

**WE  
CAPTURE  
WHAT  
MOVES**



# INTELLECTUAL PROPERTY

Keys for understanding

CONFIDENTIAL

November 2017

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# 01

## GENERAL INFORMATION & DEFINITION



# GENERAL INFORMATION & DEFINITION

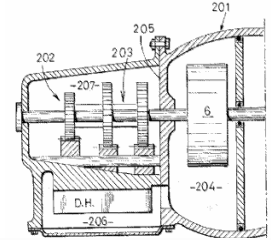
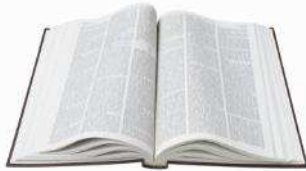



**INTELLECTUAL PROPERTY (IP)** generally refers to creations of the mind, such as inventions; literary and artistic works; designs; symbols, names and images used in the commerce.

**INTELLECTUAL PROPERTY (IP)** is generally divided into two branches:

- Copyrights and
- Industrial Property
  - **Industrial Property covers a range of subject areas, notably:**
    - Trademarks
    - Registered designs
    - Trade secrets
    - Patents

# GENERAL INFORMATION & DEFINITION

## OVERVIEW OF INTELLECTUAL PROPERTY (IP)

Legal right	What for?	How?	
Patents	New inventions	Application and examination	
Copyright	Original creative or artistic forms	Exists automatically	
Trade marks	Distinctive identification of products or services	Use and/or registration	
Registered designs	External appearance	Registration*	
Trade secrets	Valuable information not known to the public	Reasonable efforts to keep secret	



# 02

## COPYRIGHTS



# COPYRIGHTS

- **Protects original works of authorship, such as literary works, music, dramatic works, sculptural, pictorial and graphic works, sound recordings, artistic works, architectural works and computer software.**
  - For example, presentations, advertisements, marketing brochures, websites and scientific articles are covered by copyright (but not patents!)
- **The right exists from the moment the work is created. To provide public notice of copyright, published works must be marked “©, date and owner”. If registered, certain statutory rights are available.**
  - The owner has the exclusive rights to modify, distribute, perform, create, display and copy the work
- **A “work made for hire” is a work prepared by an employee within the scope of his or her employment**
  - In this case, the employer owns all of the rights comprised in the copyright
- **Duration of a copyright**
  - The life of the author plus 70 years
  - In case of a “work made for hire”, it is 95 years from the date of the publication, or a term of 120 years from the year of its creation, whichever expires first

# 03

## REGISTERED DESIGNS





# REGISTERED DESIGNS

- A Registered Design is the ornamental or aesthetic aspect of an article. Ornamental and aesthetic aspect may depend on the shape, pattern or color of the article.
- The owner of a registered design **has the right to prevent third parties from making, selling, or importing** articles bearing or embodying a design which is a copy of the protected design, when such acts are undertaken for commercial purposes.
- In most countries, an industrial design **needs to be registered** in order to be protected under the term “registered design”. In some countries, the Industrial design laws grant, without registration, a time and scope limited protection called “unregistered industrial design”.



# 04

## TRADEMARKS



■ **Trade or Service Mark is a distinctive sign which identifies certain products or services as those produced or provided by a specific person, company or a group, allowing the consumer to distinguish them from goods or services of others**

- In order to qualify for protection, the mark must be distinctive and not merely descriptive
- Generic words or phrases can never be a trademark
- When the trademark is registered, “®” should be added
- When the mark is not registered yet or at all, “™” should be added

■ **To be registered, a trademark application must be filed at a National or Regional Patent and Trademark Office**

- A trademark right is **territorial**
- One should choose a Class for each mark
- It is necessary to demonstrate that the mark is not fanciful, arbitrary, suggestive, descriptive, i.e. the mark must be distinctive
- The mark must be used; it is necessary to provide proof of use to the Office
- If all these criteria are not fulfilled, the mark can be rejected by the Patent and Trademark Office



# 05

## TRADE SECRETS



# TRADE SECRETS

- A Trade Secret is **any confidential business information which provides an enterprise a competitive edge**. Trade secrets encompass manufacturing or industrial secrets and any commercial secrets.
- The unauthorized use of such information by persons other than the holders regarded as an unfair practice and a violation of the trade secret.
- Examples of information which could be considered as trade secret:

Formulas  
Samples  
Processes  
Know-how  
Methods  
Ideas  
Concepts  
Techniques  
Research  
Experimental work  
Developments  
Inventions  
Scientific information

Design details  
Drawings  
Engineering  
Specifications  
Ingredients  
Recipes  
Customer data  
Business records  
Financials  
Sales data  
Sales analyses  
Pricing  
Forecasts

Plans  
Strategy  
Equipment  
Incident reports  
Complaints  
Claims  
Contracts & terms  
Reports  
Client lists  
Origin of products  
Ingredient suppliers  
Ingredient pricing  
Margin

A trade secret is any confidential business information which provides a company a competitive edge



# 06

## PATENTS



# PATENTS: GENERAL INFORMATION (1/5)

## PATENTS: IT'S A GIVE AND TAKE SYSTEM



Extrait du livre « Innover grâce au brevet », Y. de Kermadec, Insep Consulting Editions

# PATENTS: GENERAL INFORMATION (2/5)

## ROLES OF THE PATENT SYSTEM

### ■ Encourage technological innovation by rewarding intellectual creativity

- in providing protection for the invention to the patent owner, patents provide incentives to individuals by offering them recognition for their creativity and the possibility of obtaining financial rewards if they commercialize or exploit their inventions

### ■ Promote competition and investment

- in developing new or improved products or processes by encouraging research and development

### ■ Encourage dissemination of information

- because information disclosed in patents is published and that may be of benefit to society

### ■ Promote technology transfer

- because anyone can find patented technologies that they may want to get access to and use themselves

# PATENTS: GENERAL INFORMATION (3/5)

## RIGHTS CONFERRED BY A PATENT

- Prevent others from **making, using, offering for sale, selling or importing infringing products** in the country where the patent was granted.

 **LIMITED MONOPOLY**

- The patent does **not grant the right to use** the invention!

**PATENT = RIGHT TO FORBID, NOT TO EXPLOIT**

- For **up to 20 years** from the date of filing of the patent application.
- Right to assign or transfer ownership of a patent and to conclude licensing contracts.
- **Presumption of validity** of a granted patent until it is challenged in a court.

A patent is an exclusive right for a limited period of time and space

# PATENTS: GENERAL INFORMATION (4/5)

## WHAT CANNOT BE PATENTED ?

- The following are not considered to be inventions for the purposes of granting patents (notably in Europe):
  - Discoveries, scientific theories and mathematical methods;
  - Aesthetic creations;
  - Schemes, rules and methods for performing mental acts, playing games or doing business, and programs for computers;
  - Presentations of information
- Inventions whose commercial exploitation would be contrary to **"ordre public" or morality**.
- **Plant or animal varieties** or essentially biological processes for the production of plants or animals.
- **Methods for treatment** of the human or animal body **by surgery or therapy** and **diagnostic methods** practised on the human or animal body.
- This applies only if the patent claim relates to that subject-matter or activities **"as such"**.
- A patent claim that includes a mix of both patentable, technical, and excluded, non-technical, subject-matter **can** be regarded as an invention and may be patented after all.



# PATENTS: GENERAL INFORMATION (5/5)

## WHAT CAN BE PATENTED ?

- Patents are granted **for any invention** whether the invention is a product or a process, e.g. process of manufacturing something, in "all fields of technology".
- An invention is a technical solution to a technical problem.
- Provided that said invention is compliant with the **3 conditions of patentability** which are:
  - **NOVELTY** / *anticipation (US terminology)*
  - **INVENTIVE STEP** / *non-obviousness*
  - **INDUSTRIAL APPLICATION** / *utility*
- 2 additional conditions:
  - **Enablement**
  - **Clarity** / *definiteness*

# PATENTS: PATENTABILITY REQUIREMENTS (1/3)

## NOVELTY

- In Europe and in the main countries, an invention must be **new at the date of filing a patent application** (**absolute novelty**). An invention shall be considered "new" if it does not form part of the "state of the art".
- "**State of the art**" means everything made available to the public (written or oral description, by use, or in any other way) **before the filing date** of the patent application.
- There must have been no public disclosure of an invention before the filing date of the patent application.



**So keep your invention confidential!**

# PATENTS: PATENTABILITY REQUIREMENTS (2/3)

## What not to do when considering filing a patent application



- No publication prior to filing  
e.g. no article, press release, conference presentation/poster/proceedings or blog entry



- No sale of products incorporating the invention prior to filing, no samples



- No lecture or presentation prior to filing  
except under a **non-disclosure agreement (NDA)**



- File before others do!

# PATENTS: PATENTABILITY REQUIREMENTS (3/3)

## INVENTIVE STEP AND UTILITY

### ■ Inventive step

- An invention must be inventive, i.e. it must:
  - **Bring a solution to a technical problem**
  - **Not be obvious for the man skilled in the art**

- For any invention there is a person skilled in the art.



### ■ Utility

- An invention must be capable of industrial application (utility), i.e., it must be made or used in any type of industry.
  - This condition avoid patenting theories.

# PATENTS: STRUCTURE AND CLASSIFICATION (1/3)

## STRUCTURE OF A PATENT

### ■ A patent application must comprise:

- **BIBLIOGRAPHIC INFORMATION:**

- inventor, patent assignee, date of filing, technology class, etc.

- **ABSTRACT:**

- around 150 words as a search aid for other patent applications.

- **DESCRIPTION COMPRISES:**

- a summary of prior art (i.e. the technology known to exist);
- the problem that the invention is supposed to solve;
- an explanation and at least one way of carrying out the invention.

- **CLAIMS:**

- to define the scope of the aimed patent protection.

- **DRAWINGS:**

- to illustrate the claims and description.

Claims define the metes and bounds of the patentee's exclusive right



# PATENTS: STRUCTURE AND CLASSIFICATION (2/3)

## BIBLIOGRAPHIC INFORMATION AND ABSTRACT

(12) DEMANDE INTERNATIONALE PUBLIÉE EN VERTU DU TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS (PCT)

(19) Organisation Mondiale de la Propriété Intellectuelle  
Bureau international

(43) Date de la publication internationale  
7 septembre 2007 (07.09.2007)

(10) Numéro de publication internationale  
WO 2007/099230 A2

(51) Classification internationale des brevets :  
C12N 1/00 (2006.01)

(21) Numéro de la demande internationale :  
PCT/FR2007/000364

(22) Date de dépôt international :  
28 février 2007 (28.02.2007)

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(26) Langue de publication : français

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06 01838 1 mars 2006 (01.03.2006) FR

(71) Déposant (pour tous les États désignés sauf US) : V. MANE FILS [FR/FR]; 620, route de Grasse, F-06620 Bar sur Loup (FR).

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(74) Mandataire : PÖPPING, Barbara, Cabinet Plasseraud, 52, rue de la Victoire, F-75440 Paris Cedex 9 (FR).

(81) États désignés (sauf indication contraire, pour tout titre de protection nationale disponible) : AE, AG, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, GT, HN, HR, HU, ID, IL, IN, IS, JP, KE, KG, KM, KN, KP, KR, KZ, LA, LC, LK, LR, LS, LT, LU, LV, LY, MA, MD, MG, MK, MN, MW, MX, MY, MZ, NA, NG, NI, NO, NZ, OM, PG, PH, PL, PT, RO, RS, RU, SC, SD, SE, SG, SK, SL, SM, SV, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, ZA, ZM, ZW.

(84) États désignés (sauf indication contraire, pour tout titre de protection régionale disponible) : ARIPO (BW, GH, GM, KE, LS, MW, MZ, NA, SD, SL, SZ, TZ, UG, ZM, ZW), eurasien (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), européen (AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, GB, GR, HU, IE, IS, IT, LT, LU, LV, MC, NL, PL, PT, RO, SE, SI, SK, TR), OAPI (BF, BJ, CF, CG, CI, CM, GA, GN, GQ, GW, ML, MR, NE, SN, TD, TG).

Déclaration en vertu de la règle 4.17 :  
— relative à la qualité d'inventeur (règle 4.17.iv))

Publiée :  
— sans rapport de recherche internationale, sera republiée dès réception de ce rapport

En ce qui concerne les codes à deux lettres et autres abréviations, se référer aux "Notes explicatives relatives aux codes et abréviations" figurant au début de chaque numéro ordinaire de la Gazette du PCT.

(54) Title: SYSTEM FOR PRODUCING AROMATIC MOLECULES BY BIOCONVERSION

(54) Titre : SYSTEME DE PRODUCTION DE MOLECULES AROMATIQUES PAR BIOCONVERSION

(57) Abstract: Yeast comprising at least one gene encoding vanillyl alcohol oxidase, the sequence of which is the sequence SEQ ID No. 1 or any sequence at least 70%, preferably 80%, very preferably 90% homologous to the sequence SEQ ID No. 1, and methods for producing conferyl alcohol, ferulic acid and vanillin.

(57) Abrégé : Levure comprenant au moins un gène codant la vanillyl alcool oxydase ayant pour séquence la séquence SEQ ID n°1 ou toute séquence homologue à au moins 70%, de préférence 80%, très préférentiellement 90%, à la séquence SEQ ID n°1, et procédés de production d'alcool conférylique, d'acide férulique et de vanilline.

Publication date

Filing number

Priority date

Assignee

Inventors and inventors/applicant in the US

Publication number and status

Potential geographical scope

Abstract

# PATENTS: STRUCTURE (3/3)

## PATENT STATUS AND CLASSIFICATION

### KEEP IN MIND

- A = patent appli.
- B = granted patent

#### A documents

A1	European patent appl. published with search report
A2	European patent appl. published without the search report (not available at the publication date)
A3	Separate publication of the European search report
A4	Supplementary search report

#### Corrected A documents

A8	Corrected title page of an A document, i.e. A1 or A2
A9	Complete reprint of an A document, i.e. A1, A2 or A3

#### B documents

B1	European patent specification (granted patent)
B2	New European patent specification (amended specification of a granted patent)
B3	European patent specification after a limiting procedure

#### Corrected B documents

B8	Corrected title page of a B document, i.e. B1 or B2 document
B9	Complete reprint of a B document, i.e. B1 or B2 document

# PATENTS: PROCEDURE FOR GRANTING (1/3)

## WHERE TO FILE A PATENT APPLICATION?

### ■ There are different routes to patent protection:

#### ● National patent offices (France, U.S., China, Japan etc.)

- National patent **valid only in the country where it is granted**
- Non-nationals can also apply for a patent
- One year of "priority" for subsequent applications

#### ● European Patent Office (EPO)

- A "European patent" is equivalent to national patents in the countries for which it was granted
- The applicant chooses the countries
- The cost depends on the number of countries designated

#### ● Patent Cooperation Treaty (PCT)

- Just one initial application for more than 140 contracting states
- After the international phase, the international application leads to multiple national patent examination procedures
- Costly patenting decisions can be delayed by up to 30-31 months after filing
- No international patent, but an international patent application procedure
- PCT application can be filed at a national patent office, EPO or WIPO

# PATENTS: PROCEDURE FOR GRANTING (2/3)

## PATENT PROCEDURE FOR GRANTING

### ■ Examination on filing and formalities examination

- Check of the formal requirements, attribution of a filing date and filing number.

### ■ Search report

- Drawing up of a search report that allows an appreciation of the patentability of the invention (novelty and inventive step) 9 months after application filing. Classification of the prior art documents as X (novelty), Y (inventive step), A (technological background)...

### ■ Publication of application and search report

- Publication 18 months after the patent filing date (or priority date).

### ■ Substantive examination

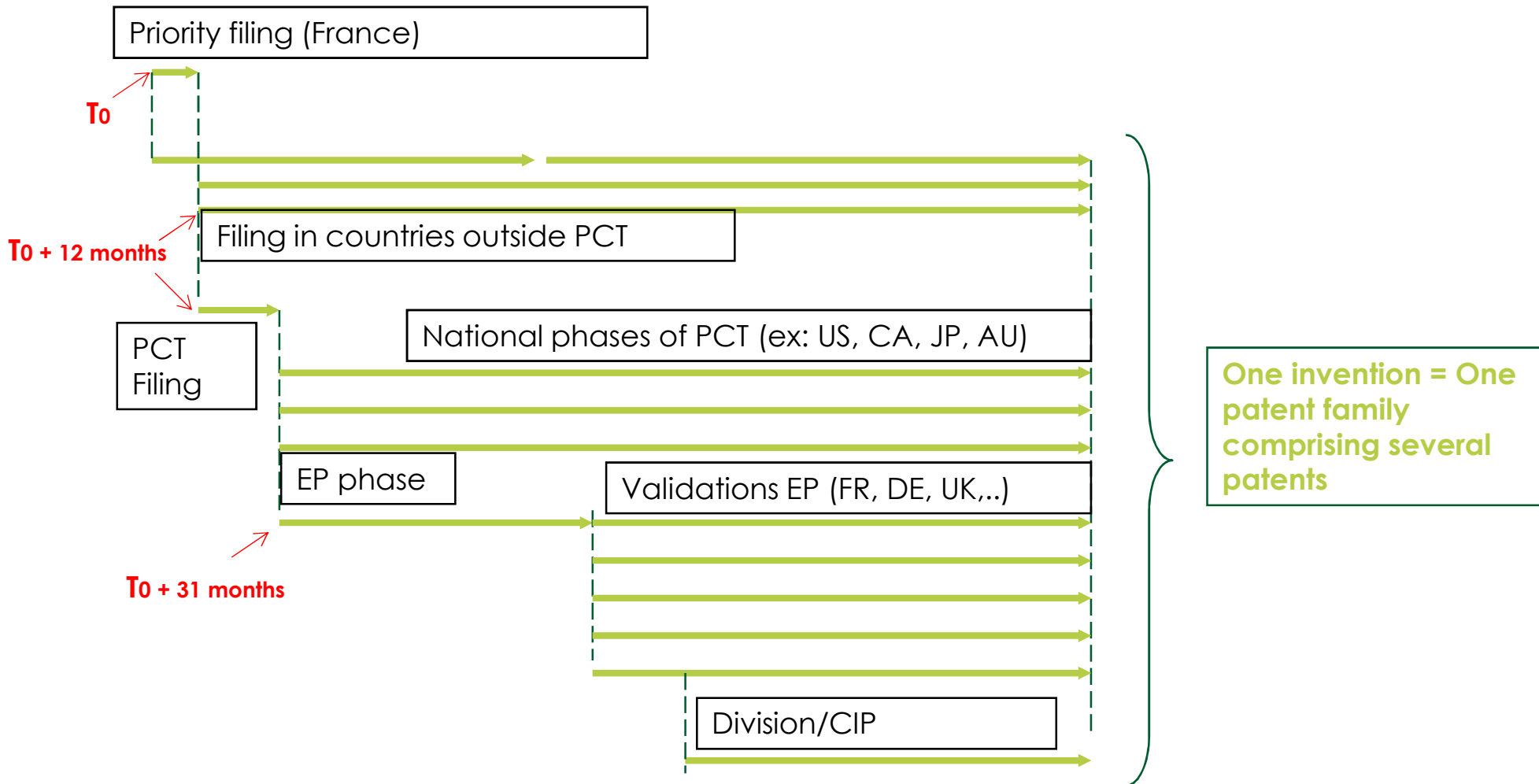
- Examination by the patent office by an Examiner. Discussion about the patentability of the claimed invention.

### ■ Grant of the patent and validation

- Choice of the countries where protection is effectively aimed between the 35 European countries.

# PATENTS: PROCEDURE FOR GRANTING (3/3)

## OVERVIEW OF THE PROCEDURE FOR ONE PATENT APPLICATION





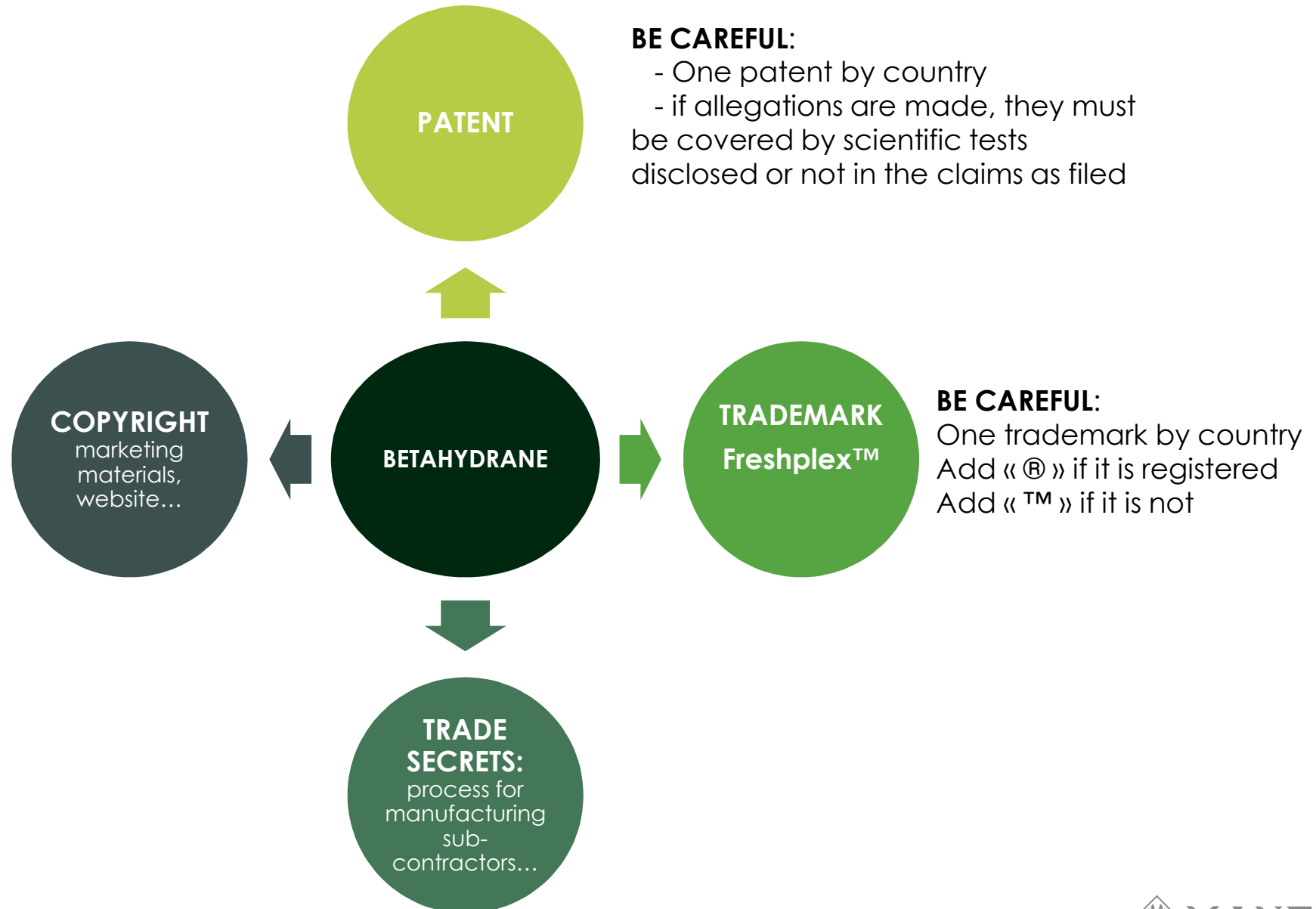
# 07

## PRACTICAL CASE



# PRACTICAL CASE (1/3)

## BETAHYDRANE AS A NEUTRALIZING ODOR COMPOUND



## BETAHYDRANE AS A NEUTRALIZING ODOR COMPOUND

### ■ IMPORTANT:

- If the molecule is marketed as a patented captive, it is important to check if a patent application/granted has been filed in said country(ies)
- If the molecule is marketed as a registered trademark, or the trademark is proposed to the customer, it is important to use the signs ® and ™, and to check before that if said mark has been filed and/or registered in said country(ies)
- If the customer needs something like a “Certificate” for the particular action of the captive or molecule, in this case it is necessary to check that specific analysis have been performed:
  - With a specific range of use of the captive compounds
  - If any, with a specific range of use of the perfume composition comprising the captive compounds in the final product comprising
  - With the right application
  - If any, in the right final product form or composition

# PRACTICAL CASE (3/3)

## BETAHYDRANE AS A NEUTRALIZING ODOR COMPOUND

### ■ Case 1: we have analytical analysis:

- “MANE fragrance **XXX FRESHPLEX E\_XXX** comprises **x% of FRESHPLEX YYY** which reduces malodours as demonstrated by MANE analytical tests and sensory tests following ASTM standardized protocols, particularly ASTM E1593 “Method for Assessing the Efficacy of Air Care Products in Reducing Sensorily Perceived Indoor Air Malodor Intensity”

### ■ Case 2: we have analytical analysis and specific tests results on the customer's product:

- “Based on Mane analytical tests, and on **x% aerosol/reeds/wicks/air freshener** plug in sensorial tests results which follow ASTM standardized protocols, particularly ASTM E1593 “Method for Assessing the Efficacy of Air Care Products in Reducing Sensorily Perceived Indoor Air Malodor Intensity, applied on the air freshener/detergent/deodorant base of [**CUSTOMER PRODUCT NAME**] provided by [CUSTOMER NAME], we can conclude that Mane fragrance composition **E\_XXX FRESHPLEX XXX, used at y%** in your/the above mentioned **air freshener/detergent/deodorant application reduces/eliminates the Kitchen/Bathroom/Body/Pet/Tobacco malodour.**”

# CONCLUDING REMARKS

A close-up photograph of an aloe vera plant. A thick, clear, gel-like substance is being squeezed out of a cut section of the green, ribbed leaf. The gel is bright white and has a smooth, glossy texture. The background is a soft, out-of-focus light green.

**QUESTIONS ?**



**WE  
CAPTURE  
WHAT  
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**FOR MORE  
INFORMATION,  
CONTACT US**

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