



OFFICE FREYLINGER



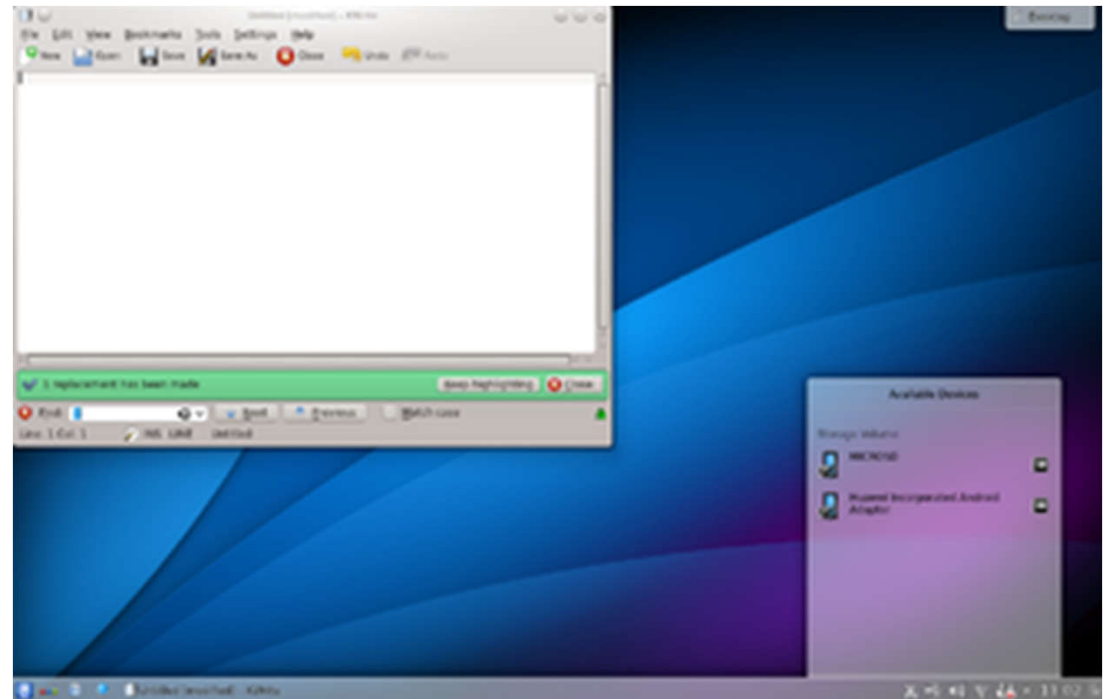
HOW TO STRENGTHEN YOUR SOFTWARE PROTECTION THROUGH TRADEMARK AND DESIGN RIGHTS



Recipe for Software Protection

- Copyrights
 - Source code
 - Database rights
- Designs
- Trademarks
- Patents (?)
- Trade secrets
- Contracts!

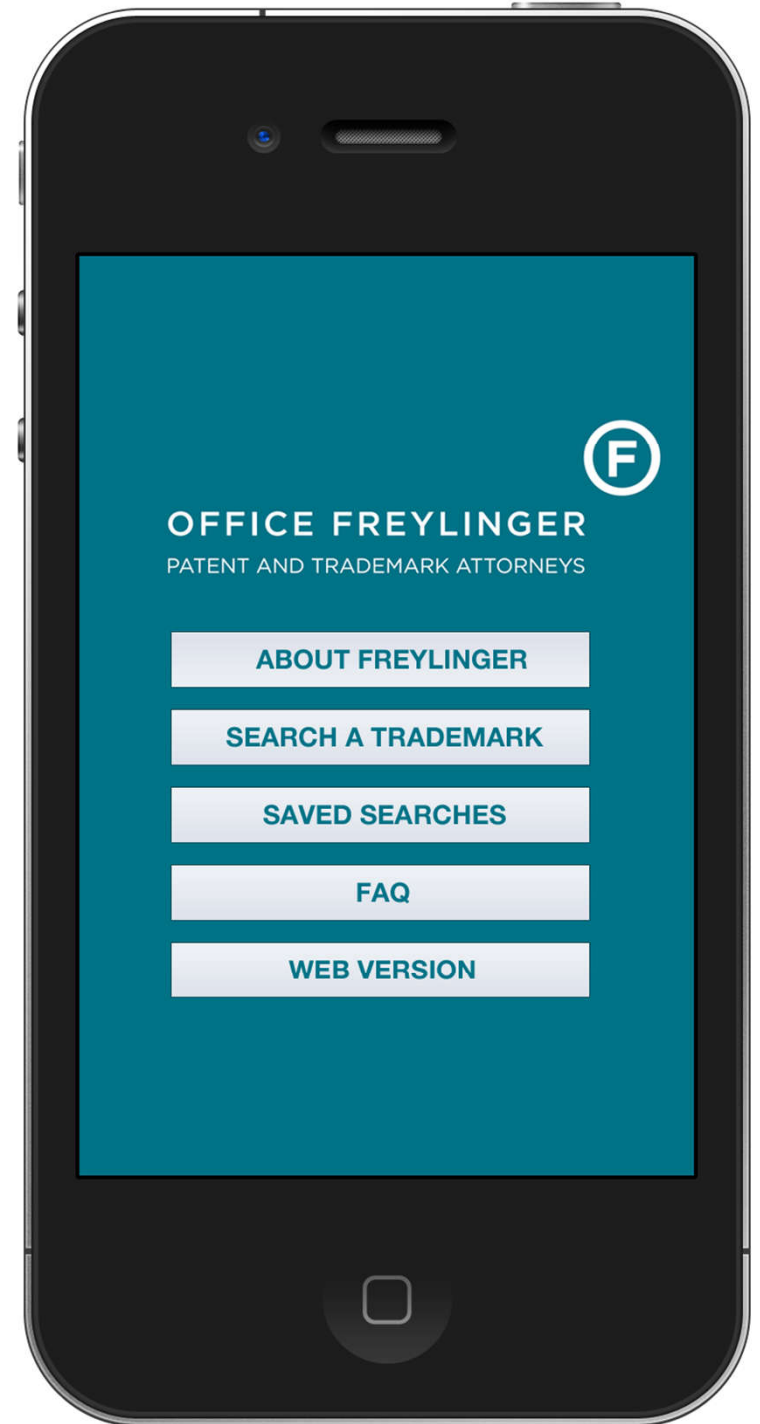




Registered Designs

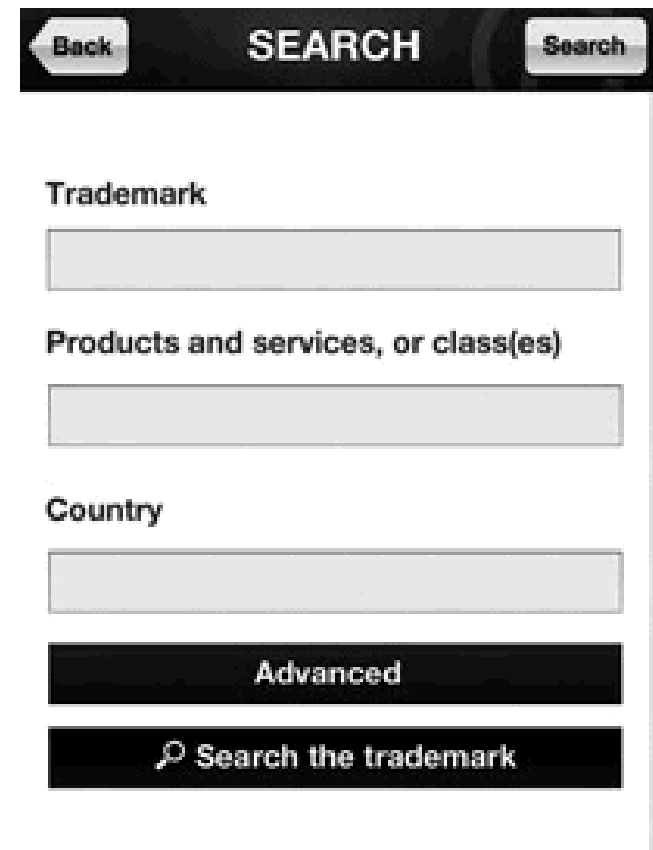
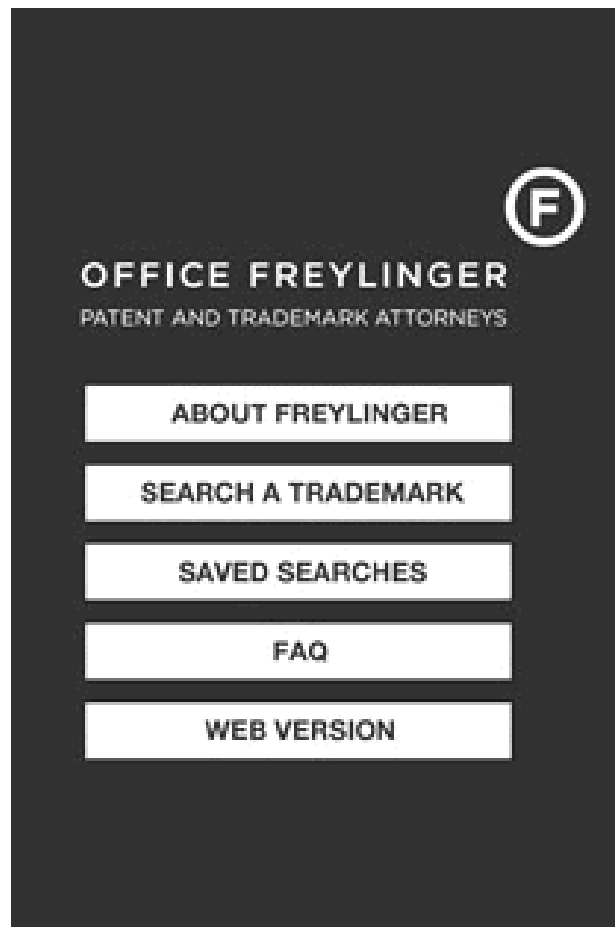


Practical example





International Registered Design DM/076495





Protection for appearance of products

- New products, new brochures, new websites etc.
- ⇒ Why not software?

Novelty requirement

- Grace period of 1 year
- If not fonctionnal
- Protected for 25 year max (1st period: 5 years)

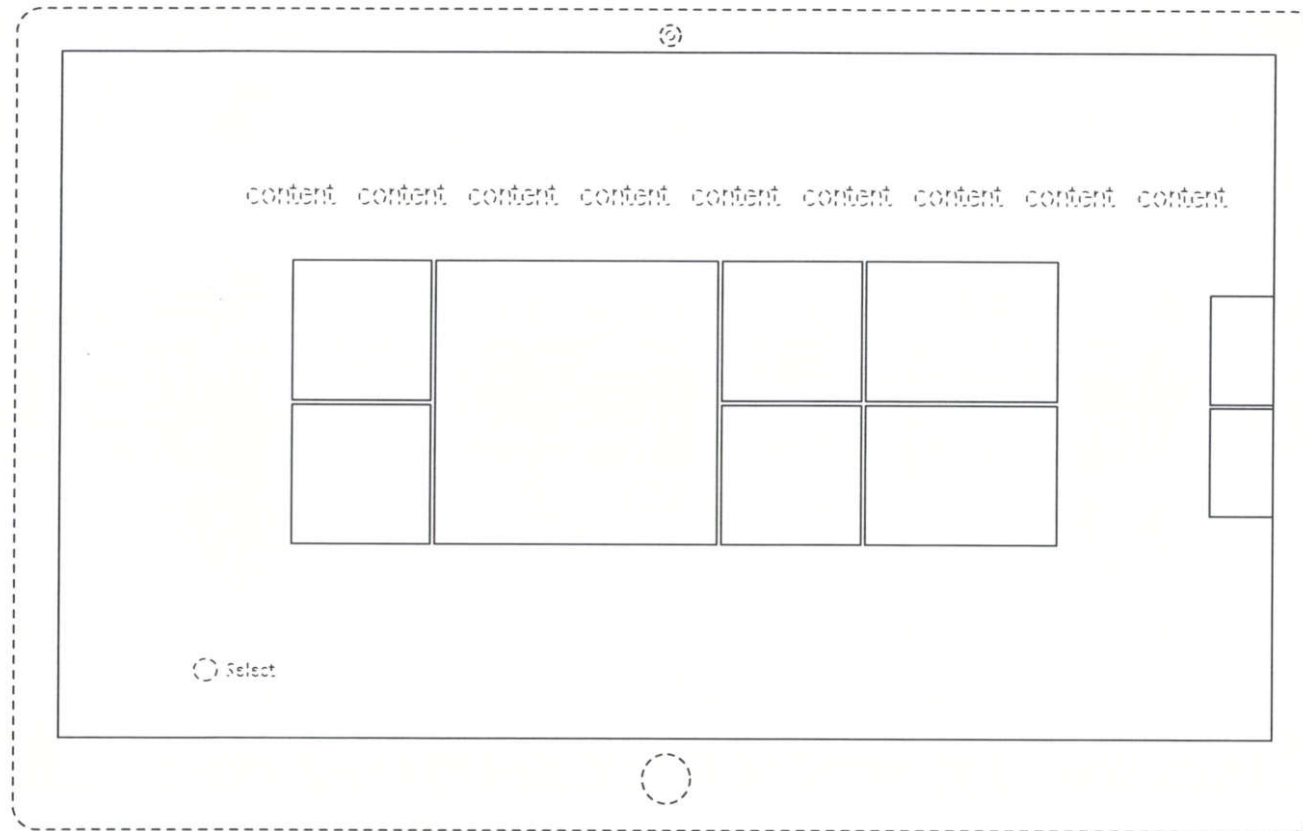


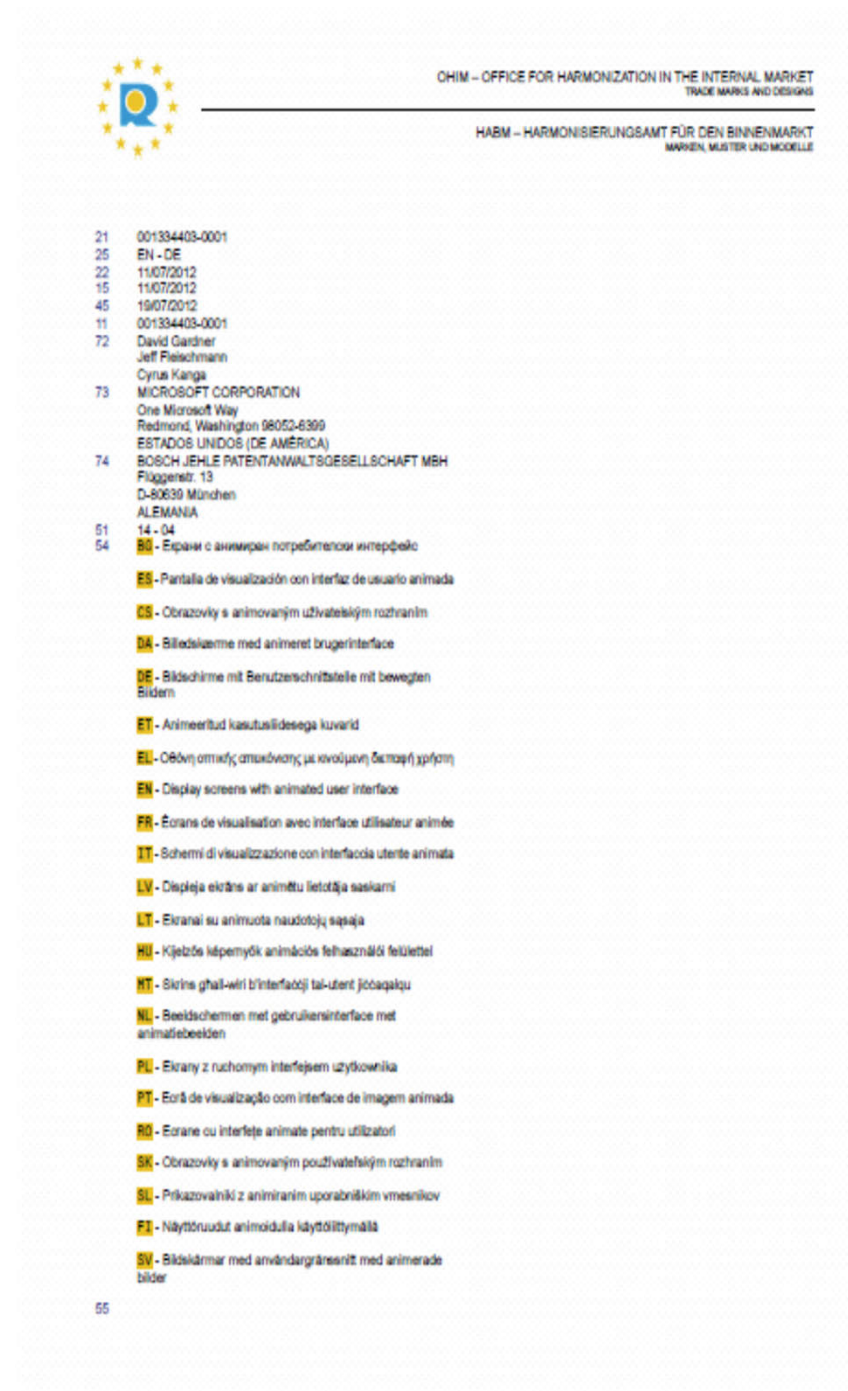
What?

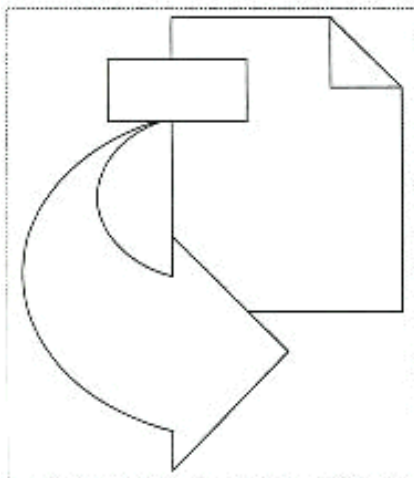
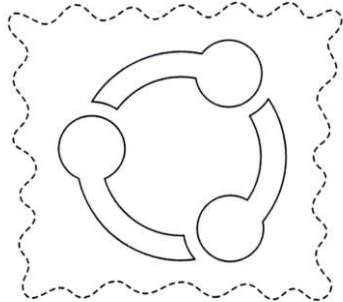
- Appearance of software = screen shots
 - Selection
 - Treatment of picture (make it anonymous)
- Icons
- Logos
- Criteria:
 - New
 - Specific appearance



Guess who is the owner?









Requirements:

- Novelty
- Personality of the designer

**All two requirements must be fulfilled
to obtain a (registered) design**

- Protection: 5 x 5 years
- Any product embodying the design ...
- ... or creating the same global impression



Where?

- No worldwide protection
- Criteria to select countries:
 - Market
 - Ratio costs/efficiency
 - Speed?
- Use of international system to lower costs



Risks? Disadvantages?

- Disclosing
 - But deferment of publication
- Costs
 - Chose carefully
- Competitor's watch



How to design a software

- Make it:
 - Specific
 - Eye-appealing
- Risks otherwise:
 - Others' rights
 - Copy



Ownership - Designs

- Rights on design belong to the creator
- EU and Benelux: Rights on design made by employee belong to the employer unless contrary agreement

Applicant/proprietor must not infringe someone else's copyright on design

Benelux convention: assignment of design implies assignment of copyrights and vice-versa



Ownership - contracts

- Contracts with external partners
 - Marketing / design / UI agency
 - Developers
- Internally?
 - Employees?
 - Founders ?



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Trademarks



Definition

- Signs
 - Names, Logos, etc...
 - Sounds!
 - Multimedia files!
 - used to differentiate products or services
 - Absolute and relative grounds of refusal
- Right to exclude others
- Must be used in commerce
- Eternal: must be renewed every 10 years



What?

- Name of software
- Icons
- Logos

- Criteria:
 - No earlier right
 - Conduct **SEARCHES!!!**
 - Tmview or professional search?
 - Distinctive character
 - Not generic
 - Not descriptive

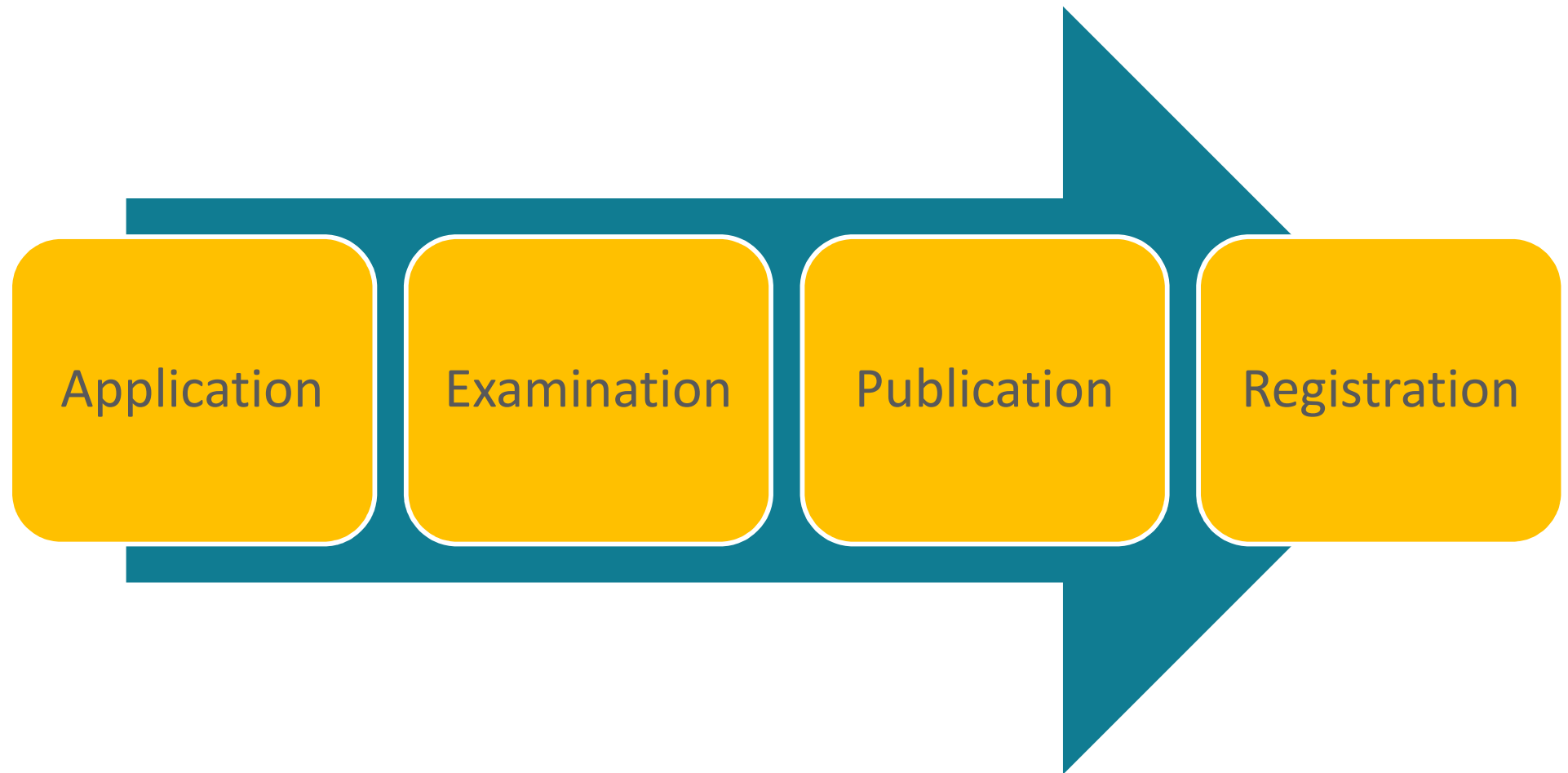


Where shall I protect my TM?

- No worldwide protection
- Criteria to select countries:
 - Market
 - Ratio costs/efficiency
 - Speed?
- Use of international system to lower costs
 - Benelux basis?
 - EU basis?



Registration process?



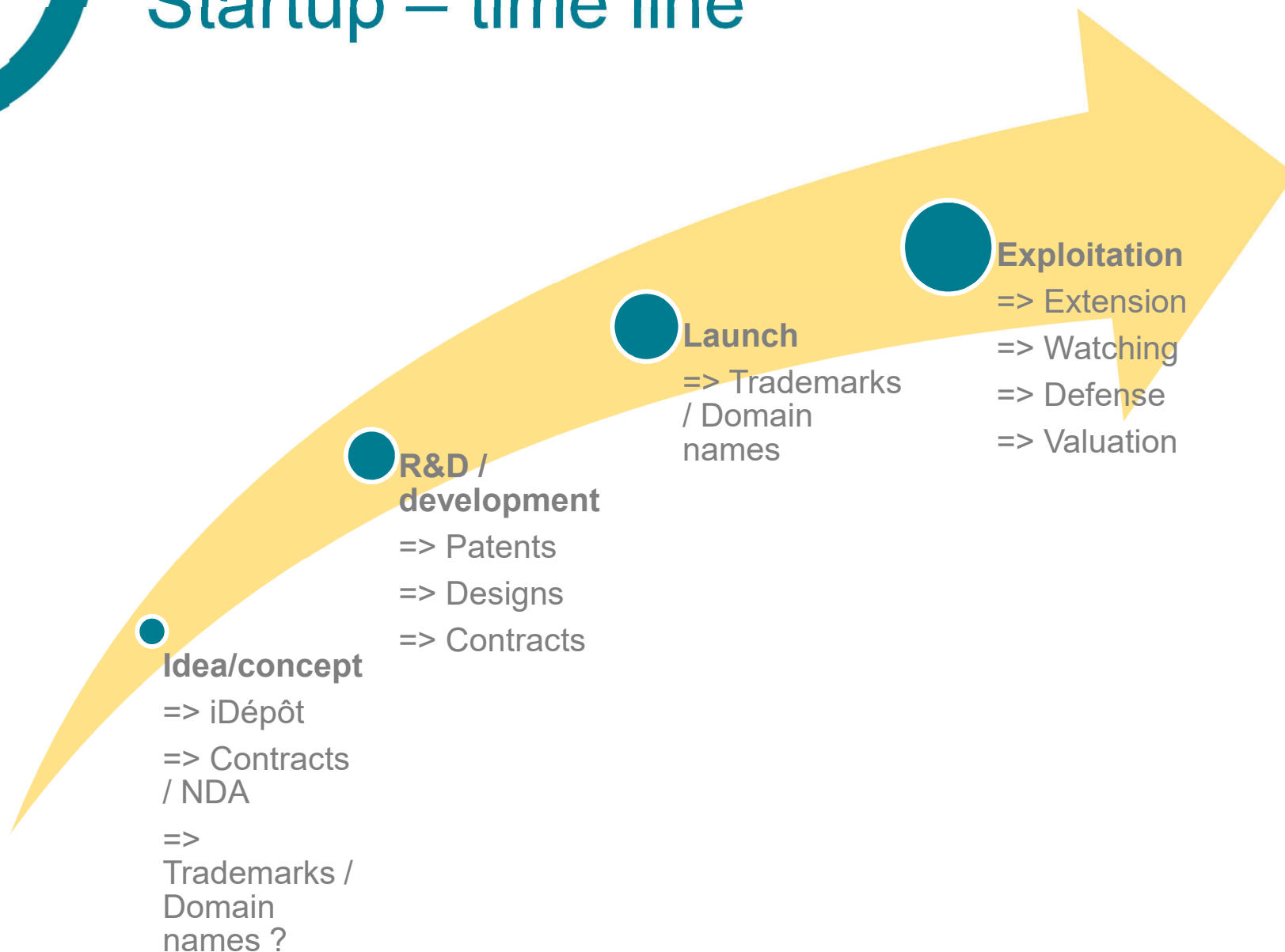


Timeline process





Startup – time line





IP Strategy

- Searches !!
- Use time
 - Priority period
 - Save cash!
- Use international systems (designs, trademarks)
- File the appropriate right!
 - Type of rights
 - Countries



Thank you for your participation!

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