

STARTUP CAMPUS

CTI Entrepreneurship Training
Zurich - Eastern Switzerland

A CTI training programme



Start-up and Entrepreneurship
CTI Entrepreneurship



Schweizerische Eidgenossenschaft
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Commission for Technology and Innovation CTI

Introduction to Intellectual Property



Produced for
Business Concept
Week 8 Protection

The content was produced for CTI Module 2 Business Creation (Week 8 - Protection) by:
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Introduction

This booklet is designed for participants involved in the CTI STARTUP CAMPUS Module 2 Course “Business Concept”; entrepreneurs who are just embarking on the journey to turn their idea into a viable business concept.

In this booklet we prepare you for Evening 8: Protection, when you will be given an introduction to the main topics of intellectual property, review intellectual property cases related to your business concept and have the chance to carry out some initial searches to check your freedom to operate.

In the first half of the booklet you will find a summary of each of the main types of intellectual property right, including patents, domains, designs, trademarks, copyrights and trade secrets.

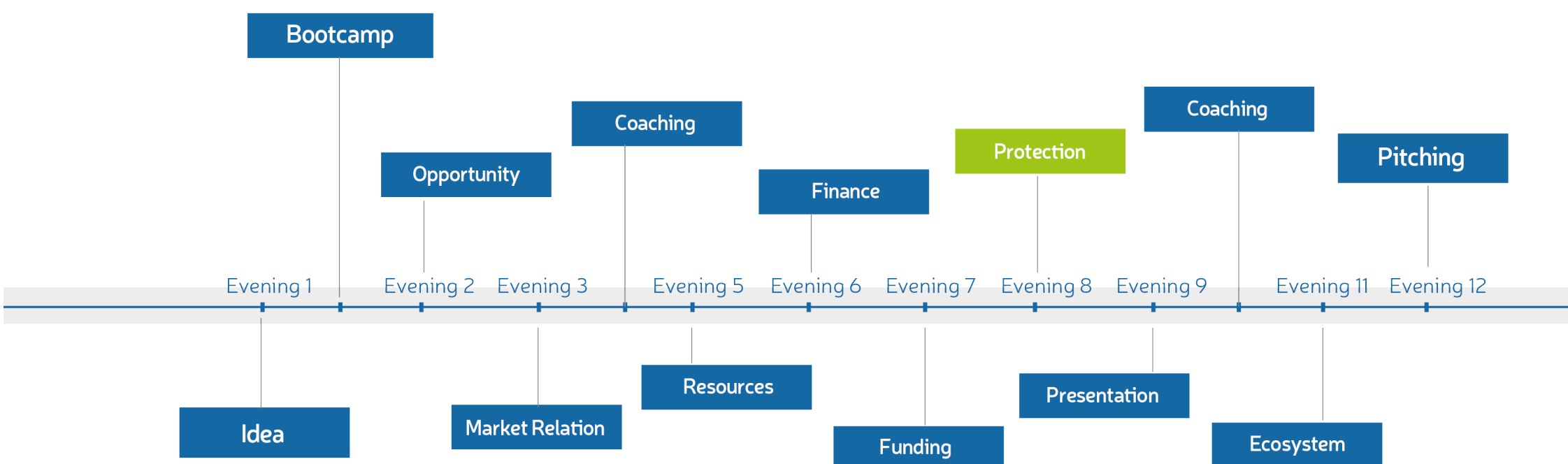
In the center pages of the booklet you will find the Intellectual Property Canvas. This canvas has been designed to assist you with analyzing the intellectual property issues related to your business concept and begin developing your IP strategy. In order to prepare for Week 8, please complete the Intellectual Property Canvas (pages 6 to 7) and upload it to PODIO for the IP trainers to review prior to week 8. During the training evening you will be expected to present your canvas to the plenum for feedback from the trainer and your peers.

In the second half of the booklet, we provide you with a decision tree to help you with the development of your IP strategy based on your time to market entry. This should be used in conjunction with the Intellectual Property Canvas prior to and during the course. Lastly, we provide you with some selected links to additional resources that we think you will find useful at this stage.

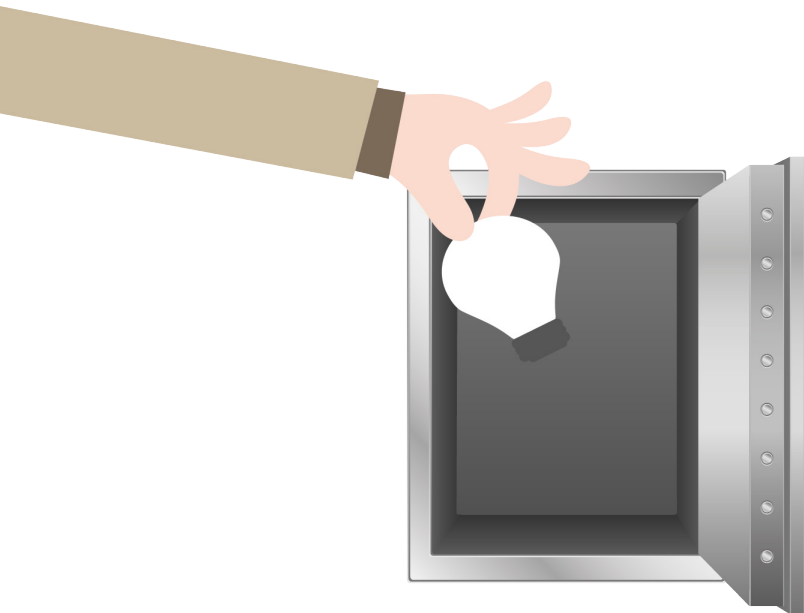
We hope that this booklet in combination with the training evening will help you take your first steps towards protecting and – ultimately - exploiting the full commercial potential of your intellectual property.

Your IP Trainers, April 2016

Course Overview



What is intellectual property?



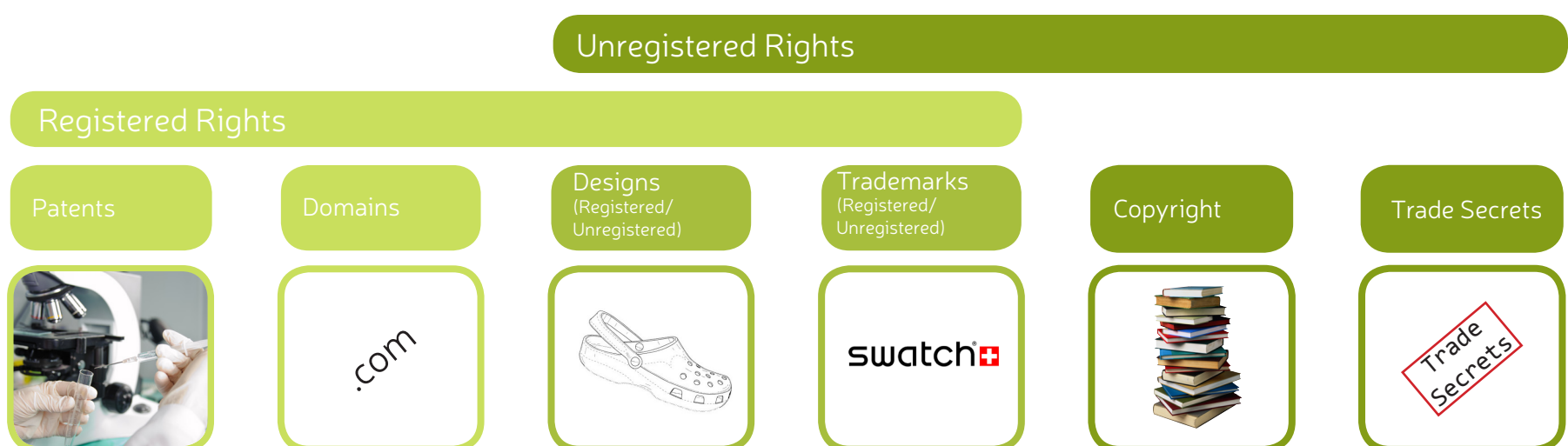
The term intellectual property arose from the work of British Philosopher John Locke over 300 years ago. In his Second Treatise of Civil Government, published in 1690, he put forward the idea that the fruits of a person's original creative efforts should be theirs to own and trade. Over time this principle led to the use of the term "intellectual property":

- Creative effort = 'Intellectual'
- A tradable asset = 'Property'

Summary of the main ways to protect your IP (in Switzerland)

Intellectual Property Rights (IPR) are legal rights that protect mis use of intellectual property by third parties, such as competitors. In effect, they give their owners the right to exclude competitors from using their intellectual property. As such they are also considered to be a company asset and a useful tool in marketing and promotion of a product or service.

Intellectual Property Rights apply only territorially (with the exception of Domains), only for a limited time (with the exception of trademarks) and only for a specific article. They take effect only (and exclusively) in the countries in which they are claimed (and where they are paid for)! There are three types of intellectual property rights: registered rights, unregistered rights and those that may be both. The different types are illustrated below:



Patents



Patents are territorial property rights for new technical solutions. For an invention to be patentable it must be novel, industrially applicable and involve an inventive step (i.e. a step that would not be obvious to a skilled person with knowledge of prior work in the field). The invention must be described in the patent application in such a manner that it can be carried out by a person skilled in the art. All patents are published. The patent offices and regional support locations have extensive collections, which can be used for research and inspection. Patents no longer in force (over 20 years after their filing date) are freely available.

Domains



Domain Names are managed by private institutions (domain registrars and domain hosts). Trademarks usually take precedence over domain names. Uploading content to your website without the consent of the right holder is illegal in Switzerland and can result in legal actions in other countries depending on local law.

Designs (Registered/ Unregistered)



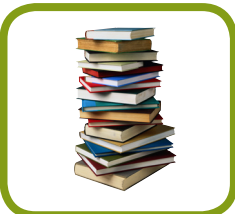
Design rights protect products or parts of products that are characterised, in particular, by the arrangement of lines, surfaces, contours or colours or by the materials used. For a design to be protected it must be new and have an individual character. The method of production, the benefits, and the realisation of any related technical function are not protected. The protection is independent of the dimension of the product (e.g. nano designs). Protection lasts for a maximum of 25 years after the filing date.

Trademarks (Registered/ Unregistered)



Trademarks are signs capable of distinguishing the goods or services of one business or organisation from those of others, and may include graphic designs (i.e. logos), audio jingles, slogans, words or acronyms. However, a trademark shall not be descriptive (e.g. the term “waterproof” could not be protected). The protection period is 10 years and can be renewed an unlimited number of times.

Copyright



Regardless of their value and purpose, copyrighted works are intellectual creations of literature and art that have an individual character. The form (i.e. words, images or other representation) rather than the concepts presented are protected. All rights automatically belong to the author (i.e. no registration necessary) and last for 70 years after his or her death. Things that can be protected include text (e.g. novels, website texts, news articles, scientific papers, presentations), visual and audio works (e.g. music, films, photographs, graphical images, sculptures, drawings, paintings, plans, maps), architectural works and software (i.e. source code, manual and specifications).

Trade Secrets



A Trade Secret may encompass various types of valuable information relevant for a business (e.g. technical, commercial or financial information) as long as it meets all of the following criteria: (i) It must be secret (not generally known or readily accessible to persons within the circles that normally deal with the kind of information in question); (ii) It must have a commercial value; and, (iii) It must be subject to reasonable steps taken by its owner in order to keep it secret. Trade secret protection does not require registration at a government office; it arises automatically and lasts for an unlimited period of time provided it continues to meet all the conditions listed above.

Intellectual Property Canvas

Answer as many questions as you can as fully as you can

1

Business Value Concept

Source of Value

The Problem

What could be done better?

The Solution

What is the solution to the problem? What is our idea? What is the value proposition to the customer (why would they want it)?

Magic Sauce

What is the "valuable new thing" behind the solution? What is the unique source of value? E.g.: technological invention, design, assets, brand, creativity, etc.

Potential of Value

The Market

How big is our target market? Who are the key customers? Who are the key competitors? Who is right?

Competitive Positioning

Who are our main competitors? What is our USP and what products and/or services would we displace?

Business Model

What are the key activities we will undertake in the value chain? Who are our suppliers, customers and partners? How will we make money?

2

Intellectual Property

Our IP Rights

What special or unique elements, know-how etc. do we have? E.g. Special Brand; Patent; Cutting Edge technology; Know-how; etc. Do we already own IP rights? If so, which? Do our competitors protect their IP rights? If so, how? Which IP rights are crucial for us and which are nice-to-haves?

Freedom to Operate

Do we depend on know-how or products of third parties? Which countries do we need our IP rights to be protected in to ensure full operability?

Third Party IP Rights

Might we infringe the IP rights of third parties through our activities? (Brands, TMs, Patents, etc). If so, what action could we take? Might third parties infringe our IP rights now or in future? If so what action could we take? Do we need a monitoring service? Do we have the resources (time, HR, know-how)?

Finance

Revenues: Are our IP rights crucial to securing and generating revenues? Can we license our IP rights (patents, designs) to third parties? (one-time as well as on)?

Costs: How many trademarks/designs/patents do we need to file? How much do we spend on filing and keeping up our IP rights? (one-time as well as on)?

For: _____
By: _____

On: _____
Version: _____

ers? What are the market trends? Is the timing

how does this position us versus competitors? What

value chain? What won't we do? Who will be our sup-
plier?

Realisation of Value

Plan
What is our roadmap to market/profitability? What are the milestones that will create value? What re-
sources will we need? What are the critical next steps?

Team
Who is in our team and what are their roles? What are their skills? Where are the gaps? What other resour-
ces will we need? How will we develop and utilise our network? Who is responsible for IP currently?

Finance and Funding
What are our forecast sales, costs, income and cash flow? When will we break even? How will we finance
our business?

es (Licenses, contracts, etc, ...)
ed in? Which IP rights do we need in order to guaran-

Strategy (future)

What are the future possible developments in our core market. E.g. related to technology, marketing, com-
petitors, distribution, products. In which areas should we focus our attention to in order to remain competi-
tive? What are the consequences for IP?

owing our revenue streams? If so, how? Could we
? If so, to whom and is it advisable (given competi-

have to file protection for? What are the costs related
as recurring). What would be our annual IP budget?

Next Steps

Which IP Rights should we secure first? How long will it take and what are the crucial deadlines (e.g. patent
filing dates)? Do we need to set-up periodic meetings to review our strategy? If so, how frequently? What
are the next steps and who is responsible for each of them?

Choose your IP strategy

Finding the best intellectual property strategy is a challenge, but also a crucial success factor for many startups. Your intellectual property strategy depends to a great extent on when you expect your product or service to enter the market.

Review the flowchart below to learn more about the priorities you need to set. If you are unsure about when you will be ready for market entry, consider the following:

- Work and time you have already spent on your idea;
- Whether you are considerably faster or considerably slower than your competitors (because you have more or less resources available); and,
- If you want to license to others, you should always be aware that in most cases licensing requires defensible intellectual property.



When will you be ready for market entry?

- today
- 6 months
- 12 months
- 18 months
- 24 months
- later



Do you intend to cooperate with others (e.g. industry partners, colleagues)?

If yes, prioritise:

1. working contracts and licenses
2. brand, tradenames and domains
3. copyrights
4. your long-term requirements

If you are independent, prioritise:

1. brand, tradenames and domains
2. how to stay ahead of competition
3. Setting up employee agreements
4. your long-term requirements

Do you intend to market your product/service yourself or license it to others?

If yes, prioritise:

1. checking freedom to operate FTO
2. how to ensure know-how retention
3. brand, tradenames and domains
4. long term: speed or protection?

If you are independent, prioritise:

1. licensing requires IP: know & protect your freedom to operate (FTO)
2. license and cooperation contracts
3. employee agreements

STARTUP CAMPUS IP-Trainers

Our experts



Dr. Benjamin Graziano

- Head Trainer STARTUP CAMPUS Module 2 and Startup Coach at RUNWAY (ZHAW)
- Former technology venturing manager, venture capital investor in early stage cleantech, management consultant and software developer
- Co-founder of Everbeam, a social enterprise that distributes pico solar lights in Malawi
- PhD in Spacecraft Engineering and MEng in Aeronautical Engineering
- Lecturer at the Centre for Innovation and Entrepreneurship (CIE) at ZHAW



Dr. iur. Rolf Corrodi

- PhD from University of Zurich UZH in Law
- Over 15 years of professional experience with Intellectual Property Rights Management and Trademark / Brand Management for various clients in leading Swiss IP-Law firms.
- Expertise in Copyright Law, in particular Reproduction Rights, Licensing Contracts and Art Law
- Founder of Büro Corrodi GmbH (Copyright, Art Law, IP-Strategies and Management, Licensing)



Dr. Matthias Ehrat

- Senior Lecturer of Operations Management
- Research in the area of intellectual property management and development of technological networks and competitive interaction
- Supporting young enterprises in area of intellectual property management (patents, utility models and brands) including application and enforcement
- 12 years of experience in area of large scale packaging equipment development and manufacturing



Dr. Bernhard Hostettler

- PHD in organic chemistry, ETH
- 20 years of professional experience in various researcher functions at firms such as Roche, Ciba and Givaudan
- 1997 Bernhard changed his career path in IP-Management, Business Development and Strategy Consulting
- 2002 - 2012 as Head of IP Management he developed Prionics AG from a startup to a KMU
- Since 2013 Owner of IPROMA GmbH (IP-Management, licensing and strategy development)



Dr. Kamran Houshang Pour

- Patent expert at Swiss Federal Institute of Intellectual Property
- IP Trainer
- Working experience as product manager
- Teaching experience at the level of the university
- Working experience as technical consultant for start-ups
- Quality management experience for SME
- Startup coach at STARTUP CAMPUS

Useful links

For more information, start with these links

Swiss:

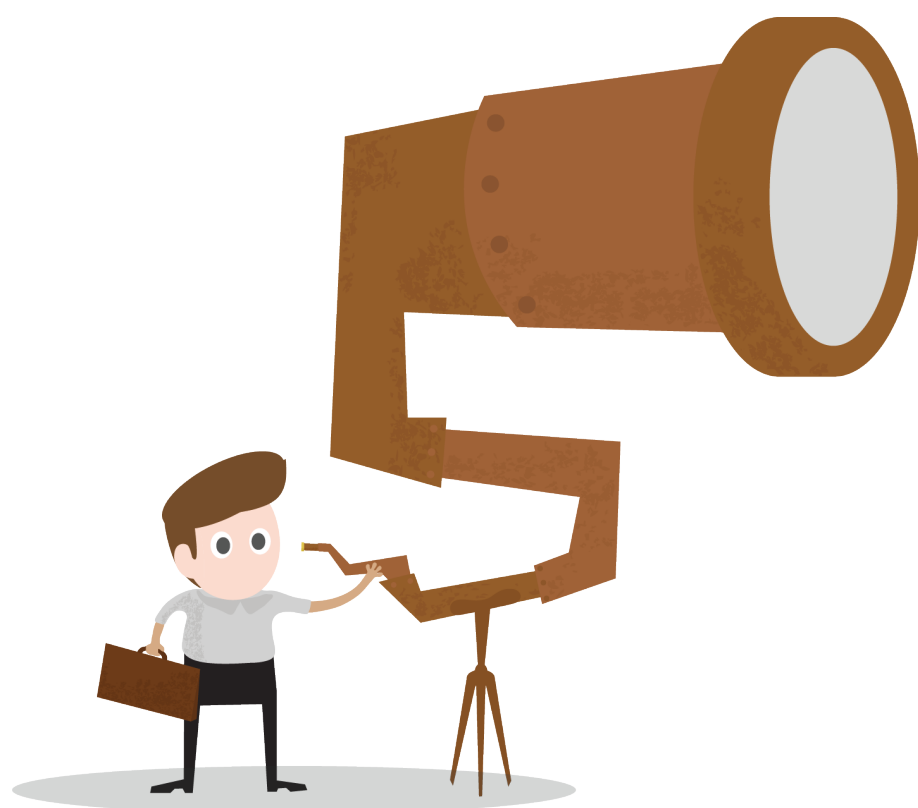
	Swissreg	www.swissreg.ch
 ip-search	IP Search	www.ip-search.ch
 IGE IPI	IGE	www.ige.ch

Trademarks:

 IGE IPI	IGE	https://e-trademark.ige.ch
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Patents:

	EPO	http://www.epo.org/index.html
	WIPO	patentscope.wipo.int/search/en
	USPTO	www.uspto.gov/patents/process/search
	Google Pat	www.google.com/?tbm=pts



Overview - Intellectual property

Trade mark protection			Patent protection		Design protection	Copyright ²
What is protected?	Registered signs from misuse by others		Inventions i.e. new technical solutions to technical problems		Forms i.e. the exterior appearance of an object	Works of literature and art (including computer programs)
How does it become protected	Registration in the trade mark register		Granting of the patent		Registration in the design register	Automatically at the moment of creation
Minimum requirements	<ul style="list-style-type: none">Does not infringe on others' rightsDistinctiveNot descriptiveNot against public order or public morality		<ul style="list-style-type: none">NovelIndustrially applicableInventive stepDisclosure of invention		<ul style="list-style-type: none">NovelOverall impression must clearly differentiate from existing formsNot against public order or public morality	Literary and artistic creations of the mind that possess an individual character
No protection for	<ul style="list-style-type: none">Simple signsAbbreviationsGeneric designationsCoats of armsetc.		<ul style="list-style-type: none">Animal breeds, plant varietiesDiagnostic, therapeutic or surgical procedures on humans or animalsUse in keeping with public order or public moralityCertain biotechnological inventions		<ul style="list-style-type: none">Purely technical functionsIdeas and conceptsAnything that violates federal law (e.g. protection of coats of arms) and treaties	Content (ideas and concepts) Laws and official decrees Decisions by authorities Means of payment Patent documents
What are the exceptions?	When not used as a trade mark		Private use, research and teaching			Private use, citations, back-up copies and reporting of current events
Scope of protection	Defined by the sign and the goods and services classes		Defined in the patent claims		Defined by the representation	Defined by the concrete work
Period of protection	10 years (indefinitely renewable)		Max. 20 years		5 years (renewable thereafter 4 x 5 years up to a maximum of 25 years)	Up to 70 years after the death of the author (50 years for computer programs)
Indications of protection	<ul style="list-style-type: none">® = registered trade mark™ = trade markUse optional, misuse punishable by law		+pat+; pat. pend. (patent pending) Use optional, misuse punishable by law		mod. dep. Use optional, misuse punishable by law	©, "Copyright", "All rights reserved", "Tous droits réservés" or similar Use optional
Application fees (CH) ¹	550 CHF		200 CHF (for the application), 500 CHF (optional search), 500 CHF (examination)		200 CHF (basic fee) including publication of one representation	None
Renewal / maintenance ¹	700 CHF (10 years)		100 CHF for the 4th year, after which the fee increases annually by 50 CHF (150 CHF for the 5th year, etc.)		200 CHF (5 years)	None
Unique to Switzerland	Infringement of earlier IP rights not examined for (trade mark search recommended)		Novelty and inventive step not examined for (prior art search recommended)		<ul style="list-style-type: none">Publication can be deferred for up to 30 monthsNovelty not examined for	Collecting societies: SUISA, SUISSIMAGE, ProLitteris, SSA, SWISSPERFORM

Source: IGE I IPI (2003): Envisioned. Created. Protected. A Concise Guide to Trade marks, Patents & Co.

¹ Excludes any costs resulting from involving a specialist.

² Copyright law also regulates the related rights of the performing artists, producers of audio and audio-visual media and broadcasting organisations.

Business Creation

Take the next step and build your base camp

Do you want to realize your business idea?

Developing a solid business model as your base will set the foundation to grow.

- Five-day course
- Check the strength of your business idea and develop a profitable business model
- Learn how to better access your market and your prospects
- Develop an improved understanding of how to build a successful startup

There is no course fee!



Information & Booking

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