Creativity, Innovation and Intellectual Property (LCMB7007)

Week 3

The challenge of adding value to Innovation and creativity

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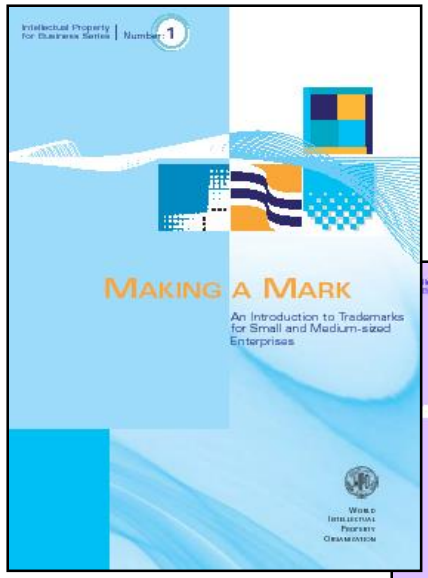
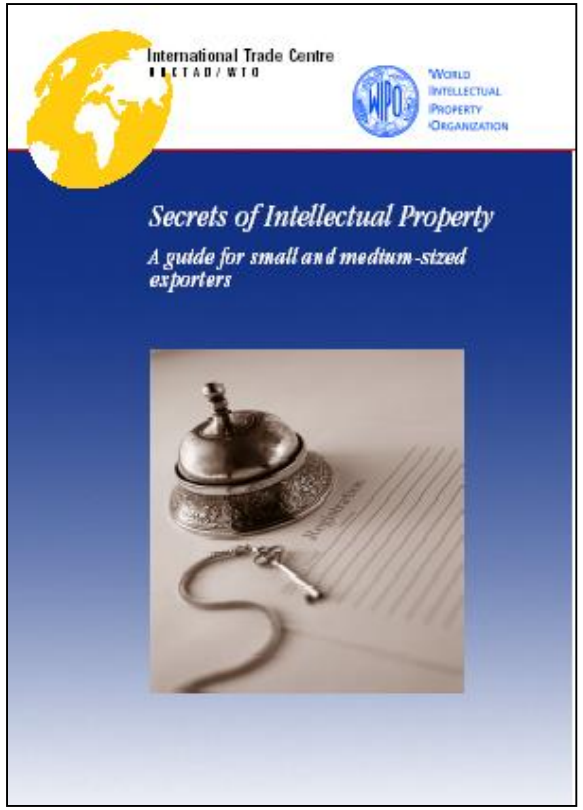
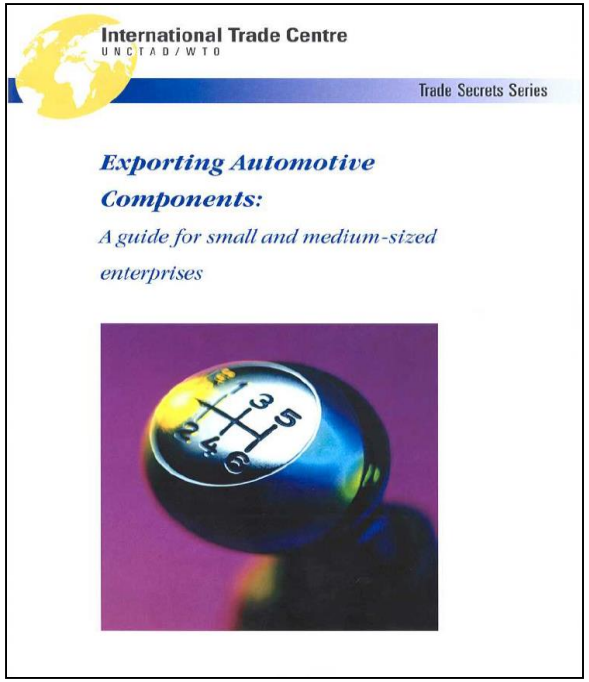
IP for Business Series

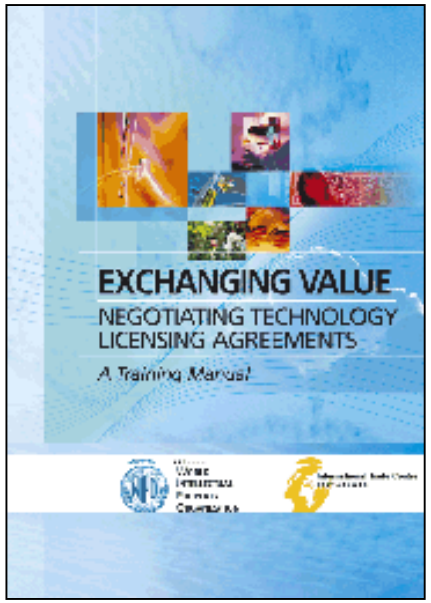
- **Making a Mark (Trademarks)**
- **Looking Good (Designs)**
- **Inventing the Future (Patents)**



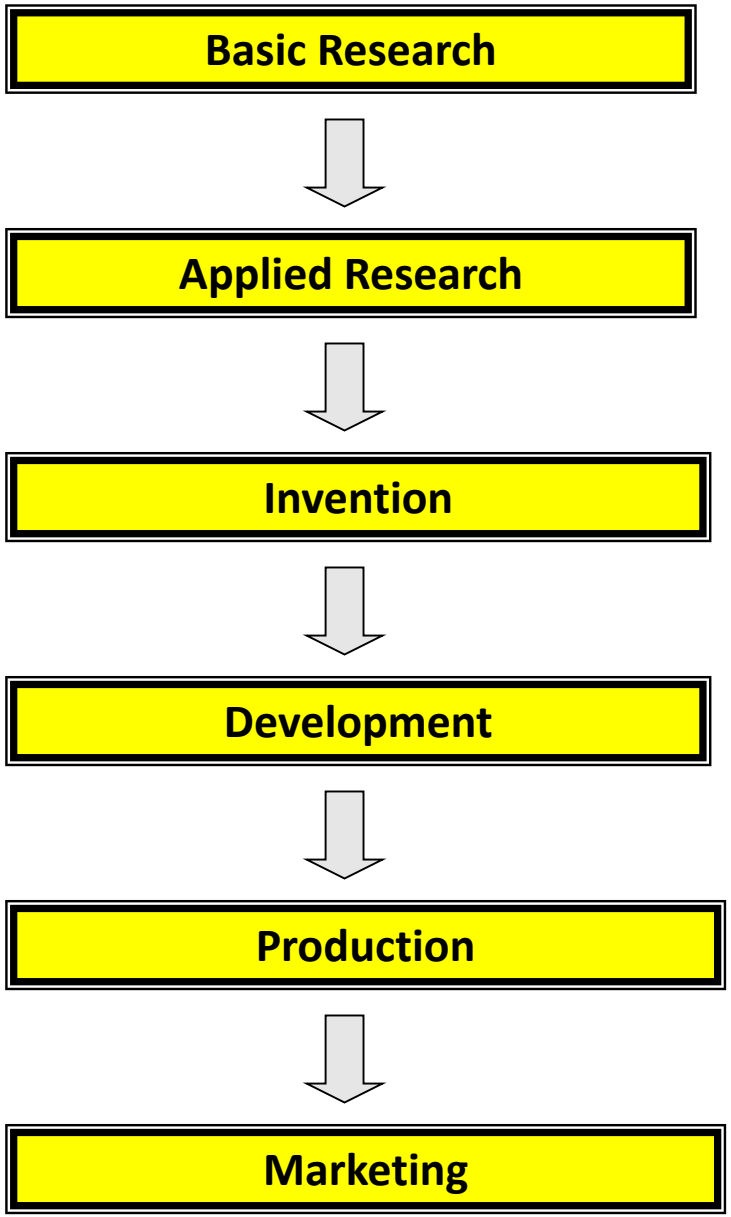
International Trade Centre
Marketing Crafts and Visual Arts:
The Role of Intellectual Property
A practical guide


International Trade Centre
UNCTAD/WTO
World Intellectual Property Organization
Secrets of Intellectual Property
A guide for small and medium-sized exporters


International Trade Centre
UNCTAD/WTO
Trade Secrets Series
Exporting Automotive Components:
A guide for small and medium-sized enterprises


EXCHANGING VALUE
NEGOTIATING TECHNOLOGY LICENSING AGREEMENTS
A Training Manual

“Technology-Push Linear Model of Innovation”



The Innovation Process

- **An innovation starts as an idea/concept that is evaluated, refined and developed before it is applied or acted upon.**
- **Innovations may be inspired by reality (known problem). The innovation (new or improved product development) process, which leads to useful technology, requires:**
  - **Research**
  - **Development (up-scaling, testing)**
  - **Production**
  - **Marketing**
  - **Sale**
  - **Use/Consume**
- **Experience with a product results in feedback and leads to incrementally or radically improved innovations.**

New/Improved Product Development

Stages in a New/Improved Product Development process:

- Ideas Generation
- Ideas Screening
- Concept Development and Testing
- Business Analysis
- Beta Testing and Market Testing
- Technical Implementation
- Commercialization

Spotlight is on knowledge in today's economy

- Knowledge, Weightless, Information, Digital or Service Economy
- Factors of production: Land, Labor, Capital, Intangibles (Knowledge)
- Knowledge as useful Information (or Service)
- Information as a "Public Good"
- Information as Property

Market-oriented Economy

- Playing Field: Unfair competition; **free riding**
- National Legal Systems: Diversity (bilateral/regional/ international treaties or agreements)
- **Adding Value : Meeting or exceeding market needs or expectations**
- Market research: Consumers' needs, competing products or substitutes, gaps
- **Technological innovation as an element of marketing**

Challenges in Today's Economy

- Government regulation, market participants and consumers; globalization, deregulation, quotas, tariffs, subsidies, market access or non-tariff barriers
- Supply exceeds demand; fickle demand, risk, lean retailing
- **Trust and relationships**: Consistency vs Innovation
- Changing needs: need for creativity and/or innovation
- Mass production, custom made, personalization, co-creation/designing
- Supply, demand, production, value chain or network
- Innovation/creativity: Customer, supplier, consultant, partner, competitor, standards, product liability, risk sharing, ownership

Competition and Cooperation in Today's Economy

- Property: Right to Exclude/use/enjoy
- Share/leverage
- Physical vs. Intellectual Property
- **One to one vs. one to many**
- Physical manifestation/link to carrier/medium or fixation
- Nature of competing/substitute products: Functional, equivalent, class, set, related goods

The Challenges to the IP System

- Expand, adapt, fine tune, harmonize
- New categories (Sui generis systems)
- National, regional or global
- National treatment vs. reciprocity
- Digital environment and E-commerce
- Legal jurisdiction, applicable laws
- Fit for purpose: Clear, fast, cheap and effective
- Simple and cogent

The challenge of adding value in today's economy

- Raw materials/Inputs: Processing (Value addition) = Value added output/component; product; sale; **Profit**
- Value addition: **Better:** Functional/technological or aesthetic/non-technological; Rational/Emotional **(More for Less)**
- Price; access/availability; consistency
- Individual, Enterprise (legal person), Chains, Networks; consortia; **Open Innovation** (Industry-Government-Academia)
- Ownership vs. access to knowledge

Ideas, Creativity and Innovation

- **Creativity**
  The ability to make or otherwise bring into existence something new, whether a new solution to a problem, a new method or device, or a new artistic object or form.
- **Innovation**
  1 : The introduction of something new
  2 : A new idea, method, or device

- **Creativity = Idea + Action**
- **Innovation = Creativity + Productivity**
- **Innovation = Idea + Action + Productivity**

IDEA to PRODUCT

Internal, External, or Joint

Idea

Internal, External, or Joint

Invention

@Entrepreneur@

Business Strategy

Business model

Manufacturing or Business Process

Functional or Technological

Form or Appearance

Marketing (Branding)

Financial, legal or organizational

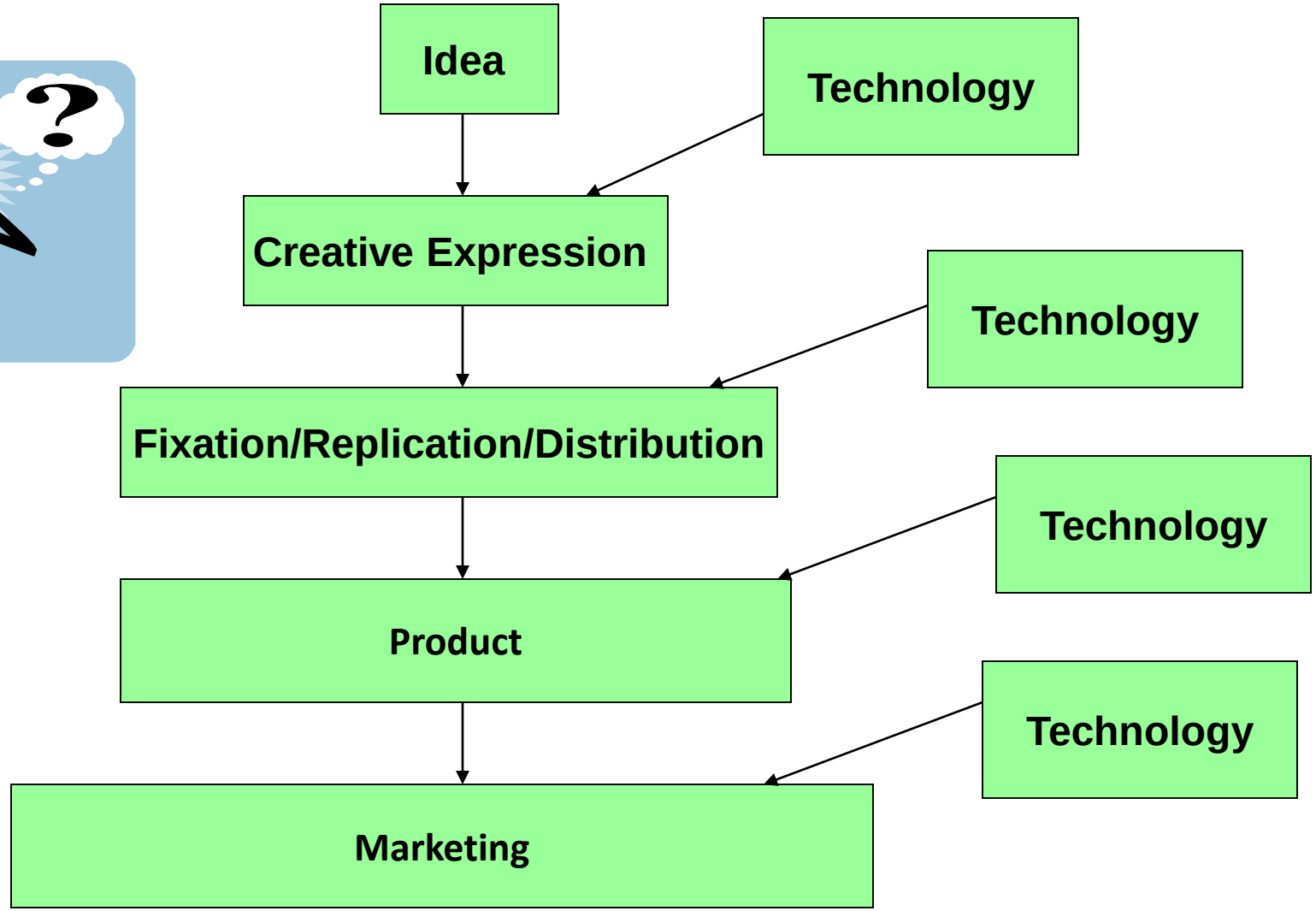
Innovation (Tech/Non-tech)

Internal, External or Joint

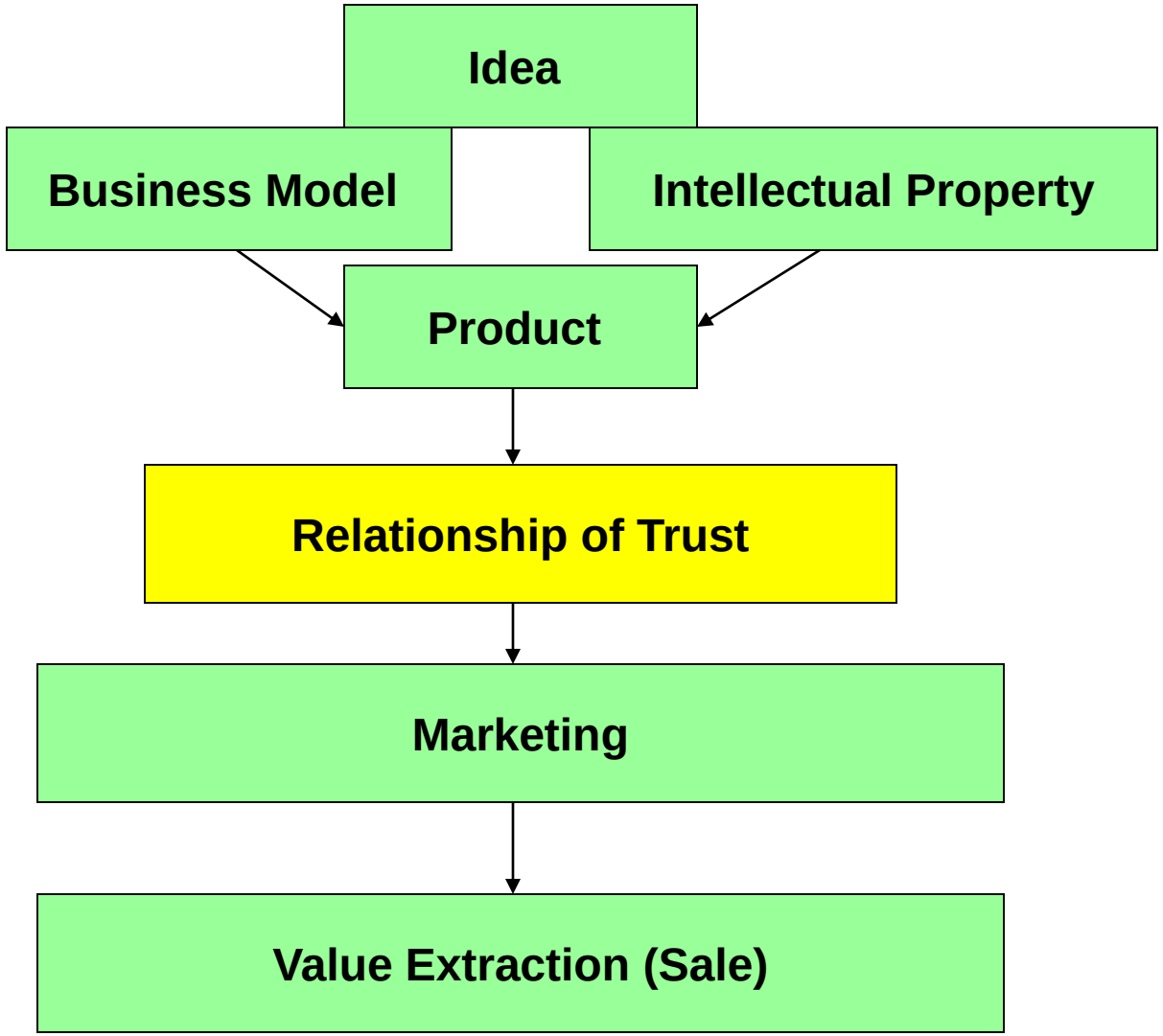
Technology (Internal, External or Joint)

Product (Internal, External or Joint)

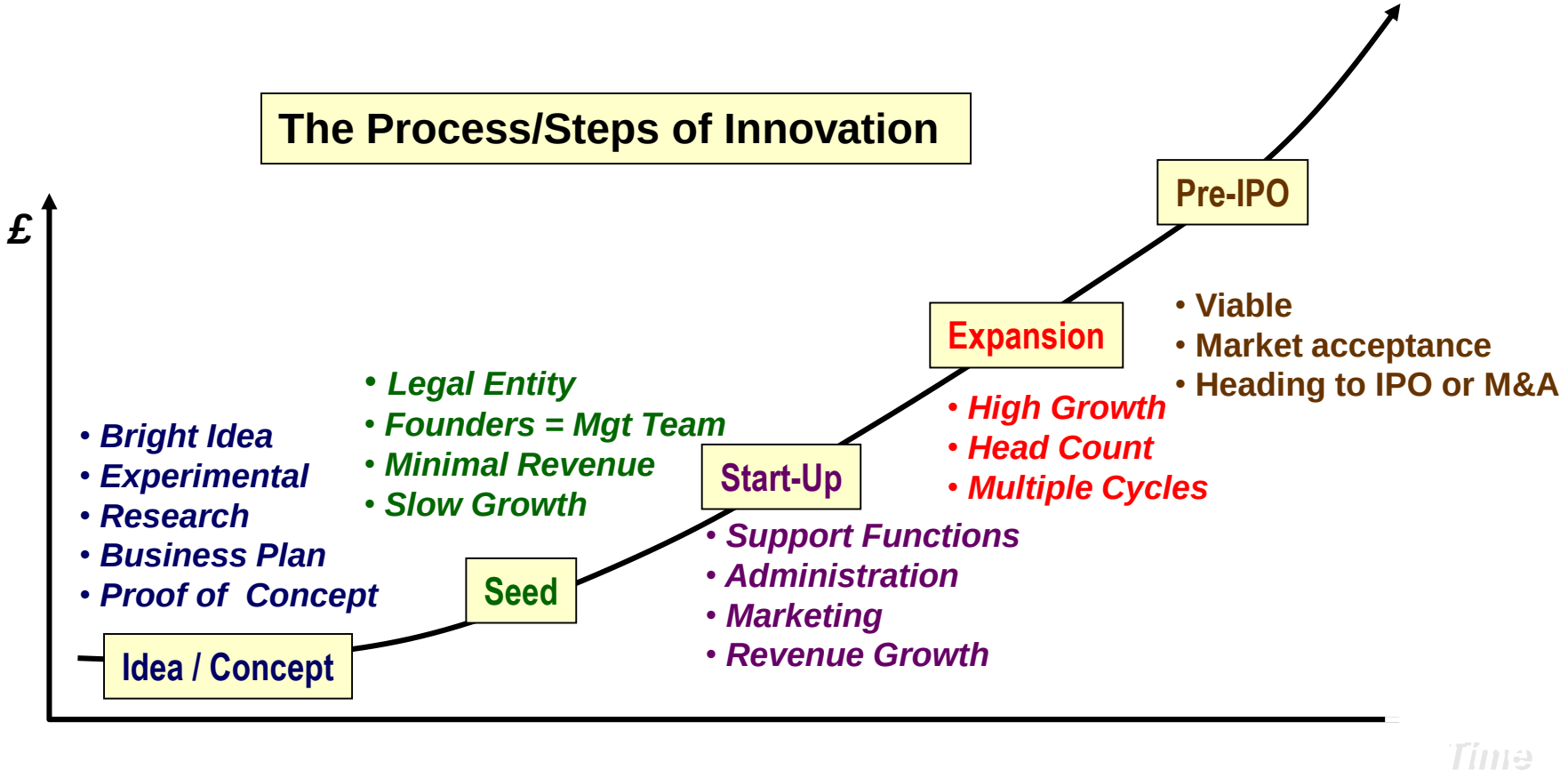
IDEA to MARKET



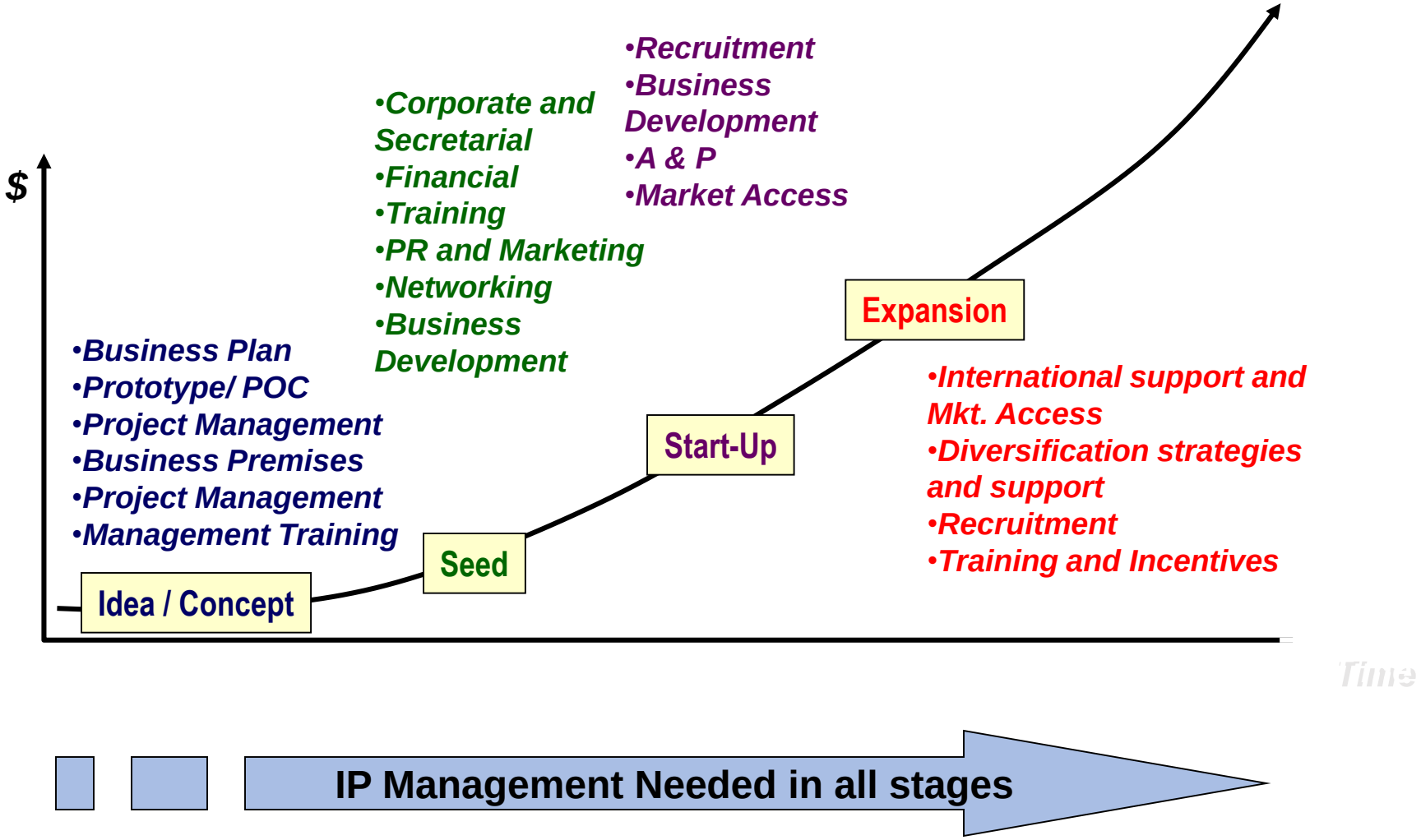
Idea to Profit



Understanding the Process of Innovation

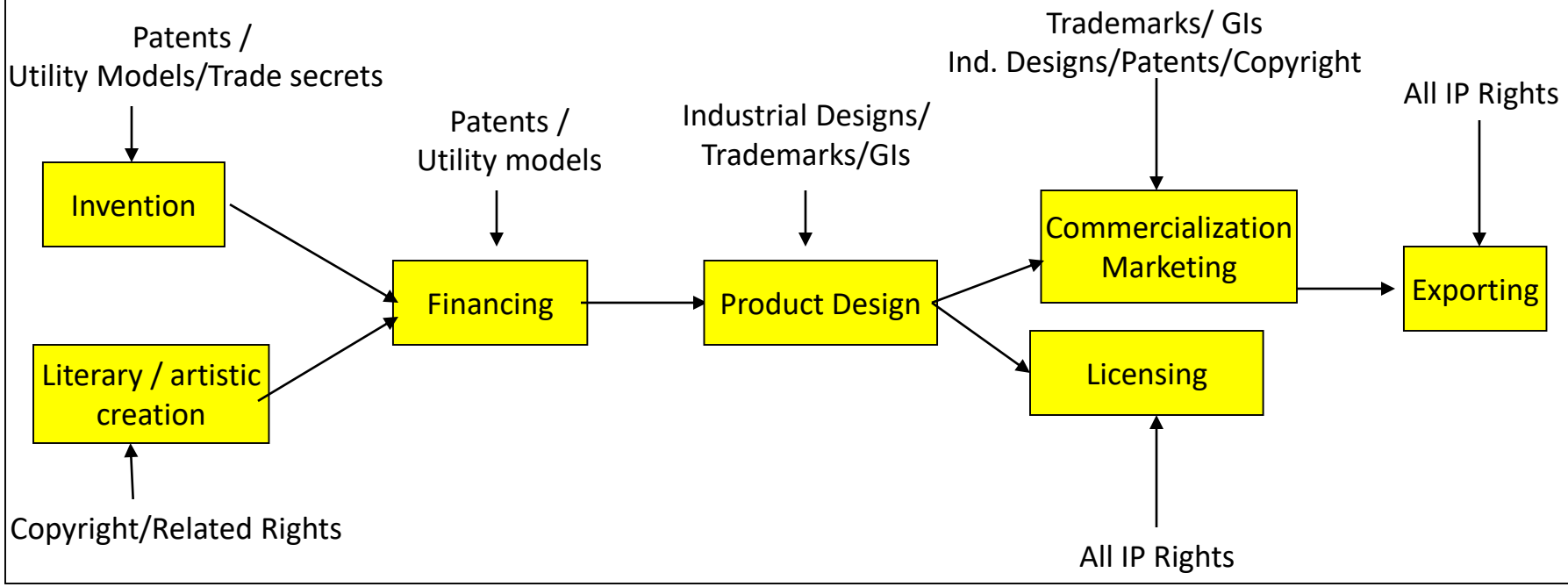


The Needs of Each Stage



Basic Message 1

IP adds value at every stage of the value chain from creative/innovative idea to putting a new, better, and cheaper, product/service on the market:



Basic Message 2

- **IP Strategy should be an integral part of the overall business strategy of an Enterprise**
- **The IP strategy of an Enterprise is influenced by its creative/innovative capacity, financial resources, field of technology, competitive environment, etc.**
- **BUT**: ***Ignoring the IP system altogether is in itself an IP strategy, which may eventually prove very costly or even fatal***

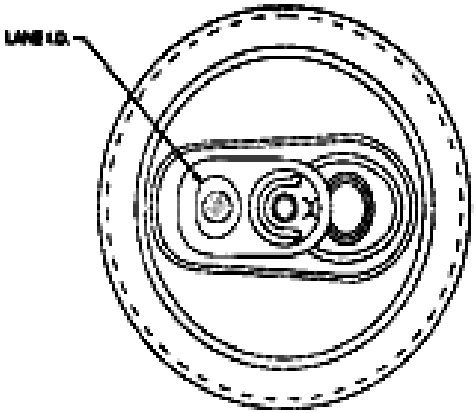
Basic Message 3 (More for Less)

- **Own Use**
- **Licensing**
- **Franchising**
- **Merchandising (Mickey Mouse, Hello Kitty)**

Patents

Example: Ring-pull cans

The inventor licensed the system to Coca-Cola at 1/10 of a penny per can. During the period of validity of the patent the inventor obtained 148,000 UK pounds a day on royalties.



What is a trade secret?

- Three essential requirements:
  - The information must be **secret** *
  - It must have **commercial value** because it's secret
  - holder must have taken **reasonable steps** to keep it secret (e.g. confidentiality agreements)

* *"not generally known among or readily accessible to persons within the circles that normally deal with this kind of information"*

IP Rights: Copyright

- **Rights given to creators** for their **literary and artistic works**
- **Protected works**: books; newspapers; computer programs; databases; films, musical compositions; choreography; paintings; drawings; photographs; sculpture; architecture; advertisements; maps and technical drawings; no registration
- Generally protected for 50 years after the death of the author
- **Extent of overlap between copyright and design laws**

A Bundle of Exclusive Rights

Economic Rights

- Reproduce or make copies;
  - Distribute to public;
  - Sell, rent*, lease*, lend, license;
  - Display or perform to public;
  - Adapt and Translate ***("Derivative works");***

Inherit, Gift, Sell or License

Moral rights**

- Right of paternity: of acknowledgement;
- Right of integrity: to object against mutilation and/or distortion of work;

**** Moral rights cannot be transferred; but may be waived.**

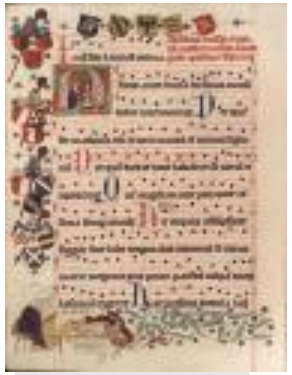
*** Generally applies only to certain types of works: i.e. Cinematographic works; musical works, or computer programs.***

Copyright Works

Films

Literary

Dramatic



Music

Artistic

Sound Recording

What are Related Rights?

There are three kinds of “related rights”:

Rights of performers • Actors • Musicians • Singers • Dancers … or generally people who perform in their performances;	**Rights of producers of sound recordings** (also called phonograms) in their recordings (cassette recordings, compact discs, etc.);	**Rights of broadcasting organizations** in their radio and television programs and in Internet broadcasts such as ‘podcasts’.

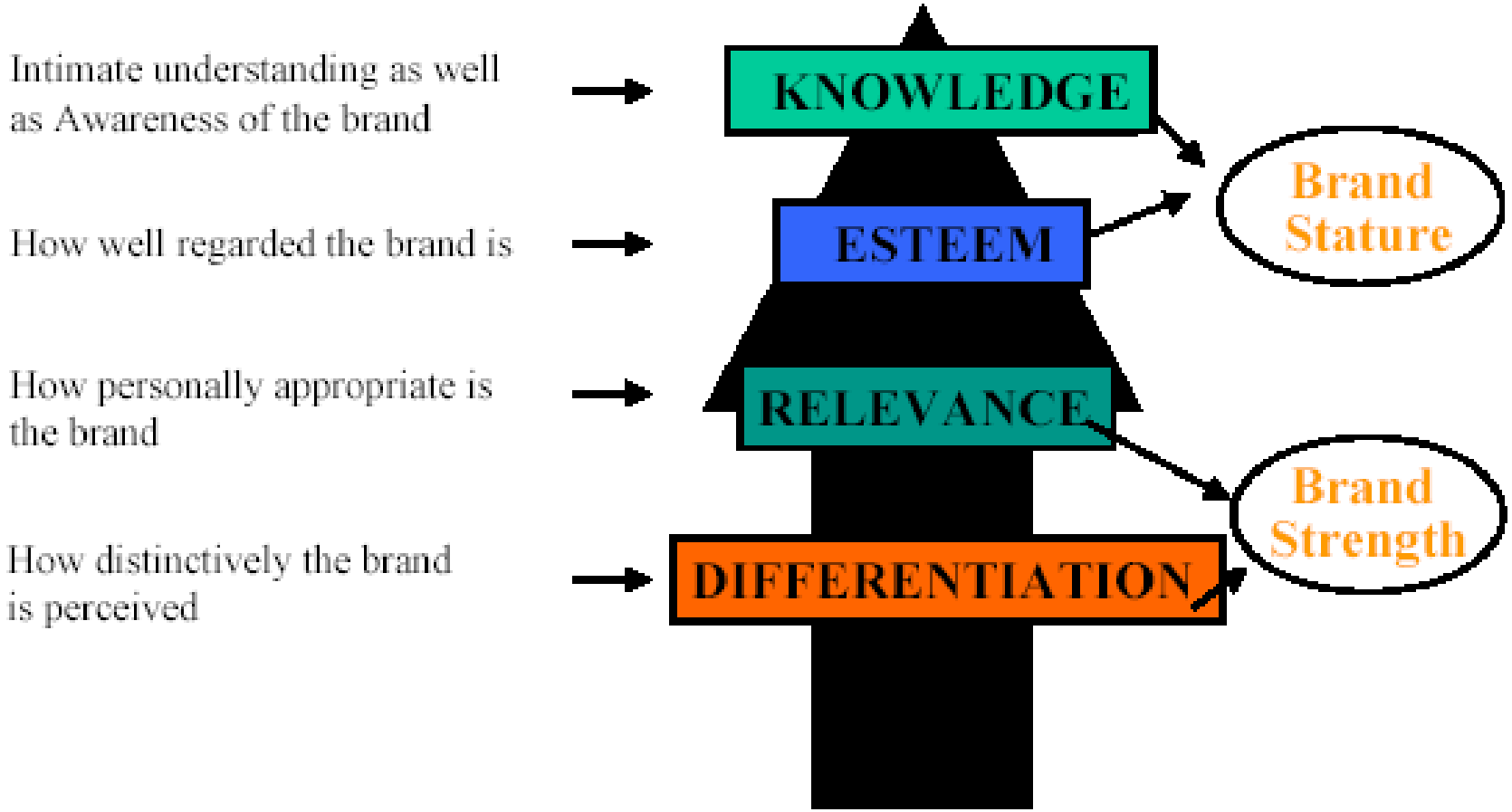
Marketing principles…….

- Identify opportunities and threats
- Identify customer needs and expectations
- Respond to a competitive environment
- Carefully plan to make a **New or Improved Product**
- Use the 4 P's….
  - **Product service**
  - **Price**
  - **Promotion**
  - **Place (distribution)**
- Retain flexibility to respond to unforeseen changes

Building Trust and Relationships

- A Brand is a consistent, holistic promise/pledge made by a company; the face a company presents
- A Brand serves as an unmistakable symbol for products and services
- "Business card" a company proffers on the competitive scene, to set itself apart from the rest

How Brands Are Built



Source: Association of Professional Design Firms, APDF, http://www.apdf.org/Public/Index.asp?Page_ID=74

Trademarks

- **Trademarks are valuable business assets**
- **Interbrand 2003 Annual Survey of the world's most valuable global brands:**

Coca-Cola: 70.45 billion US$ **Microsoft** : 65.17 billion US$ **IBM: 51.71** US$.

“Brand” Companies

Nike...

Adidas...

Reebok...

Levi-Strauss…

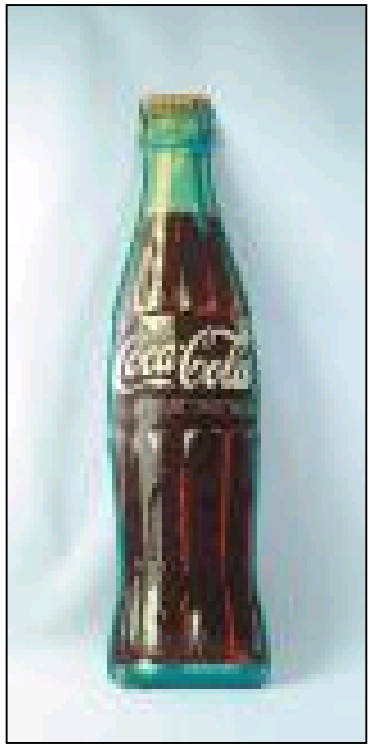
…Own No Factories

Value of a brand value is affected by…

- New inventions
- Adaptability to change (Management, Employees)
- Changes in consumer tastes
- Situation and trends in the economy
- Industry trends and brands trends
- Impact of technological developments

Example no. 1

- Decades ago, Coca-Cola decided to keep its soft drink formula a secret
- The formula is only know to a few people within the company
- Kept in the vault of a bank in Atlanta
- Those who know the secret formula have signed non-disclosure agreements
- It is rumored that they are not allowed to travel together
- If it had patented its formula, the whole world would be making Coca-Cola



Example no. 2

- **Patent** for stud and tube coupling system (the way bricks hold together)

- But: Today the patents have long expired and the company tries hard to keep out competitors by using **designs**, **trademarks** and **copyright**

Industrial Designs

Business (Idea) point of view:

- Make your product appealing to consumers
- Customize products in order to target different customers (e.g. Swatch)
- Develop the brand (e.g. Apple ’s « Think Different » strategy; i Pod)

Entrepreneurship 1

Entrepreneurship drives innovation, competitiveness, job creation and economic growth.

It allows new/innovative ideas to turn into successful ventures in high-tech sectors and/or can unlock the personal potential of disadvantaged people to create jobs for themselves and find a better place in society.

Entrepreneurship 2

Entrepreneurship, in small business or large, focuses on "what may be" or "what can be".

One is practicing entrepreneurship by looking for what is needed, what is missing, what is changing, and what consumers will buy during the coming years.

Entrepreneurship 3

Entrepreneurs have:

- A **passion** for what they do
- The **creativity** and **ability** to innovate
- A sense of **independence** and **self- reliance**
- (Usually) a high level of **self confidence**
- A **willingness** and **capability** (though not necessarily capacity or preference) for **taking risks**

Entrepreneurship 4

Entrepreneurs do not (usually) have:

- **A tolerance for organizational bureaucracies**
- **A penchant for following rules**
- **A structured approach to developing and implementing ideas**
- **The foresight to plan a course of action once the idea is implemented and established**

Entrepreneurial Success

1. People (Entrepreneur /Entrepreneurial Team)
2. Opportunity (Marriage of Market and Product/Service)
3. Access to Resources (Land. Labor, Capital, Knowledge

And the fit amongst these three elements (Business Model)

Introduction to IP Management 1

- Legal
- Technical
- Business
- Export
- Financial
- Relationships
- Accounting
- Tax
- Insurance
- Security
- Automation
- Personnel

Introduction to IP Management 2

- **Trademarks (Brands)**
- **Geographical Indications**
- **Industrial Designs**
- **Patents and Utility Models**
- **Copyright and Related Rights**
- **Trade Secrets**
- **New Varieties of Plants**
- **Unfair Competition**