

IPR – PROTECT THE INTELLECT: HOW AND WHY TO PROTECT INTELLECTUAL PROPERTY

IPR stands for Intellectual Property Rights. A company operating in any field produces something and that something, whether it is information, a book, a product or service, should be protected.

There are many forms in which a consortium can protect intellectual property. The first form is the Copyright which generally protects artistic, intellectual and/or creative works. There are no formalities to enjoy copyright protection. Once an idea has been expressed, the creator is automatically granted copyright protection. However, although not required, formal registration for copyright protection is advisable in the eventuality of disputes. Typically copyrights are granted for a certain period of time, and up to 70 years after the author has died. Some examples of works that enjoy copyright protection are written works, books, software, lyrics, etc. Copyrights are international in character and enforceable all over the world.

The second form of protection is a Patent. Patents are used to protect new inventions, typically industrial ones. While copyrights are international, patents only protect inventions in the country where the patent was granted, that is to say, they only provide territorial protection, although, it is possible to apply for a patent from a regional office, which can cover more than one country (i.e. the European Patent Office). Patents are granted through a patent office and can be expensive. Formal requirements must be met in order for an invention to be granted a patent. Such formal requirements include originality, i.e. newness, practical use, and inventiveness. If the invention incurs high costs during development, it is highly recommended to ensure a third party does not develop a similar product and patent it, denying the original creator any

privileges. Typically, a patent is applicable for 20 years before it becomes a public domain.

The third common form of protection is a Trademark, normally granted for products and services. Trademarks contribute to brand recognition by allowing consumers to associate branded products with the same quality, good or bad. As with patents, trademarks are granted territorially, must meet formal requirements and can be very expensive. The typical time period of a trademark is ten years, but can be renewed for ten-year periods indefinitely. International protection for patents and trademarks can be applied for and obtained from the World Intellectual Property Organisation. Costs are high but worth the expense, as such protection will eliminate future legal problems. The costs incurred for protecting results of an FP7/H2o2o project are considered eligible costs, which means that they could be charged to the project. Any results occurred in parallel with the project but not directly related to it are not eligible and cannot be charged to the project.

Other forms of intellectual property rights protection also exist, but the three mentioned are the most common. It is important to keep in mind that ideas cannot be protected solely as ideas! They must be transformed into tangible, concrete form before they can be protected. Entering an EU project can be a great advantage for any company or organisation, but as companies and organisations have certain "trade secrets" that should be protected, it must always be clearly stated how the partners in a consortium are going to protect their background and foreground. In order to protect background and foreground in any project, a Consortium Agreement should be signed.

Consortium Agreements are mandatory for most projects, and highly recommended for all projects. In the Consortium Agreement it can be clearly defined how information can be safely exchanged between consortium members.

Things to take into consideration when drafting and signing a Consortium Agreement are the definition of use according to its intended purpose, how the contracting parties allowed the use of knowledge, a disclaimer in the instance of erroneous use of information, the time period allowed for access to it, etc. There are numerous online resources to help consortia draft a Consortium Agreement. One of these resources is DESCA (web address: www.desca-fp7.eu).

The European Commission has established the IPR Helpdesk site in order to address all questions dealing with IPR, how and when to protect IPR, definitions, etc. The helpdesk is an extremely useful tool and should be consulted by all consortium members in order to better protect background, foreground and any other issues related to ownership and dissemination of project results. The IPR helpdesk can be found at: <https://www.iprhelpdesk.eu/> (All theoretical information, definitions, etc., for this factsheet was obtained from the helpdesk.)

Intellectual Property Rights need to be addressed as early as possible, preferably during the proposal submission stage.. Specifications as to how background and foreground will be protected can be elaborated on between the consortium members through a Consortium Agreement. When questions arise concerning intellectual property it is always advisable to consult with a lawyer which has experience in dealing with such situations. When drafting agreements between consortium members, be careful with wording and be sure to understand what is being addressed, what will be available for use by other consortium members and what will be the specifications for using the foreground. A rule of thumb is "when in doubt, consult a lawyer".

