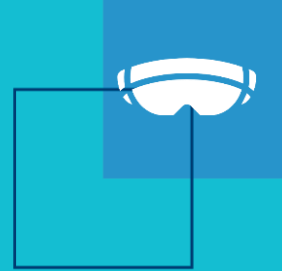


Practitioners Series Session 4: IP Management – funding, tax, protection

17 November 2021

Agenda

- 1 Innovation Supports at Enterprise Ireland – Joe Madden (Enterprise Ireland)
- 2 R&D Tax Credits / KDB – James McMahon (Director, Tax, Grant Thornton)
- 3 IP protection – David Brophy (FR Kelly Patent Lawyers)



Innovation Supports @ Enterprise Ireland

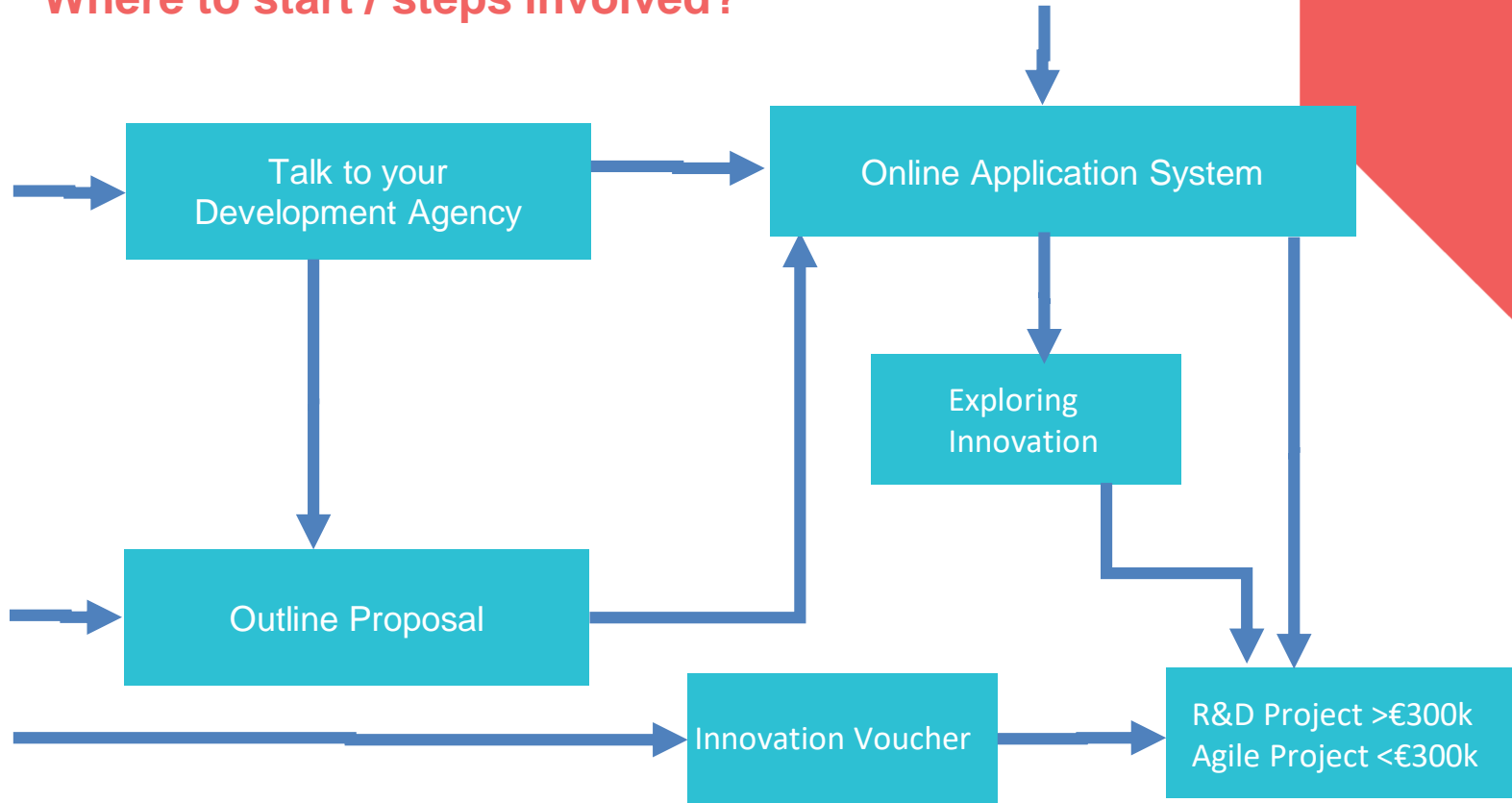
Joe Madden



**ENTERPRISE
IRELAND**



Where to start / steps involved?



Outline Proposal

- Download and fill in an Expression of interest



- Email to RandDOutlineProposals@enterprise-ireland.com

Description
Objective
Start Date
Technical challenges
Indicative Costs
Personnel costs
Overheads (30% Personnel)
Consultancy
Travel
Materials
Total Project Costs

Project Impact	Year 1	Year 2	Year 3	Year 4	Year 5
Sales					
Exports					
Employment					
Profits					

Where will the project be carried out (%)

In House	In Ireland
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Sales (€,000)	Exports (€,000)	Profits (€,000)	R&D Expenditure (€,000)	EBITDA (€,000)	Employment
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Financial supports

➤ Exploring Innovation Offer

- 50% Grant
- €70K Project

➤ Agile Innovation Fund and R&D

➤ IP Strategy Support

- IP Start 80% grant on €2.7k
- IP Plus 50% grant on €70k

➤ Innovation Voucher €5k paid to HEI on Client's behalf

Company size	Small	Medium	Large
Grant rate	45%	35%	25%



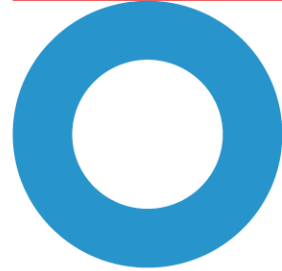
Process Development Financial supports



- Digitalisation Voucher €9k paid to independent consultant to advise on Innovation process

-
- Agile Innovation Fund –Business Innovation

50% grant support to SMEs for Process, Service and Business Model Development including Digitalisation



Contact us to discuss further:

- Email: rdcoreunit@enterprise-ireland.com
- R&D Helpline: 01 727 2120
- RD&I [website](#)
- Agile Innovation Fund - [sample application and Project Plan](#)
- Read our client RD&I [case studies](#)



Innovation comes in many shapes.



We have a support for them all.

Enterprise Ireland's innovation supports allowed Marco Beverage Systems to develop products that are up to 70% more energy efficient compared to global competitors.

Right now, we have a new range of supports and programmes to help companies to respond to challenges like Brexit and develop new market opportunities.

For details of our full range of innovation supports, visit ambition.enterprise-ireland.com

#GlobalAmbition



R&D Tax Credits



R&D Tax Credit Regime

- **€25 for every €100** spent on R&D – S.766 (2) TCA 1997
- offset against corporation tax - S.766 (2) TCA 1997
- available as a **cash refund** - S.766 (4B) (a) TCA 1997
- in addition to trading deduction
- **key employee** reward mechanism – R&D staff effectively receive part of remuneration tax free (certain criteria apply)
- S. 472D TCA 1997

5 Key Requirements

Systematic,
investigative or
experimental
activities

Revenue
approved field
of science or
technology

I. Basic
research
II. Applied
research
III. Experimental
development

Involve the
resolution of
scientific or
technological
uncertainty

Seek to achieve
scientific or
technological
advancement

R&D Tax Credit – Qualifying expenditure

Eligible expenditure includes:

- employee costs
- plant & machinery
- buildings
- materials
- overheads
- outsourced R&D

incurred **wholly and exclusively**:

- in the **carrying on**
- by the company of **qualifying R&D activities**



Case Study

We provided assistance with the calculation and preparation of an R&D tax credit report for a software company engaged in qualifying R&D activities.

Having assessed their operations, we determined that there was qualifying expenditure of €400,000, giving rise to an R&D tax credit of €100,000 which the business received by way of a cash payment from Revenue.

R&D tax credit calculation	€
Wages	330,000
Laptop	5,000
Subcontractors	65,000
Qualifying expenditure	400,000
R&D tax credit	100,000
<i>Corporation tax liability</i>	<i>Nil</i>
Remaining available as cash refund	100,000



Knowledge Development Box



Knowledge Development Box

- A Tax Rate of 6.25% will apply to profits arising from certain Intellectual Property assets which are the result of qualifying R&D activity carried out in Ireland
- Qualifying IP assets are patented inventions and copyrighted software
- Encourage companies to develop IP in Ireland that have a high “value add” for the economy



How it works



1 Step 1 – undertake qualifying R&D

2 Step 2 – protect your IP created through R&D

3 Step 3 – generate profits from that IP

4 Step 4 – profits taxed at a rate of 6.25%

Example

- Med Tech Ltd:
- Company A, an Irish Indigenous SME.
- Incurred €500k on its own R&D activity relating to the development of a qualifying asset.
- Net profits of €1m relating to the qualifying asset.
- An extra tax deduction of €500k is therefore available (50% of the qualifying profit).
- Without the KDB, the corporation tax payable would be €125,000 (€1m of net profit x 12.5%).
- With the extra tax deduction, the corporation tax payable is €62,500 (€1m net profit, less €500k additional tax deduction = €500k of taxable income x 12.5%).
- Effective tax rate on qualifying income is 6.25%.

THANK YOU

Protecting your Intellectual Property



David Brophy - FRKelly

What is Intellectual Property (IP)?

Trade Marks

- Brands & logos

Patents

- Technical inventions

Design Rights

- How products look

Copyright

- Creative works & program code

Why have IP assets?

Protection

Deterrent

Licensing

Tax relief (KDB)

Support R&D claim

Asset building

Attract investment /
purchaser

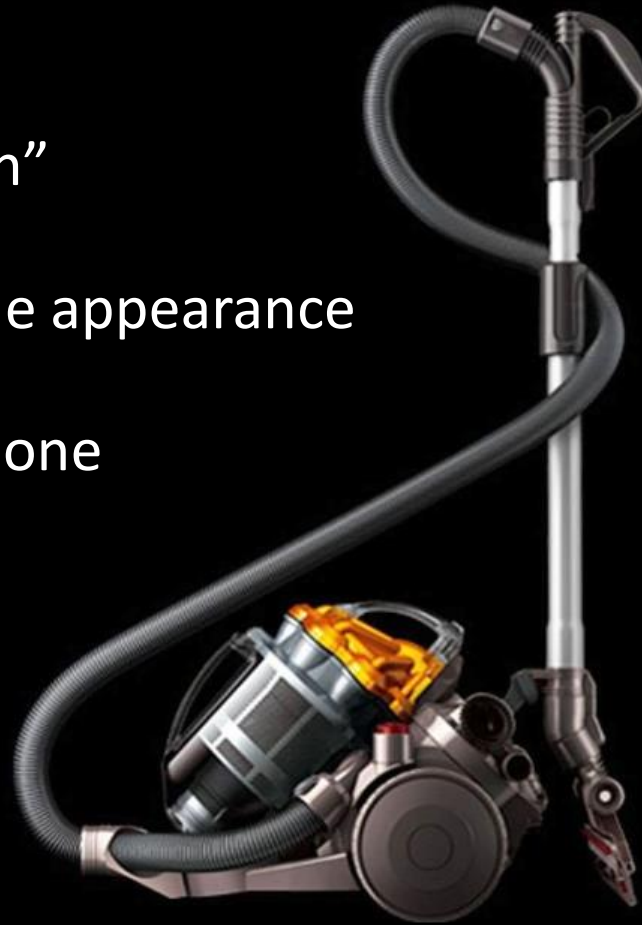
One product –
Multiple IP rights



“It’s a Dyson”

Has a unique appearance

Bagless cyclone



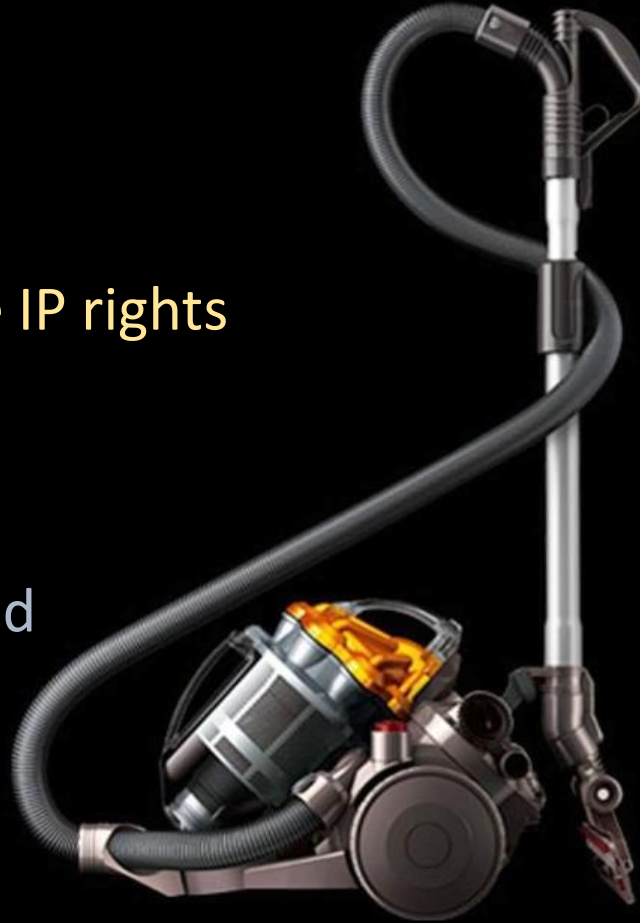
Trade Mark

Design

Patent

Registrable IP rights

Unregistered rights



Trade Mark

Design

Patent

Copyright

Know-how

1. Trademarks



Different kinds of TM right

Registered TM

- Crystal clear who owns it
- Can be enforced immediately

Unregistered TM

- Uncertain if you have rights
- Infringement less clear
- Especially difficult for young companies

Business name

- Can't prevent use of similar name by another
- Having it does not imply right to use it

Words, letters & numbers

Google

Toyota

Coca-Cola

Vodafone

IBM

AT&T

XBOX Series X

S20 Edge

Big Mac

Penguin

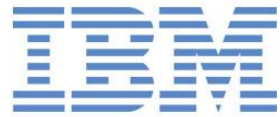
HSBC

Tetris

Hewlett Packard

Apple

Logos



TOYOTA



You can't register

Generic terms

- "LAPTOP" for computers

Descriptive terms

- "APPLE" for jam

Commonplace images

- Image of a cow for dairy products

Descriptive numbers

- "2015" for wines

Procedure

Get clearance against earlier
TMs



Decide on goods & services

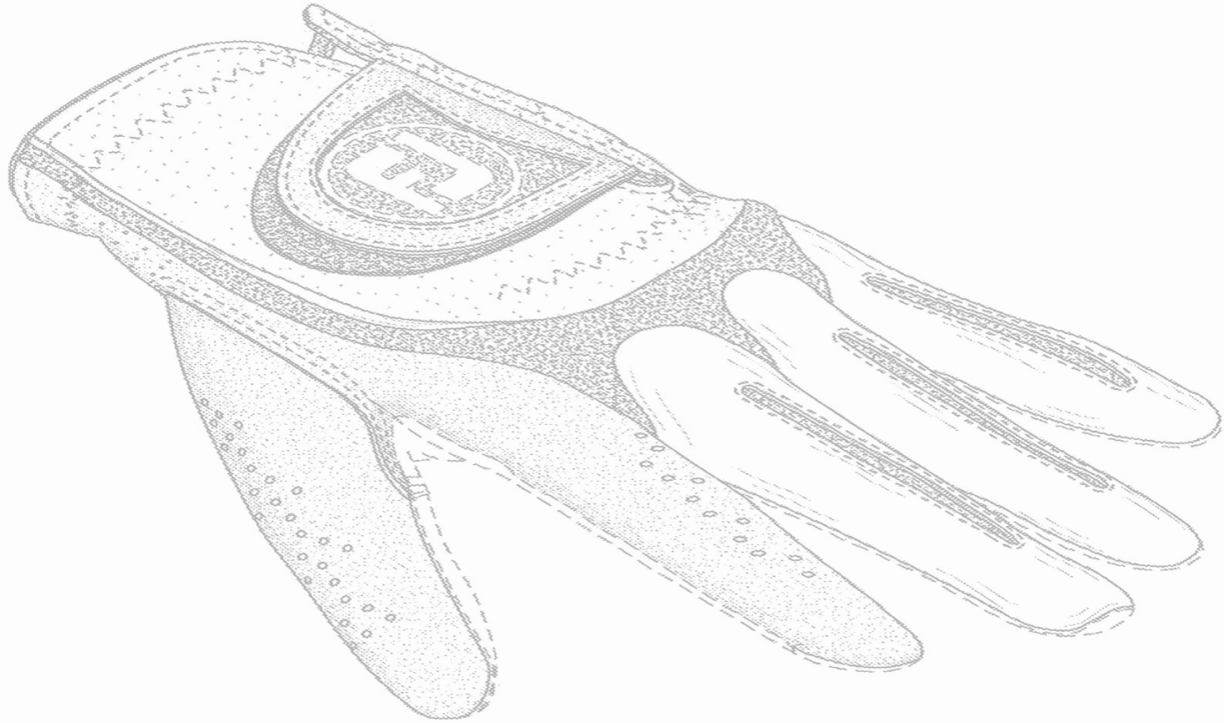


Apply to register in e.g.
Ireland/EU/UK



File in other countries as your
markets expand

2. Designs



Design Rights

Protect appearance of products

- Product looks different to existing designs

Registered & unregistered protection

- 25 years (reg.) vs 3 years (unreg.)

Easy to get

- Low cost and quick protection

Traditional Design Registrations

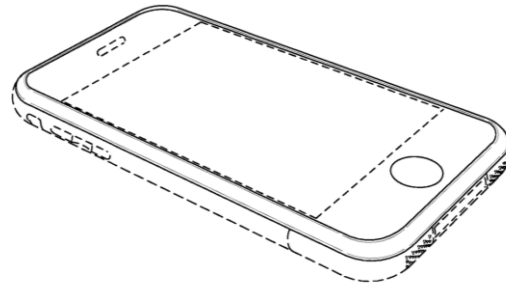


FIG. 1

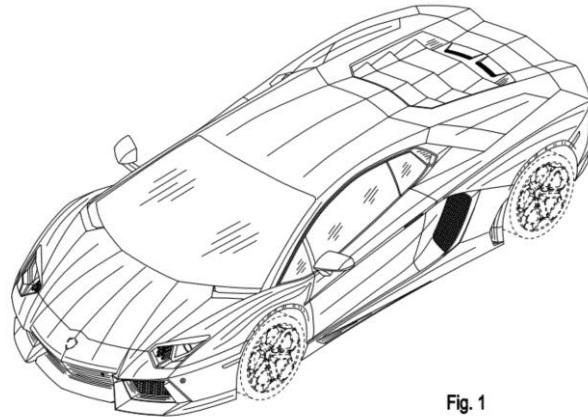


Fig. 1

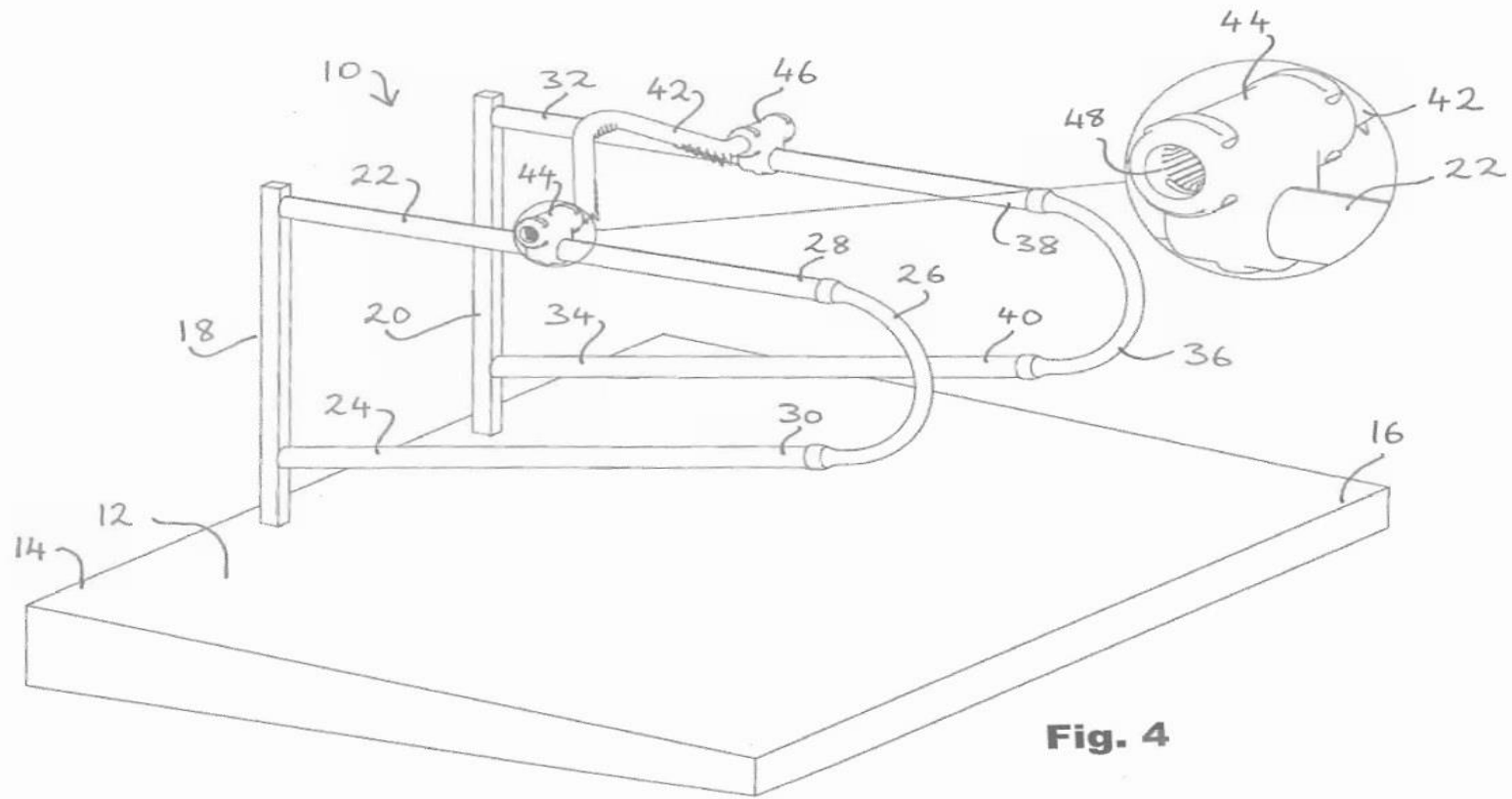
DIGITAL DESIGNS



imgflip.com



3. Patents



Patents

Inventions

- Products or processes
- All fields of technology

Technical

- Not available for business methods
- Not available for abstract ideas

Novelty

- Not already known
- You haven't disclosed it yourself

Inventive step

- Not obvious
- Solves a technical problem

Any disclosure or sale
before your filing date
is fatal



Including
your own!

- No sales
- No publications
- No verbal disclosure
- No public use
- No public testing



Until you
file your
patent
application

Disclosure & novelty

Trials, sales, public uses can all destroy novelty

No patent if invention “made available to the public” before you file

Confidential disclosure OK (but can be risky)

Only disclose under NDA

Disclose as little as possible

Deciding if you can get a patent

Is it a technical invention?

No

Have you disclosed it
(except under NDA)?

No

Have you solved a problem w.r.t
the closest known technology?

Yes

Consult with patent attorney

Final thoughts

The most important thing is not to file for IP, but to make a timely decision on filing or not

Consider if you need IP, but also if an investor will expect you to have it

Getting IP protection does not commit you to enforcing it in court

It costs nothing to talk to us ... and we want to talk to you

Thank you



d.brophy@frkelly.com

Thank you

Questions



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