

Intellectual Property

cleared for flight, with an intellectual property right

Our Flight Plan

- ✈ What is IP
- ✈ International IP
- ✈ Focus on patentability



What is Intellectual Property?

Definition

Intellectual Property (Rights)

Section	Type	Example
CREATOR (COPY)RIGHT	LITERARY	POEM NOVEL FILM
	ARTISTIC	PAINTING PHOTO
TRADE SECRET	ANY	MARKET FINANCE
INDUSTRIAL PROPERTY	PATENT	INVENTION
	TRADEMARK	WORD IMAGE 3D
	DESIGN	APPEARANCE
	UTILITY MODEL	INVENTION
	PLANT VARIETY	DISTINCT VARIETY
	TOPOGRAPHY	SEMICONDUCTOR

How to obtain IP Rights

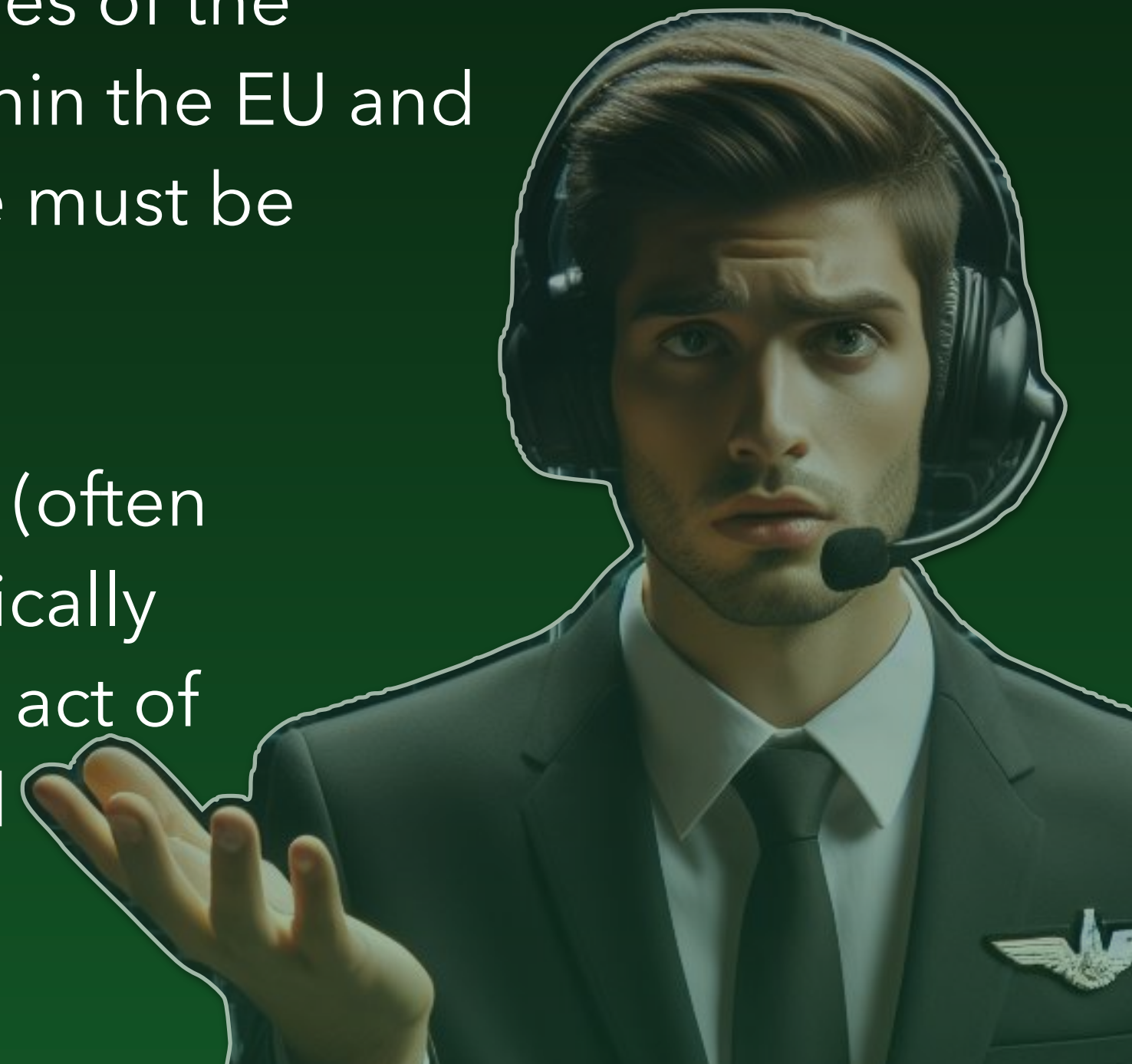
Is registration mandatory?

Yes:

- ✈ Patent
- ✈ Utility Model
- ✈ Trademark
- ✈ Design
- ✈ Plant variety
- ✈ Topography

No:

- ✈ Unregistered Community Design:
The design must be known at least by the interested circles of the sector concerned within the EU and the date of disclosure must be certain
- ✈ Creator (author) right (often ,copyright'): Automatically established when the act of creation is completed



Test Flight

Which IPRs do you recognize?

Patent

Formulation of liquid
Composition of glass
Cap
Chemical composition of label
Technical features of bottle

Utility Model

Use of liquid in the treatment of xxx

Method of printing label on bottle
Method of manufacturing liquid
Method of manufacturing bottle
Method of filling bottle
Method of adding cap to bottle
Method of producing cap



Trade Secret

Design

Shape (aesthetic)

Trademark

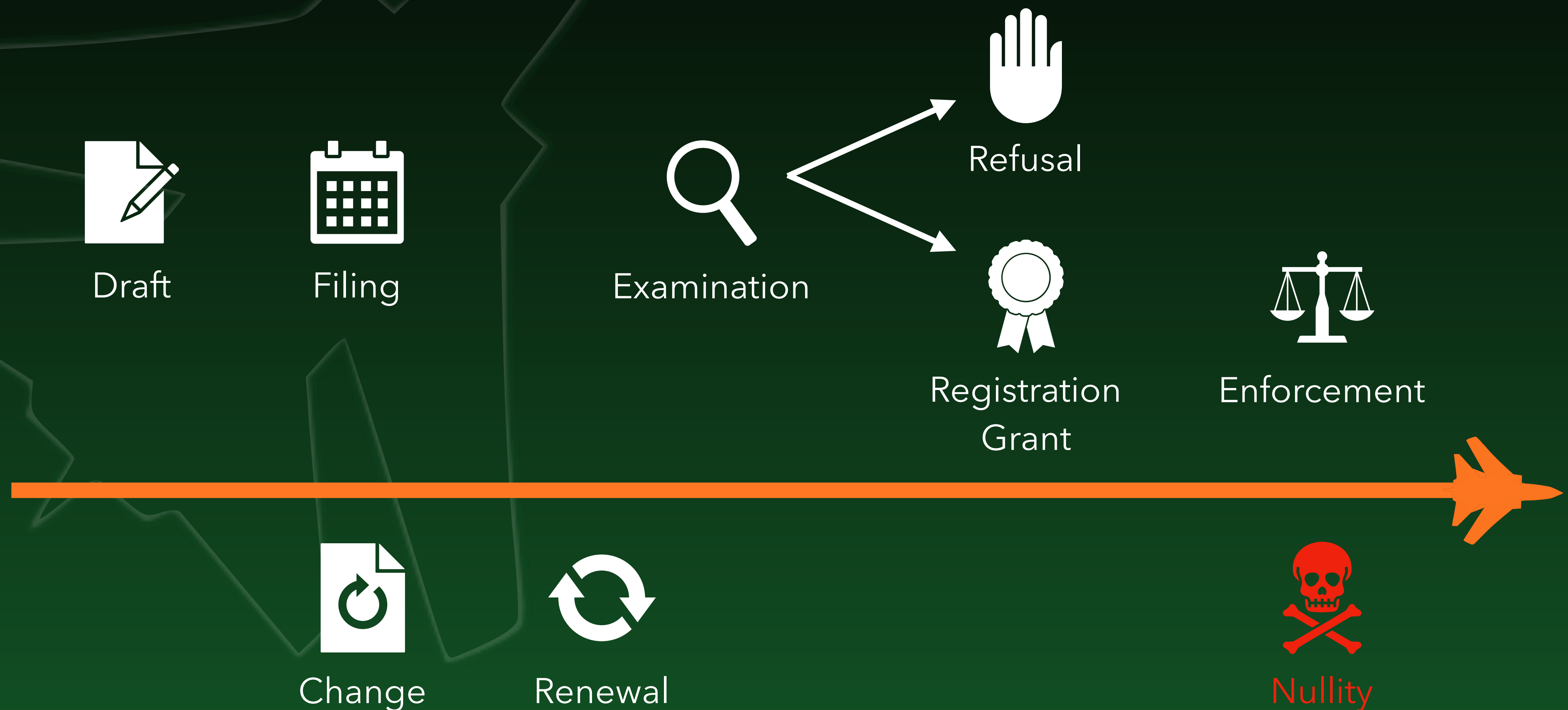
Word Color
 Logo
3D Sound

More?

Consider previous and following steps
in value chain, e.g. storage, recycling

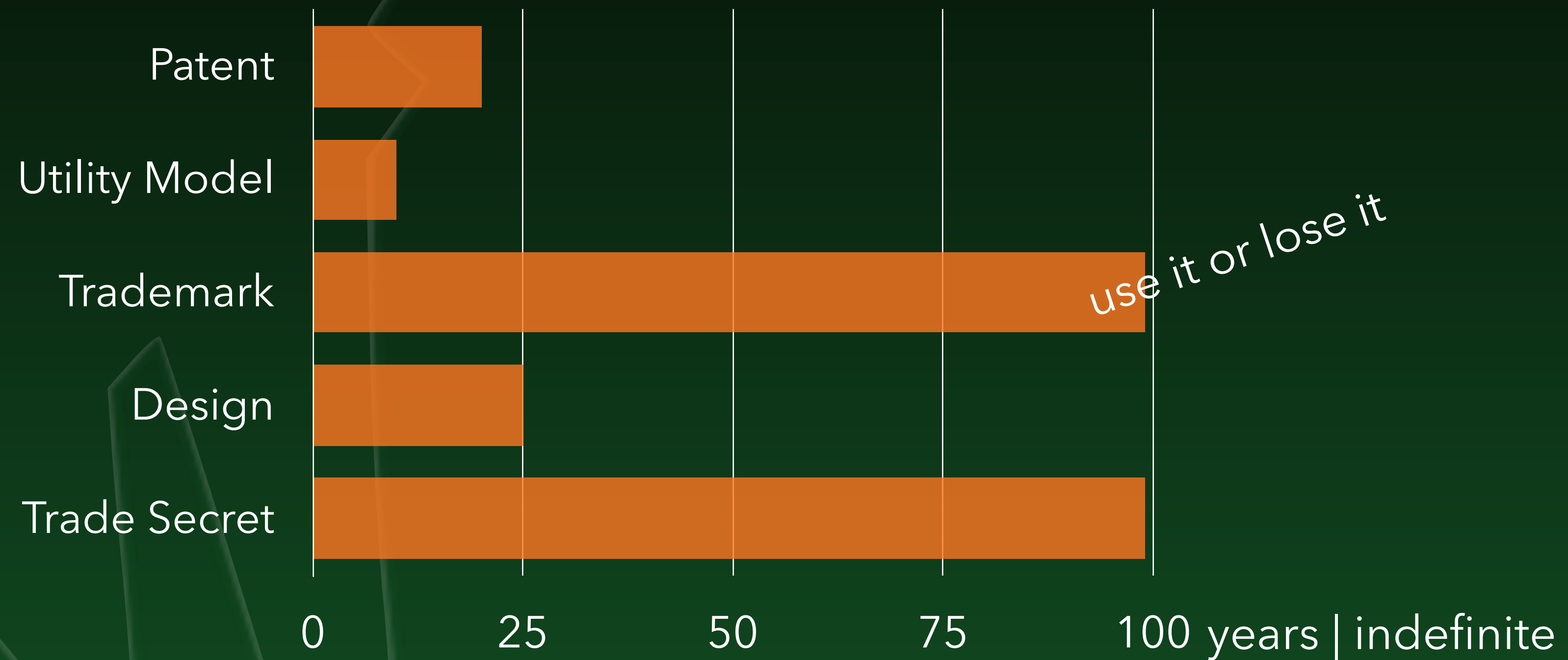
From Take-off to Touch Down

IPR generation process



From Take-off to Touch Down

typical IPR life times



From Take-off to Touch Down

IPR invalidity, expiration, lapse

law &
intention 3rd party

Trademark

Opposition
Invalidation

Lapse
Withdrawal

Lack of use

Patent

Opposition
Nullity

Lapse
Withdrawal

Design

Nullity

Lapse
Withdrawal

Copyright

Invalidation

Expiration



Components

Engine & Wings

Trademark

Bibliography

Representation

List of
goods and services

Patent

Bibliography

Description

Claims

Drawings

Design

Bibliography

Representation



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Trademark

Feature		signs (words, incl. personal names, designs, letters, numerals, colors, shape of goods or packaging of goods, sounds)
absolute grounds	Distinguishing character	in principle, distinguishing goods or services of one undertaking from those of other undertakings
	Representability	in the register to allow determination of protection
	Distinctiveness	distinguishing in relation to claimed goods & services
	Non-descriptiveness	proximity of sign and claimed goods & services
	Non-generic	customary in language or in established trade practices
relative grounds	Non-functional	characteristics resulting from goods themselves
	No identity or likelihood of confusion with older marks	identity of marks + goods or services covered by both marks identity with or similarity to earlier mark + identity or similarity of goods or services covered by both marks

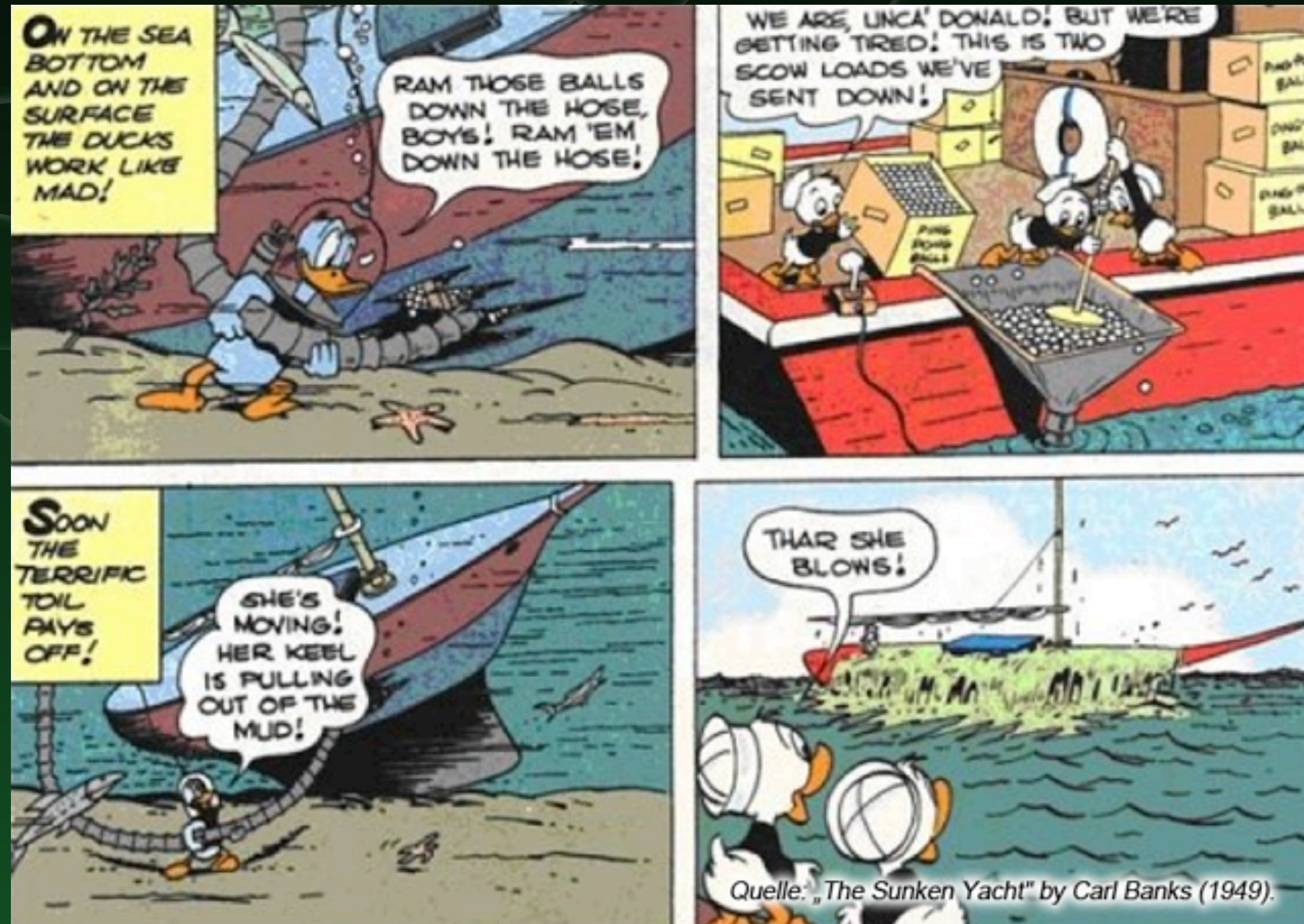
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Patent

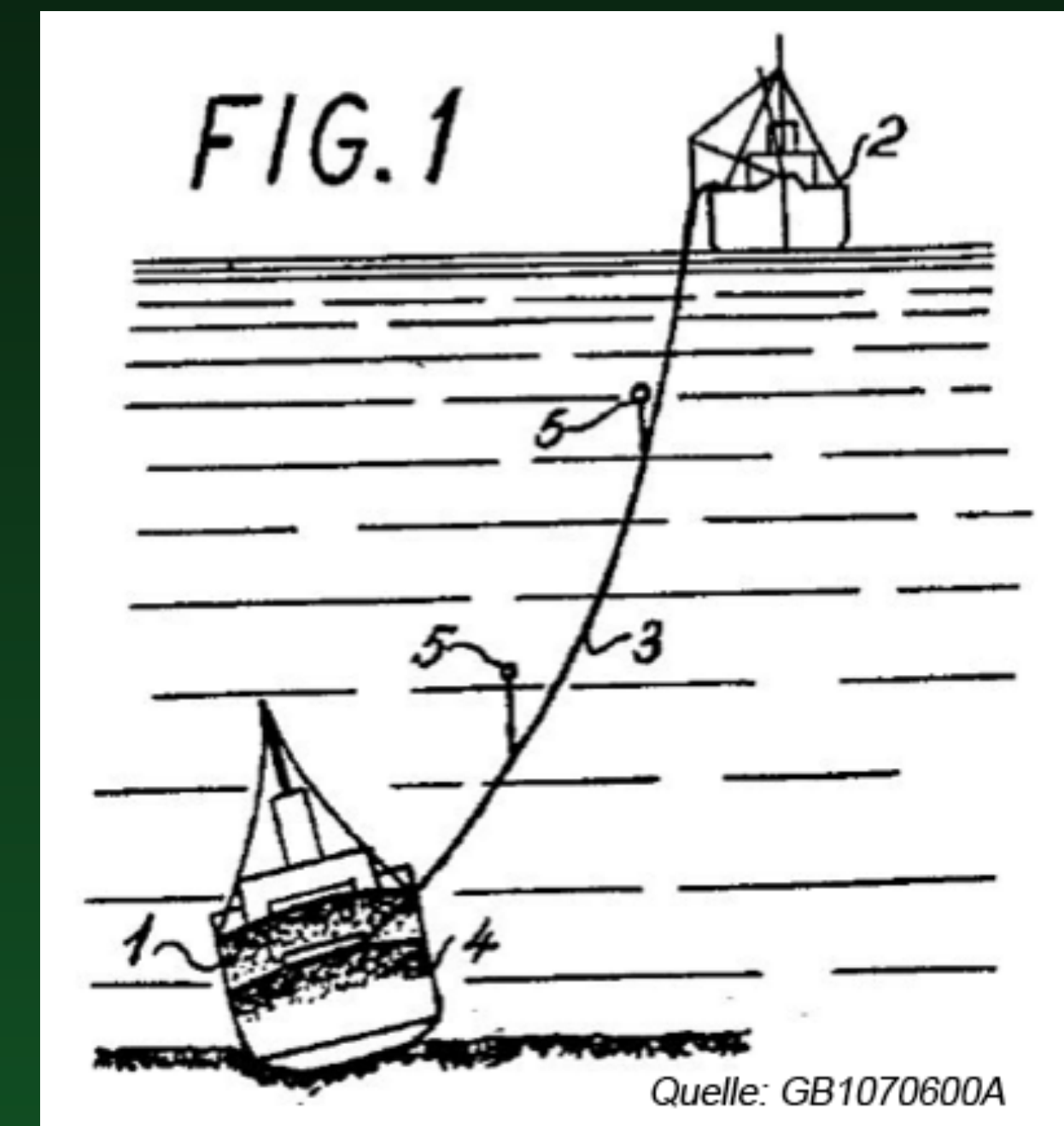
Feature	inventions, in all fields of technology
Novelty	No part of the state of the art: everything made public before filing (or priority) - written, oral, use, or otherwise
Inventive Step	having regard to the state of the art, not obvious to the person skilled in the art
Industrial Applicability	can be made or used in any kind of industry, including agriculture

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Prior Art



GB1070600A (filed 02-11-1965):
 A method of raising sunken or stranded vessels by introducing into the interior of said vessels buoyant bodies ...



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Design

Feature

appearance of the whole or a part of a product (industrial or handicraft item, assemblies: packaging, symbols, typefaces)

Novelty

No identical design available to public **before** filing (or priority)

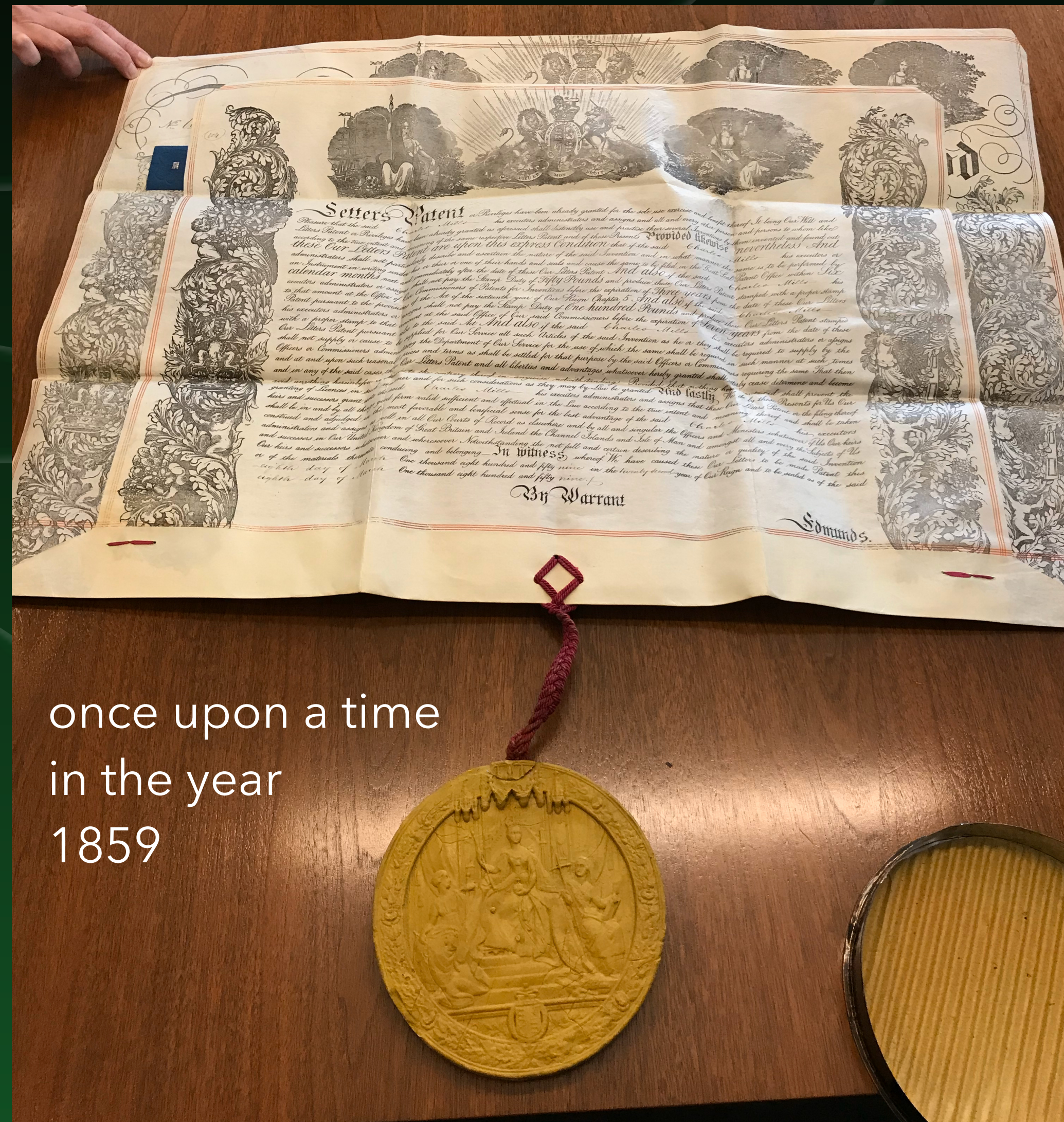
Individual character

overall impression on the informed user differs from the impression by any other available design

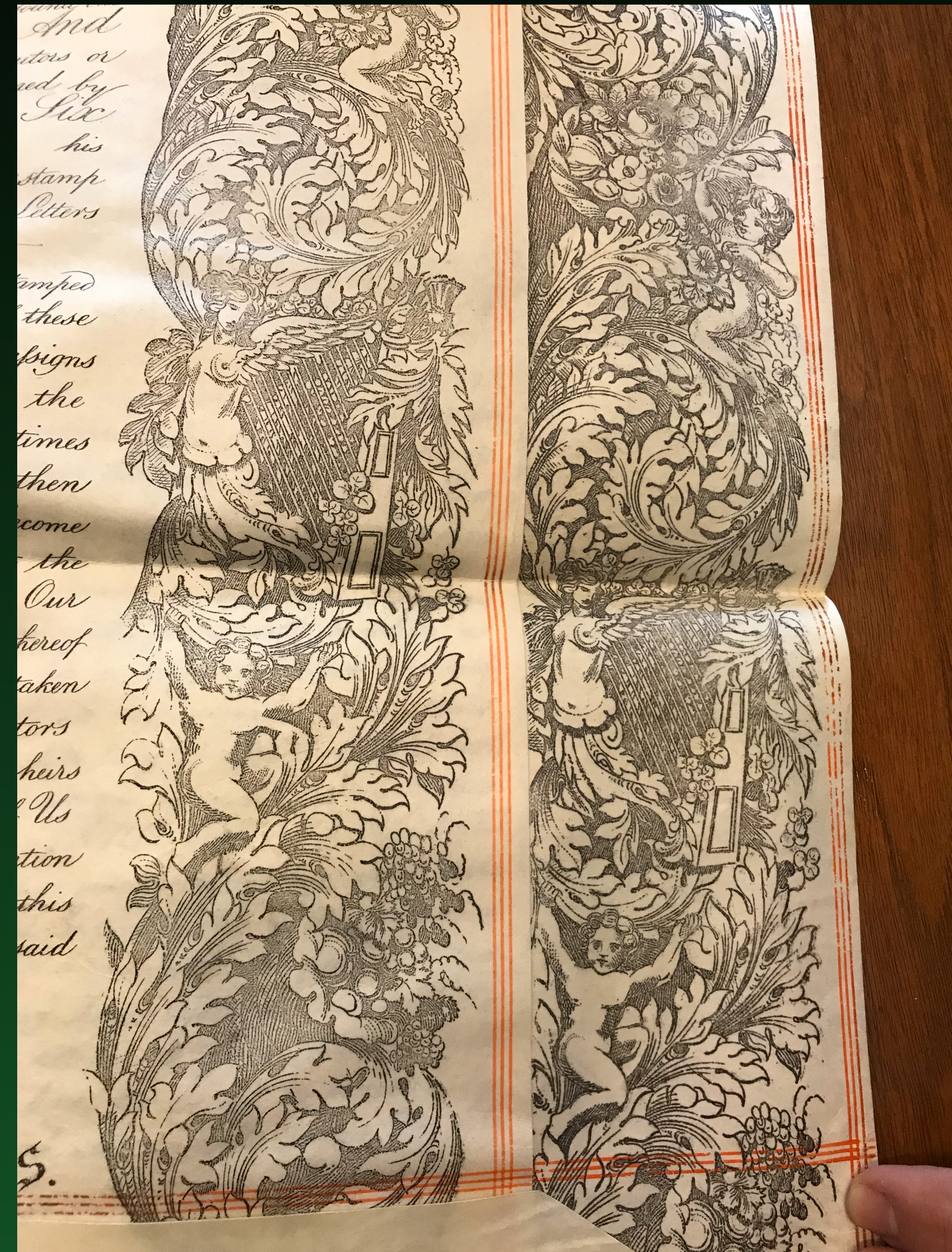
Examples



Remarkable examples



once upon a time
in the year
1859



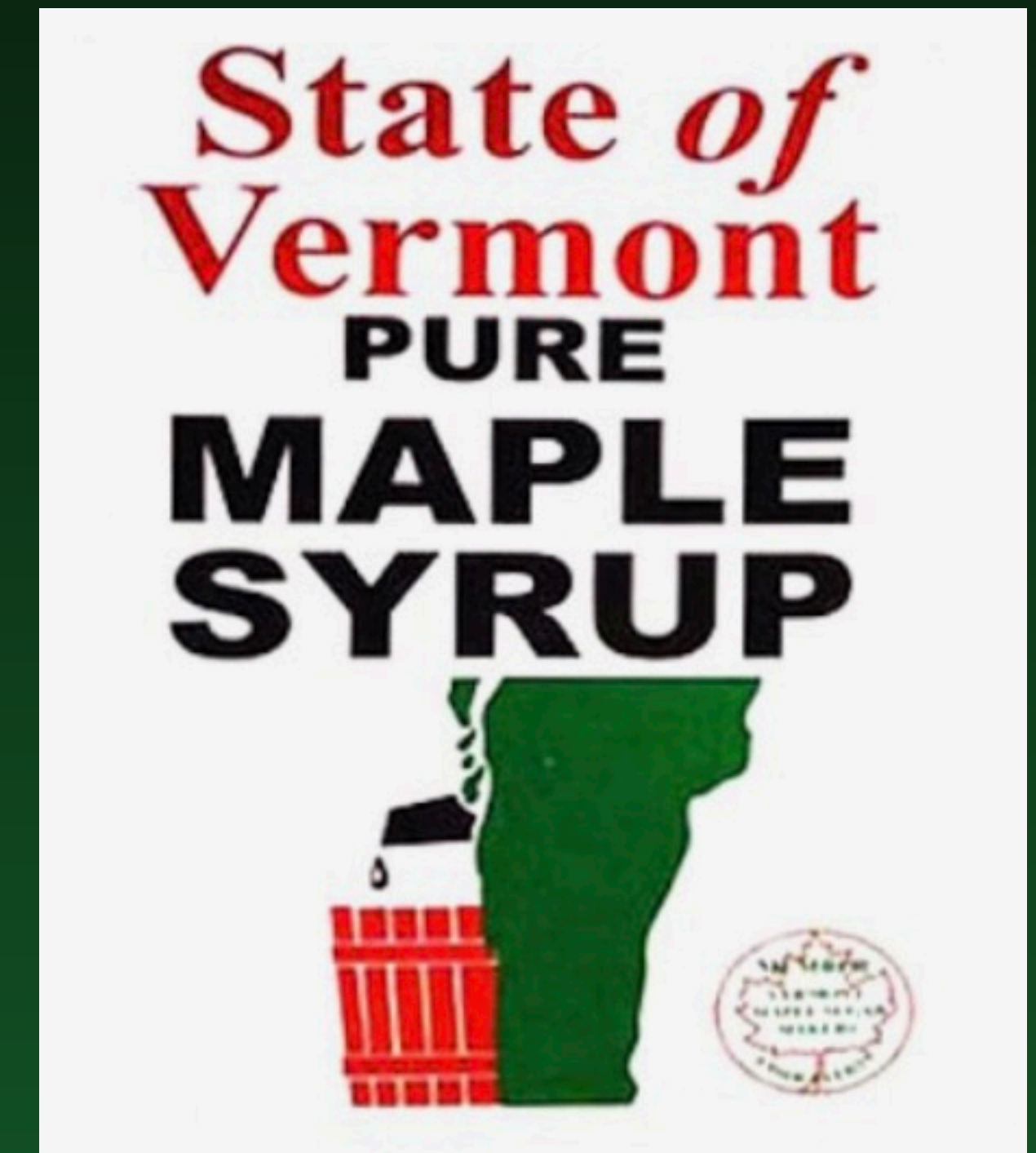
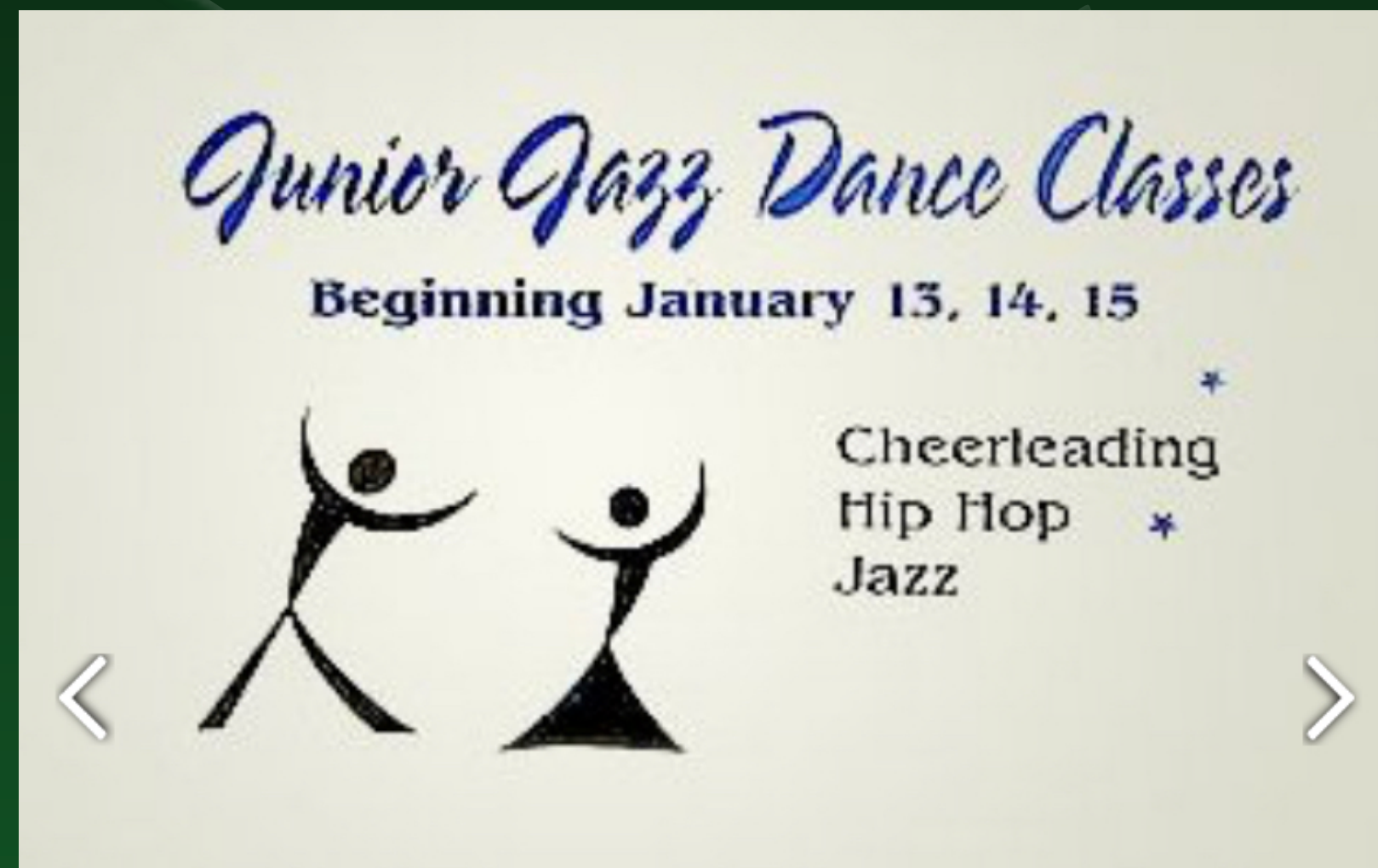
Trademark Fails



The British Office of
Government Commerce



Kudawara Pharmacy



International IP

Concept of Priority

- Patents can only be granted if novel > not forming part of the prior art
- Prior art = everything published anywhere anyhow before filing date

How can I obtain
a **foreign** patent
after filing a **first** patent
in my home country?



Concept of Priority

the wings of international IP

- ➔ On the basis of a **first application** filed in one of the Contracting States, the applicant may, within a **certain period**
 - 12 months for patents and utility models
 - 6 months for designs and trademarks**apply** for protection **in any of the other** Contracting States
- ➔ These subsequent applications will be regarded as if they had been filed **on the same day** as the first application
- ➔ In other words, they will have **priority** over applications filed by others during the said period of time for the same invention, utility model, trademark or design

Paris Convention for the
Protection of Industrial
Property (1883)



International IP Filing

no unitary process

- Each jurisdiction requires different formal requirements, languages, fees, and more

How can I efficiently obtain IP
in a number of jurisdictions
at the same time?



International IP treaties

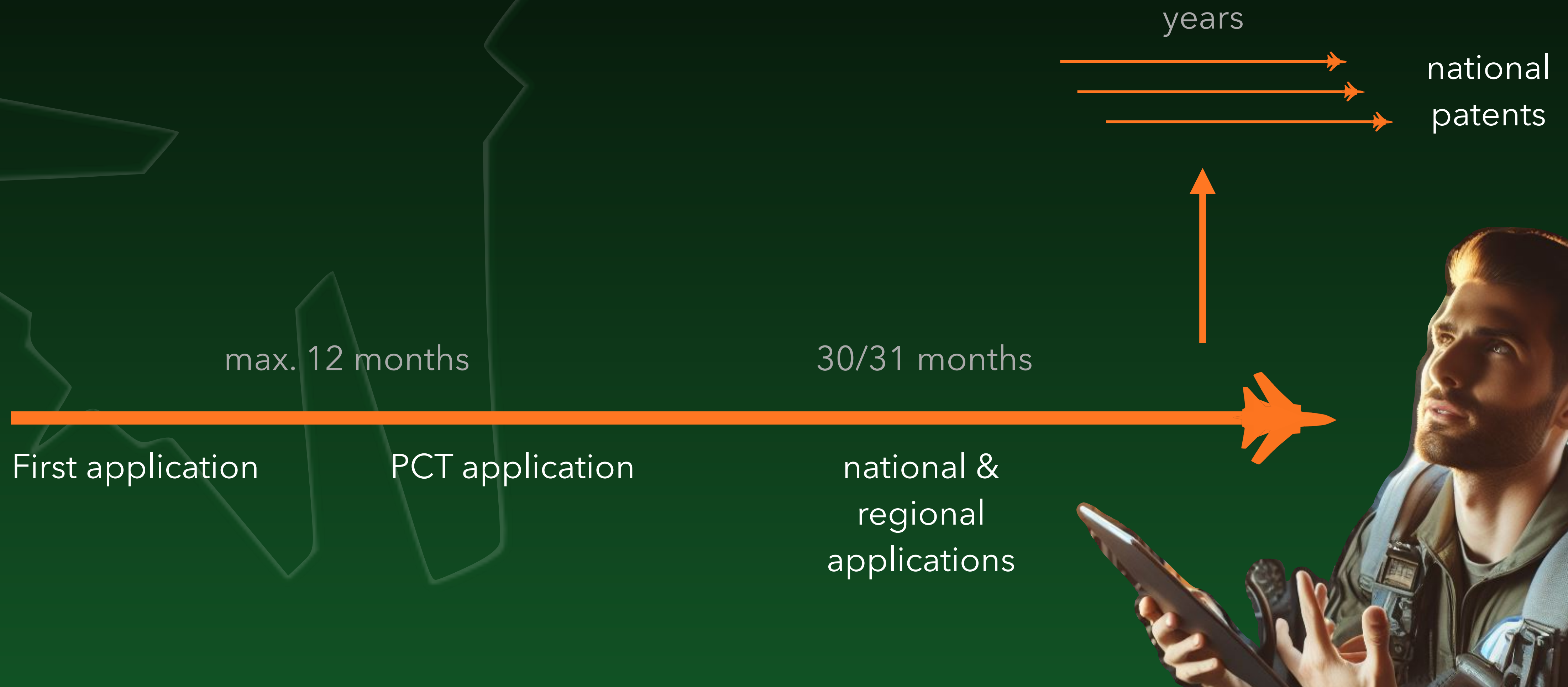
steering agreements through legal airspace

Treaty		IPR	Members
PCT	Patent Cooperation Treaty	PAT, UM	157
EPC	European Patent Convention	PAT	39+5
EAPC	Eurasian Patent Convention	PAT	8
EAEU	Eurasian Economic Union	TM	5
EU	Community Design & Trademark	TM, DES	27
ARIPO	African Regional Intellectual Property Organization	PAT, UM, TM, DES	22
OAPI	Organisation Africaine De La Propriété Intellectuelle	PAT, UM, TM, DES	17
BCIP	Benelux Convention of Intellectual Property	TM, DES	3
Patent Treaty	Bilateral Swiss & Liechtenstein Agreement	PAT	CH, LI
HAGUE	Hague Agreement	DES	96
MMA, MMP	Madrid Agreement & Protocol	TM	130
GCC	Gulf Cooperation Council	PAT	6

World: 193+2

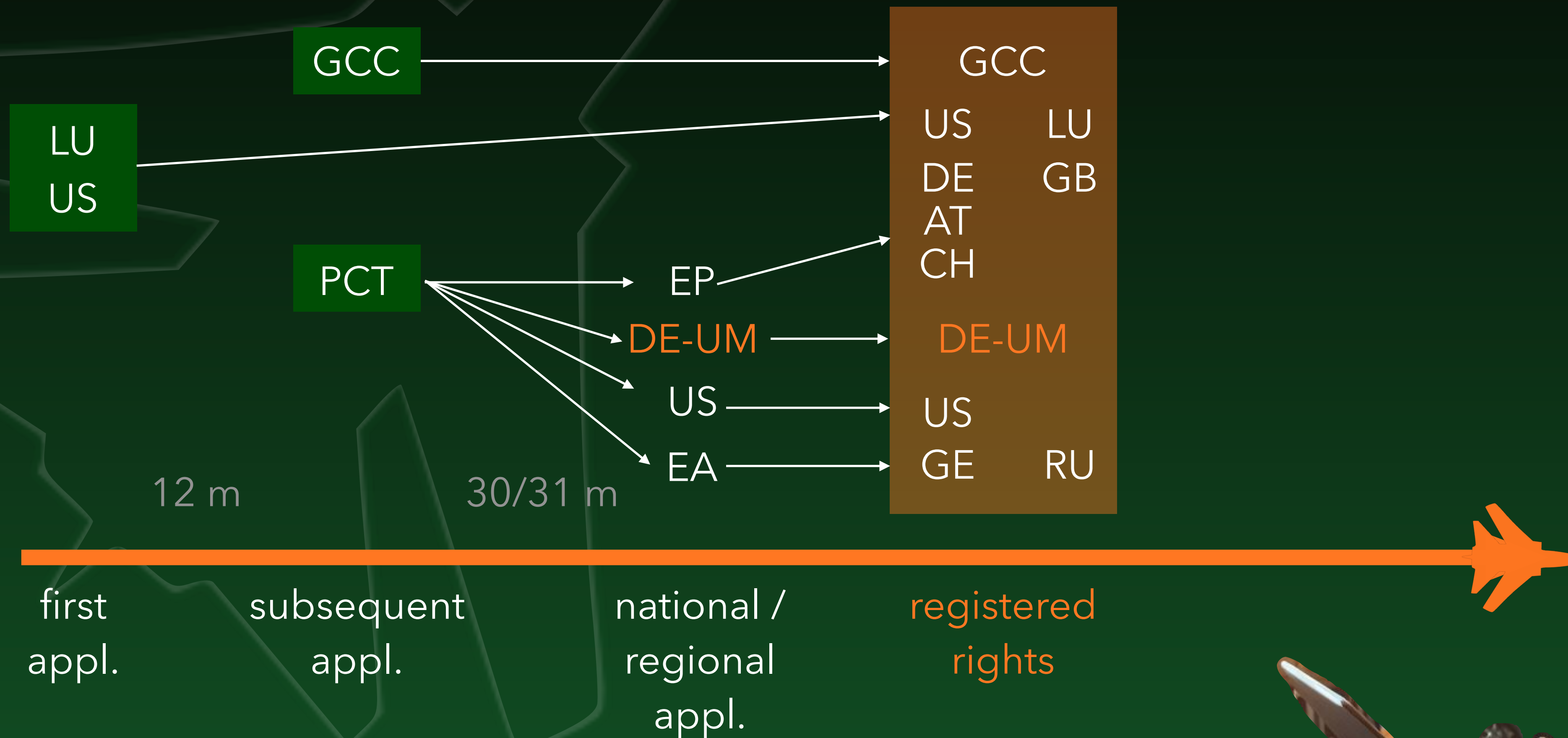
International IP treaties

flight route PCT



International IP treaties

a skyward complex puzzle



Focus on patentability

Flight Manual

to patent or not to patent

Patent

inventions, in all fields of technology

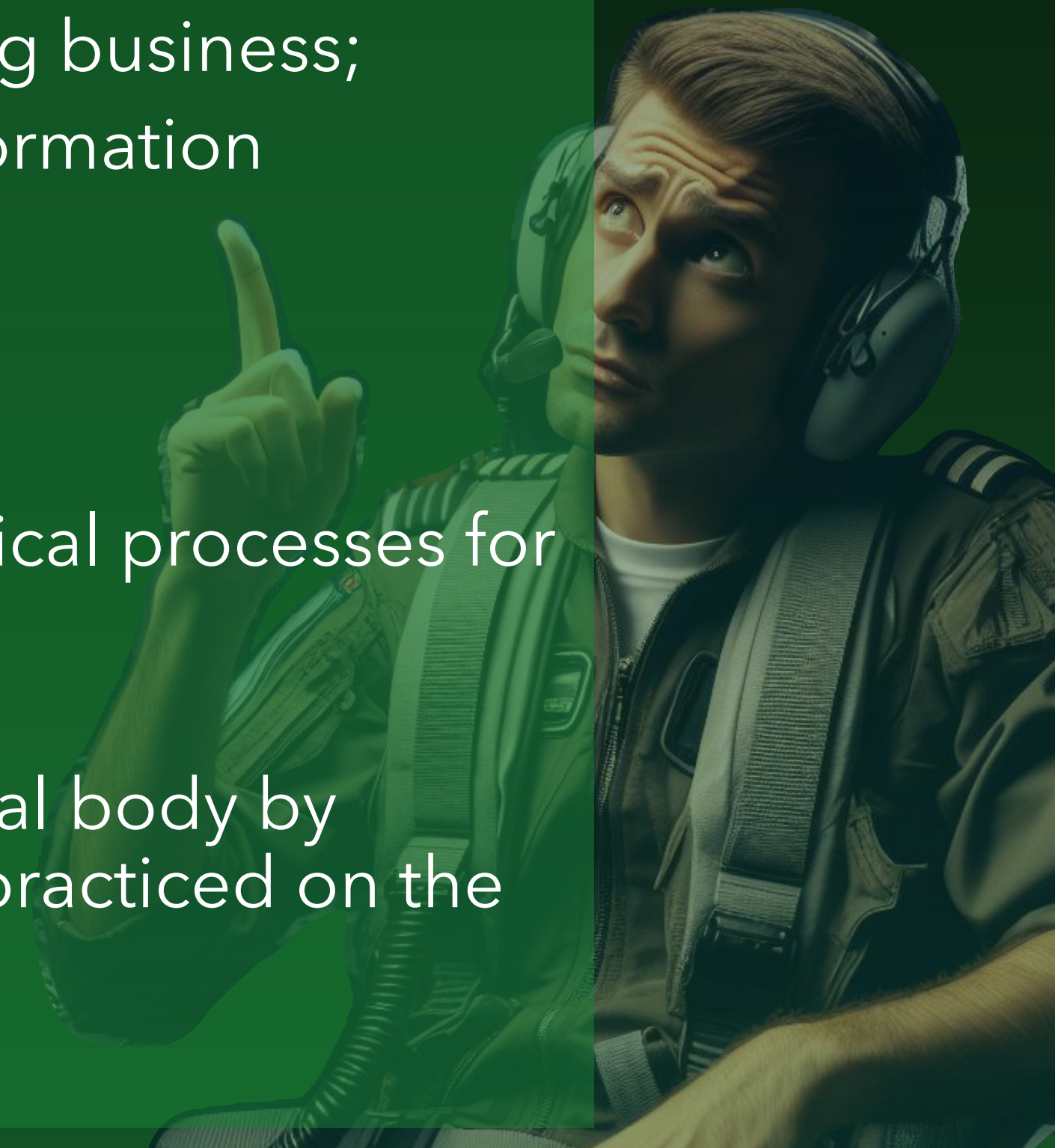
discoveries; scientific theories; mathematical methods; aesthetic creations; schemes, rules and methods for performing mental acts, playing games, doing business; programs for computers; presentation of information

Exclusion of

inventions contrary ,ordre public' or moral

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 practiced on the human or animal body



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patenting software

Patent

How to patent
software?

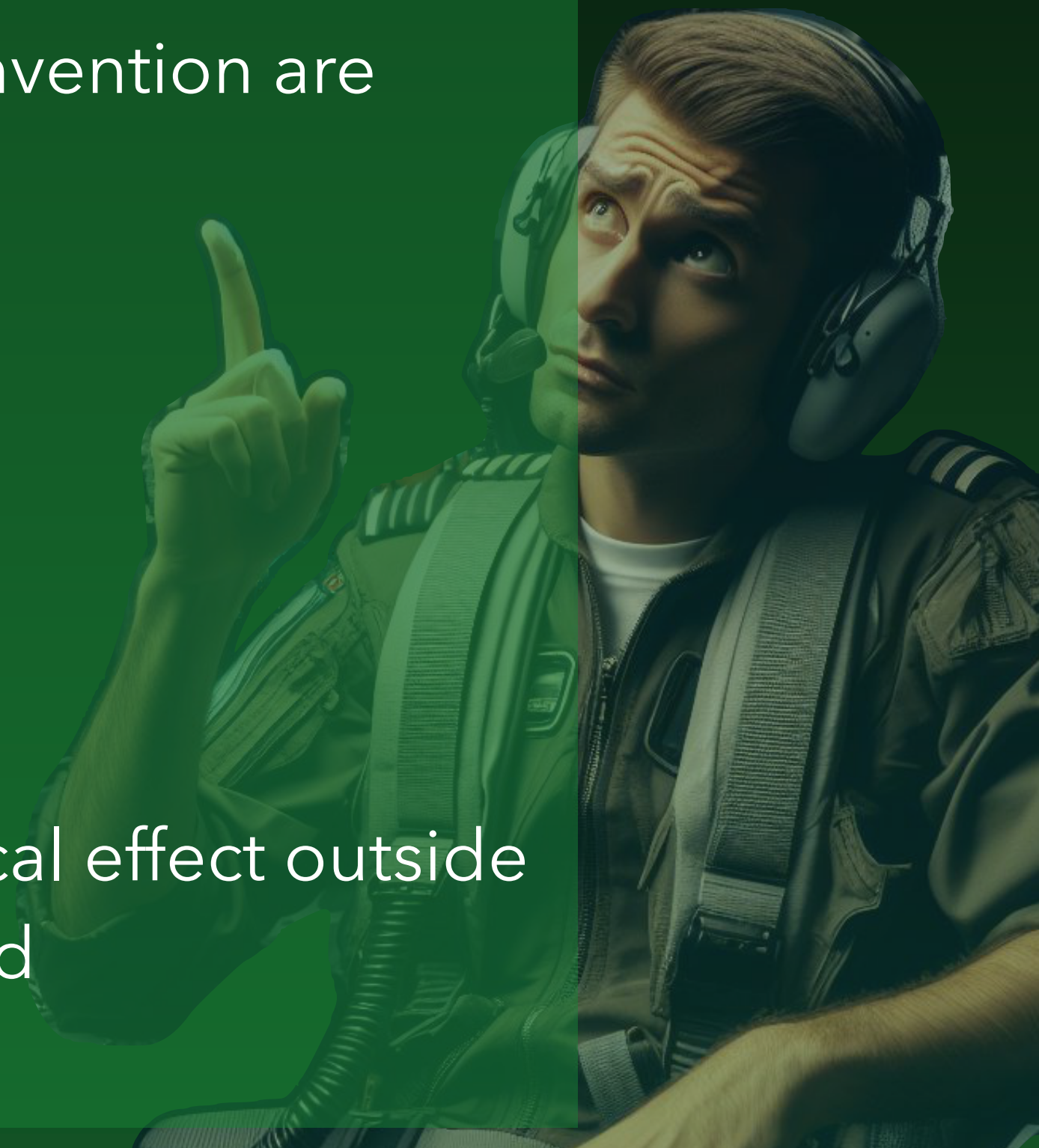
definition

an invention whose implementation involves the use of a computer, computer network or other programmable apparatus, whereby features of the claimed invention are realized by means of a computer program
= ‚Computer Implemented Invention‘ - CII

technical problem be solved

claims with technical character

internal (hardware-related) or external (physical effect outside of computer system) technical effects required



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computer implemented inventions

Patent

How to patent
software?

examples

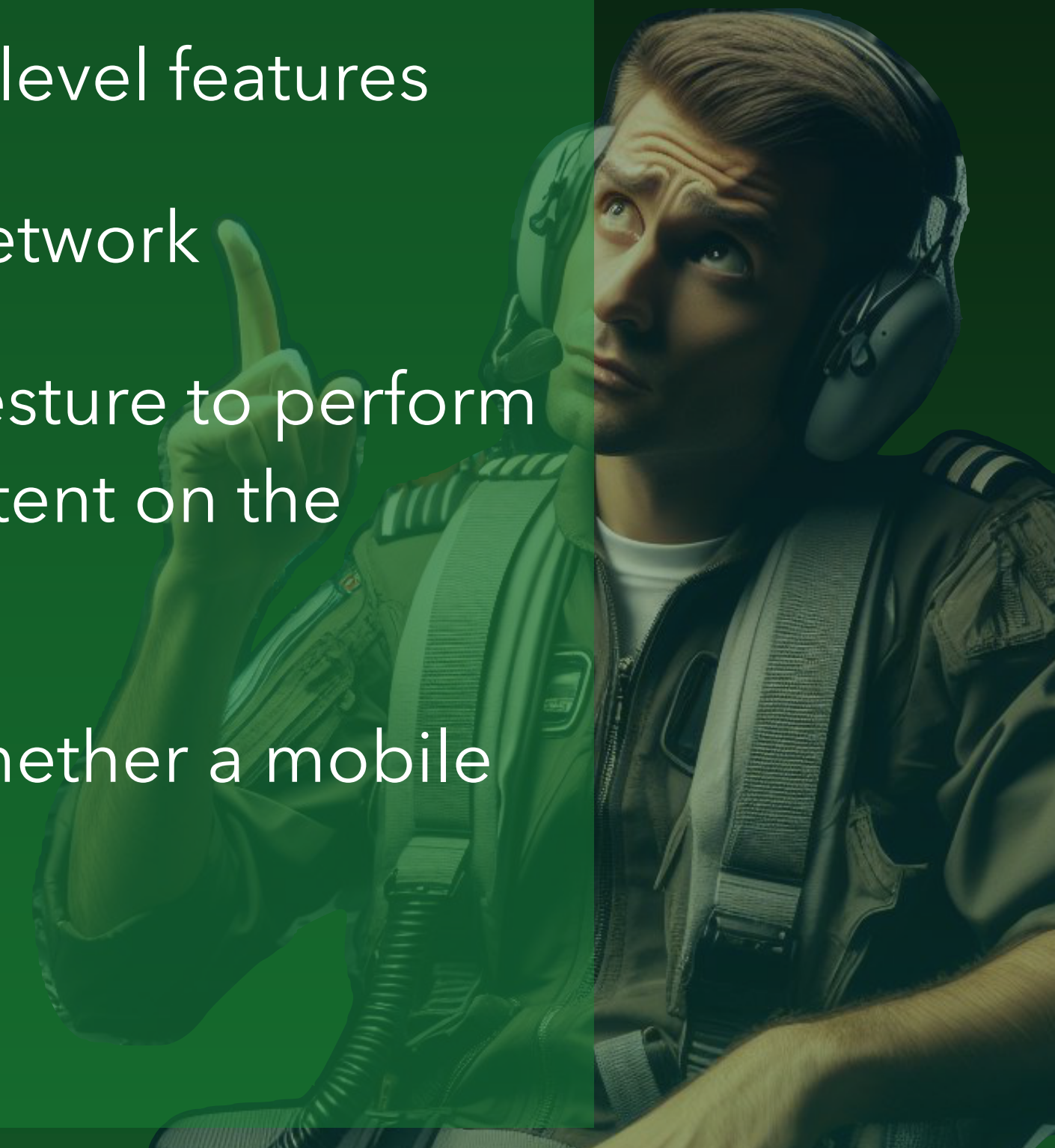
use of a neural network in a heart monitoring apparatus for the purpose of identifying irregular heartbeats

classification of digital images based on low-level features

optimizing load distribution in a computer network

selection of content with tap/hold/release gesture to perform the technical task of selecting an item of content on the display

querying a dedicated server to determine whether a mobile device is NFC enabled





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