



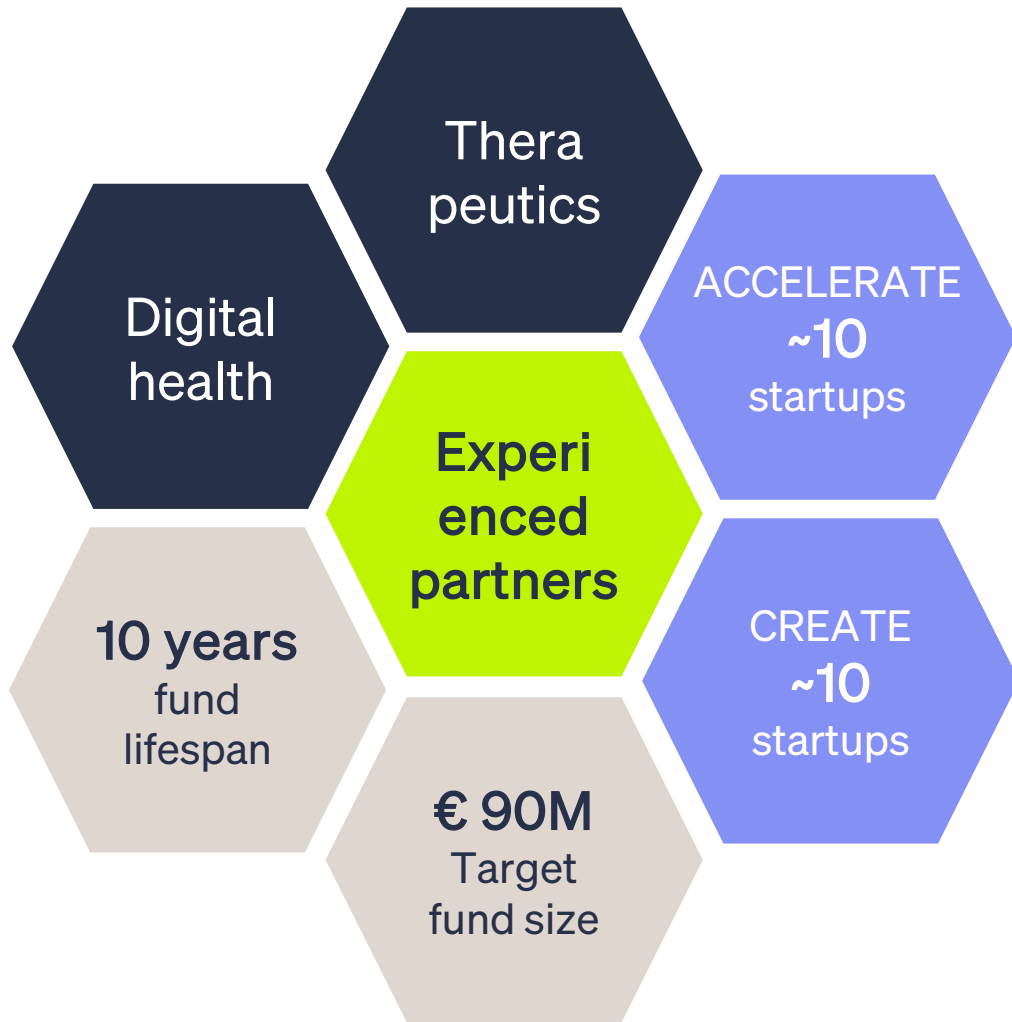
# WHY IPR MATTERS FOR INVESTORS

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# IPR - an unfair advantage

- Immaterial rights = intellectual property rights (IP, IPR)
- Negative rights -> the owner of IPR **can forbid** others to use the IPR-protected invention **commercially** (manufacturing, selling)
- The monetary value of IPR lies in its utilization
  - Utilization by the owner of IPR
  - License = user right against payment (owner commits not to sue license holder for infringement)
  - Assignment
- IPR can, when used in a clever way, bring one **significant commercial advantage**. It may offer a competitive edge, but it may also come from elsewhere (in-house knowhow, speed, accuracy, other resources...)



<https://iprhelpdesk.eu/library/IP-Charts>

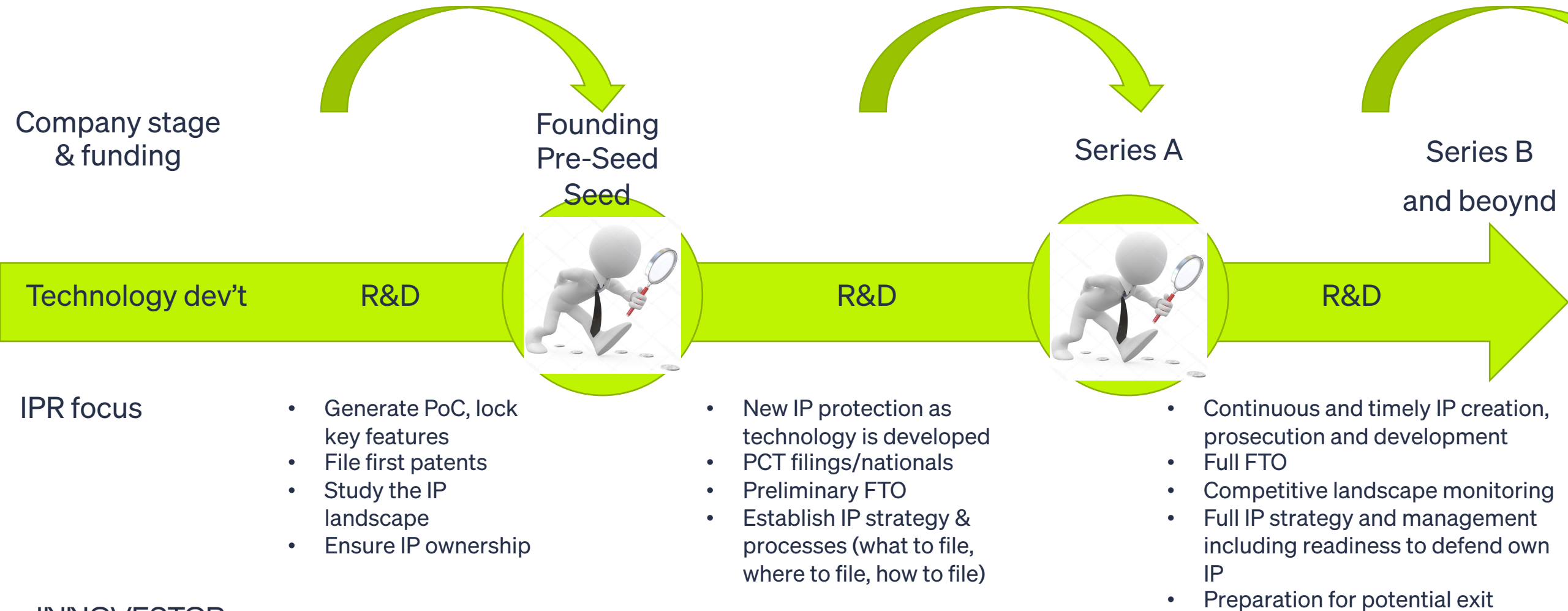


# Motivations for creating and protecting IPR

- Exclusive right for commercial utilization
  - Protecting own core business -> Be prepared to defend your IPR
  - Source of trade -> Direct IPR licensing and sales
- Value, marketing image
  - Value building of the company -> IPR is often essential for raising capital from external investors
  - IPR portfolio brings credibility internationally and enhances awareness raising

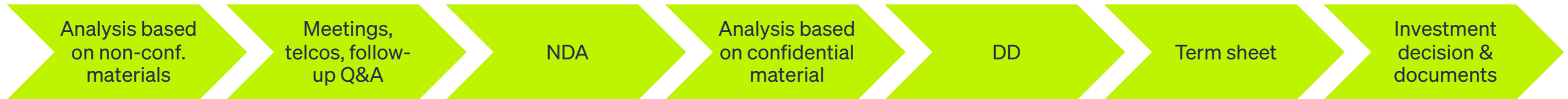
Same motivations for the spin-outs and for the investors

# IPR is constantly developed, analyzed and valued -with exit in mind



# Due diligence

## Company analysis & due diligence



### IPR DD

- Scope & coverage
- Strategy
- Document chains
- Cost
- Inventors & core team
- External parties

# IPR DD

## Scope & coverage

- Claim scope – are the key features of the technology claimed?
- Prosecution status of patent families/family members? Pending/granted?
- Office actions?
- Geographical coverage?
- Oppositions, litigations ?

## Inventors & core team

- Are inventors involved in the company?
- Expertise & willingness to contribute?
- How is transfer of rights handled?

## Strategy

- Is there IPR strategy?
- Protective vs offensive?
  - If offensive, who is the licensee?

## Cost

- Cost of filing & prosecution?
- Cost of defense?
- Cost (and content) of IP to company if transferred from university/research institute/3rd party to company (license: exclusive, non-exclusive; acquisition, in-kind)

## Document chains

- Are ownership rights transferred and documented?

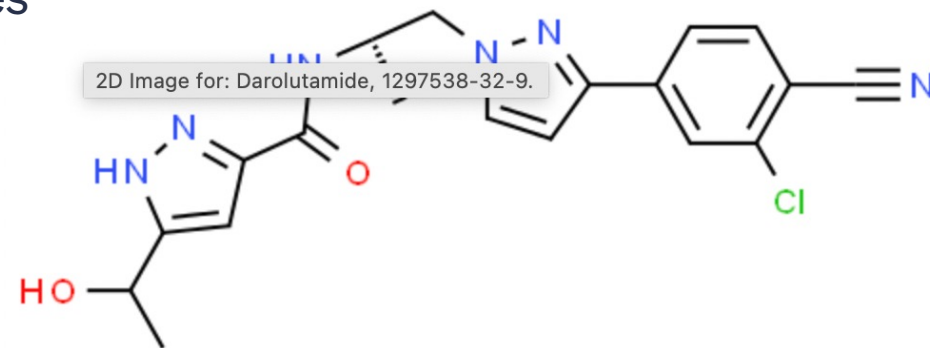
## External parties

- Technology transfer office if still inside university
- Patent agency & attorneys
- Type of expertise & agency may change as your company grows
  - Patents vs trademarks, protective vs offensive strategy, geographics

# Food for thought 1/2

## - Don't publish if you can avoid it

- Let's assume your company has identified and optimized a new chemical structure for treatment of disease X. The company has filed IP on it, so it's safe to publish the structure along the mechanistic findings on how it works, right?
- Unfortunately, if you are on to something big, the moment you publish it, you draw attention to it, and your competitors with big muscles will start to work on it.
  1. Others will take your structure under scrutiny, synthesize derivatives around it, and test them. They might discover a derivative that is better than yours.
  2. Competitors will test your compound in different kind of assays. They might discover non-favorable properties about it (difficult synthesis, doesn't work in assays X/Y/Z...) and publish the results. Not good for advancing your compound.
  3. Future buyer/licensee will not value the fact that your company has revealed everything to their competitors about the asset they are about to buy.





# Food for thought 2/2

## - Don't underestimate your competitors & be wise about your IP strategy

1. Having wrong inventors on the patent application  
-> #1 cause of patent invalidation in the US
2. Any 3rd party IPR to be taken into account? Make sure you own what you think you own. A 3rd party will not hesitate to take you to court, ruin your reputation and end any collaboration.
3. Make sure your business and your IPR rights are aligned
  1. Are the intermediate development stages of your tech protected? Are they aligned with your commercial aims? Do you actually need them?
  2. Trade secret may serve the commercial aim better than a patent application (that becomes public).



# DOs & DONTs

## DOs

- Make sure you think about IPR well in advance. Need to protect? In what format? Does it serve the the aim of commercialization?
- Be aware of the cost and needed resources
- Pay attention to the document chains
- Be prepared for IPR DD – it will surely take place

## DONTs

- File just for the sake of filing
- File too early
- Publish you crown jewels if you can avoid it
- Be afraid of seeking the best expertise for your needs
- Underestimate the competitors' willingness and resources to challenge your IPR

IPR can create a very valuable unfair business advantage - that's why investors have interest in it – but only if it has been filed on the right thing, the right time, and in the right way.

**THANK YOU**