

# Patents, Access to Medicines and Covid-19

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Intellectual property rights  
reward human creativity and  
innovation, which fuel the  
progress of humankind

# IP Categories

- **Copyright**
  - Literary works; novels, poems and plays
  - Artistic works; drawings, paintings, photographs, sculptures and architectural designs
- **Industrial Property**
  - Patents for inventions
  - Trademarks
  - Industrial Designs
  - Geographical Indications

# PATENTS

A patent is an exclusive right to exploit invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem.





- Patent provides its owner a right to use, sell, license and exclude others from making, using, distributing selling or importing the invention
- 20 years exclusivity

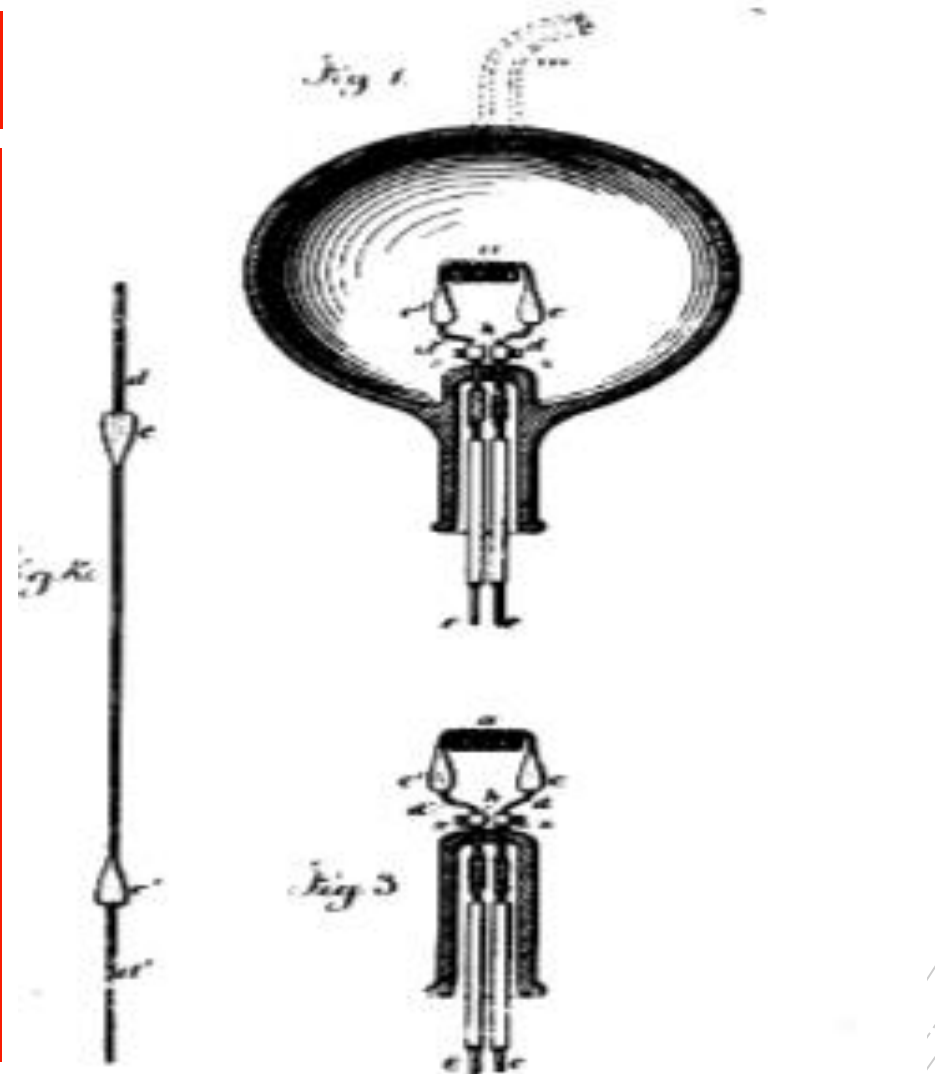
## Patent Theory

A contract between  
the inventor  
& the Government



## What are the patentability requirements?

- Novelty
- Inventive Step or Non-Obviousness
- Industrial Applicability



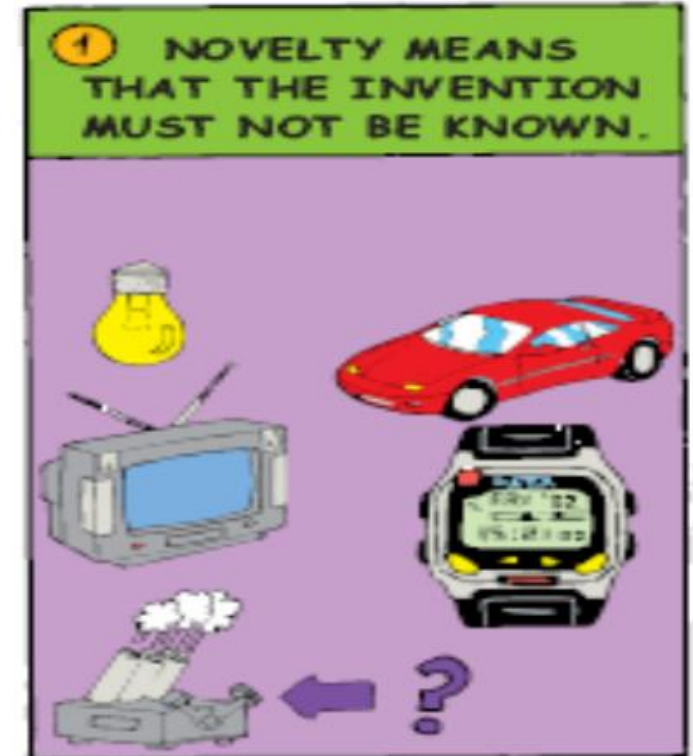
Thomas A. Edison

per Lemuel W. Seaton

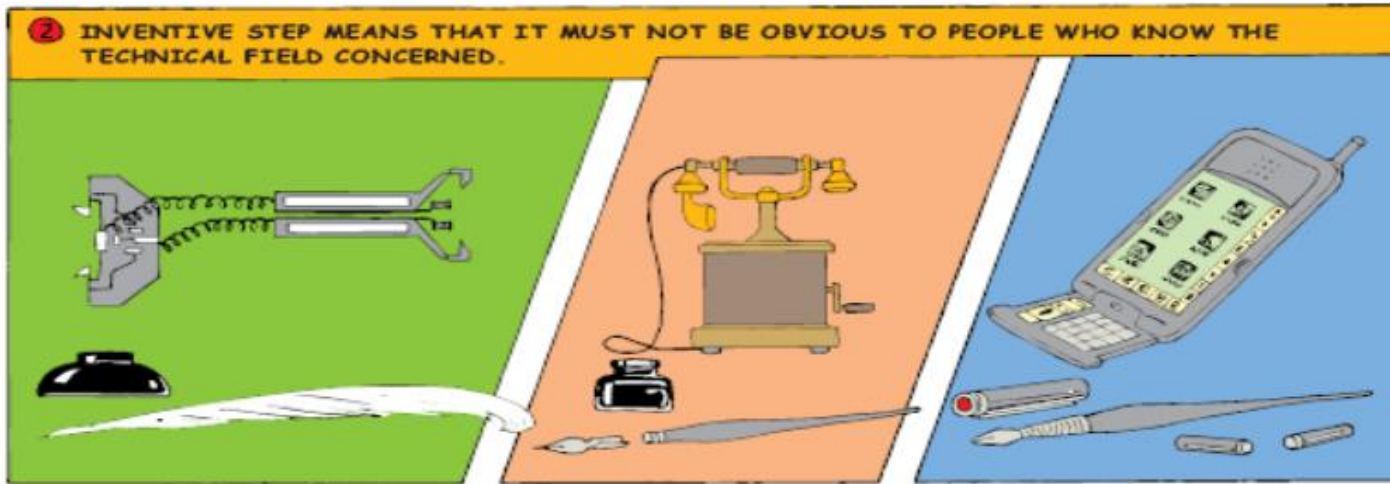
# Patentability Requirements

## Novelty

Is the claimed invention disclosed anywhere in the prior art?





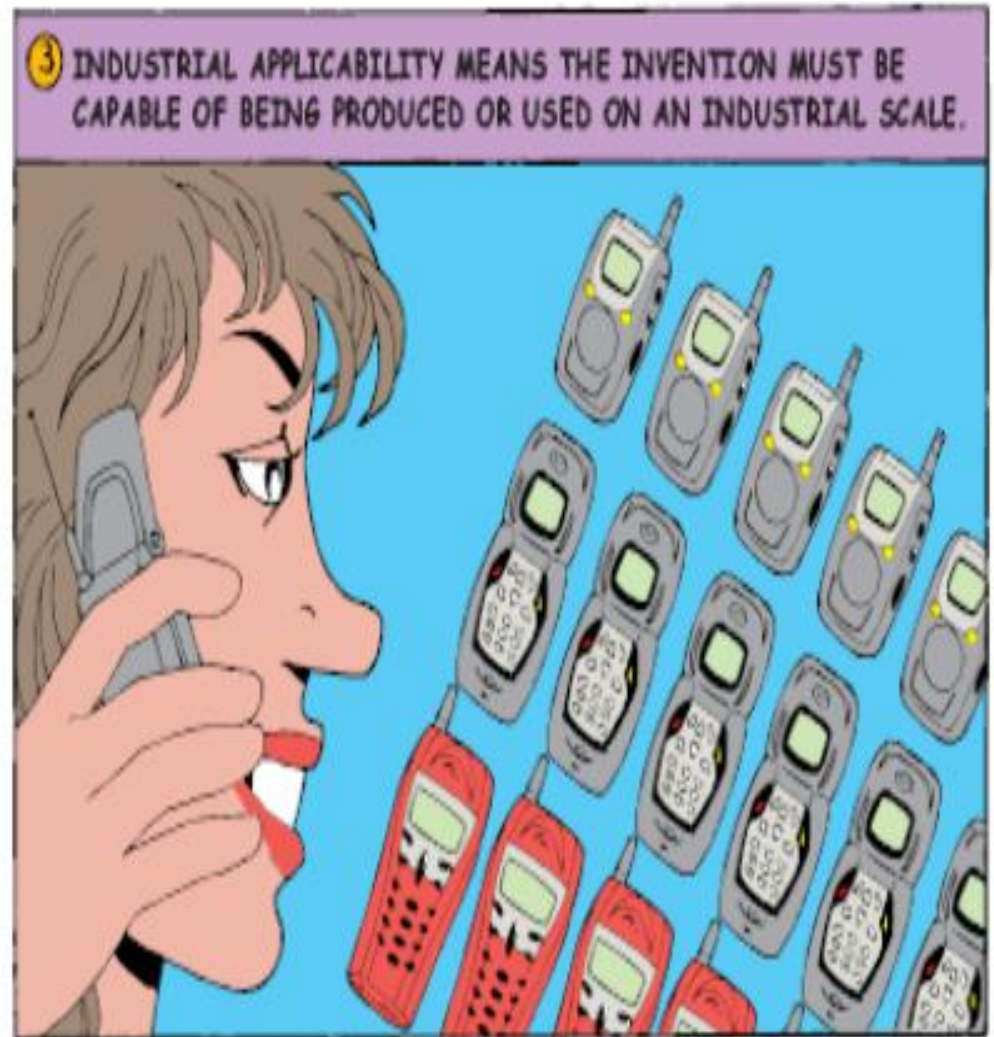


## Inventive Step

Even if new and novel, would the claimed invention have been obvious to one skilled in the art at the time of the invention?

Industrial Applicability  
= Usefulness

Does the invention really do anything and, if so, does it solve the problem it is designed to solve?



# The TRIPS Agreement

- The Agreement on Trade Related Aspects of Intellectual Property Rights introduced intellectual property rights into international trading system.
- It is administered by the WTO
- Internationally uniformed and harmonized regime



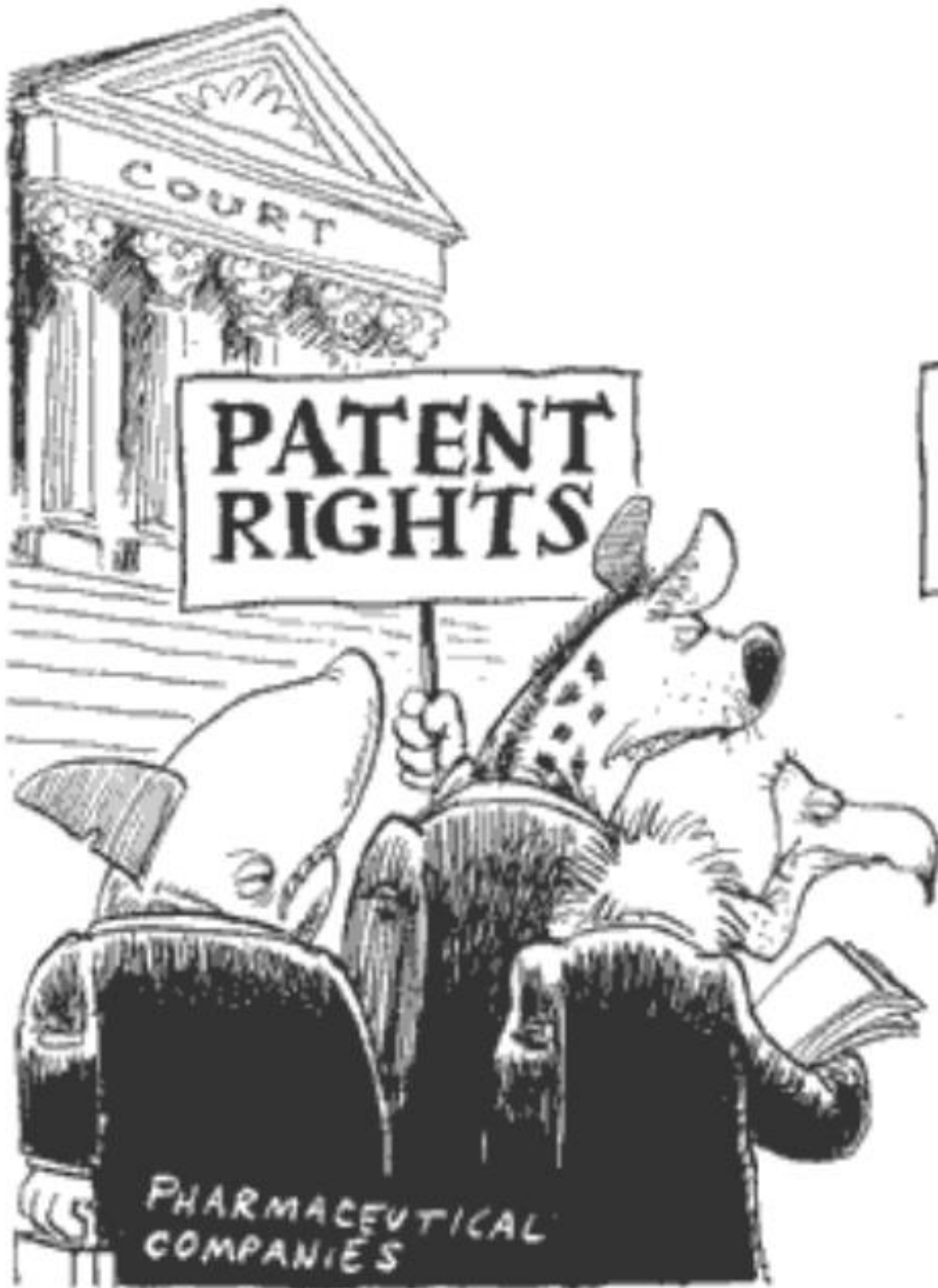
# TRIPS

## Trade **Related Intellectual Property Rights**

- Constitution like” agreement in reaching into the nation-state assuring rights to individuals
- Sets out minimum standards of protection to be provided by each member
- Dispute settlement system for trade disputes over intellectual property rights

# Highlights of TRIPS

- **Patent** must be available for inventions, for at least 20 years, for both products and processes, **in almost all fields of technology**
- Too much protection and harmonization (not necessarily a good thing)
- **Patents in pharmaceuticals = increased healthcare costs**
- TRIPS recognizes that IP protection must be balanced against public health needs – in order to prevent abuse of exclusive rights or to meet national emergencies, “compulsory licenses” may be granted




PATIENT RIGHTS!





# Post-TRIPS

- **Doha Declaration**
  - agreed that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health
  - underscored countries' ability to use the flexibilities that are built into the TRIPS Agreement
- **TRIPS- Plus**
  - Bilateral pressure – US, EU, JP
  - Obligations going beyond the TRIPS regime
  - Eliminate TRIPS flexibilities
  - Close TRIPS loopholes

A microscopic image of a coronavirus particle, showing its characteristic red, spiky surface and greyish core. A large red rectangular box is overlaid on the left side of the image, containing white text. The text is centered within the box and reads "Access to Medicines & Covid-19".

## Access to Medicines & Covid-19

- Access to affordable medicines is one of great concern to developing countries whose health-care systems are often overwhelmed by HIV/AIDS and other infectious diseases
- Covid-19 presents new challenges
- There is no cure, treatment or vaccines available for Covid-19 now



## COMPULSORY LICENSES




- **Israel:** CLs on Kaletra (AbbVie)
- **Chile:** Parliamentary Resolution justifying CLs
- **Ecuador:** Parliamentary Resolution to issue CLs
- **Canada:** Amended its law
- **Germany:** New legislation
- **France:** New legislation



## **COVID-19 Principles for Global Access, Innovation and Cooperation**

- COVID-19 has no nation and no ethnicity. If the pandemic goes unattended in one country, it will accelerate beyond that country's borders, potentially overwhelming the world's ability to respond.
- Nationalistic responses to COVID-19 are ineffective. Countries must urgently work together to ramp up the production of all medical countermeasures,



# **COVID-19**

## **A TIME FOR SOLIDARITY AND RESILIENCE**

- **Innovation for all**
- **Access for all**
- **Solidarity and global cooperation**
- **Good governance and transparency**

**[Read COVID-19: Principles for Global Access, Innovation and Cooperation](#)**

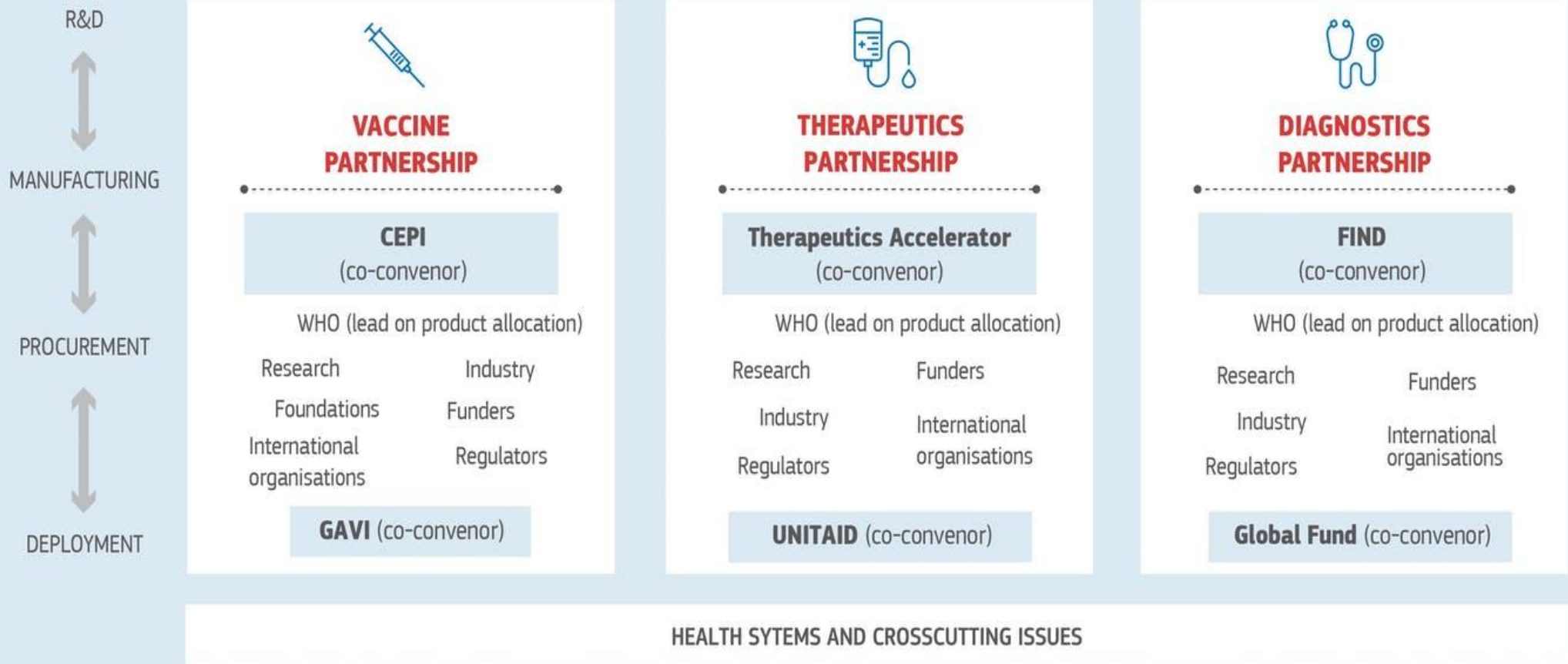
# ACT-ACCELERATOR GLOBAL RESPONSE TO COVID-19

Proposal for collaborative framework

01 May 2020  
Draft - Work in progress

G20 + AU + APEC + WHO + World Bank ++

Facilitation group to oversee and report progress, mobilise resources and engage with stakeholders  
Public sector and private not-for-profit partners, supported by coordination hub at WHO



# THANK YOU!! Any questions??



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