

Intellectual Property: An Introduction

Julien Cabay
Professor ULB (JurisLab)
Associate Professor ULiège
julien.cabay@ulb.be

Intellectual Property (IP) & Innovation



- The rule : Freedom of competition (the Ocean)
- The exception : IP (the Island)

IP & Innovation: Economics



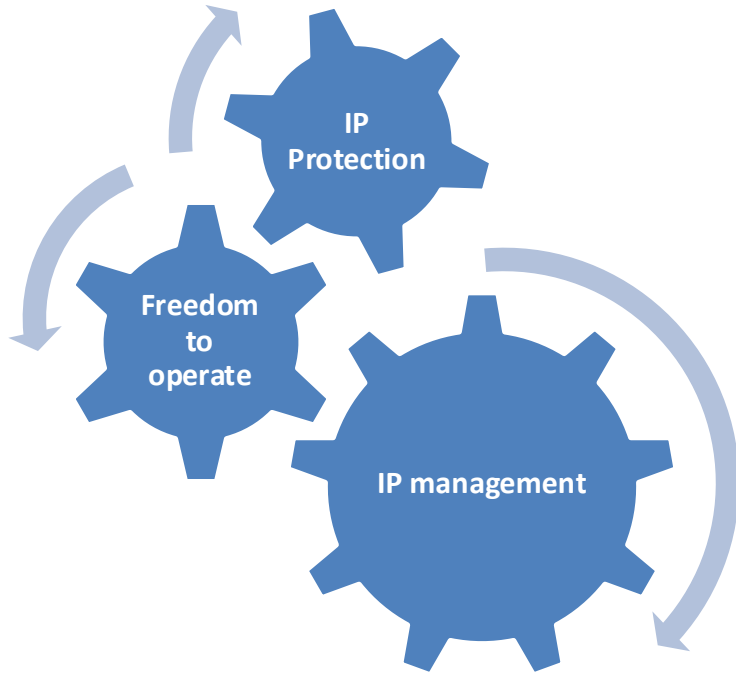
- Freedom of competition fosters innovation: better technology/lower prices to get the market shares
 - Problem : free riding/copying
 - = sunk costs of R&D, high risk
- IP fosters innovation: protection against free riding to incentivize R&D
 - Solution : exclusive right *ex post* to recoup investment *ex ante*
 - Requirement : disclosure

IP & Innovation: Balance



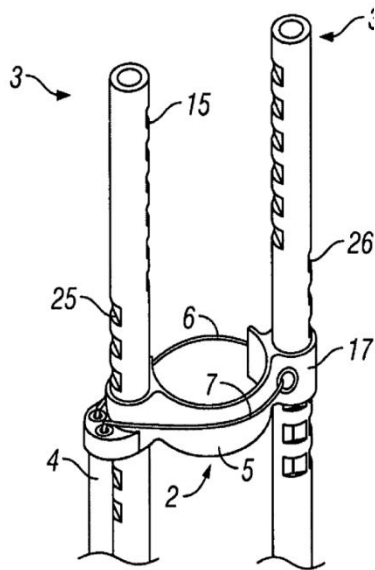
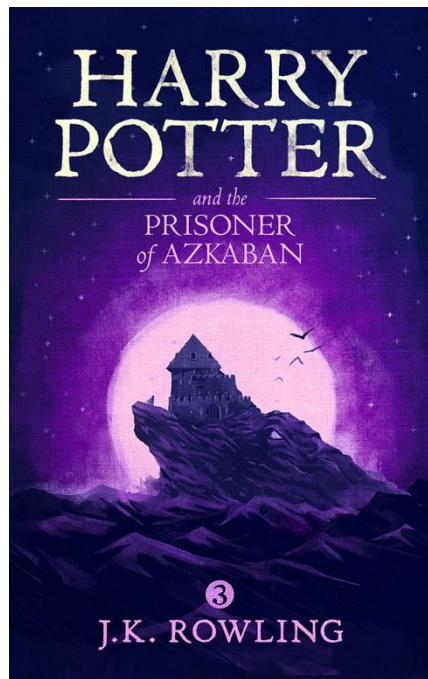
- Inner balance of IP towards innovation
 - Subject Matter
 - Requirements for protection (including registration)
 - Prohibited uses (rights and exceptions)
 - Duration
- External balance to restore innovation
 - Ex: Competition Law (abuse of dominant position)
- In search of another balance
 - Ex: Open Source (not the absence of IP, but use thereof for open innovation)

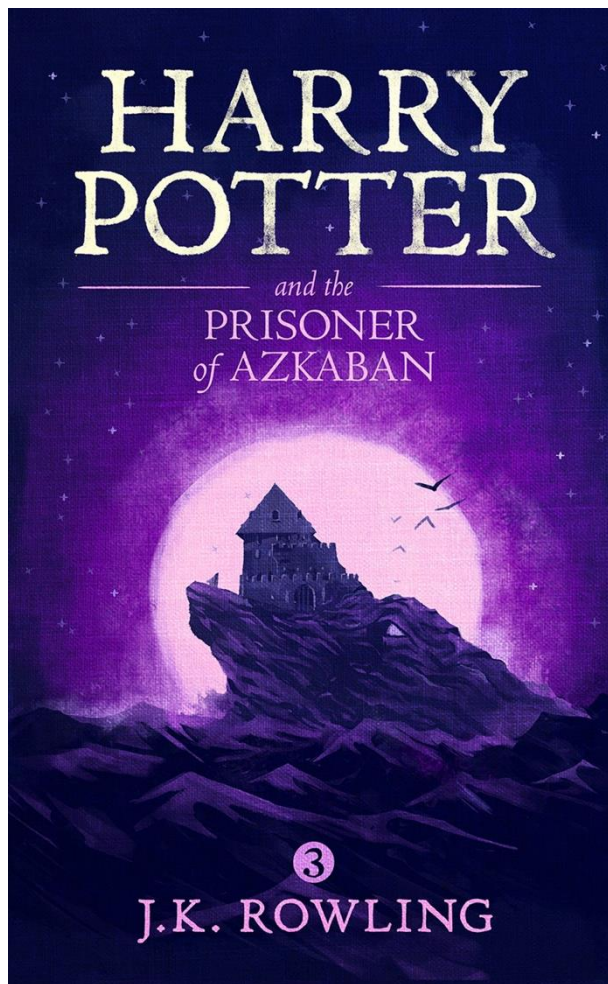
IP & Innovation: Dynamic

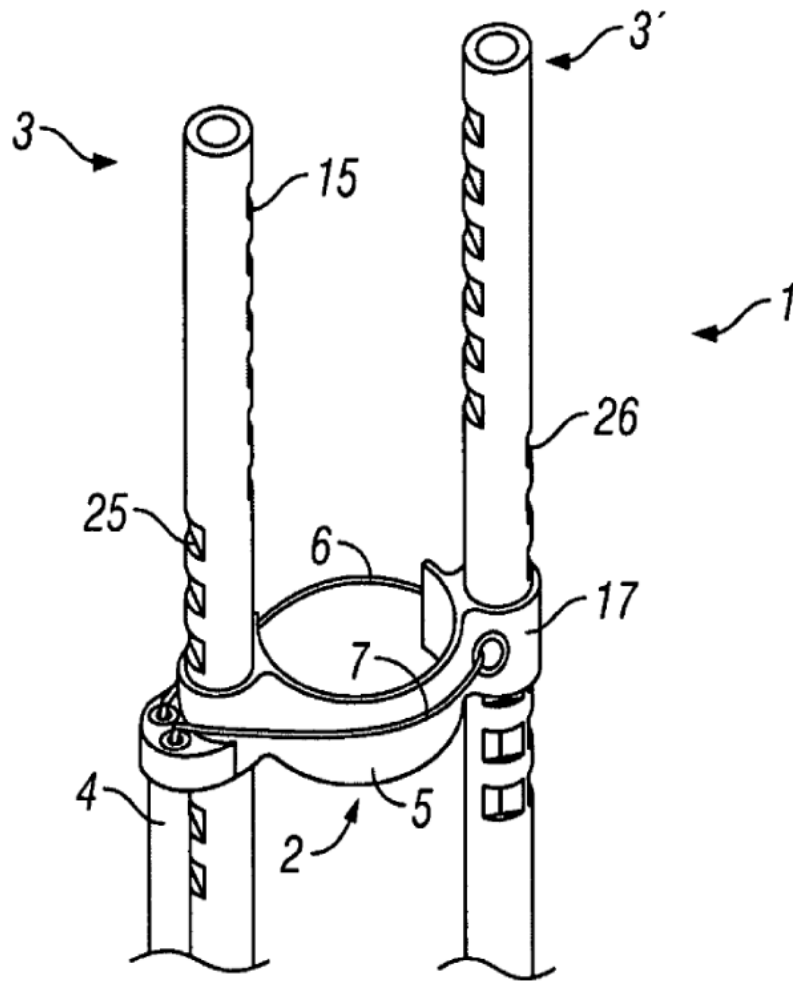


- As an IP owner, you want more protection
 - // right to exclude competitors
- As an IP user, you want less protection
 - // freedom to operate, no infringement of competitor's IP
- Management of IP is crucial
 - // licensing, partnering with competitors

IP Basics







An endoscopic support device configured to support an endoscope during a surgical procedure is disclosed. The endoscopic support device has a connection ring with a height smaller than its diameter and configured to be in an open or deployed position and in a closed or non-deployed position. The support device also has at least two guiding elements, an orientation component, and extension means for manipulating the ring between the deployed and non-deployed positions.

(19) **United States**

(12) **Patent Application Publication**

Devriere et al.

(54) **ENDOSCOPIC DEVICE**

(30)

(76) Inventors: **Jacques Devriere**, Genappe (BE);
Nicolas Cauche, Bruxelles (BE); **Alain
Delchambre**, Bruxelles (BE); **Sylvie
Evrard**, Bruxelles (BE)

Ju

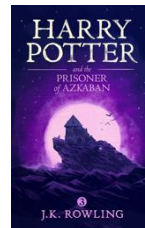
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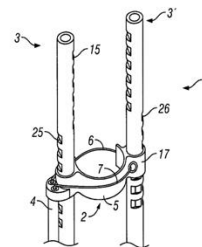
Copyright



Trade Mark

Intellectual Property

Patent



Design



And many other IP rights...

Trade Secrets

Main sources IP (+ TS) in EU

	Nat'l	Benelux	EU	Europe
Copyright (+ neighbouring rights + sui generis database rights)				
Patent				
Design				
Trademark				
Trade Secrets				

Main sources IP (+ TS) in EU

	Nat'l	Benelux	EU	Europe
Copyright (+ neighbouring rights + sui generis database rights)	CDE, Book XI, Title 5-7/1, art. XI.164 et seq.		Directive 2001/29/EC ; Directive 96/9/EC ; Directive 2009/24/EC	
Patent	CDE, Book XI, Title I, art. XI.1 et seq.		Regulation (EU) No 1257/2012 (enhanced cooperation, not all EU MS) + UPC Agreement	European Patent Convention
Design	<i>Cf. CBPI (CDE, art. XI.163)</i>	CBPI, Title II	Regulation (EC) No 6/2002 ; Directive 98/71/CE	
Trademark	<i>Cf. CBPI (CDE, art. XI.163)</i>	CBPI, Title III	Regulation (EU) 2017/1001 ; Directive (EU) 2015/2436	
Trade Secrets	CDE, Book XI, Title 8/1, art. XI.332/1 et seq.		Directive (EU) 2016/943	

IP (+ TS) Basics in EU

	Function/ Subject matter	Requirements for protection	Registration	Duration	Scope of protection	Territoriality
Copyright						
Patent						
Design						
Trademark						
Trade Secrets						

IP (+ TS) Basics in EU

	Function/ Subject matter	Requirements for protection	Registration	Duration	Scope of protection	Territoriality
Copyright	Work (including software/database)	Originality, expression	No	Author's life+70 years	Exploitation if copy	Nat'l
Patent	Invention	Novelty, Inventive , Industrial application	Yes	20 years	Exploitation even if no copy	Nat'l (Nat'l, European) ; most EU MS (EU unitary patent)
Design	Appearance of a product	Novelty, Individual character	Yes, except for unregistered Community designs	5 years renewable, max 25 years (registered); 3 years (non registered)	Exploitation if copy (not registered) and even if no copy (registered)	Nat'l/Benelux (registered) ; EU (registered or not)
Trademark	Sign indicating the commercial origin of a product/service	Distinctive character	Yes, except for well-known trademarks	10 years renewable indefinitely	Exploitation even if not copied (if impairment of function)	Nat'l/Benelux ; EU
Trade Secrets	Undisclosed know-how and business information	Secret, Commercial value, Reasonable steps	No	Unlimited (subject to secrecy)	Unlawful acquisition/Use/Disclosure if copy	Nat'l