

**« The end of unconsidered Intellectual Property »:**



**Intellectual Property Engineering: Protection and Valorization**

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Profession: Bio-Entrepreneur 2005

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## *What are we talking about? (1)*

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### Patent protection:

- An exclusivity of exploitation
  - A temporary monopoly for up to 20 years from filing
  - A competitive advantage and a protection for innovative companies:  
Neutralize competitors.
  - Patent infringement action: characteristics and consequences



## *What are we talking about? (2)*

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### Patent Valorization:

- A strategic asset of the company:
  - Patents are valuable for generating interest and investment in starting or developing businesses and insure that the payoff from R&D is maximized
  - New IFRS-IAS accounting standards
  - Plan for financing and/or development and/or marketing of the invention (ex: conclusion of main agreements such as transfer, license or pledge)



## *What is patentable?*

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- Patentable criteria (novelty, inventive step, industrial applicability)
- Patentability of biotechnologies  
Laws No 2004/800 dated 6 August 2004 on bioethics and No 2004/1338 dated 8 December 2004 on the legal protection of biotechnological inventions
- Patentability of Computer-Implemented Inventions ?  
EC Directive on the Patentability of Computer-Implemented Inventions is once again delayed



## *What is not patentable?*

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- Inventions contrary to human dignity, public policy or morality
- Discoveries, scientific theories and mathematical methods
- Aesthetic creations
- Business methods and presentations of information
- Diagnostic or treatment methods for humans or animals
- Human body and mere discovery of one of its elements
- Plants or animals varieties



## *How to manage your protection in both time and space?*

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- Manage your protection in time
  - Publication
  - PCT priority date
  - Utility Certificate
  - Supplementary Protection Certificates
  
- Manage your protection in space
  - French patent
  - European patent
  - EC patent ?
  - PCT application



## *What are the costs?*

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- **Total costs for a patent may be classified in 5 categories:** preparation fees, filing fees, extensions fees, procedural fees and annual fees.
- **French patent (with INPI):**  
Basic fees = Filing fee (35 €) + Search fee (320 €) + Fee for grant (85 €) + total annual fees for 20 years (5,275 €) + counsel fees
- **European patent (with EPO):**  
Basic fees = Filing fee (160 €) + Search fee (690 € for European search, 1,550 for international search) + Designation fees (75 € per country) + Examination fee (1,430 €) + Fee for grant (715 € for 35 pages + 10 € per subsequent page) + total annual fees for 20 years (15,625 €) + counsel fees and translation fees
- **PCT patent (with WIPO or through INPI):**  
Basic fees = Transmittal fee (60 €) + International filing fee (902 €) + Fee per sheet over 30 (10 €) + International Search fee (1,550 €) + fees for each designated country + counsel fees and translation fees



## *key learnings*

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- What is worth stealing is worth protecting: so be patent minded!
- The future of a biotechnology company largely depends on how the Intellectual Property is protected and on the partnerships signed for its valorization
- For each step, seek assistance of a counsel



## *Going further on...*

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- French National Institute for Industrial Property (INPI):  
[www.inpi.fr](http://www.inpi.fr)
- European Patent Office (EPO):  
[www.european-patent-office.org](http://www.european-patent-office.org)  
[www.espacenet.com](http://www.espacenet.com)
- World Intellectual Property Organization (WIPO):  
[www.wipo.org](http://www.wipo.org)



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