



# Introduction to the patent system and its benefits for inventors

## Workshop for Women Inventors

**Geneva**  
**June 1, 2021**

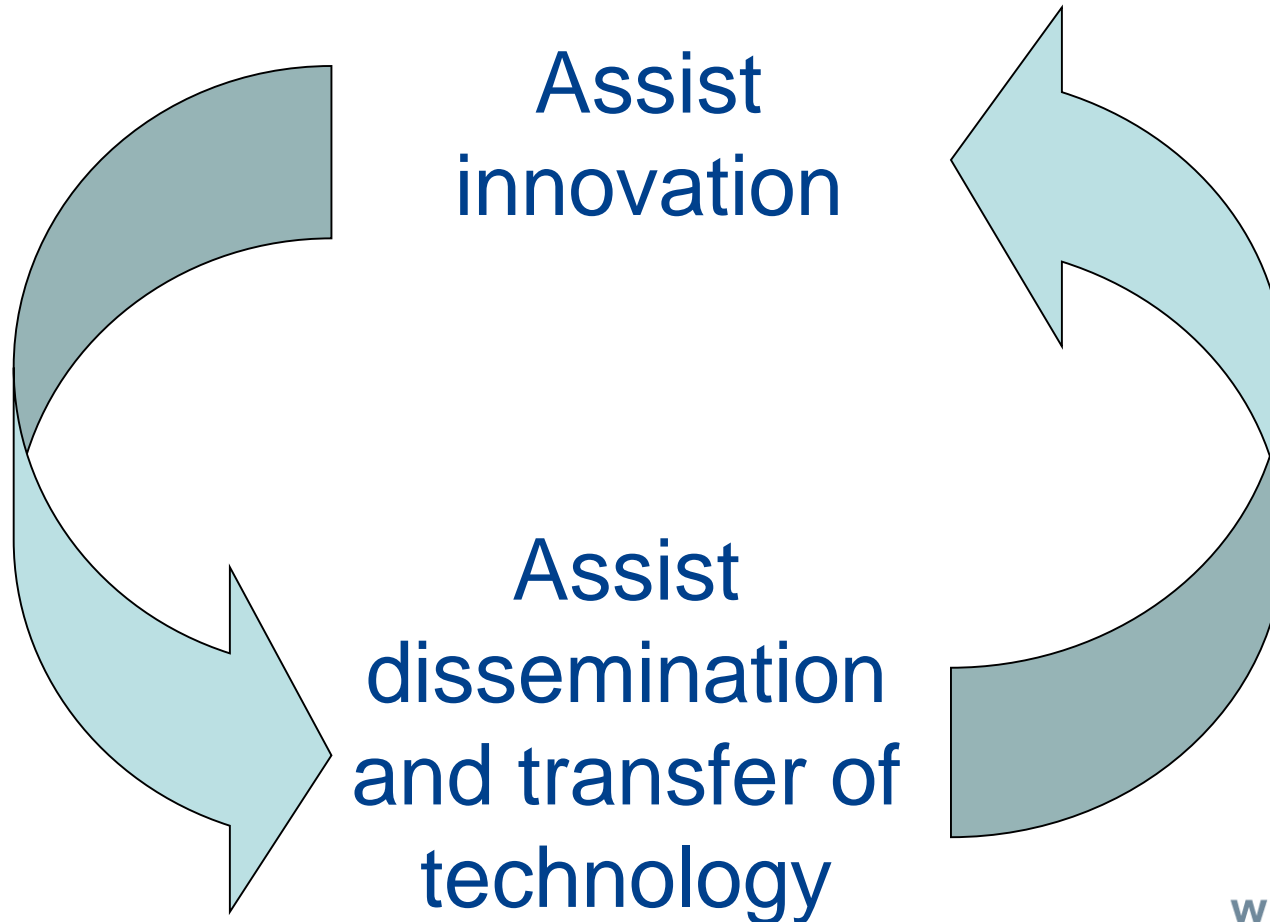
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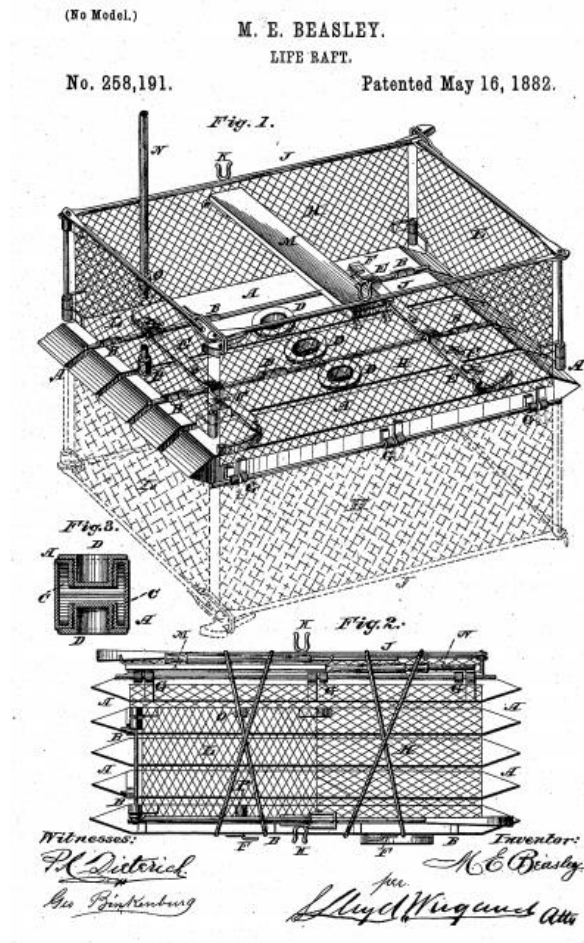
# Structure of the Presentation

- The Role of the patent system
- Patents
  - What is a patent?
  - Conditions of patentability
  - Rights and limitations
  - Basics of patent application and enforcement
  - Why to seek patent protection? Alternatives?
- Q&A

# Role of the patent system



# Women Inventions – Leading the way



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# What is a patent?

- Granted for an Invention
- Product/process provides new technical solution



- Protection:
  - Territorial
  - 20 years from the filing date
  - Subject to fee

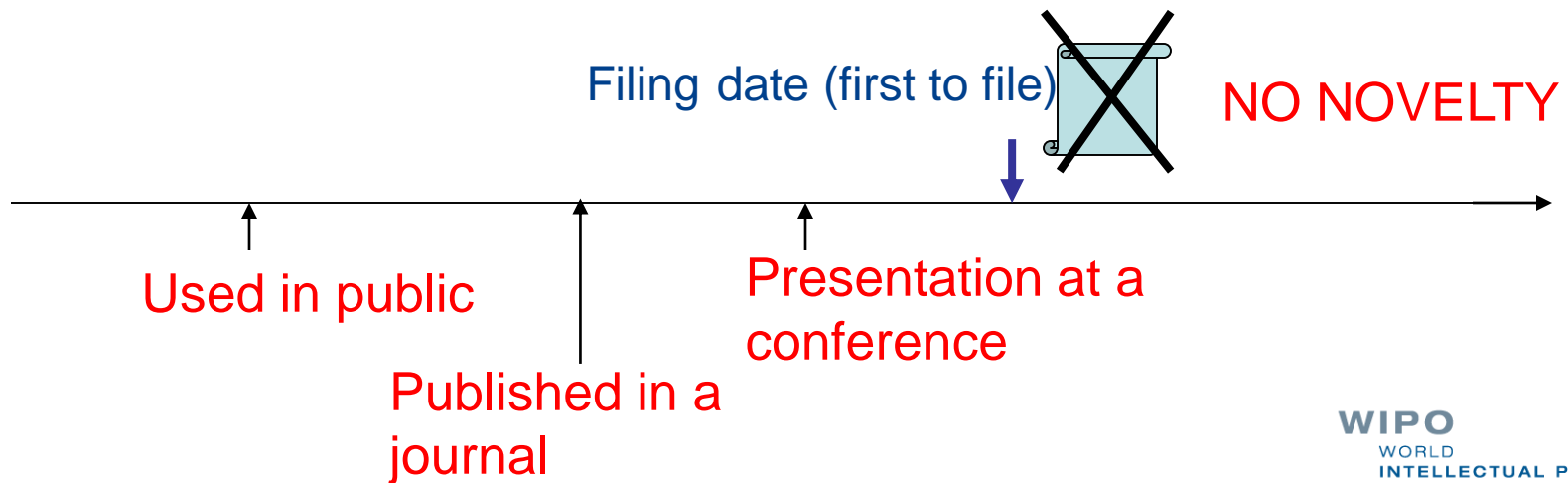
# Conditions of patentability

- Differ from one country to another
- Inventions which are
  - new,
  - involve an inventive step and
  - are capable of industrial application,
  - not excluded from patentable subject matter
- Sufficient disclosure of the invention in the patent application

# New (Novelty)

Novelty: invention  $\neq$  part of the prior art

- prior art = any knowledge made available to the public before the filing date of the relevant patent application (no universal definition)



# Inventive step

## ■ invention is

- not obvious with regard to prior art
- to a *person skilled in the art* (having ordinary skill in the art)
- on the filing date

## ■ Examples for a lack of inventive step can be:

- obvious combination of features
- substitution of a material for analogous use
- routine experiment
- selection of optimal material from known materials



# Industrial applicability (utility)

- Invention can be made or used in any kind of industry, including agriculture, fishery etc.
  - (-) if invention is not technically implementable  
(e.g. Perpetuum mobile)
- Whether the claimed subject matter is actually applied in a trade does not matter.

# Exclusions from patentable subject matter

- Differ from one country to another

- Examples



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# Disclosure of the invention

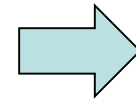
- Invention sufficiently clear and complete

→ invention can be carried out by a *person skilled in the art* (having ordinary skill)

# Where to file a patent application?

## Local filing

Lower costs (fewer intermediaries  
No translation costs)

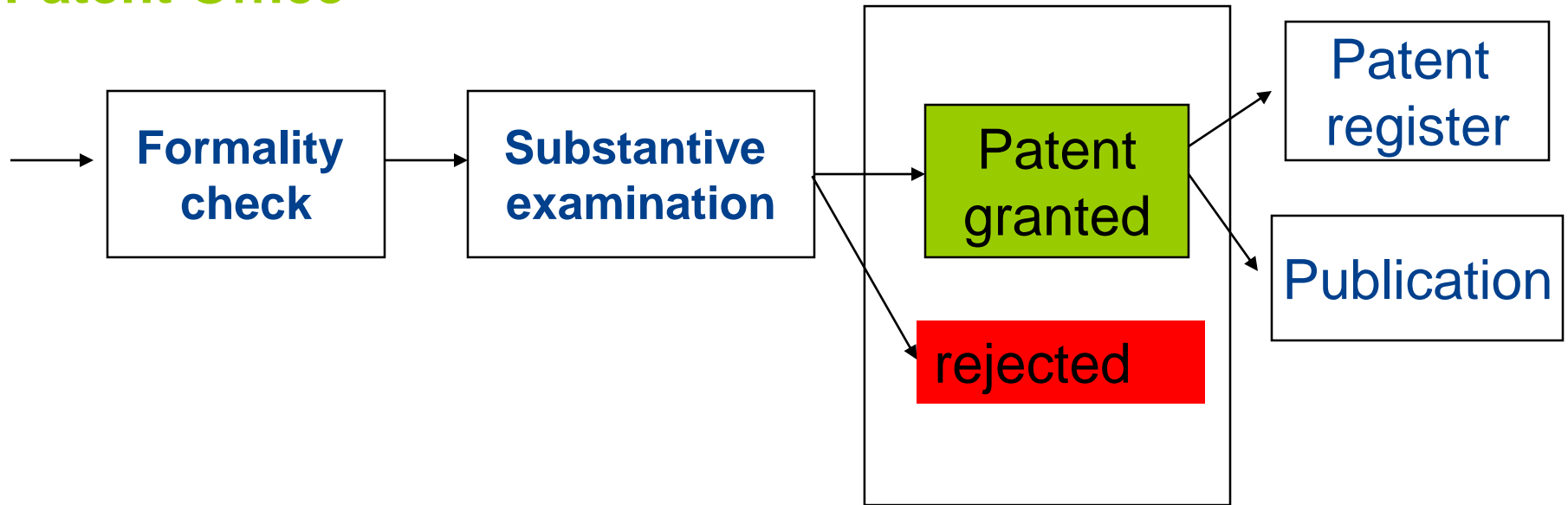


Foreign  
filings

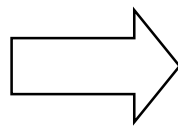
\$\$\$?

- In which countries?
  - Market?
  - Customers? Users?
  - Competitors?
  - Licensees?
  - Legal requirements?
  - Enforceability?
  - PCT/Paris Convention

# Patent Office



**Not a final decision - judicial procedure available!**

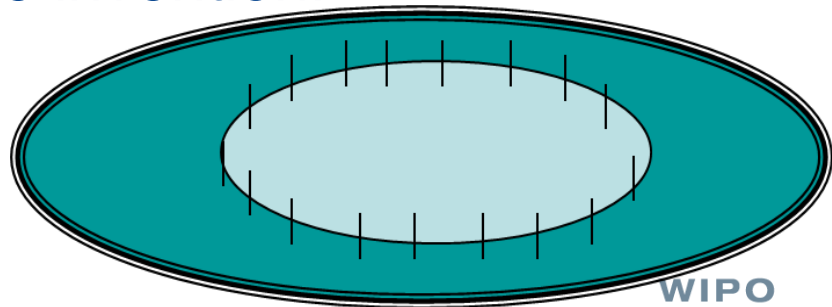


**Appeal  
Opposition  
Nullity action**

**Patent Office  
(Appeal body)  
Court**

# Rights conferred by a patent

- **Right to prevent** a third party from exploiting the patented invention
  - make, sell, use, offer for sale, import for those purposes
- Right to conclude licensing contract /transfer ownership
- **Not an exclusive right to exploit** the invention!
- **Not a right to market** the invention!



# Limitation to patent rights

- Term of protection
- Acts generally not be considered as infringement :
  - non-commercial use
  - activities carried out for scientific research purposes
  - use of the invention on a land vehicle/vessel/aircraft temporarily or accidentally present in the territory
  - Private prior use
- Compulsory licences

**Balance between patentee's rights  
and public interest**

# Enforcement of rights

- A patent is **not just a “conversation piece”**
- A patent owner shall take **action against alleged infringers**
  - The court may order:
    - Injunction
    - Damages
    - Seizure of infringing products
    - Destruction of infringing products
    - Penal sanctions (fines; imprisonment)
- **Counterattack (patent invalidation) possible**



# Why do you seek patent protection?

## ■ Exclusive control in the market

- Protection from reverse engineering
- Hindering competitors from developing substitutes
- Securing market access

## ■ Licensing or transfer/sale of the patent right

- Better cooperation with other organizations (ex. PPP)
- Improving negotiation position (ex. cross-licensing)

## ■ Attracting investors

## ■ Seeking prestige/reputation/image

# Elements to be considered

- Nature of the technology and business model
- Alternatives ?
  - Trade secrets
  - Other intellectual property rights
  - Lead time in the market
  - Complementary services and manufacturing facilities
  - Contracts
- Available resources
  - Application/Monitoring/Litigation

# Questions?

Thank you

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[https://www.wipo.int/patents/en/faq\\_patents.html](https://www.wipo.int/patents/en/faq_patents.html)

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