



Intellectual Property Rights

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Leiterin Transfer und Schutzrechte

Intellectual Property Rights

Technical property rights

- ✓ Patent
- ✓ Utility model

Non-technical property rights

- ✓ Trademark
- ✓ Design



**TRANSFER- UND
GRÜNDERZENTRUM**

Technical Property Rights

How do I know, if my research results are inventive?

Patents will be granted if they are

✓ technical

✓ new

✓ inventive and

✓ susceptible of industrial application



Not patentable:

- ✓ Discoveries
- ✓ Scientific theory
- ✓ Methods
- ✓ Business processes/activities
- ✓ Pictures, movies, drawings, speeches, music
- ✓ Concepts, games
- ✓ Designs



Exceptions from patent protection:

- ✓ In case of violation of public order
- ✓ In case of violation of good morals
- ✓ Plant varieties
- ✓ Animal species
- ✓ Method for breeding plants or animal species

Patentability - Examples

non patentable	patentable
Stereo sound	Sonic clefts with special grooves for the stereo sound
Red color on a polyurethane layer	Method for applying a paint to polyurethane layers
Computer program (as such)	Computer program on a computer readable storage medium
Biochemical mechanism - receptor X -> cancer	Inhibitor of receptor X

Patentability criteria

Novelty

An invention is considered novel in case it does not belong to the prior art.

✓ Prior art:

- **Everything** that has been made available to the public before the filing date or priority date of the patent application.



File a patent application first, then talk !!!



Patentability criteria

Inventiveness

An invention is based on an inventive step, if it is not obvious from the prior art to a person skilled in the art.

✓ Prior art:

The same as in case of novelty, except for older rights.
Combination of documents is possible.

Patentability criteria

Susceptible of industrial application

An invention is considered industrial applicable if the object can be produced or used in any commercial field including agriculture.

What is a patent?

- ✓ A right of the patentee to prohibit third parties to use the object of the patent.
- ✓ NO positive right of use.
- ✓ The prohibition right creates a monopoly position which is temporally and locally limited:
 - **temporal**: 20 years from filling date
 - **local**: limited to the country in which the patent was granted

Rights of the patent proprietor from the patent

Exceptions from the prohibition

Every third party may use the subject matter of the patent:

- ✓ Prior use (problem of proof)
- ✓ Private use for non-commercial purposes
- ✓ Experimental purposes (research privilege)

Content of a patent application / paten

- ✓ Bibliographic data
- ✓ Abstract
- ✓ Description
 - Discussion of prior art, Disadvantages of the known art
 - Problem
 - Solution of the invention, advantages
 - Examples
- ✓ Claims
- ✓ Figures to which the claims or description refer to

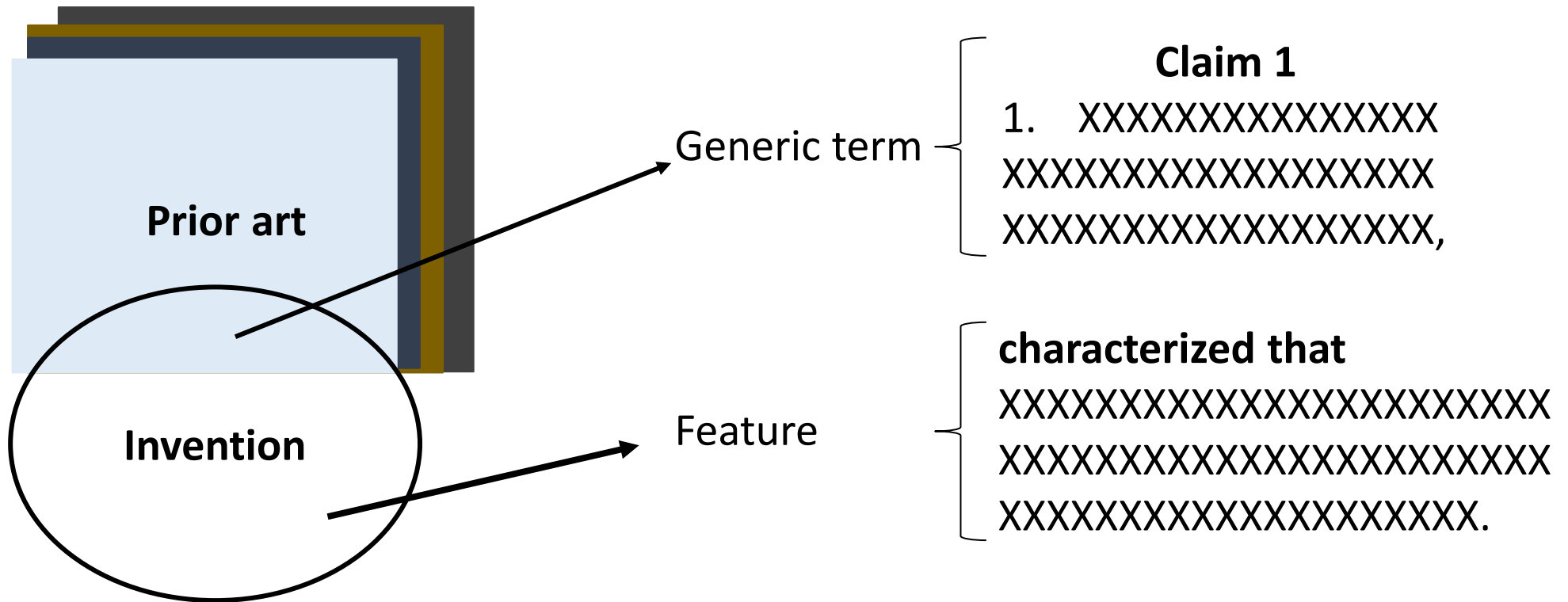
Patent claims

- ✓ Determine the content of the scope of protection of the patent or patent application (§ 14 PatG; Art. 69 EPÜ)
- ✓ Description and drawings are used to interpret the claims

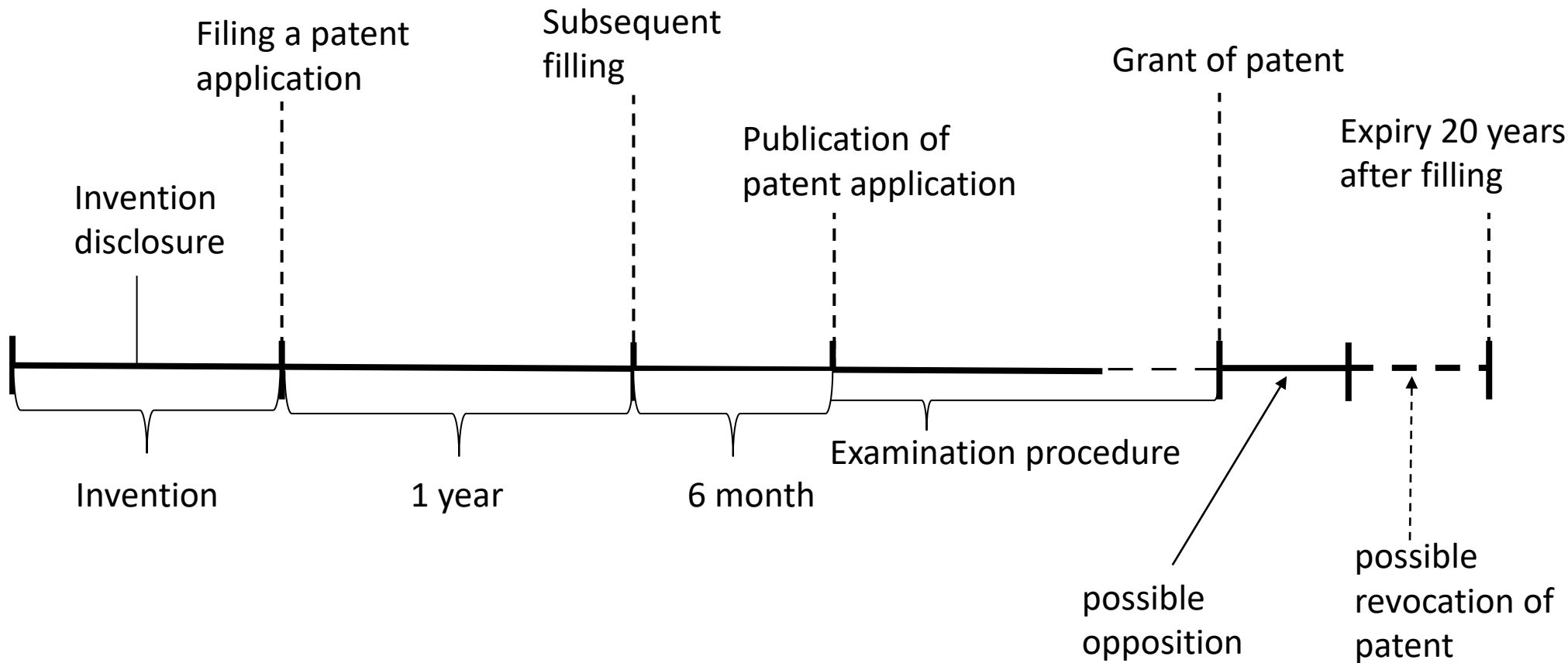
- ✓ Categories of claims: product claims
method claims
use claims

- ✓ Greatest possible protection through product claims
 - in this case also the use of the product and method to produce the product fall under the scope

Structure of a claim



Journey of a German patent application



Priority

- ✓ Subsequent filling of invention in different states and territories
- ✓ Claiming priority until 12 months after date of filling
- ✓ For the same invention
- ✓ Incorporation of further developments of the invention possible
- ✓ Effect:
 - State of the art before the priority date is considered

Types of patent applications

- ✓ National patent application
 - Ex. German patent application
- ✓ European patent application
 - 38 member states
 - Bundle of European patents
- ✓ International patent application (PCT)
 - Unitary application procedure Anmeldeverfahren
 - International search report
 - After 30/31 months entry into national/regional phases for separate examination
 - 152 contracting states

Patent search

- ✓ Provide an overview of the existing state of the art
- ✓ Defining what you can not do yourself

- ✓ Databases for prior art search:
 - <https://patents.google.com> (entry for loans)
 - www.dpma.de „DEPATISnet“
 - www.epo.org <http://ep.espacenet.com/>
 - www.wipo.int/patentscope
 - www.patbase.com „PATBASE“ (professional database)

Patent Information Center and Standards-Infopoint



University library -information desk -2nd floor
Patent Information Center (PIZ) and Standards-Infopoint
(NIP)

The PIZ/NIP provides information about:

- Intellectual property rights
(patents, trademarks and designs)
- Standards, guidelines and technical rules

We offer you:

- expert support for your own research in the PIZ
- professional research by our employees

Utility model – an alternative to a patent?

	patent	utility model
Duration	20 years	10 years
novelty/period of grace	absolute novelty	6 months
Inventiveness	high	slightly lower
Protection of	product and method	only product
Examination procedure	about 3 - 4 years	no examination
renewal/ maintenance fee	from the 3rd year/annually	after 3, 6 and 8 years
Expense	about 5.000 Euro	about 2.500 Euro

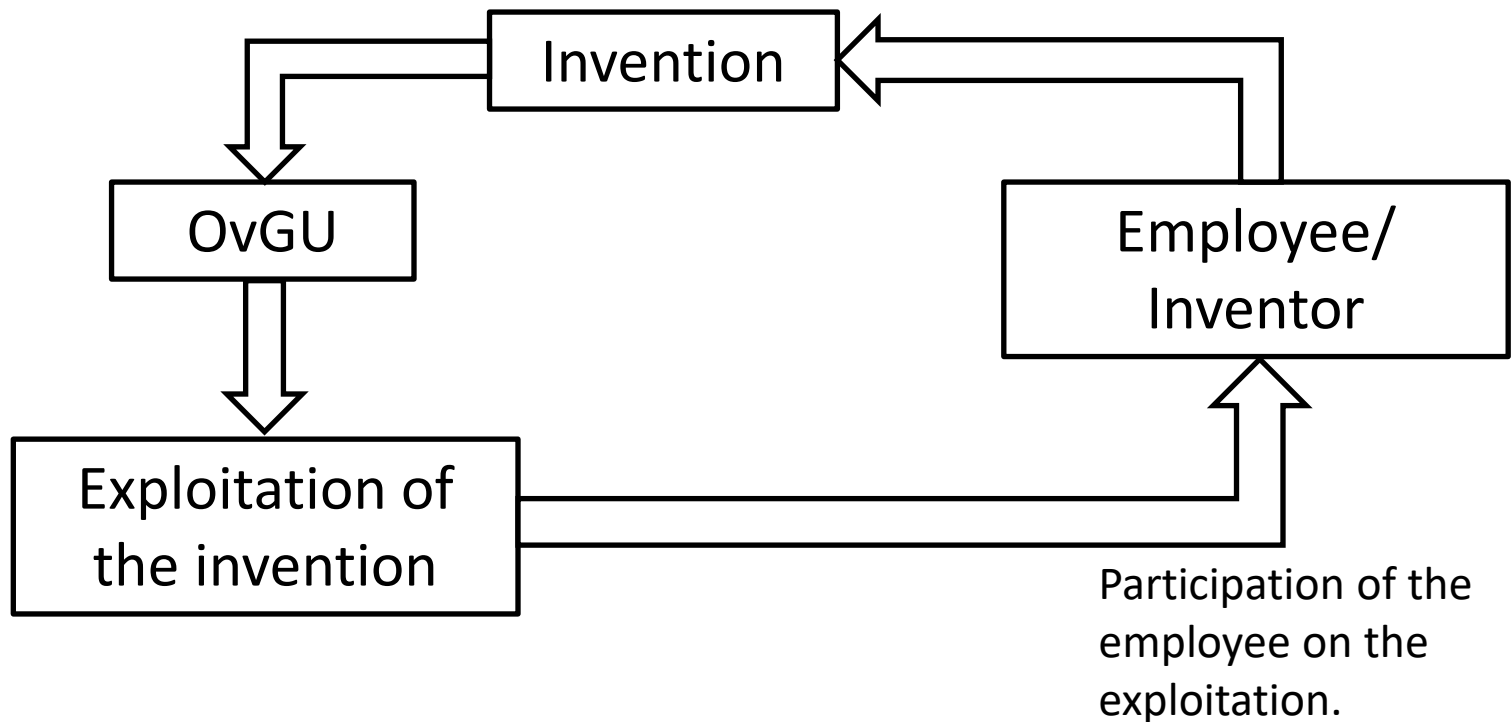
Who owns the invention?

Employment law: Work results belong to the employer

Patent law: Invention belongs to the inventor (6 PatG/ § 13 GbmG)



Conflict resolved by Employee Invention Act (1957/2009)



Service invention vs. free invention

Service invention § (4 ArbNErfG):

- ✓ Inventions made during the employment relationship that are either
 - arising due to the tasks within the company; or
 - which are significantly based/related on the experience or work of the company.

Free invention:

- ✓ Other inventions of employees are free inventions. However they are subject to the restrictions of § 18 (obligation to notify) and § 19 (obligation to offer).

Employee inventors at universities – Advantages and duties

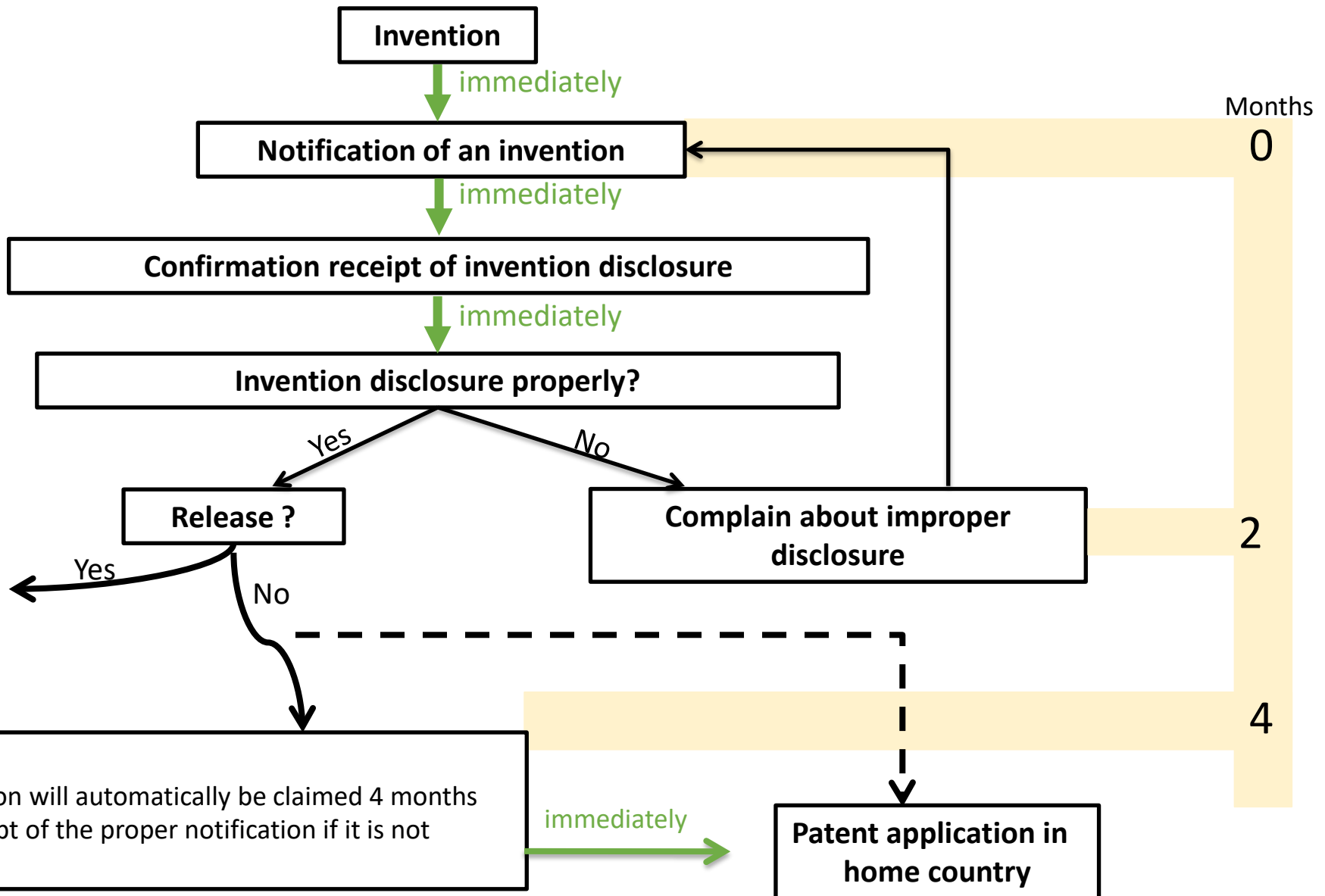
- ✓ Positive publication right
 - However obligation to notify (2-month period)

- ✓ Negative publication right

- ✓ Right of use (not exclusively; for own research and teaching)

- ✓ Standard fee: 30% of the revenue from exploitation

What happens with my notified service invention?



Advantages of an invention disclosure

- ✓ No financial risk
- ✓ Inventor's premium of 30 % of gross recovery revenues
- ✓ Competent support
- ✓ Additional publication (patent application)
- ✓ May provide additional third-party funding
- ✓ Positive image in the economy
- ✓ No delay in the publication process

Thank you for your attention!

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