



Managing IP for Access


*Access to Medicines,
Patent Information &
Freedom to Operate*

WHO-WIPO-WTO
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Freedom to Operate

- The “missing link” !



Freedom to Operate

□ The “missing link” !

encouraging
INNOVATION



enabling
ACCESS



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Freedom to Operate

□ The “missing link” !

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Innovation: IP as a principal driver

- An incentive: for risk taking
- A tool: to encourage investments in product development
- A mechanism: to make scientific advances widely available

Access: IP as an instrumental driver

- An incentive: for effective and useful partnerships
- A tool: to share valuable data, know how, etc.
- A mechanism: to make innovations faster available



What is Freedom To Operate?

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From a legal perspective:

To have “assembled” all the IP rights for a
specific **product** for a specific **market** and specific **use**.

What is Freedom To Operate?

From a business perspective:

A **product development** and **risk** management strategy.

What is Freedom To Operate?

Whether a patent is issued in a certain country is

NOT a barrier *per se* to FTO.

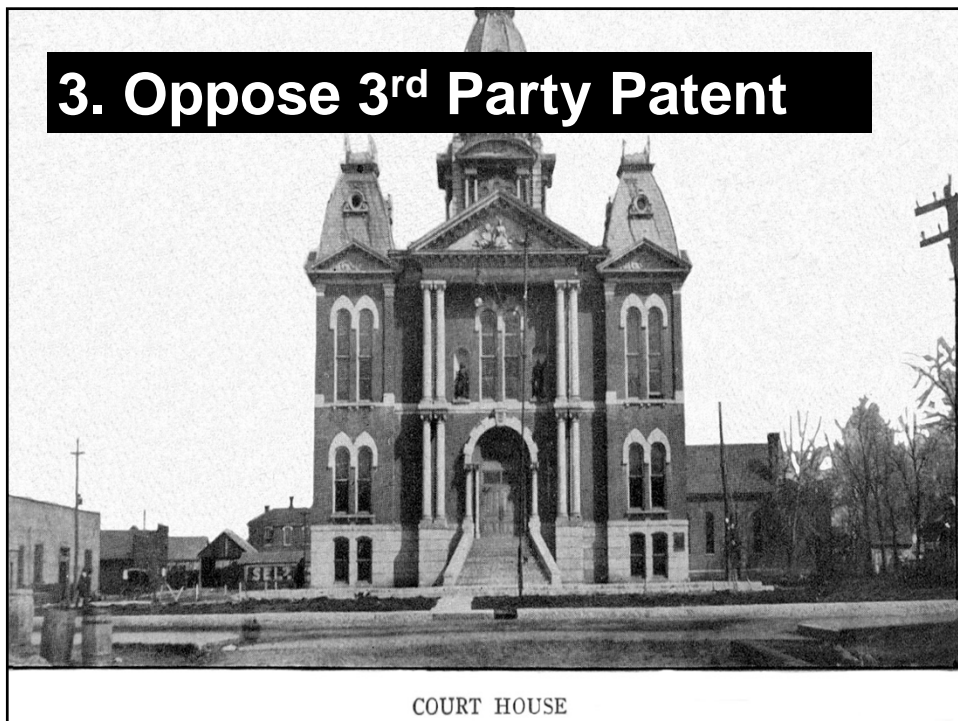
How do I obtain FTO?

A. Legal and/or IP management strategies

- 1. License**
- 2. Cross-license**



- 3. Oppose 3rd Party Patent**



4. Non-assertion Covenant

Box 1 : NONASSERTION COVENANT FROM THE SOFTWARE INDUSTRY: MICROSOFT OPEN-SPECIFICATION PROMISE

Published: September 12, 2006 | Updated: February 15, 2007

Microsoft irrevocably promises not to assert any Microsoft Necessary Claims against you for making, using, selling, offering for sale, importing or distributing any implementation to the extent it conforms to a Covered Specification ("Covered Implementation"), subject to the following. This is a personal promise directly from Microsoft to you, and you acknowledge as a condition of benefiting from it that no Microsoft rights are received from suppliers, distributors, or otherwise in connection with this promise. If you file, maintain or voluntarily participate in a patent infringement lawsuit against a Microsoft implementation of such Covered Specification, then this personal promise does not apply with respect to any Covered Implementation of the same Covered Specification made or used by you. To clarify, "Microsoft Necessary Claims" are those claims of Microsoft-owned or Microsoft-controlled patents that are necessary to implement only the required portions of the Covered Specification that are described in detail and not merely referenced in such Specification. "Covered Specifications" are listed below.

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5. Seek compulsory license



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How do I obtain FTO?

- A. Legal and/or IP management strategies
- B. R&D strategies**

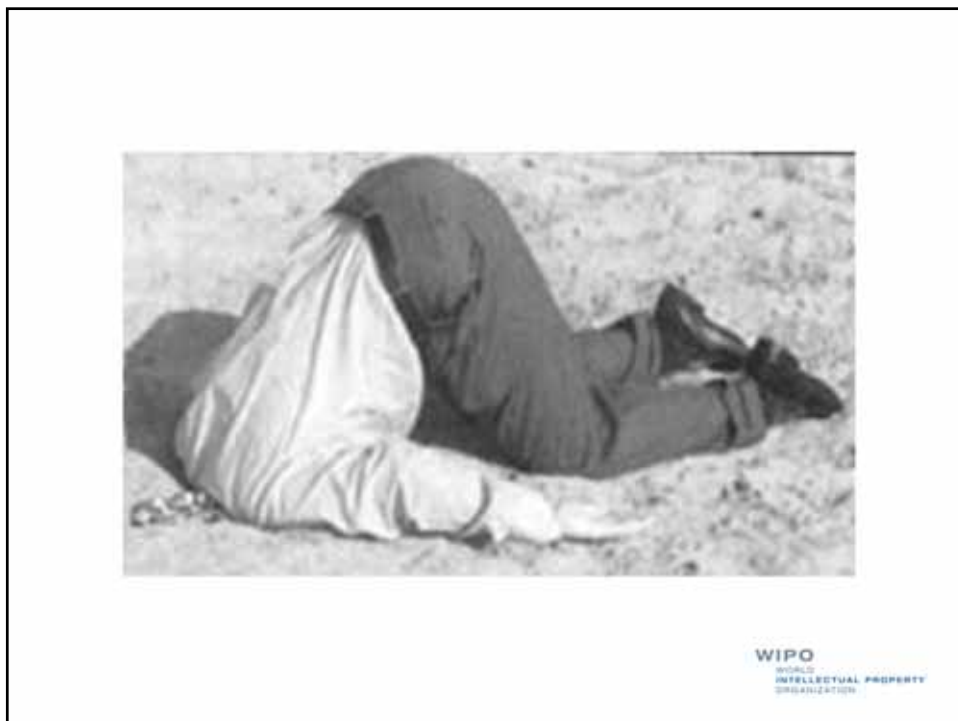


How do I obtain FTO?

- A. Legal and/or IP management strategies
- B. R&D strategies
- C. Business strategies**

8. Wait and see (or dream on)

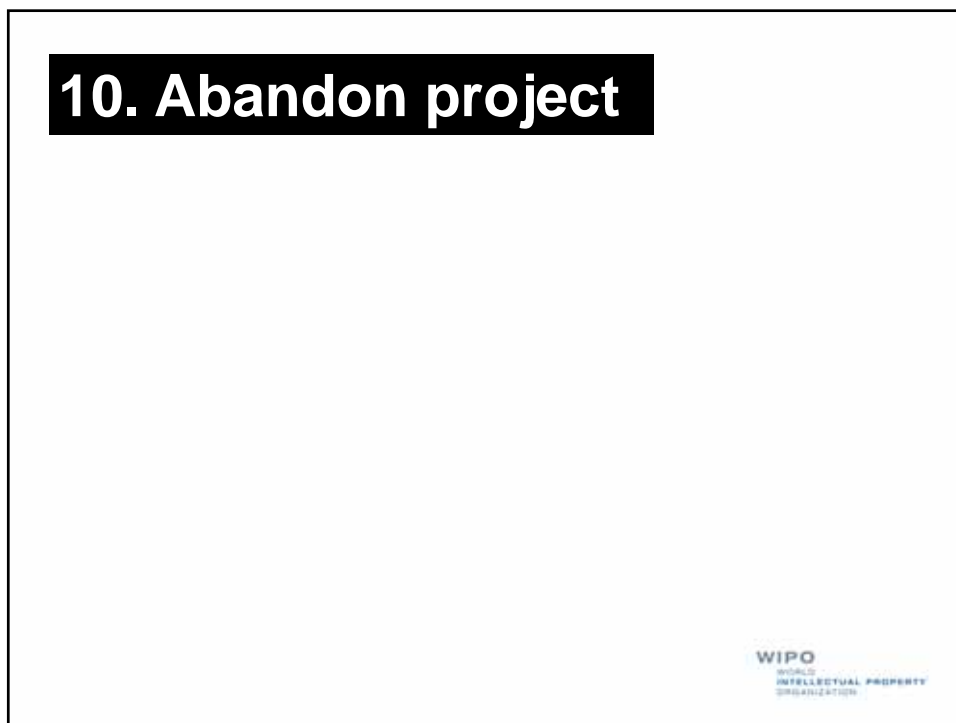




**9. Merge
or
Acquire**



10. Abandon project





→ In Practice:

**A combination of several
strategies
implemented concurrently**

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Know-how

Banana flower salad
© 2010 Food.com



Ingredients

- 1/2 cup of olive oil
- 1/2 cup of lime juice
- 1/2 cup of red onion, sliced and drained
- 1/2 cup of banana flower petals (1/2 cup)
- 1/2 cup of fresh cilantro
- 1/2 cup of fresh spinach, finely chopped
- 1/2 cup of fresh mint leaves, finely chopped
- 1/2 cup of fresh basil leaves, finely chopped
- 1/2 cup of fresh parsley, finely chopped
- 1/2 cup of fresh dill, finely chopped
- 1/2 cup of fresh chives, finely chopped
- 1/2 cup of fresh fennel, finely chopped
- 1/2 cup of fresh tarragon, finely chopped

Preparation

Bring 1/2 cup of the water to the boil in a saucepan. Add chicken breast, reduce heat to a simmer and cook for 10 minutes. Add the banana and continue simmering for 10 minutes, until cooked. Remove chicken and banana and set aside. Strain liquid.

Remove all the hard parts (heads) from the banana flower, then finely slice the petals (make sure to separate), fill the remaining with water and cook the banana flower petals for 10 minutes in a pressure cooker.

To make the dressing, combine all ingredients. One cup per 1/2 cup. 1000 calories.

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Know-how

Banana flower salad



Ingredients

- 1 1/2 cups of cooked rice
- 1/2 cup of green peas
- 1/2 cup of green beans
- 1/2 cup of green lentils
- 1/2 cup of green mung beans
- 1/2 cup of green chickpeas
- 1/2 cup of green kidney beans
- 1/2 cup of green lentils
- 1/2 cup of green mung beans
- 1/2 cup of green chickpeas
- 1/2 cup of green kidney beans
- 1/2 cup of green lentils
- 1/2 cup of green mung beans
- 1/2 cup of green chickpeas
- 1/2 cup of green kidney beans

Preparation

Bring 4 cups of water to the boil in a saucepan. Add 1/2 cup of rice. Reduce heat to a simmer and cook for 15 minutes. Add the peas and continue simmering for 5 minutes, until cooked. Remove chicken and shrimp and set aside. Drain water.

Drain the rice and mix with the other ingredients. Heat to a boil and cook for 5 minutes. Add the remaining ingredients and cook for 5 minutes. Add the remaining ingredients and cook for 5 minutes.

To make the dressing, combine 1/2 cup of olive oil, 1/2 cup of lemon juice, 1/2 cup of vinegar, 1/2 cup of salt, and 1/2 cup of pepper.

Regulatory dossiers

Data, designs, customer lists...

SOPs, lab manuals

Strains, plasmids, protein samples, antibodies...



Trade Secret





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