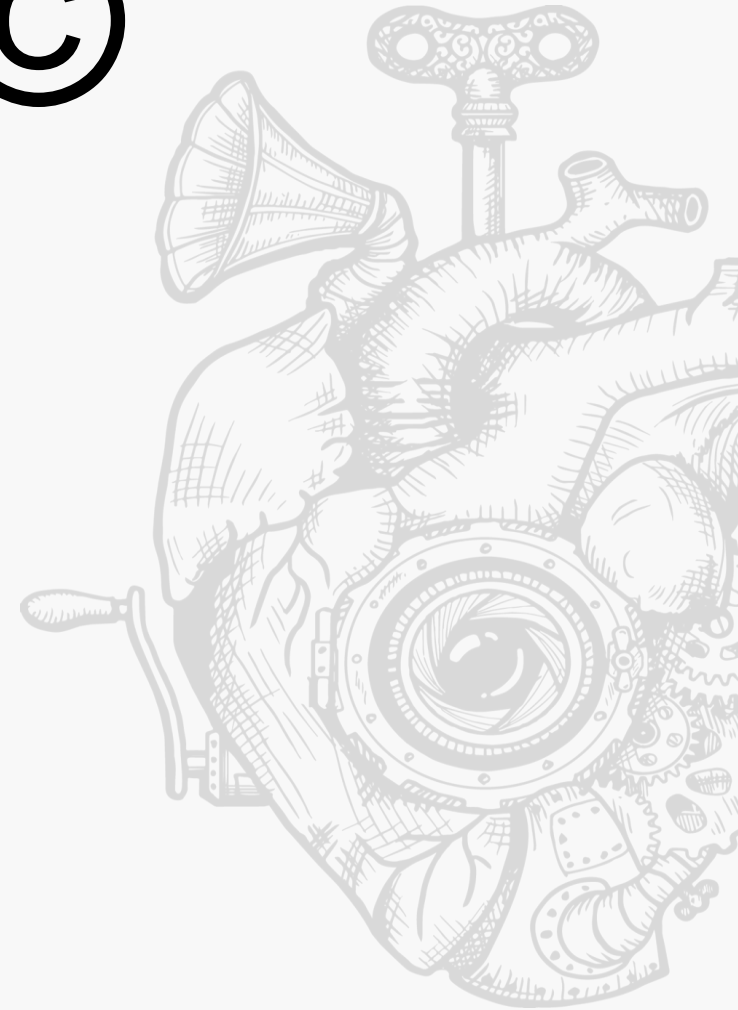
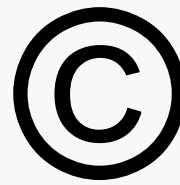
The Role of Copyrights

Copyrights are most well-known to protect **original works** of authors, screenwriters, artists, musicians, etc.,

But in a business context, it can help protect *key business assets* such as:

- **Software and code** developed in-house or for your company, including SaaS platforms, apps and AI-related tools
- **Marketing and branding materials**, such as website content, brochures, visuals, product photos, videos and social media content
- **Commercial and internal documents**, including presentations, manuals, training materials, reports and templates
- **Design and creative output**, such as packaging, graphics, UI elements and other original visual materials

Original work is *automatically* protected!



The Role of Designs

The role of designs is to **differentiate** the look and/or feel of a company's products from competitors.

Designs can:

- Provide **speed-to-market** protection
- Help maintain a **consistent visual brand identity**
- Bridge the **gap** between patents and trademarks
- Protect **UI/UX**

Designs are often the *fastest* way to *stop* copycats



The Role of Trade Secrets

Trade secrets are used to **protect secret know-how** and are **essential** to safeguard **knowledge**.

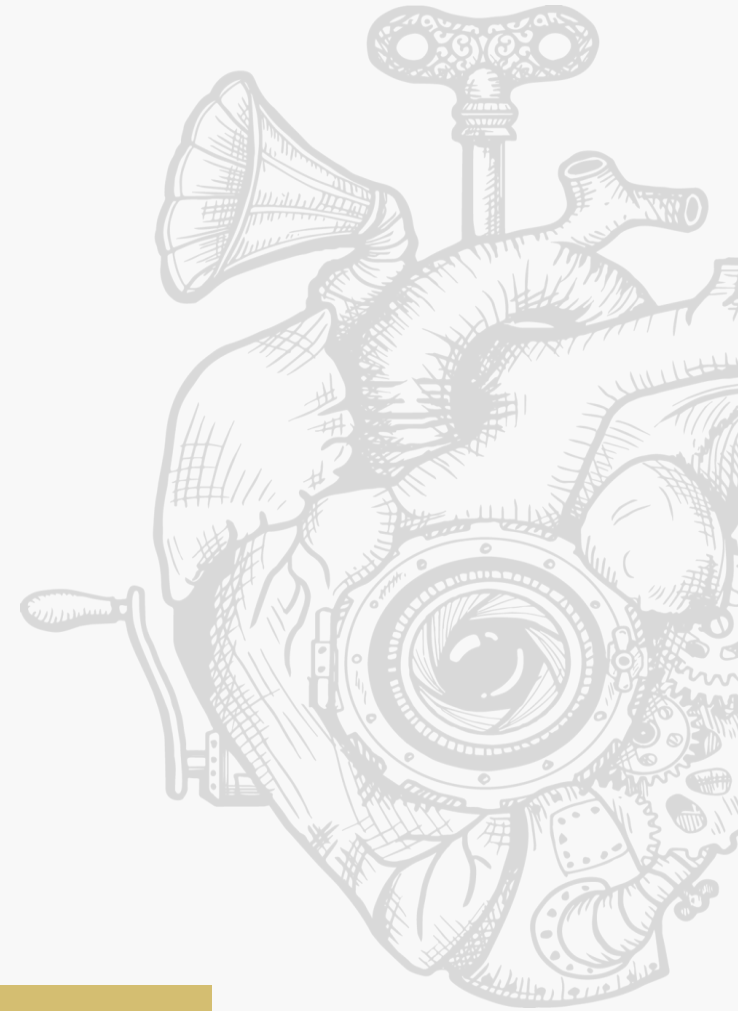
However, many people don't know that:

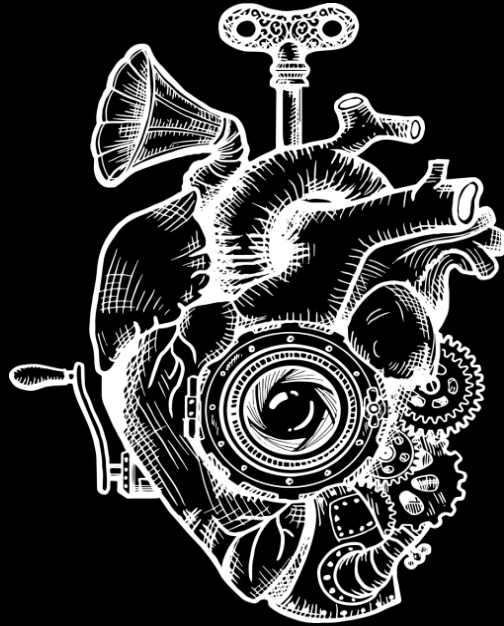
- There are specific **rules** about **taking appropriate measures** for something to be considered a trade secret!

Trade secrets can be used to protect, for instance:

- **Methods** that would be hard to reverse-engineer
- **Processes** that are used internally
- **AI-algorithms, datasets, models**
- **Recipes**

Trade secrets only work if you *keep track of them!*





Integrating IP into the Business Strategy at Every Stage

Start-up phase: *Create, Secure, and Signal Value*

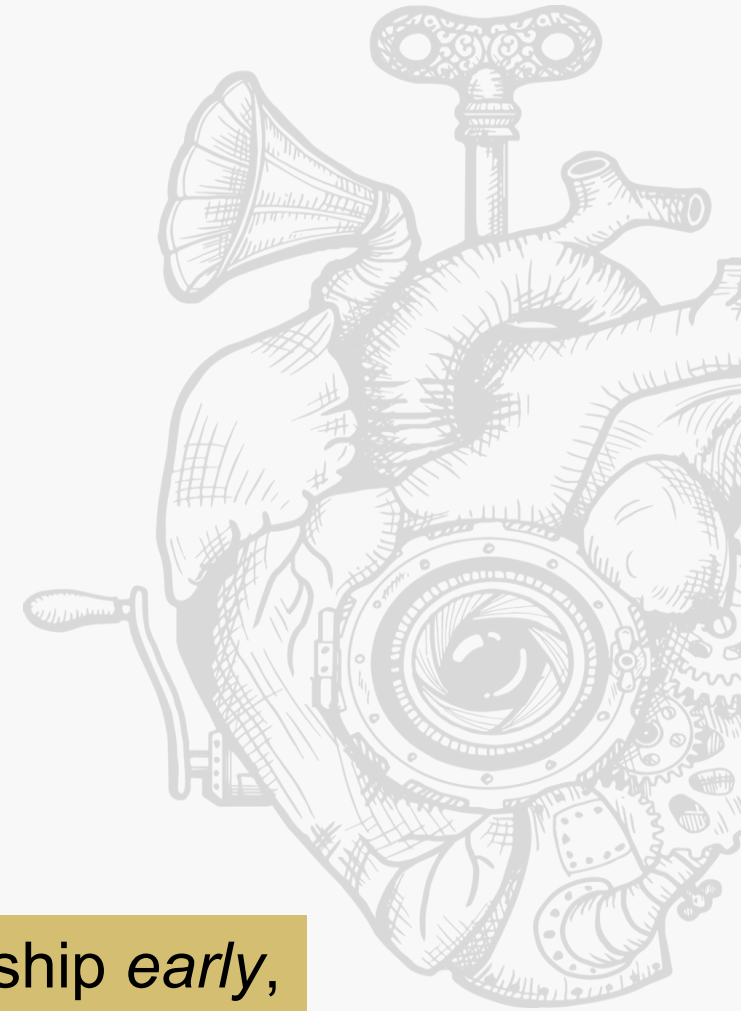
At the start, IP is about **capturing** what makes your company **unique** and what makes it **investable**.

- Your core technology should be protected by **patents**, while keeping key know-how as **trade secrets**
- You build brand identity by filing **trademarks**
- You secure ownership of everything created – software, content, website, marketing materials, etc. – through **contracts** and **copyright**
- You protect product appearance and user experience through **design rights**

At this stage IP is all about:

- ✓ Avoiding risks
- ✓ Creating trust
- ✓ Laying the foundation for growth

If you don't secure ownership *early*, you will pay for it later !



Scale-Up Phase: *Expand, Position, and Compete*

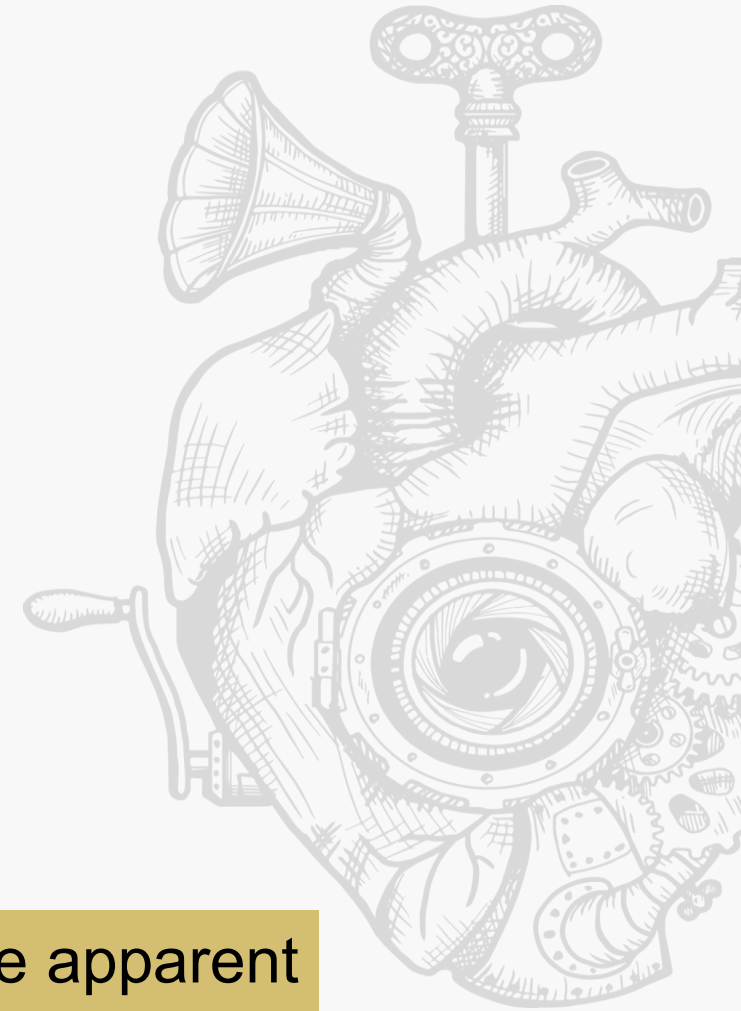
As the company grows, IP turns into a **strategic tool** used for **market positioning** and **risk control**.

- Your **patent portfolio** is expanded around (additional) core innovations, to facilitate smooth market entry
- Your **brand portfolio** is expanded to new markets and to cover new products and strengthen brand identity.
- Streamlined processes are created to manage and **protect content**, software, and data
- Systems are put in place to manage, document and keep track of confidential information and **know-how**
- As products are improved additional **designs** are filed to prevent emergence of copycats

At this stage IP is all about:

- ✓ Enabling Partnerships
- ✓ Blocking Competitors
- ✓ Reducing Operational and Legal Risks
- ✓ Supporting Market Entry

This is where it will become apparent if you have a *leverageable* portfolio.



Established Business: *Monetize, Optimize, and Leverage*

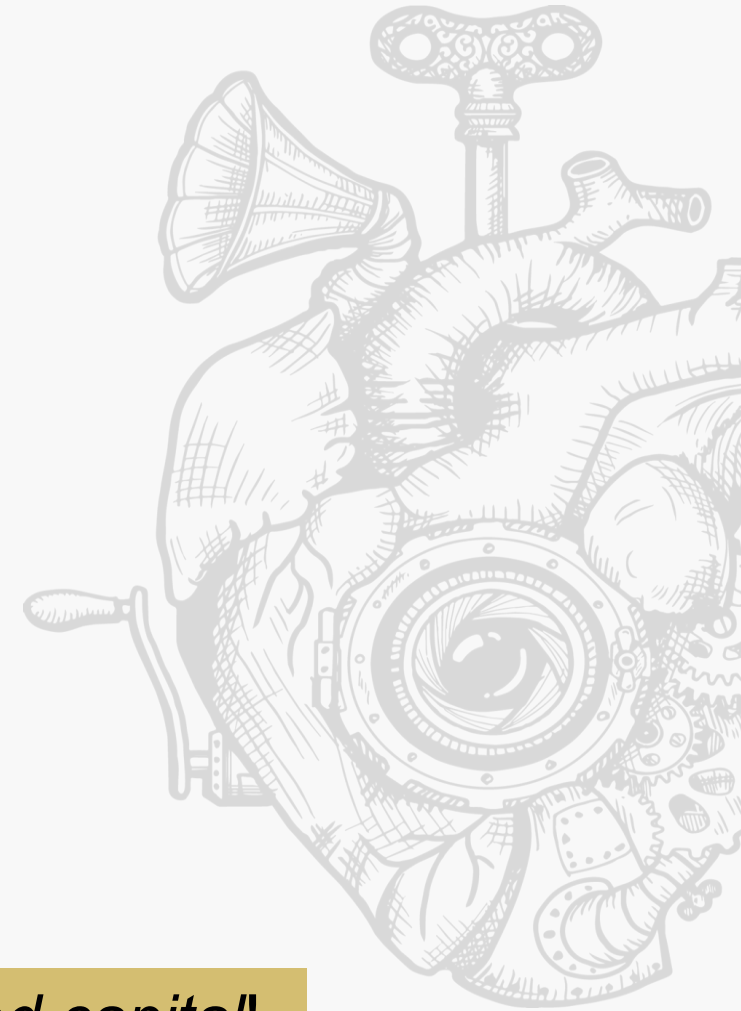
Once the business has taken off, IP becomes a **core business asset** used to **drive revenue** and providing **strategic leverage**.

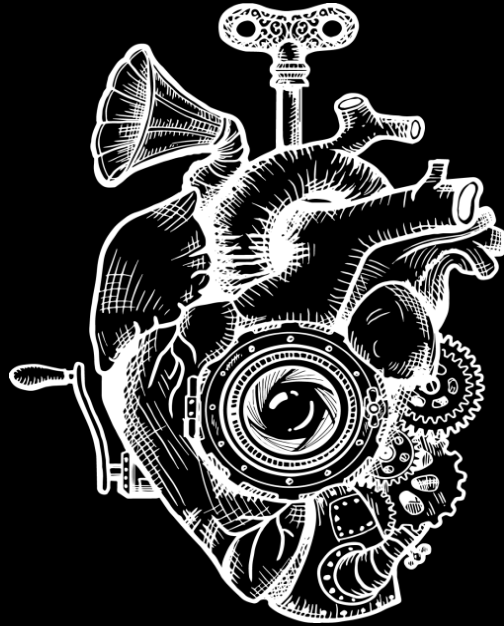
- You actively manage & monetize patents (licensing, enforcement, market positioning)
- You leverage trademarks as value drivers (consumer trust, franchising, brand loyalty, global presence)
- You monetize content and data through **copyright** (licensing, distribution, platforms)
- You fight imitation and reinforce your brand through **designs** (loyal consumer base, premium pricing)
- Your critical **know-how** is protected and kept track of, giving you a competitive advantage

At this stage IP is all about:

- ✓ Generating Revenue
- ✓ Supporting Valuation and M&A
- ✓ Maintaining Long-Term Competitive Advantage
- ✓ Optimization of the Pipeline

Unused IP is *wasted capital!*





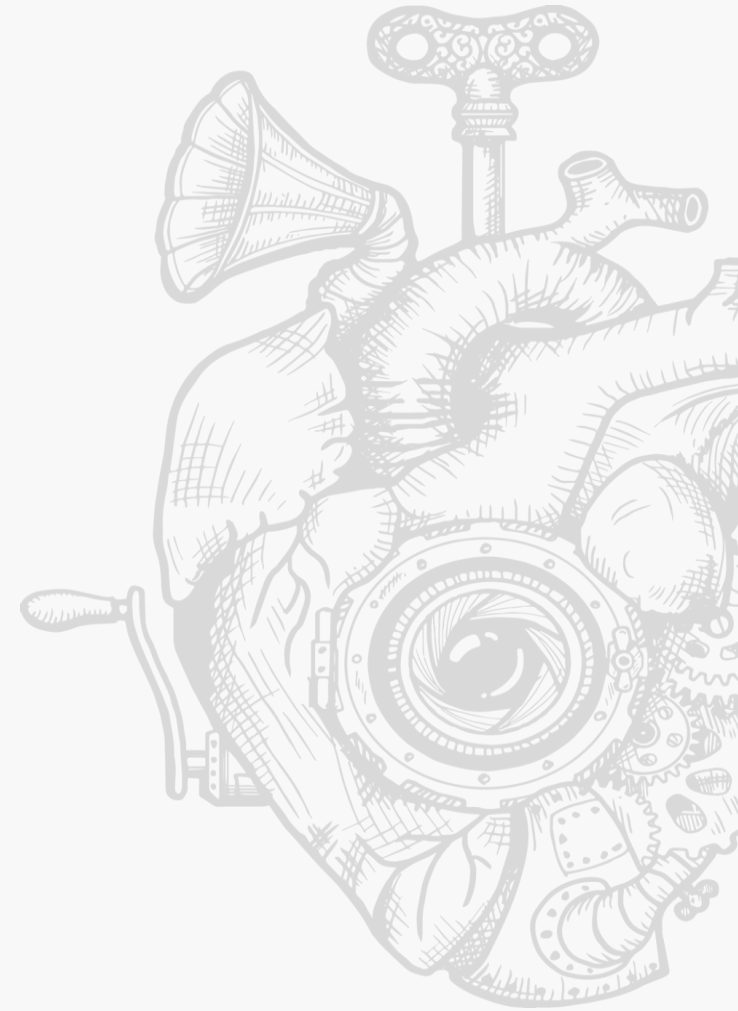
Europe's Unique IP-landscape

Europe is Unique as a *Region*

There are certain IP-related matters that are distinctive to Europe, the EU or the EEA:

- ✓ Unregistered Design Right
 - Protection *without* registration
- ✓ European Exhaustion
 - Lawful loss of distribution control
- ✓ Supranational IP Rights
 - One filing, many potential consequences
- ✓ Specialized Courts
 - Centralized enforcement

This makes Europe an *interesting market!*



Unregistered Community Design (UCD)

Though similar systems exist in other countries, the UCD is unique because it is a **formal, codified and automatic IP Right**.

A UCD:

- Protects against **copying** for **3 years without registration**
 - Only protects against **identical** copies
- Automatically enters into force in **27 EU member states**
- Is not **examined** – no proof required of **reputation** or **distinctiveness**
- Is especially suitable for **fast-moving industries** (e.g. fashion)

→ There is also a Registered Community Design (RCD)! **Paper = proof**

Timing of your first disclosure matters more than you may think!



Exhaustion (a.k.a First Sale Doctrine)

According to the Right of Exhaustion, IP rights on a product are **exhausted** after the product is **lawfully placed on the market**, i.e. the IP holder can no longer control the **further distribution/resale** of that specific *physical* item.

The system of Exhaustion in Europe is unique by how it is **territorially defined**:

- Exhaustion applies **across the entire EEA**
- Parallel imports within the EEA **cannot be blocked**
- Imports from outside the EEA **can be blocked**

This *directly* impacts pricing, distribution and parallel imports!

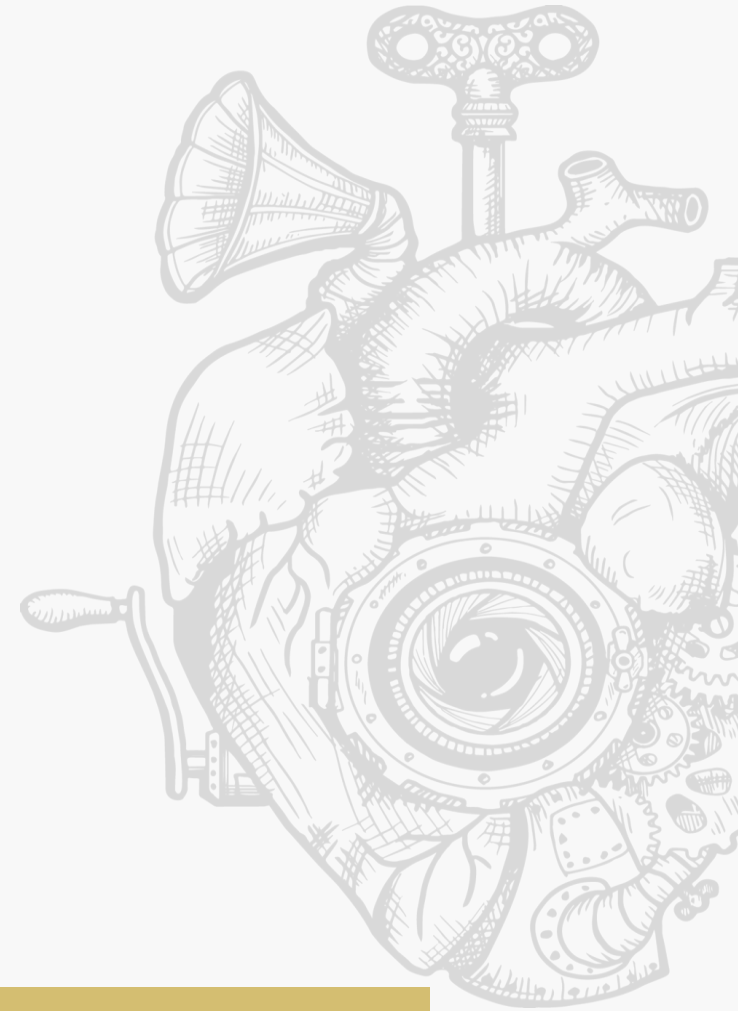


Supranational IP Rights

In Europe there are several IP rights that cover **multiple countries** via a **single filing**:

- EU Trademark (EUTM)
- Benelux Trademark
- Registered Community Design
- Unregistered Community Design
- European Patent Application
- Unitary Patent Application

Centralization increases *efficiency*, but in a way it also increases *risk!*



Specialized Courts

Court of Justice of the European Union (CJEU)

- ✓ Enforces EU Law (including IP law)
- ✓ Deals with appeals against decisions of EUIPO BoA for EU Trademarks and Designs
- ✓ Deals with referrals on questions concerning patent enforcement and EU Regulations from national courts

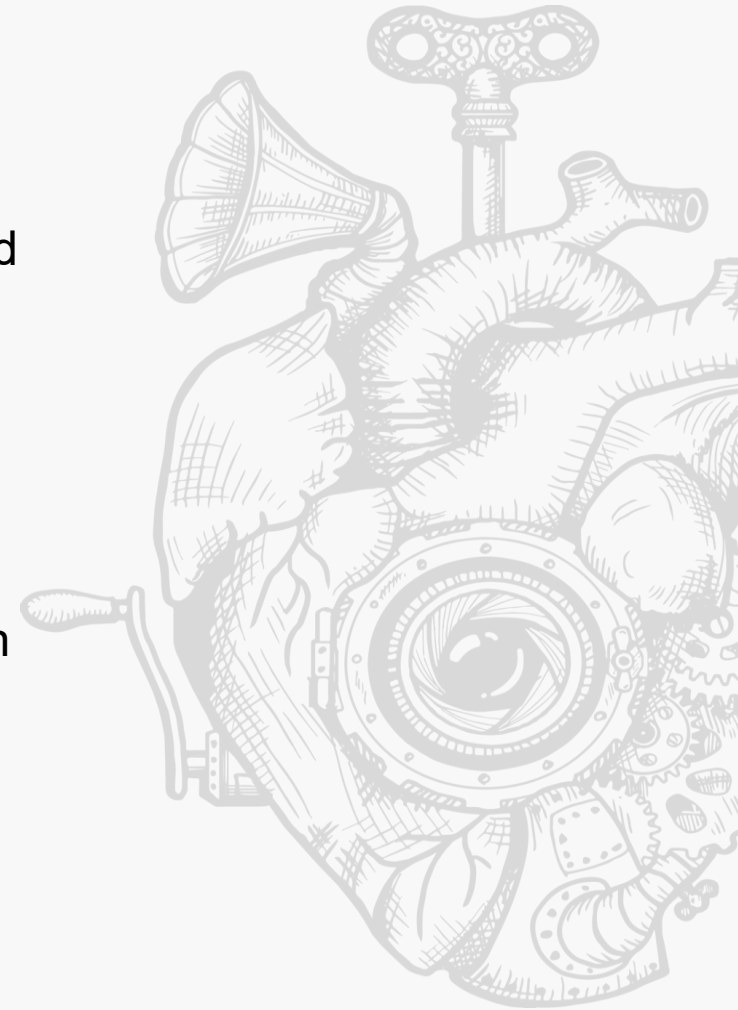
National courts

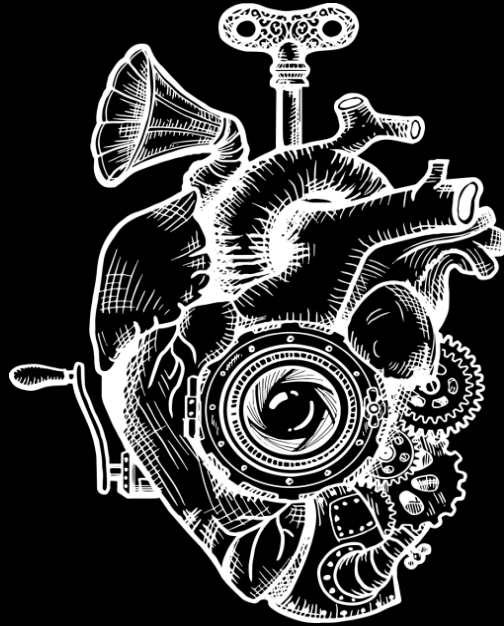
- ✓ National courts can issue cross-border injunctions for patent infringement in multiple EU states.

Unified Patent Court (UPC)

- ✓ Specifically for patent disputes
- ✓ Centralized invalidation / revocation proceedings

A decision in *one court* can have consequences in *multiple countries*!





What We Want You to Remember

A Few Things to Remember About IP

IP is not a *legal expense* – it is a *business investment*.

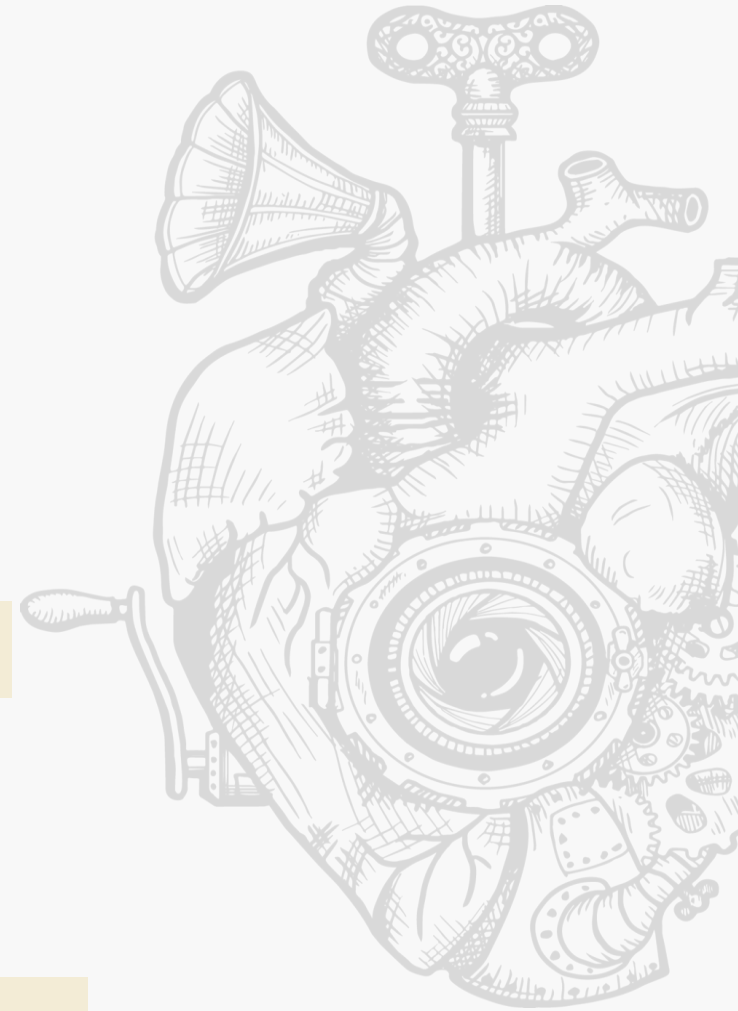
Effective IP strategies *evolve* with the business.

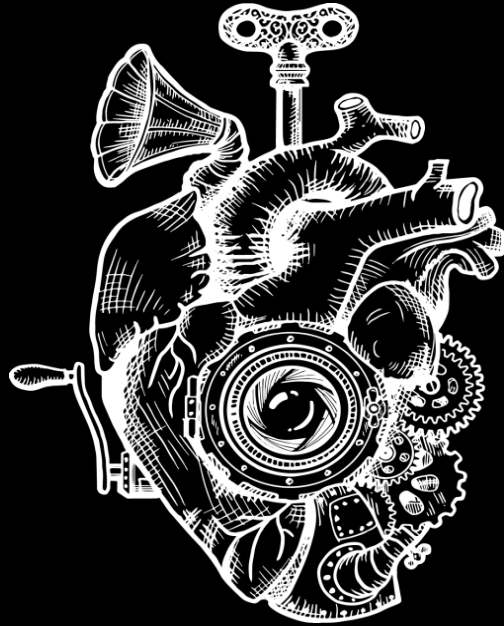
The timing of your filings is *essential to success*.

It works best when *aligned early* with business goals.

IP gives you the right to *stop others* from copying you, but not the right to *act freely*.

More IP is *not* better IP.





Questions to Ask Yourself

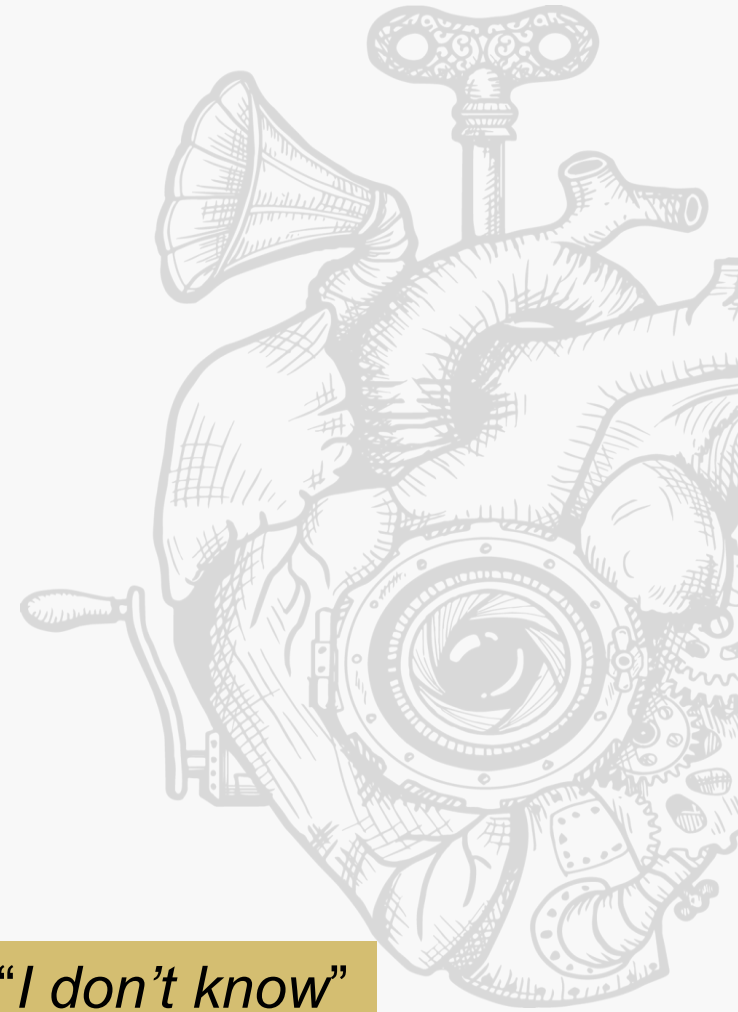
A Simple IP Self-Check

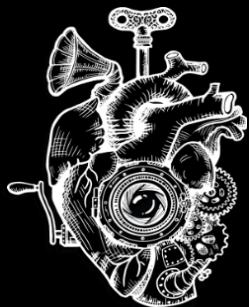
When was the last time we reviewed our *IP Portfolio*?

Do we know which IP is still *generating value* for us?

Is our IP Strategy still aligned with our Vision & Mission?

If the answer to one or more of these questions is “*no*” or “*I don’t know*”
It’s time to give your IP some attention!





ANY QUESTIONS?

CONTACT US!

SUZANNE RENES

Sr. Dutch & European Patent Attorney
Nippon Desk Team Lead
T +32 470 17 67 91
E suzanne.renes@ifori.be

IFORI BV - GENT

Victor Braeckmanlaan 107
9040 Gent, Belgium
T +32 9 230 36 62
F +32 9 231 63 71
E info@ifori.be

IFORI BV - TERVUREN

Leuvensesteenweg 2C
3080 Tervuren
F +32 2 514 58 47
E info@ifori.be

IFORI BV - KORTRIJK

Casinoplein 5
8500 Kortrijk
F +32 56 37 38 20
E info@ifori.be

IFORI BV - ANTWERPEN

Lange Winkelstraat 26
2060 Antwerpen
T +32 56 37 38 20
E info@ifori.be

RPR: 0472.073.759 (Gent)
BTW: BE 0472.073.759
IBAN: BE14 0689 0654 8283
BIC: GKCCBEBB