



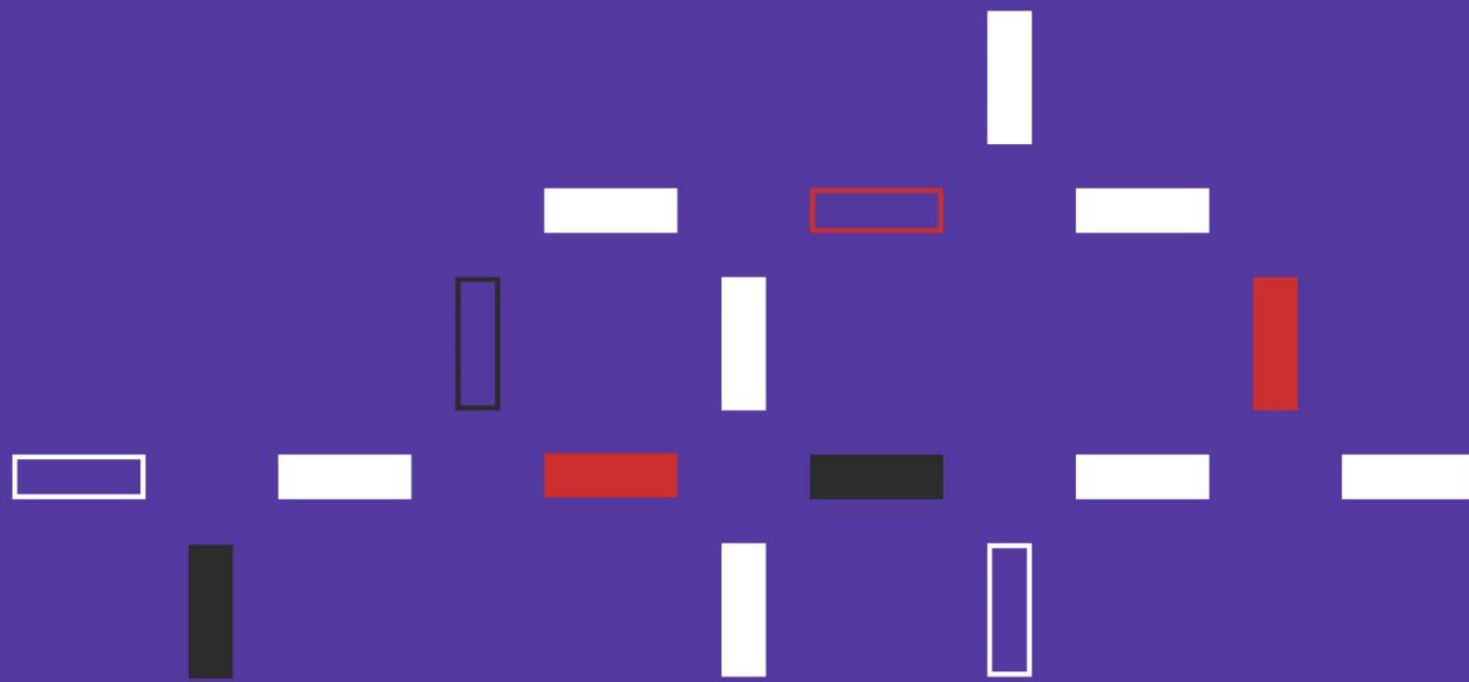
IPR training and support Unitary Patent

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EIC Pathfinder Beneficiaries' Day

20 November 2024



Backing visionary entrepreneurs

IPR training and support

European
Innovation
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Introduction to intellectual property rights

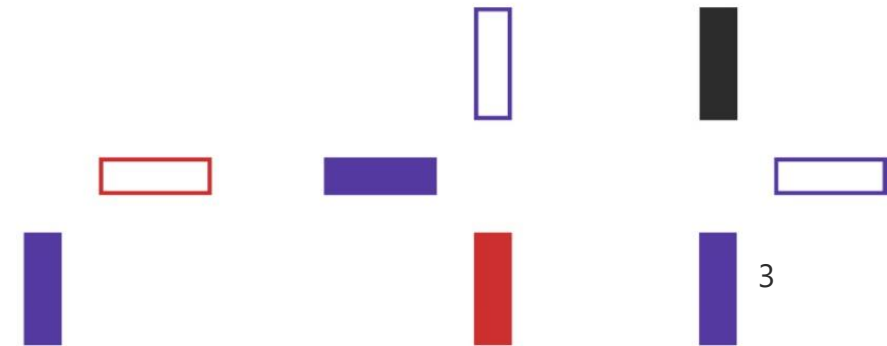
- Intellectual property (IP) = creations of the mind, such as inventions, literary and artistic works, designs, and symbols, names or images
- Intellectual property rights = rights giving control over intellectual property – excluding others from using the IP

WHAT	HOW
Original idea	Trade secret
Process / product	Patent Trade secret
Software / app	Copyright
Name and logo	Trade mark
Shape and colours	Design



Research and development

Commercialization





Why IP matters – four reasons to patent

1. Market access

- Protecting from imitators and free riders
- Ensuring freedom to operate and reducing the risk of infringing rights of others
- Enhancing reputation

2. Negotiating

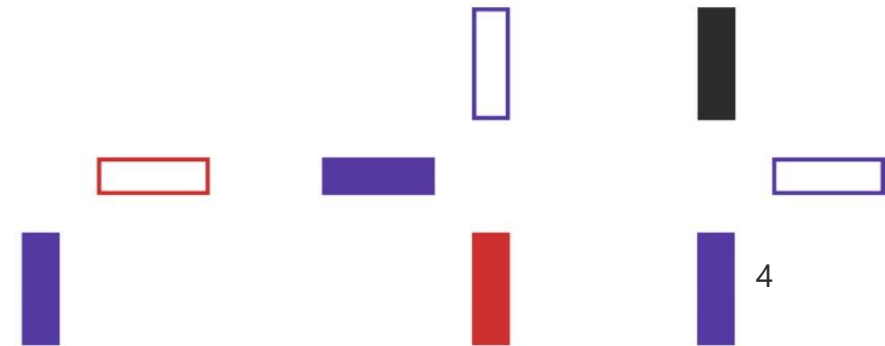
- Strengthening negotiation position – enabling cooperation
- Monetization through licensing, cross-licensing, joint ventures, etc.

3. Funding

- Attracting investors, access to grants

4. Strategic value

- Enhancing company value and improving competitive edge
- Capturing the value of R&D investments





IP in your Pathfinder proposal

Criterion 2: Impact

- Describe the measures for a plausible path to commercialise the innovations
- Specify your strategy for the management of intellectual property, foreseen protection measures, such as patents, design rights, copyright, trade secrets, etc. How adequate are they to support exploitation?

-> **IP strategy**

Evaluation:

EIC Pathfinder Open: How adequate are the proposed measures for protection of results and any other exploitation measures to facilitate future translation of research results into innovations? (open)

EIC Pathfinder Challenges: How adequate are the proposed measures for protection of results and any other exploitation measures to facilitate future translation of research results into innovations with positive societal, economic or environmental impact?





IP provisions in the HE Grant Agreement – Annex 5

- IP issues (incl. ownership and co-ownership of results, identification of background, etc.) must be regulated in a **consortium agreement**

Access to background

- The beneficiaries must **identify in a written agreement the background** as needed for implementing the action or for exploiting its results
- Beneficiaries **must grant each other access to all background** (incl. IP rights) needed

Ownership of results - default based on the GA

- Results **are owned by the beneficiaries that generate them**. Jointly generated results are owned by joint owners.
- Each joint owner **may grant non-exclusive licences to third parties** to exploit the jointly-owned results (without any right to sub-license)
 - if the other joint owners are given at least 45 days advance notice and
 - fair and reasonable compensation.



IP provisions in the HE Grant Agreement – Annex 5

Obligations of beneficiaries based on the GA

- If results are owned jointly, beneficiaries must agree on the allocation and terms of exercise of their joint ownership (**'joint ownership agreement'**)
- The beneficiaries must indicate the owner(s) of the results (**results ownership list**) in the final periodic report – **continuous reporting tab "Results" in SyGMA**

Protection of results and exploitation

- Beneficiaries **must adequately protect their results** — for an appropriate period and with appropriate territorial coverage – **continuous reporting tab "IPR" in SyGMA**
- Beneficiaries must, **up to four years after the end of the action**, use their best efforts to **exploit their results directly** or to have them exploited indirectly by another entity, in particular through transfer or licensing.
- If, the results are not exploited within one year after the end of the action, the beneficiaries must **use the Horizon Results Platform to find interested parties to exploit** the results.



IP provisions in the HE Grant Agreement – Annex 5

Transfer of ownership

- **Transfer of ownership of results** is in principle possible, other beneficiaries **with access rights have the right to object**

Licensing

- Exclusive licenses are possible **provided that other beneficiaries concerned have waived** their rights
- Beneficiaries who intend to transfer ownership or grant an exclusive licence **must formally notify the granting authority**, who has the right to object if:
 - It is to a legal entity established in a non-EU country not associated with the Horizon Europe
 - The granting authority considers that the transfer or licence is not in line with EU interests

Access to foreground

- The beneficiaries **must grant each other access** — on a royalty-free basis — to **results needed for implementing their own tasks** under the action.
- The beneficiaries **must grant each other access** — under fair and reasonable conditions — to **results needed for exploiting their results**.



IP in project deliverables and reporting (HE)

Projects are expected to submit and update:

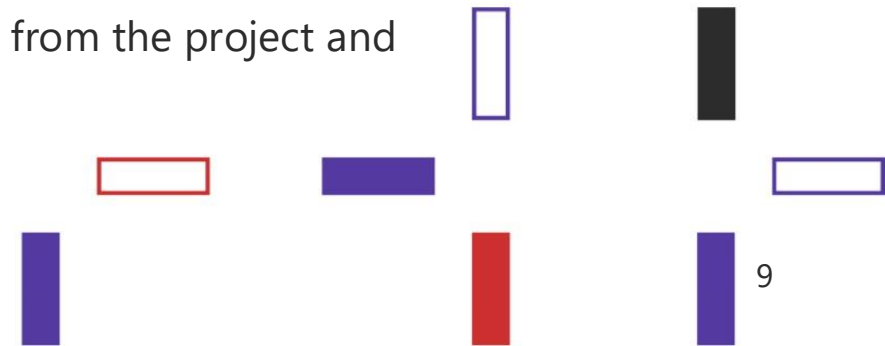
- **Data management plan** – specifies how data will be handled during the project, and among others, which data will be treated as confidential
- **Exploitation plan** – should explain how IP will support exploitation
- **Communication and dissemination plan** – relates to results that do not need to be IP protected

Reporting:

SyGMA tabs (Results, IPR) should always be updated

IPR status must also be reported in **every periodic reporting**

Innovation Radar Report (produced by the IR expert) – identifies main innovations from the project and generated IPRs





Where to get IP support

- **EIC Service Catalogue: IP Due Diligence service**
 - 50+ IP External experts listed in the EIC Service Catalogue
 - Eligible cost up to 7.000€ reimbursable from your EIC Pathfinder / FET Open grant
 - 50% direct reimbursement through the **EIC ACCESS+** grant
 - Fields of application:
 - Due diligence before investment process
 - Refinement of your IP strategy
 - Advice on the registrability of your IP rights
 - Support in commercialization – licensing, etc.
 - Clarification of IP rights ownership in a complicated set up of partners...

Available at <https://partnerservices.eisma.eu/node/1444>



Where to get IP support

- **Search for services in the EIC Service Catalogue:** <https://partnerservices.eisma.eu/service-catalogue>
- **Tech to Market Services**
 - Cover several IP-related aspects, e.g. FTO search in Opportunities Exploration
- **EUIPO free IP support for SMEs (European Union Intellectual Property Office)**
 - 60+ external experts with expertise in IP strategy, IP registration and transactions
 - 1-4 hours of free advice depending on experts' availability

Available at www.euiipo.europa.eu/en/sme-corner/free-ip-support/overview



Where to get IP support

- **EUIPO's SME Fund**
(only for SMEs)

VOUCHER INFORMATION					
IP ACTIVITY	ACTIVITY INCLUDED FEES	COVERAGE	REIMBURSEMENT %	AMOUNT	
V2	Trade marks and designs	Trade mark or design protection Application, class, examination, registration, publication, and deferment of publication fees (*)	National, regional, and EU levels	75%	EUR 1 000
		Madrid and The Hague trade mark or design protection Basic, designation, and subsequent designation fees including EU countries (**)	International Level	50%	
V3	Patents	Patent protection Patent prior art searches provided by IPOs (***) Filing, search and examination, grant and publication fees (*)	National level	75%	EUR 1 500
			Filing and search fees (*)	European level	
			Legal costs for patent application drafting and filing (*)	European level	50%

(*) Ukraine-based SMEs have access to these services.

(**) Excluded fees: handling fees charged by the office of origin.

(***) Including searches provided by Visegrad Patent Institute

(****) Within the EUR 3 500 value of voucher 2, Legal costs for the drafting and filing of a new European patent application will be reimbursed by 50 % and up to a maximum of EUR 2 000



IP trainings

- **European IP Helpdesk**

- Aims at providing basic understanding of IP matters to EU funding beneficiaries – useful for dealing with your TTO
- Helpline – team of IP specialists answering IP-related questions, tailor-made answer within 3 working days
- IP resources library – fact sheets, IP guides, case studies...
- Project-specific and sector-specific webinars: accessible for anyone and always recorded

https://intellectual-property-helpdesk.ec.europa.eu/regional-helpdesks/european-ip-helpdesk_en

- **EPO learning resources (European Patent Office)**

- EPO E-learning centre: <https://e-courses.epo.org/>
- Learning resources for businesses: epo.org/sme
- Licensing-based business models (EPO-EIC training) recording: <https://www.youtube.com/watch?v=JHkcSezje38>



Selected webinars of the European IP Helpdesk

- **Upcoming**

- Maximizing the Impact of Horizon project (HEU) results (3 December 2024)
- Patent protection for EU funding beneficiaries – Biotechnology (10 December 2024)

https://intellectual-property-helpdesk.ec.europa.eu/news-events/upcoming-events_en?page=0

- **Recorded**

- IP in EU-funded projects / HEU
- Patent protection for EU funding beneficiaries – different technology domains
- Consortium Agreements
- Freedom to Operate
- IP assessment...

https://intellectual-property-helpdesk.ec.europa.eu/regional-helpdesks/european-ip-helpdesk/europe-e-learning_en

Patent protection for EU funding beneficiaries

An IP training series offered by the European Patent Office and the European IP Helpdesk



Backing visionary entrepreneurs

Unitary Patent

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Unitary Patent

- European Patent with unitary effect
- Provides protection currently in 18 countries
- In the future up to 25 countries (all EU member states except Croatia and Spain)
- Based on a granted European Patent (EP), registered by the European Patent Office



- Difference to the "classical" European Patent:
 - EP validated in each country separately (bundle patent) and can still be litigated at national courts **X**
 - UP is registered in one single procedure and litigation takes place at the Unified Patent Court with effect in the whole territory of the participating member states



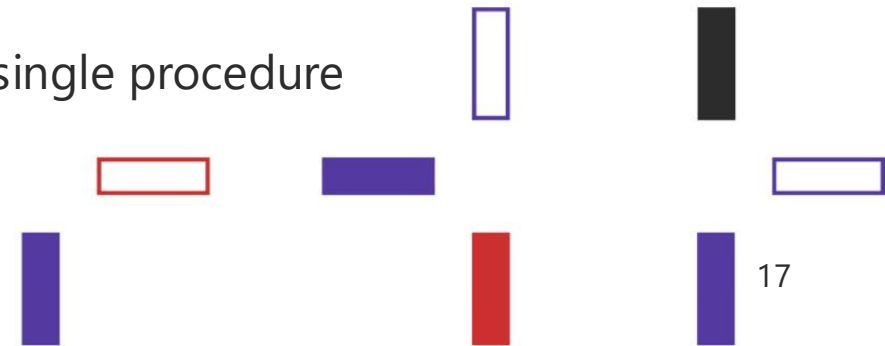
Unitary Patent - implications

- **Cost optimisation**

- No fees for the request for unitary effect
- Renewal fees are under 5.000€ -> less expensive than an EP validated and maintained in 4 countries, while being valid in all (currently) 18 countries
- Financial support for SMEs available to compensate for translation fees
- Only 1 translation required
- One single register – savings on maintenance fees
- One single litigation procedure for the whole territory

- **Other considerations**

- Unitary Patent may be revoked / preliminary injunction imposed in one single procedure
- No possibility to limit territorial scope as in case of the European Patent
- Litigation may be more expensive than in one single country





Unitary Patent – further information

- EPO website dedicated to the Unitary Patent
<https://www.epo.org/en/applying/european/unitary/unitary-patent>
- EPO e-learning: <https://e-courses.epo.org/>
- **Register for EPO-EIC online training How to make best use of the Unitary Patent System:**
21 November 14:00 – 17:00
<https://www.epo.org/en/learning/events/bs03-2024>
Registration closes on 20 November!





Thank you!

<https://eic.ec.europa.eu>

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