



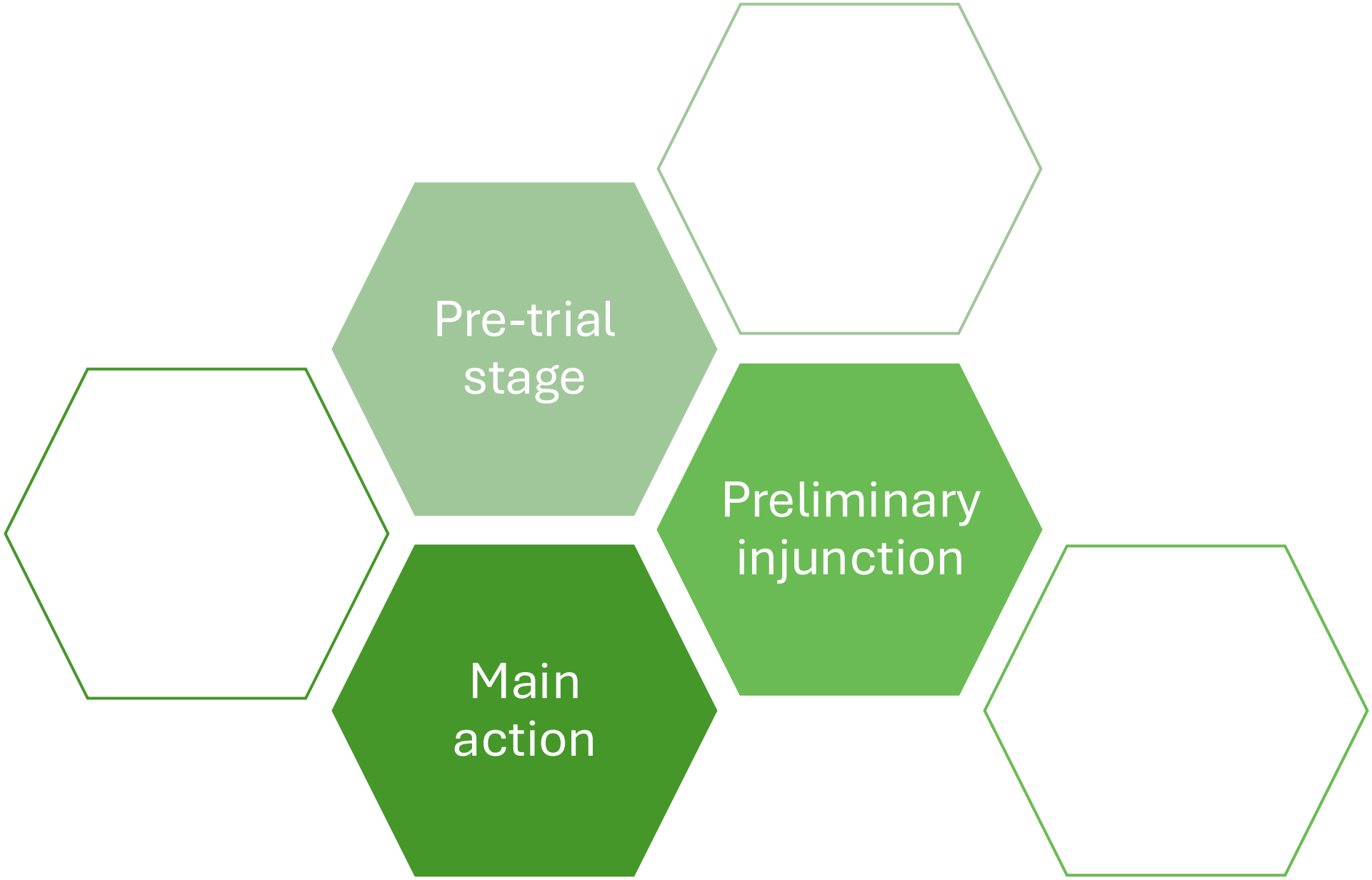
Litigating pharmaceutical trade marks in Germany

Key procedural features

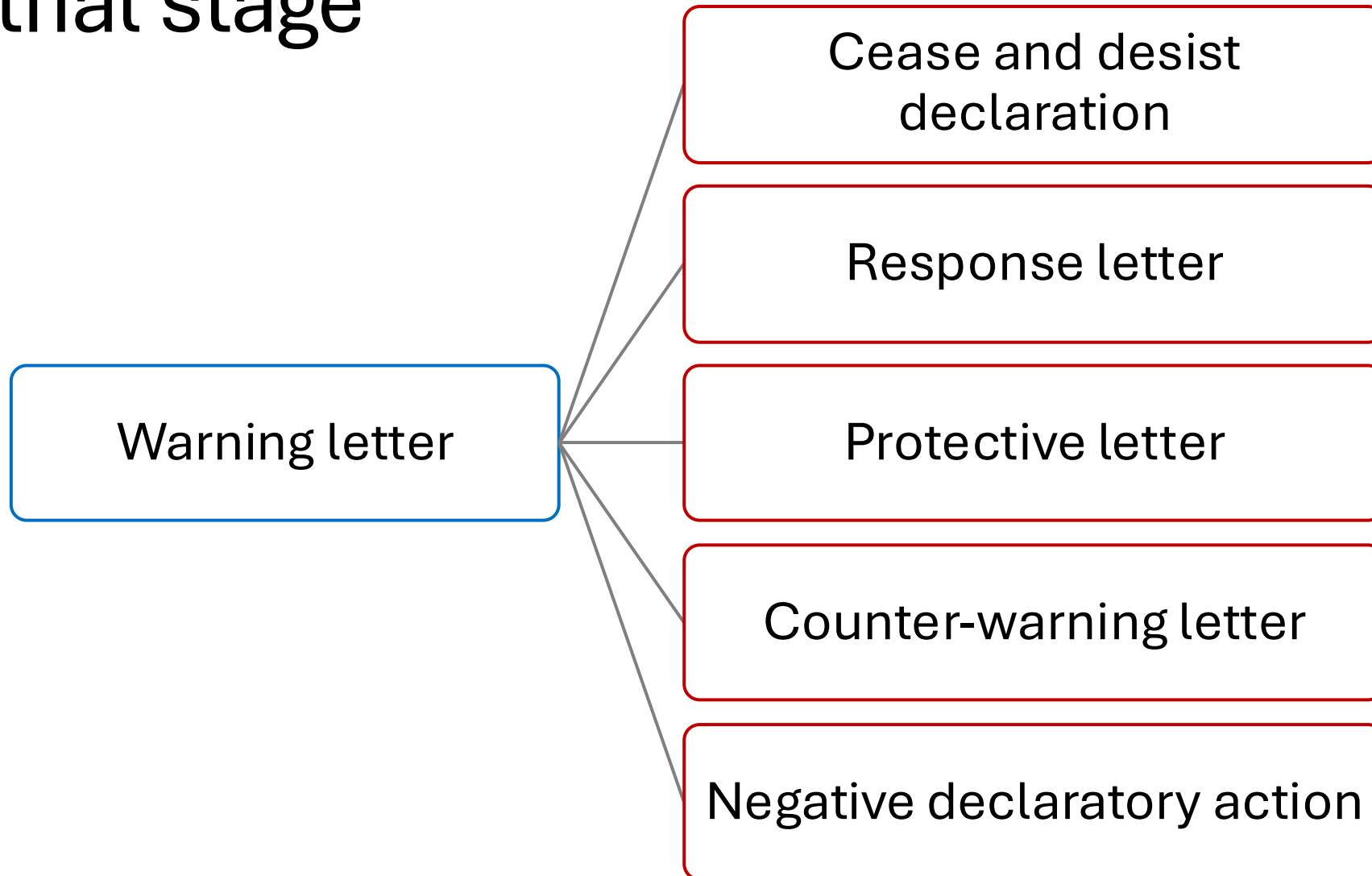
Thomas Tresper



- Blue Pharma owns EU trade mark registration for “Blue”
- Red Import listed product “Blue” in medicinal products database



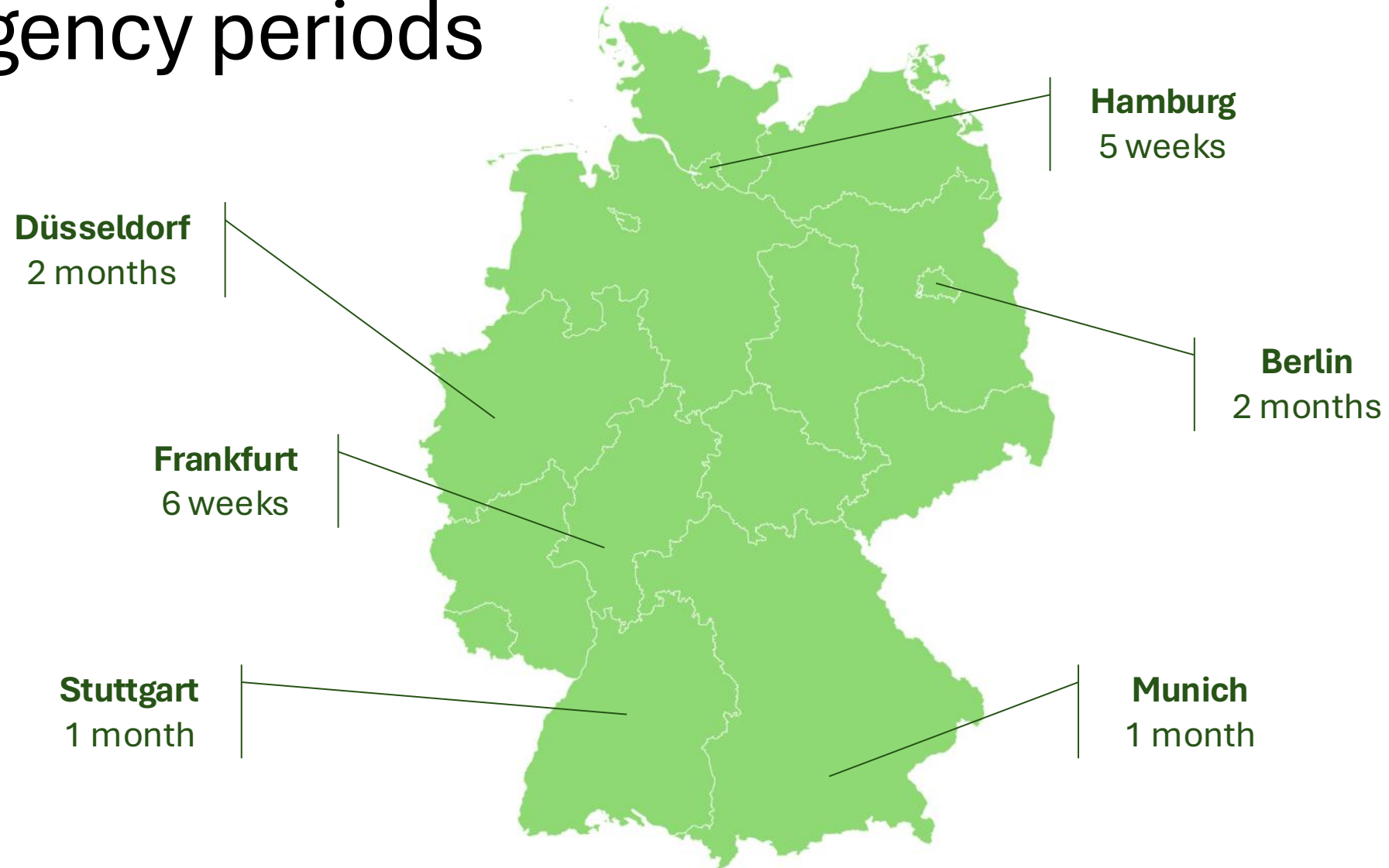
Pre-trial stage

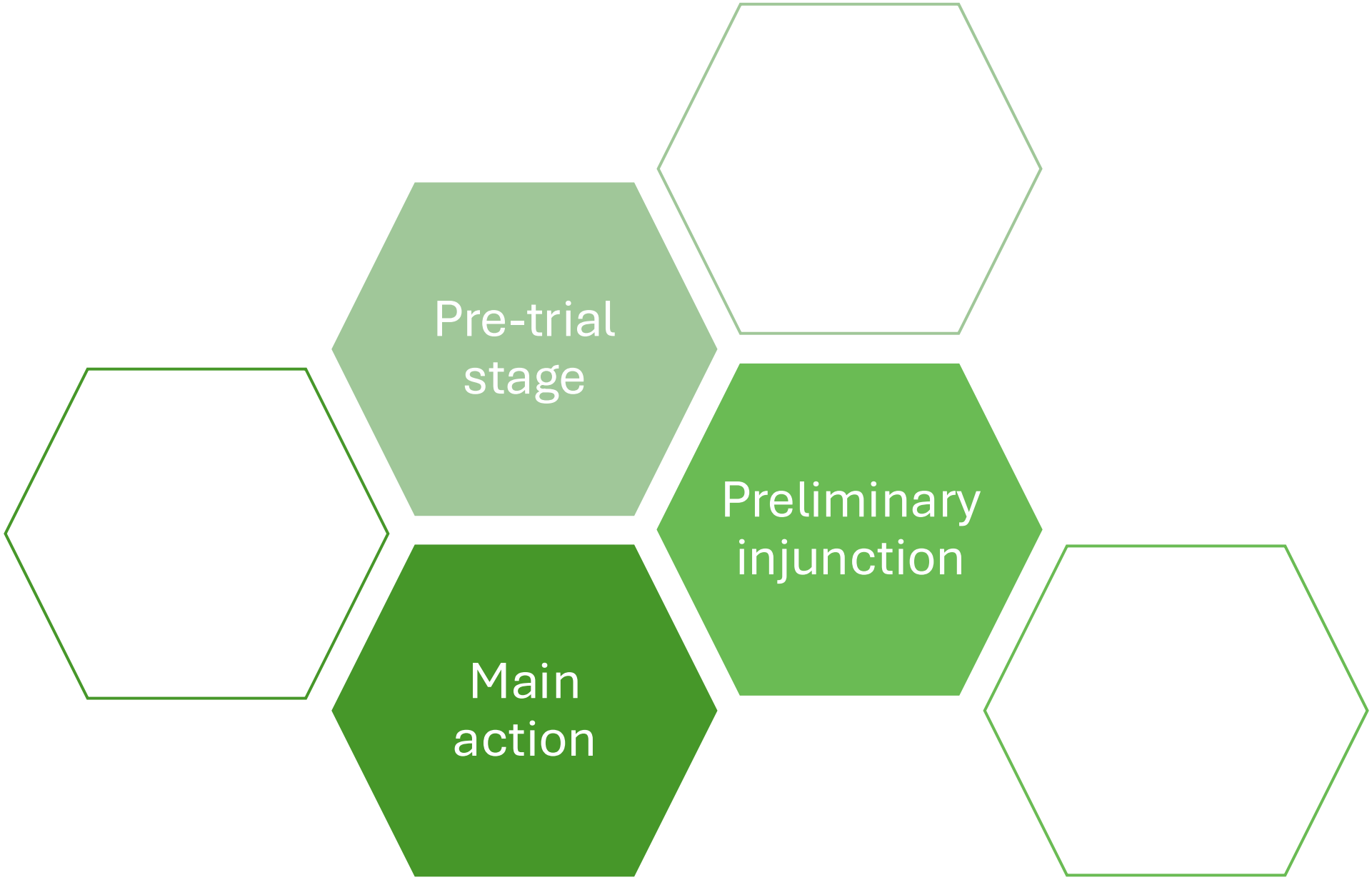


EU trade mark courts in Germany

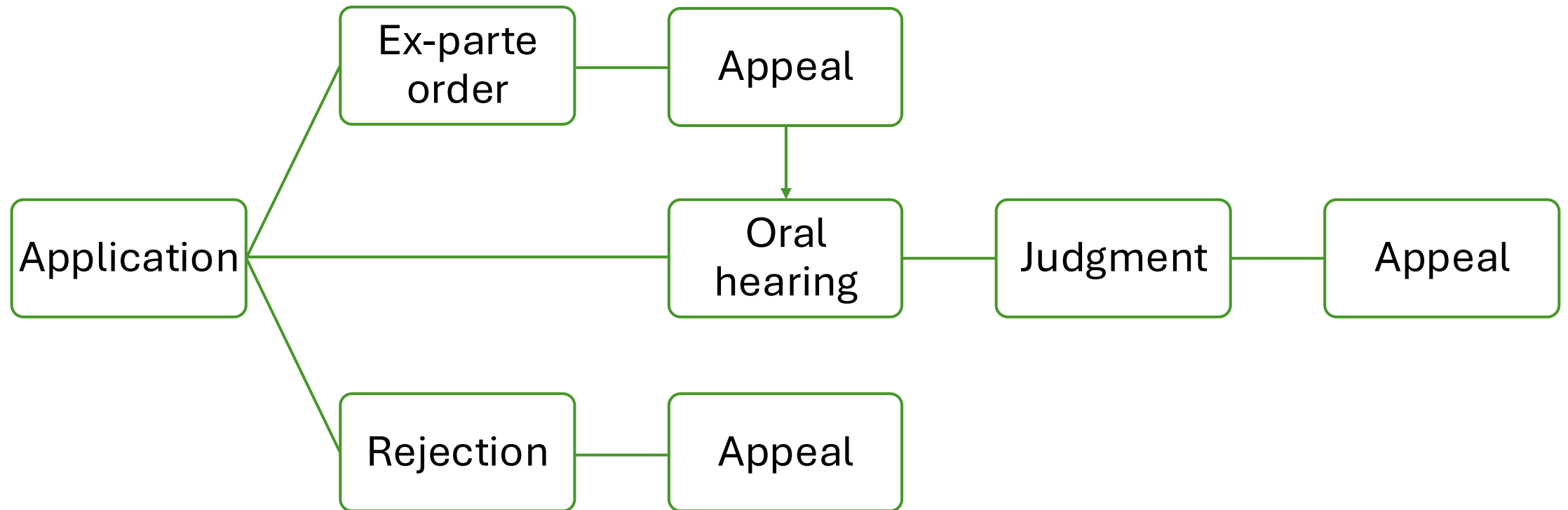


Urgency periods





Preliminary injunction proceedings



Enforcement of preliminary injunctions



Service within 1 month

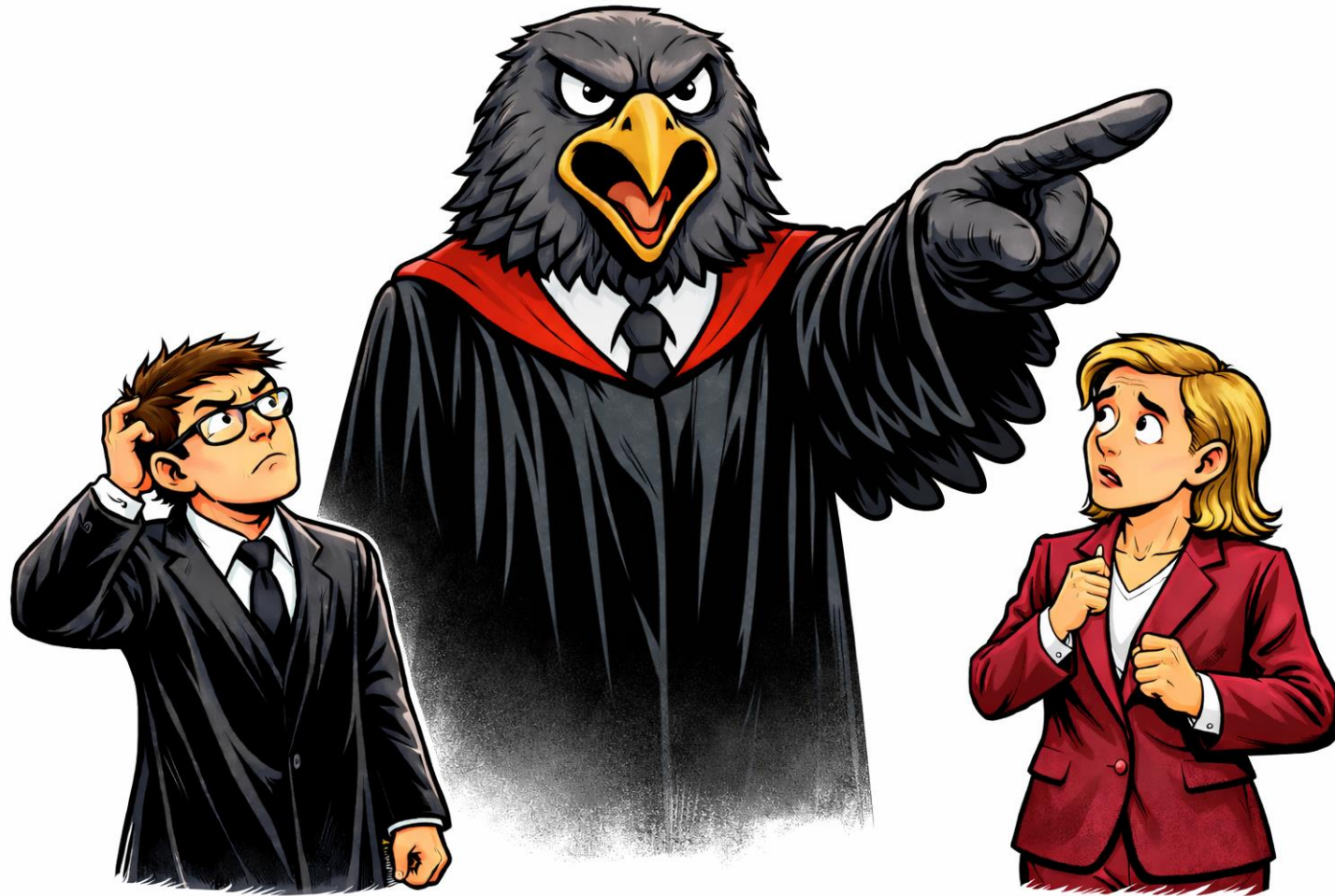


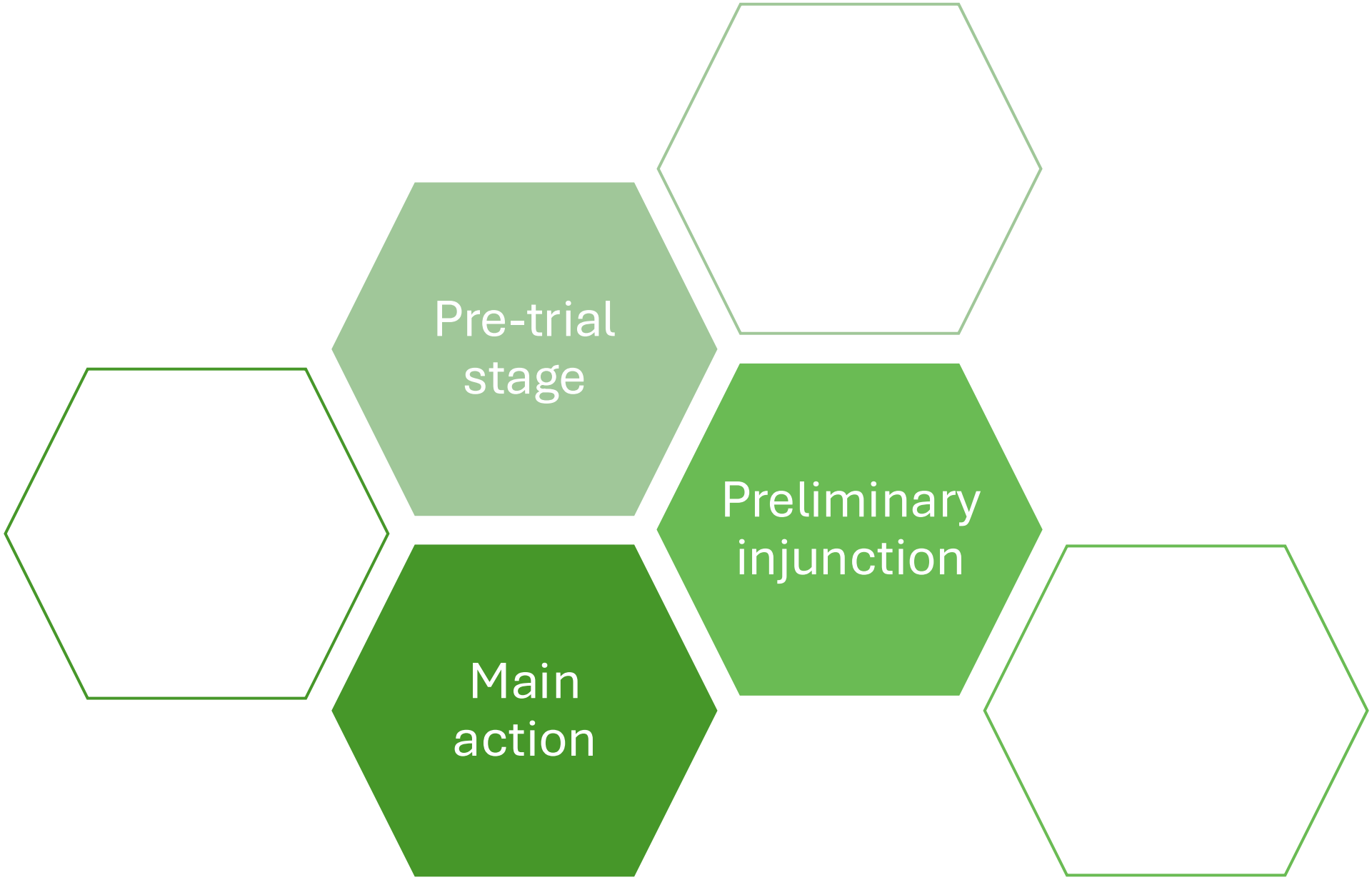
Strict liability



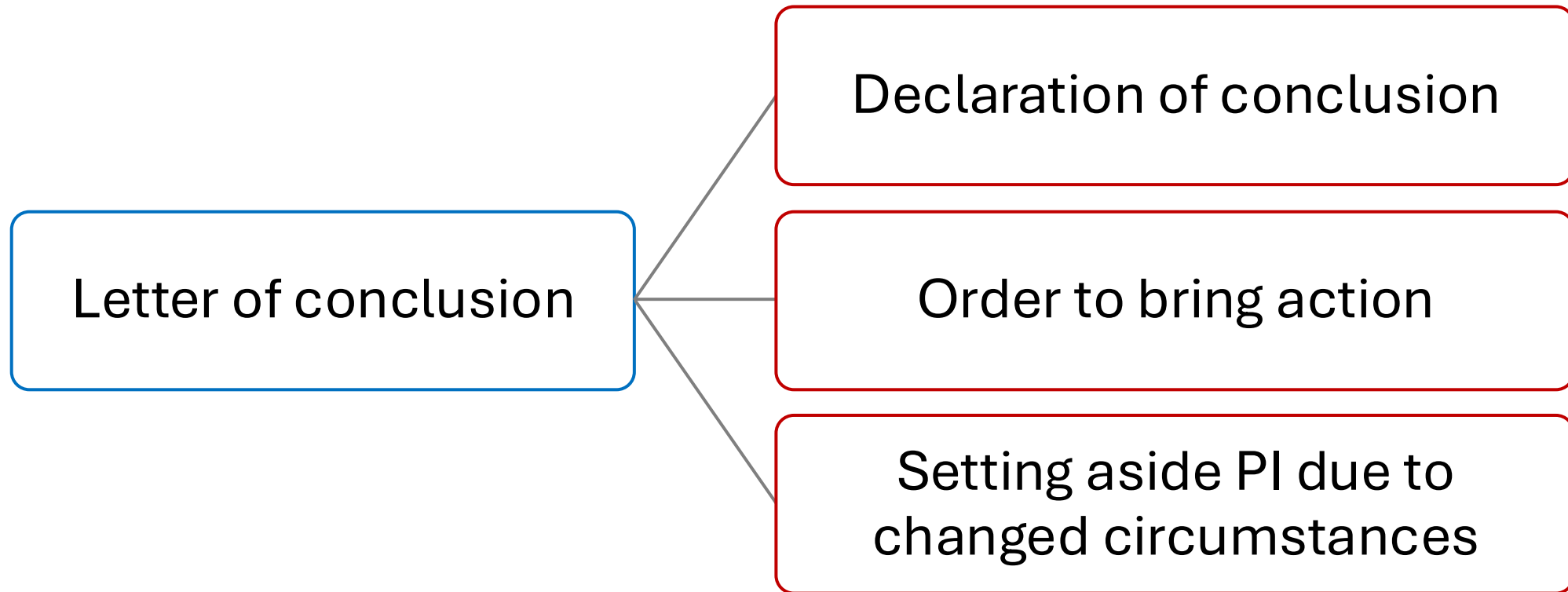
Equality of arms and
right to be heard

End of the ex-parte injunction?





Post-injunction pre-trial stage



Main action

Main action

- Final decision on merits
- Full proof required
- Any type of claims
- Counterclaims
- Suspensions

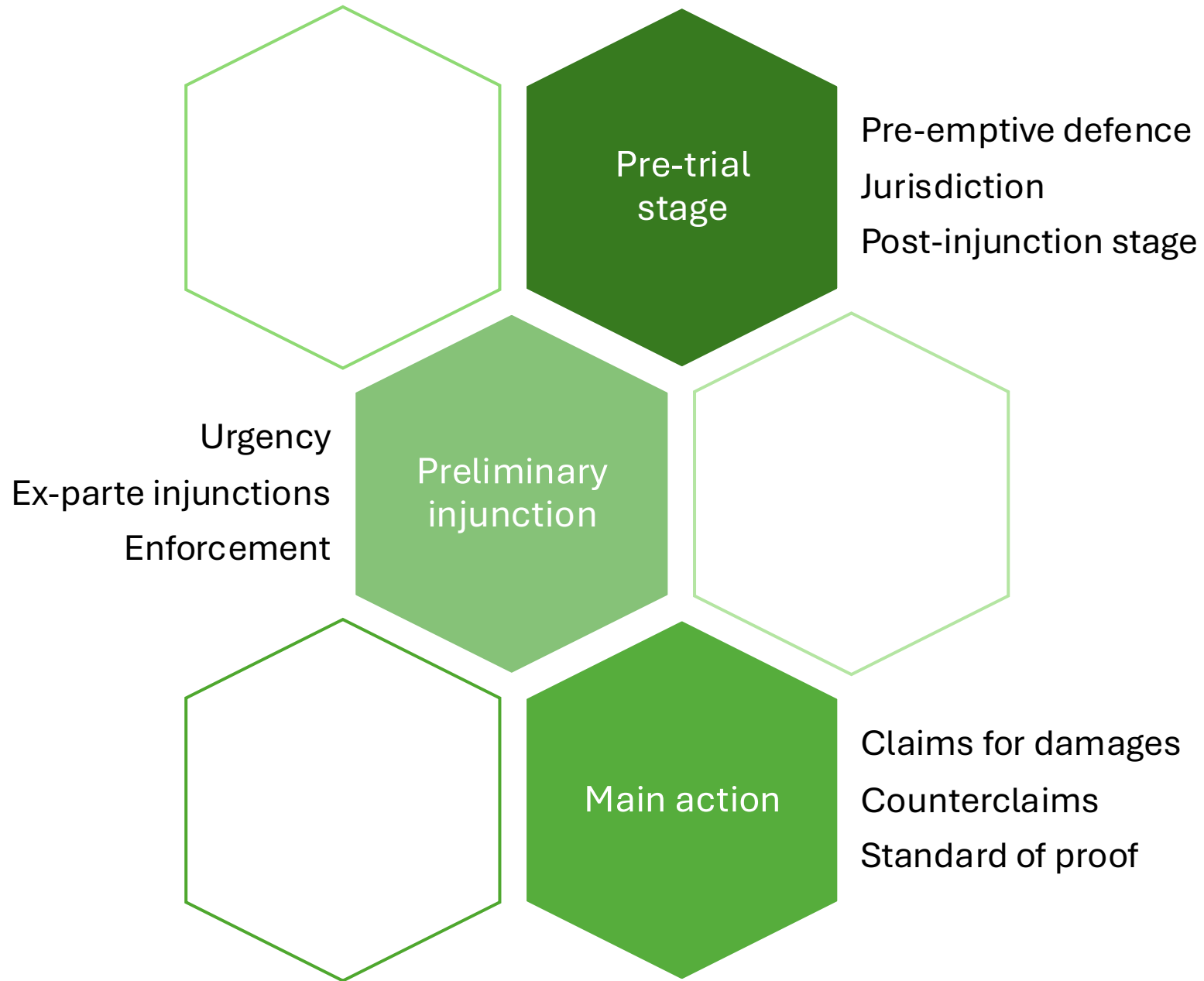
Preliminary injunction

- Provisional decision
- Credible evidence sufficient
- No claims for damages
- Urgency required

Costs

Example: Statutory fees based on dispute value of 100,000 euros

	Legal fees Blue Pharma	Legal fees Red Import	Court fees	Total
Pre-trial	2,302			2,302
1st instance	3,267	4,408	3,594	11,269
2nd instance	4,934	4,934	4,792	14,660
Total	10,503	9,342	8,386	28,231



TRESPER IP

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