



IP as an asset

Roosdiono & Partners

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Refreshers: What is IP

Accounting

Intangible asset: an identifiable non-monetary asset without physical substance. Such an asset is identifiable when it is separable, or when it arises from **contractual or other legal rights**.

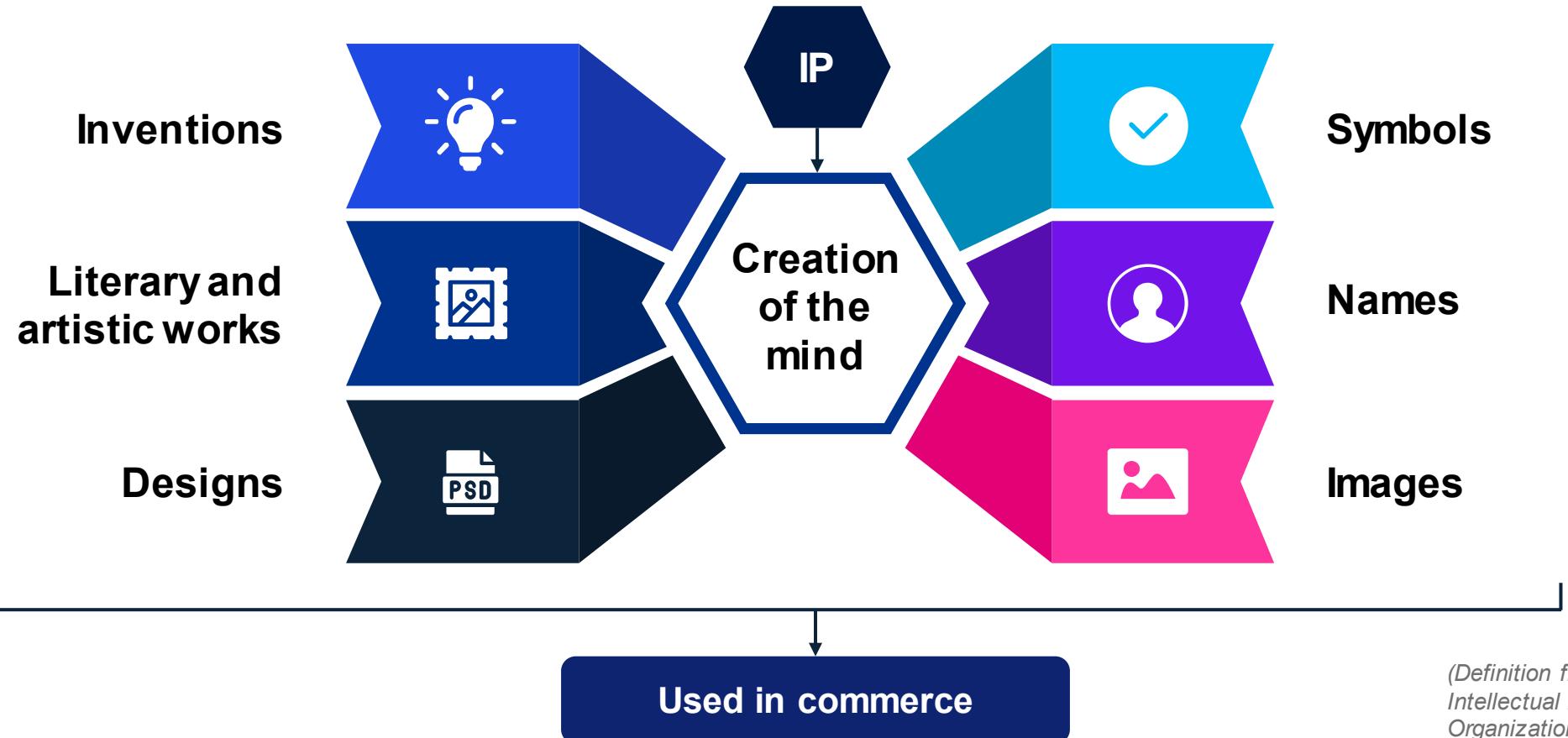
Legal

According to the law, **goods** are any objects and any rights that can be the subject of ownership

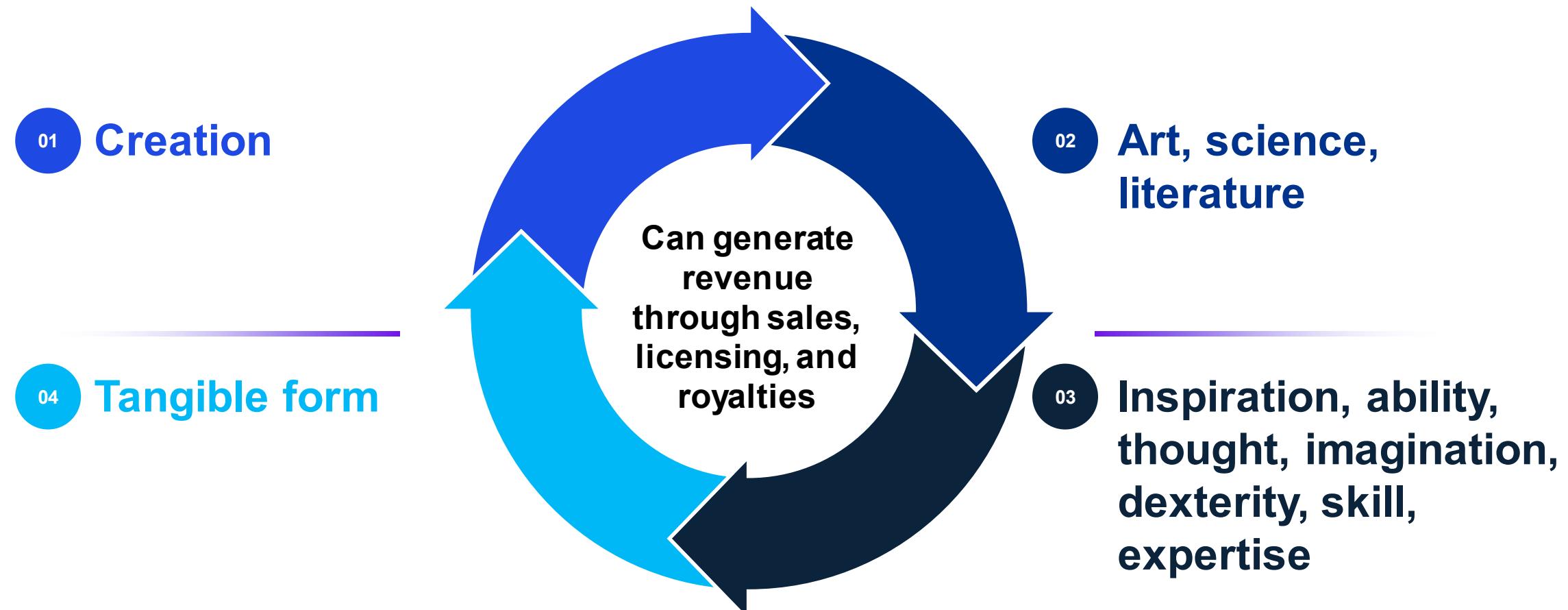
An **object** is anything that can be owned or transferred, whether tangible or intangible, registered or unregistered, movable or immovable, that cannot be encumbered with a mortgage or hypothec.

Copyright and **patent** is an **intangible** movable object.

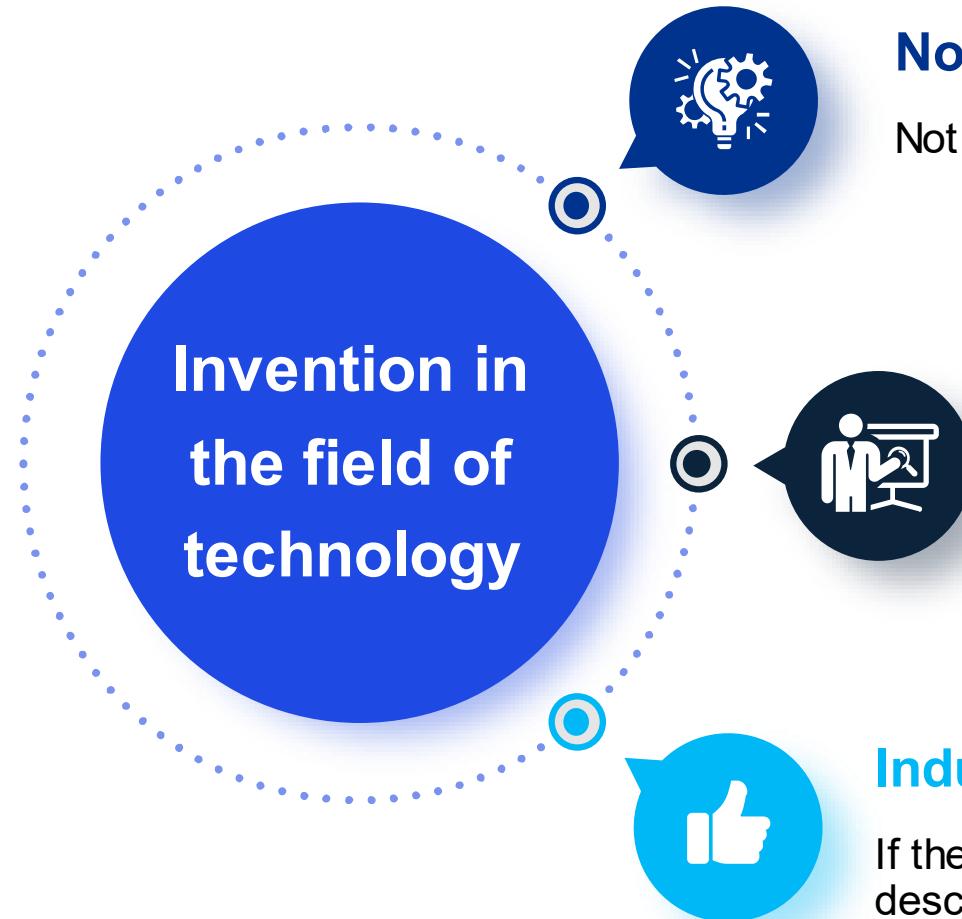
Refreshers: What is IP



Refreshers: Copyright

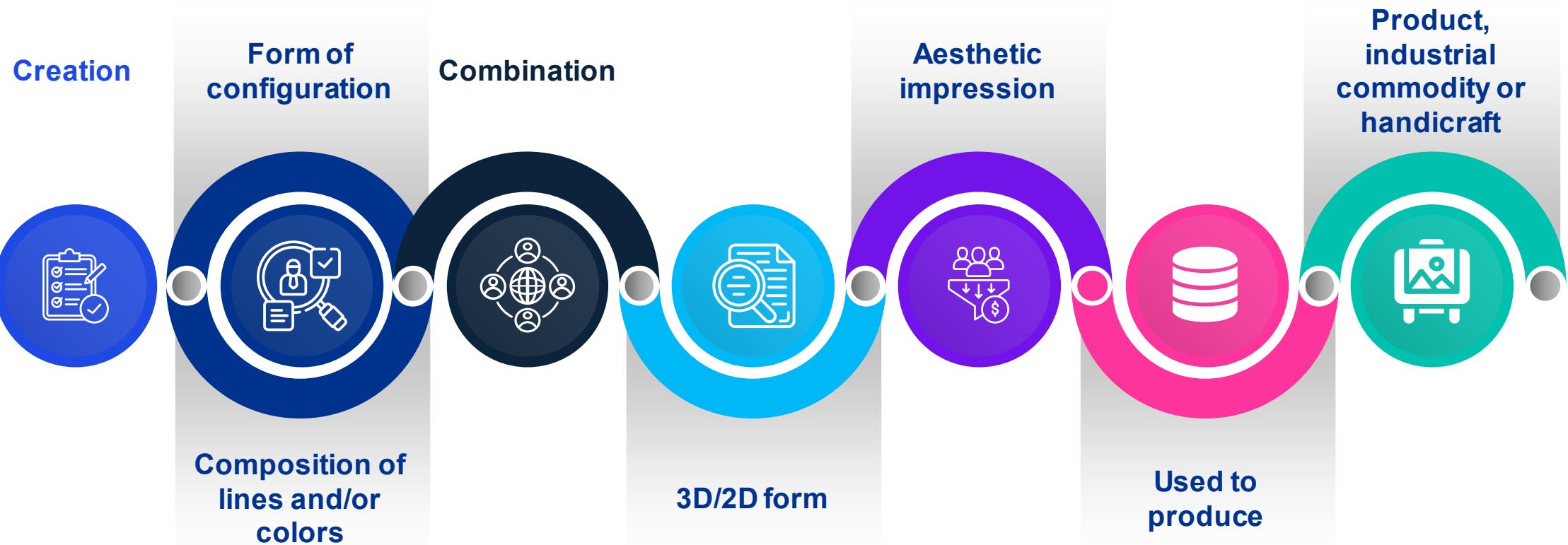


Refreshers: Patent

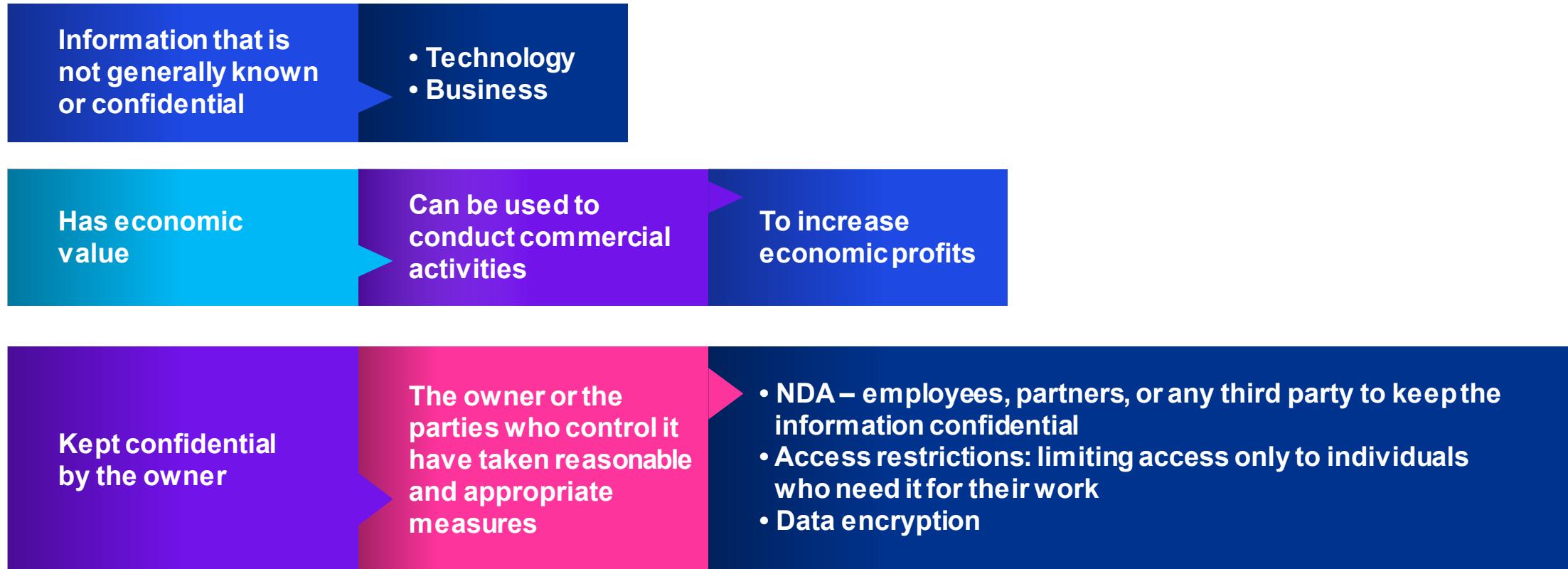


can be sold, licensed, or used to enhance a company's value.

Refreshers: Industrial design

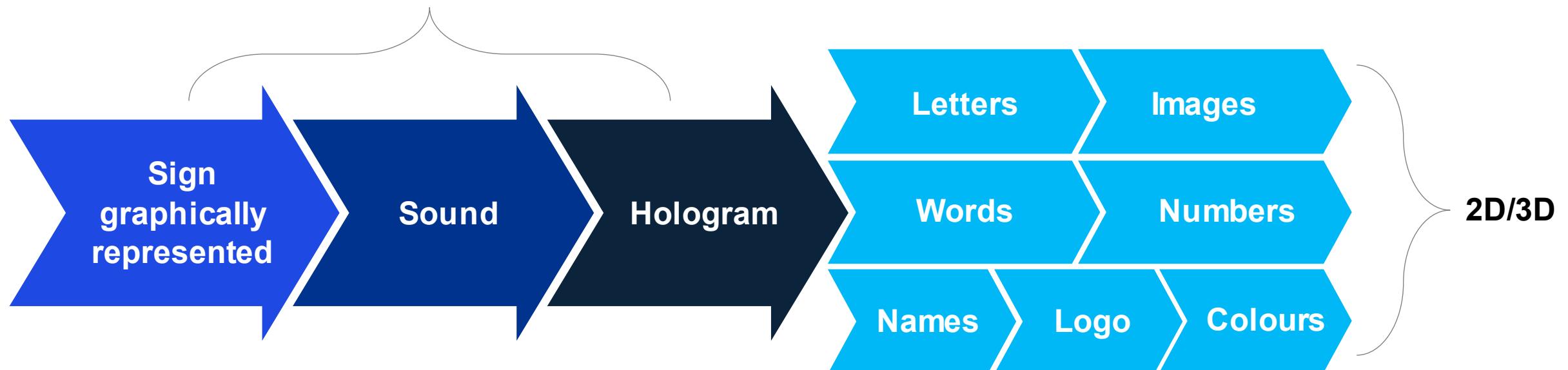


Refreshers: Trade secret



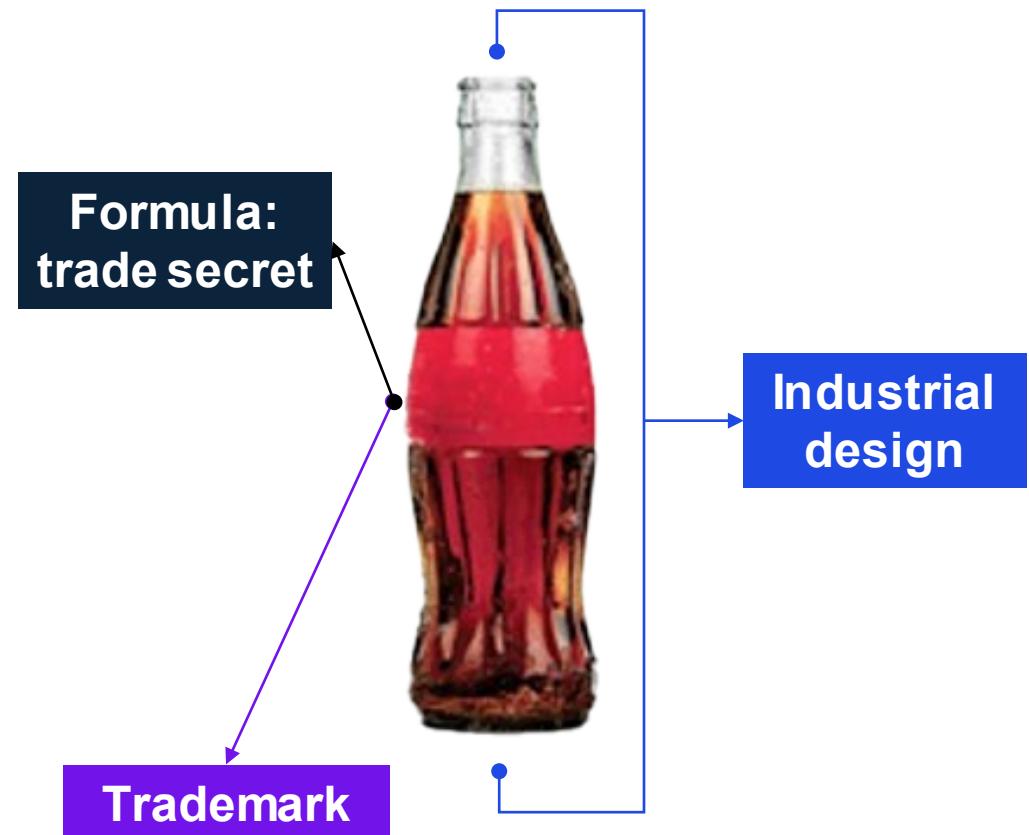
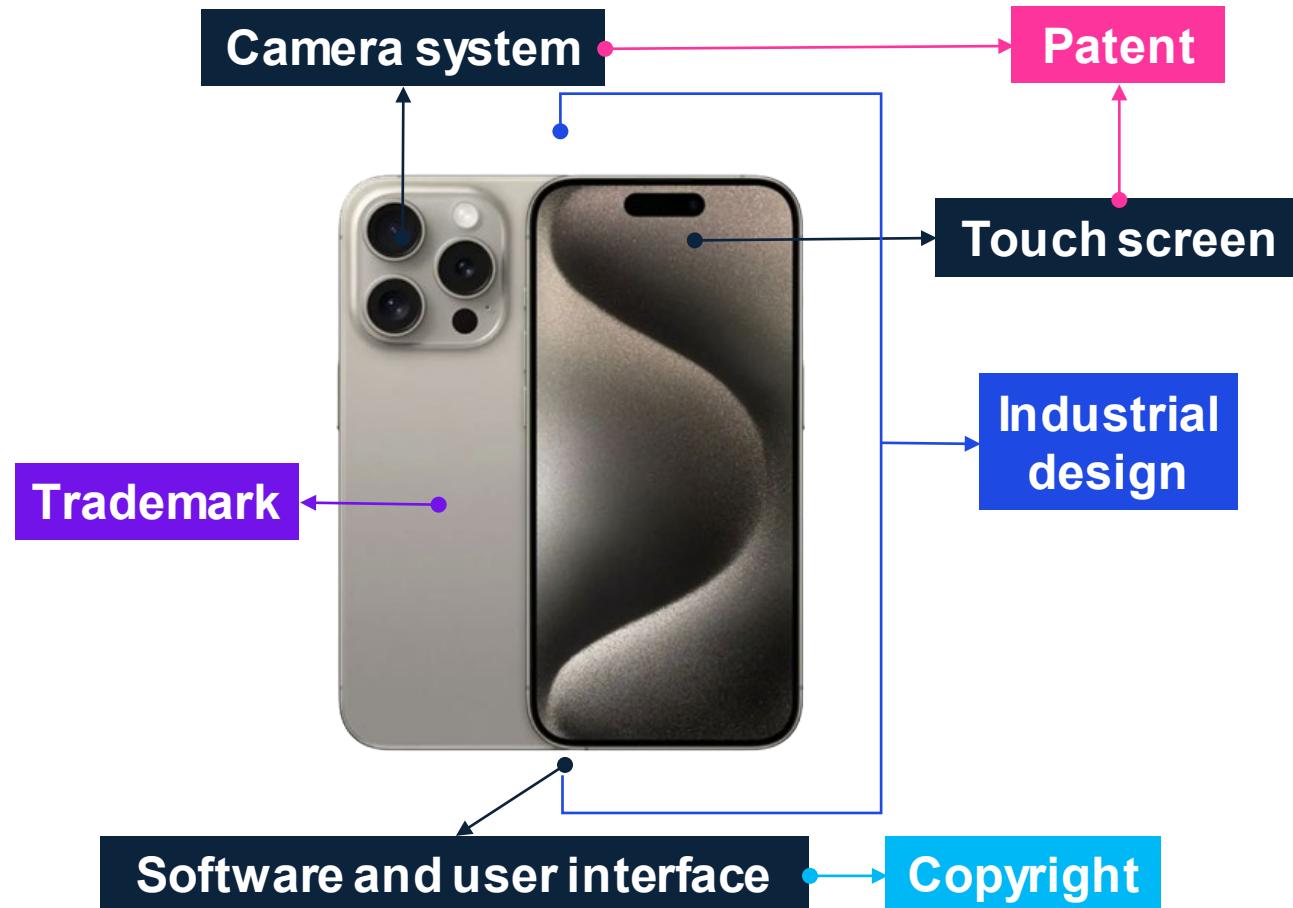
Refreshers: Trademark

Distinguishing products or services within a trade



Crucial for brand recognition and can be licensed to others

Types of IP (Examples)



IP as an asset



Revenue generation

Can be sold, licensed, and enhance the company's value.



Attracting investment

Strong IP portfolios can attract investors, indicating a company's innovation potential and market positioning.



Enhancing company valuation:

IP can significantly boost a company's valuation, particularly in industries like technology, entertainment, and pharmaceuticals.

IP as an asset - Collateral

Challenges in Implementation

Lack of valuation guidelines to determine its economic value

1. Cost approach:

Assesses the IP based on the costs required to replace or replicate the asset, often used for software or artworks.

2. Market approach:

Assesses IP based on market transactions of similar assets, frequently applied to trademarks and copyrights.

3. Income approach:

Assesses IP based on its future income potential, suitable for patents that can generate royalties or licensing revenues

4. Other valuation approaches in accordance with applicable valuation standards?

Lack of valuation institutions:

IP valuation must be conducted by appraisers who meet certain criteria:

- a) possess a public appraiser license,
- b) demonstrate competence in IP valuation, and
- c) be registered with the ministry overseeing the creative economy.

Despite the existence of regulations, Indonesia currently lacks operational institutions specifically dedicated to IP valuation.

Singapore has its IP Value Lab (IPVL), and Australia has its Australian Valuation Office (AVO).

Execution of IP as fiduciary collateral

Mechanism for executing IP as collateral in the event of default.

Due to IP's intangible nature, this execution process can be more complex than that of conventional collateral.

Global strategies - Trademark

International protection

With globalization, protecting IP across multiple jurisdictions is critical.

Trademark:

1. Paris Convention – 24 September 1950
2. Madrid Protocol – 06 June 2018

Paris Convention vs. Madrid Protocol

Feature	Paris Convention	Madrid Protocol
Applicability	Global (over 170 member countries)	Streamlined process for Madrid Union members (over 110 countries)
Filing process	<ul style="list-style-type: none">Separate applications in each countrySix-months from the first filing	<ul style="list-style-type: none">Single application filed through the home countryNot applicable (but basic application required)
Cost and legal representation	<ul style="list-style-type: none">Separate fees in each countryNeed to appoint local representation	<ul style="list-style-type: none">Unified fees through WIPOOnly need a representation – reducing complexity, but local counsel will be required when the mark is facing objection or rejection
Central management	No centralized management; each country handled separately	Centralized management via WIPO for renewals and changes, reducing administrative burden.
Expansion flexibility	Additional countries require new applications (within six months period)	Countries can be added later as subsequent designations (no time limitation)

Global trademark strategies: Madrid Protocol- International application



Basic application/ registration

1. International application

Through the Directorate General of Intellectual Property (DGIP)

2. Formality check

The DGIP checks the submitted application.

3. Submissions to WIPO

The DGIP sends the application to the International Bureau of World Intellectual Property Organization ("WIPO").

4. Formality check by WIPO

WIPO checks whether the application has met all the requirements.

5. Publication & examinations by the designated countries

The designated countries have up to 18 months to reject or accept the trademark registration based on their domestic laws and regulations.

6. Decision by the designated countries

If refused, the legal measure and period for the response are regulated under the designated countries' domestic laws and regulations. If granted, the designated countries will notify WIPO

International registration - Madrid Protocol: Disadvantages

Dependency on basic application

International registration depends on the basic application/registration for the first five years. If the basic registration is canceled, the entire international registration may be affected (central attack).

Trademark in all designated countries can be transformed into a national registration within three months.

Variation in national examination

Each designated country examines the trademark according to its national laws, which can lead to inconsistent protection across countries.

Modification limitations

You cannot expand the scope of goods/services after filing the international application; any expansion requires a new application.

High upfront costs

Initial costs can be high, especially when designating multiple countries, which might be challenging for small businesses.

Administrative fee ID: IDR500,000
Basic fee: CHF 653/CHF 903
Fees for contracting states: Varies

CONCLUSION



Effective IP management

Recognizing intellectual property as a valuable asset and harnessing international tools like the Madrid Protocol is a key strategy for business success in a globalized market, enabling businesses to operate on a global scale.



Proactive protection

Businesses need to be proactive in protecting and managing their intellectual property to maximize the value of their innovations and brands.

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