



TaylorWessing

# Early Stage IP Protection

Life Sciences Start-Ups Coffee Break #2

February 21, 2024 | Dr. Anja Lunze, Tobias Baus







# Agenda

- 1 Overview and types of IP
- 2 Why IP?
- 3 What, when and how costly?
- 4 Pitfalls and takeaways



# 1 | Overview and types of IP

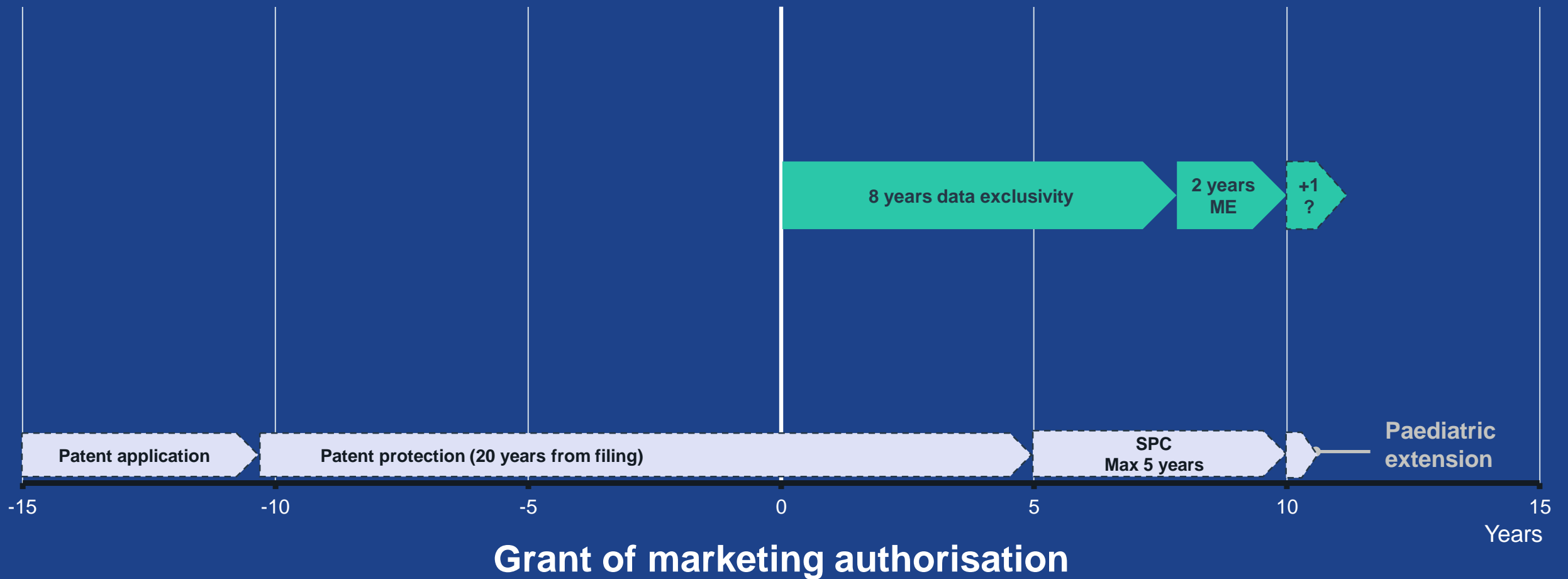
# What is IP?



Exclusive rights

Trade secret protection

# Patent, Supplementary Protection Certificate & Data/market exclusivity



# Third party vs. own IP

Third parties' IP

Freedom to Operate (FTO)

Go!

License? Acquire?

Design around?

Leave it

Own IP

Why?

What?

When?

Costs?



## 2 | Why IP?

# Why IP protection?

## Pro

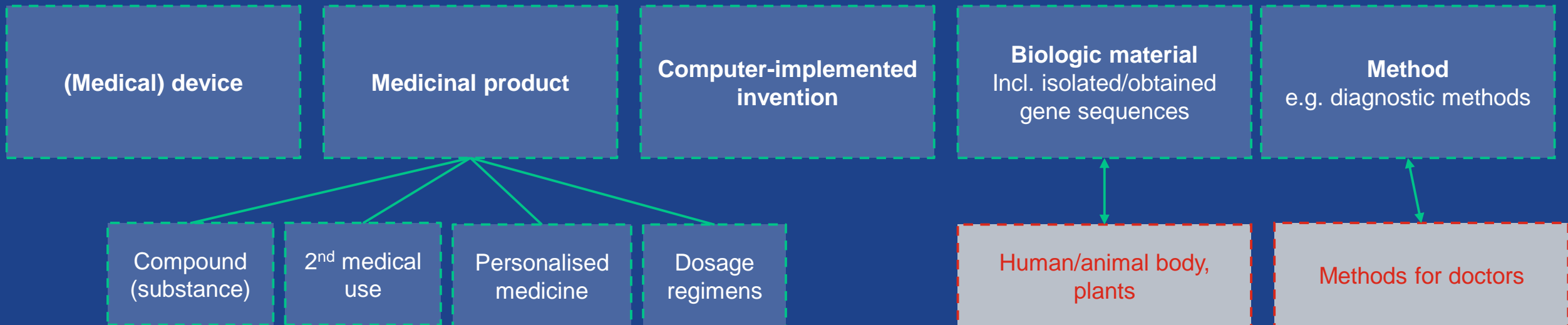
1. Obstacles for competitors  
(re own product & beyond)
2. Building a strategic patent portfolio
3. Start-up funding and valuation
4. Monetization of IP

## Con

1. Costs
2. Patent applications published after 18 months and in public domain after 20 years
3. → Alternative: Trade secret protection

# 3 | What, when and how costly?

# What can be protected?

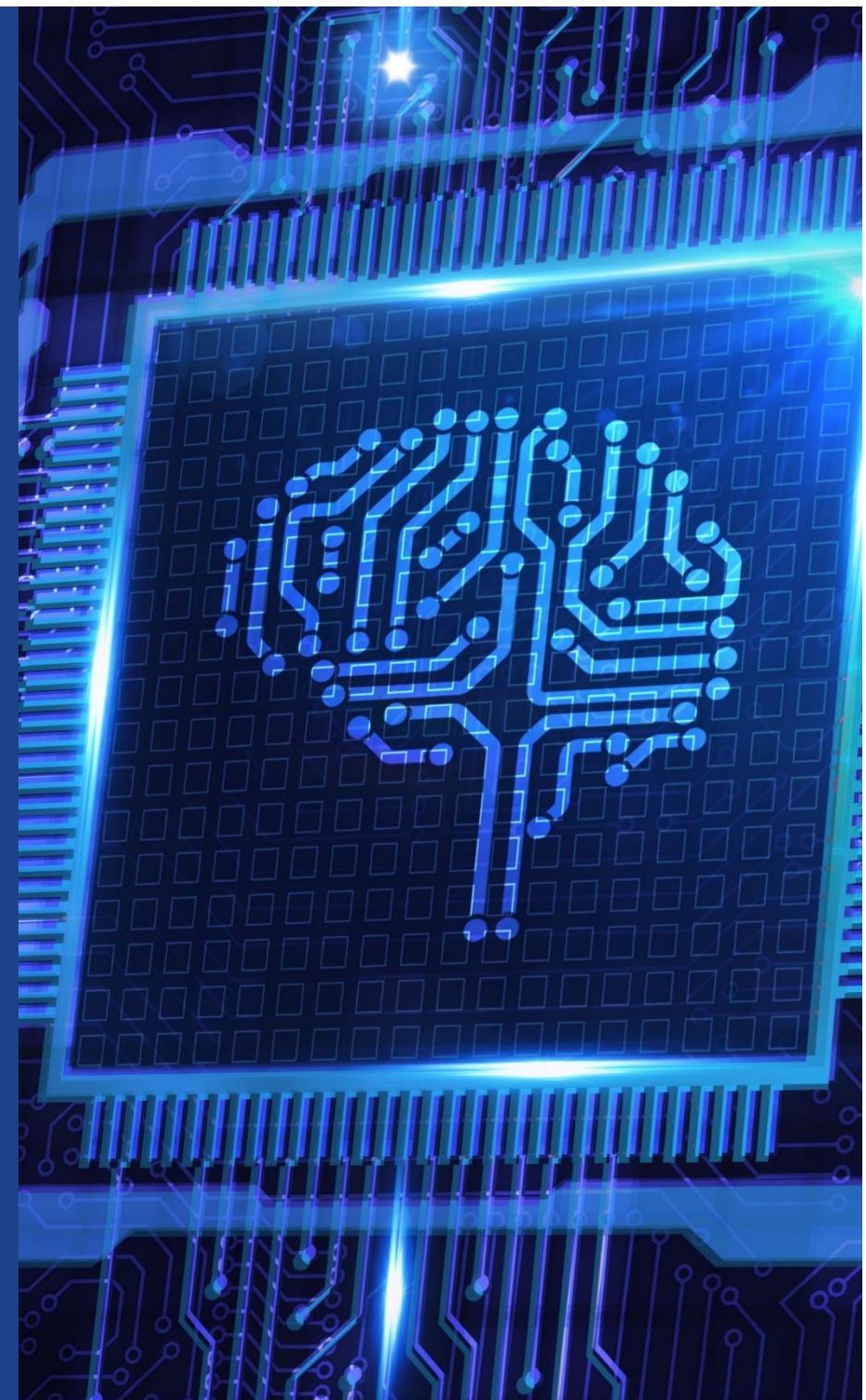


## Patentability requirements

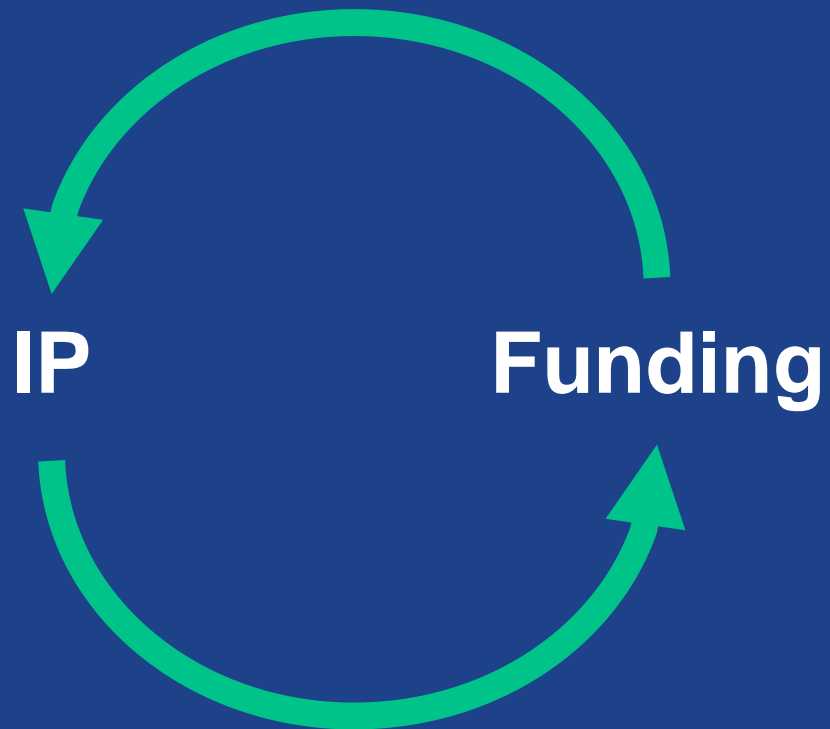
1. New
2. Inventive
3. Technicity
4. No exception

# When to protect?

- The sooner the better?
- If I get data exclusivity – why patent?



# Costs: Chicken or egg?



# Growing with IP



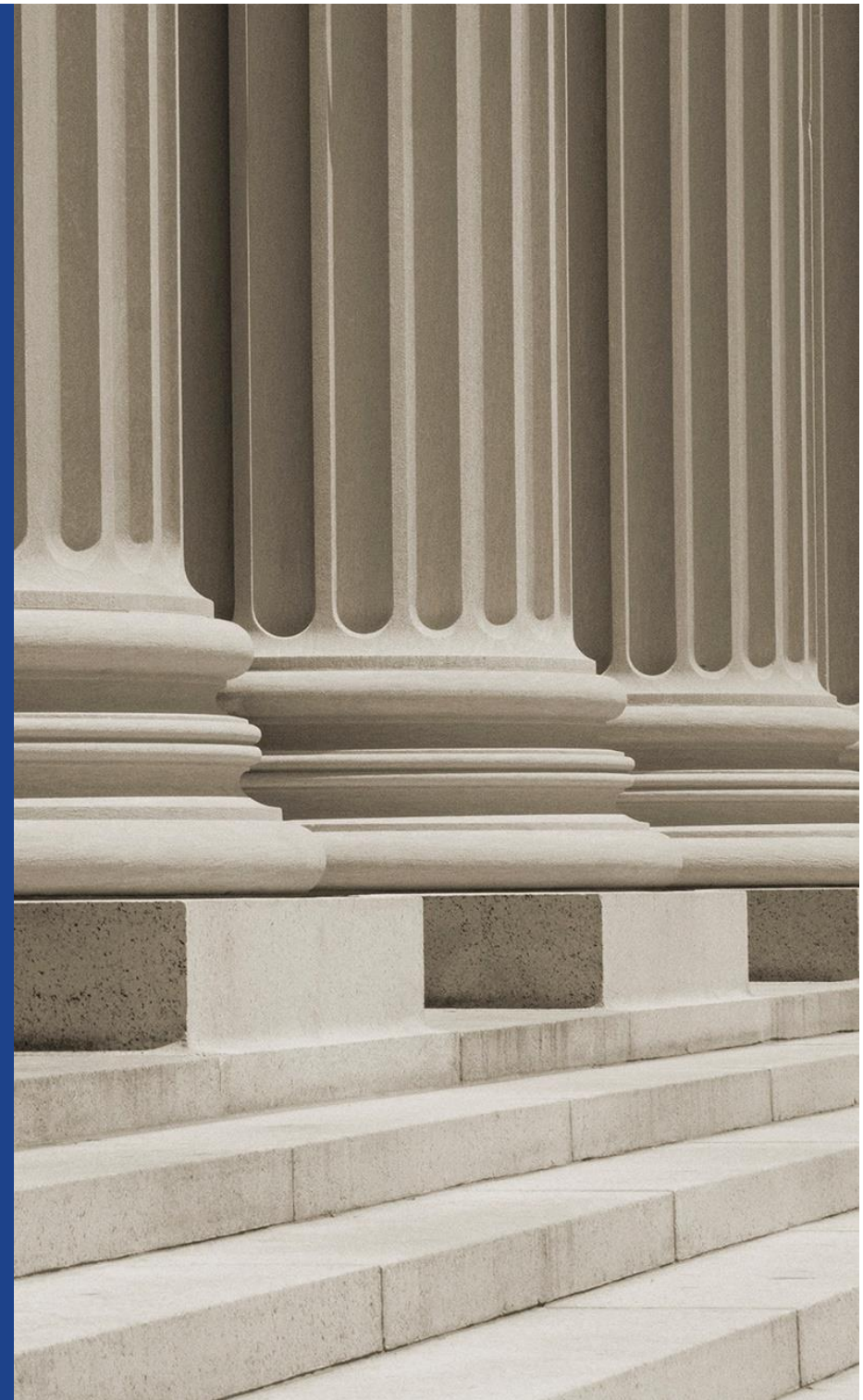
# IP ownership

## Particularly for uni spin-offs: IP transfer

Ownership of IP?

### IP transfer models

- IP assignment against payment
- IP license against payment
- IP for shares





# 4 | Pitfalls and takeaways

# 5 biggest pitfalls



Your competitor sues you for infringement and you have **no own patents to assert in return**



You determine on product technology or brand design before **avoidable IP issues** pop up



**You protect too late**

- your competitors were faster to create prior art
- your researchers' own publications are novelty destroying prior art



You think your **know-how protection** (legal/technical) is sufficient and then

- an employee leaves on bad terms...
- your IT systems gets hacked



Your **R&D cooperation agreements** have unfavourable IP provisions

when IP hits  
you, it's too late  
to start giving it  
attention



# 5 take home messages



Find your matching IP strategy and get **proper protection**

- scope of protection + geographic scope



**Own your IP** – ensure transfer of ownership from collaborators, researchers, PhD students,...



**Proper FTO** saves your business model

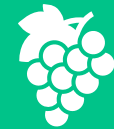


**Start early** and have the **right people** for IP advice– internal/external, (inter)national experts




Plan enough budget for your IP strategy – and use IP to acquire **funding**

Early stage IP  
pays off



# Questions and discussion





**21 March 2024 – 10 am**  
**Session #3**  
**Tips and tricks for your  
financing round**

**Dr. Niclas von Woedtke**  
(IG Life Sciences & Healthcare, Taylor Wessing)

# Speaker



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