



Get your Ticket to Innovation



“IP Management in EU Funded Collaborative Research Projects“

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Linz, October 2011

October 18, 2011



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Road Map



- Facing a Changing Business Environment
- IP Management in EU Funded Collaborative R&D Projects
- Need Assistance? The European IPR Helpdesk

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STOP

Facing a Changing Business Environment

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Knowledge Society

Changing business environment in the knowledge society

Business Assets

Tangible Assets
e. g. machinery,
infrastructure, financial
assets

Intellectual Capital

Intangible Assets
e. g. know-how, human
resources, business
relationships, brands

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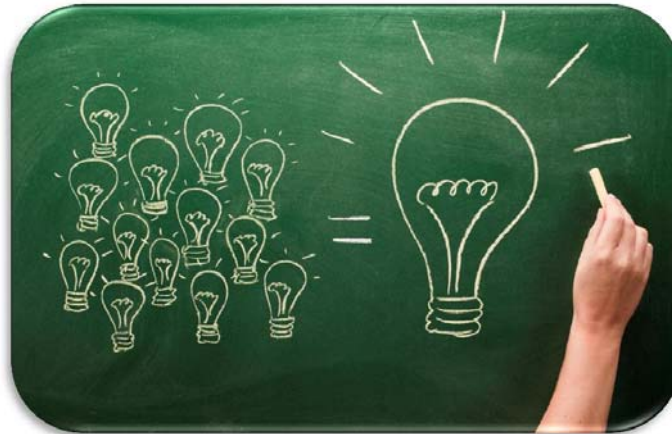
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Cooperation → Innovation



- Cooperation fosters innovation
- Collaborative research projects bring together individual know-how and turn it into one “big” idea

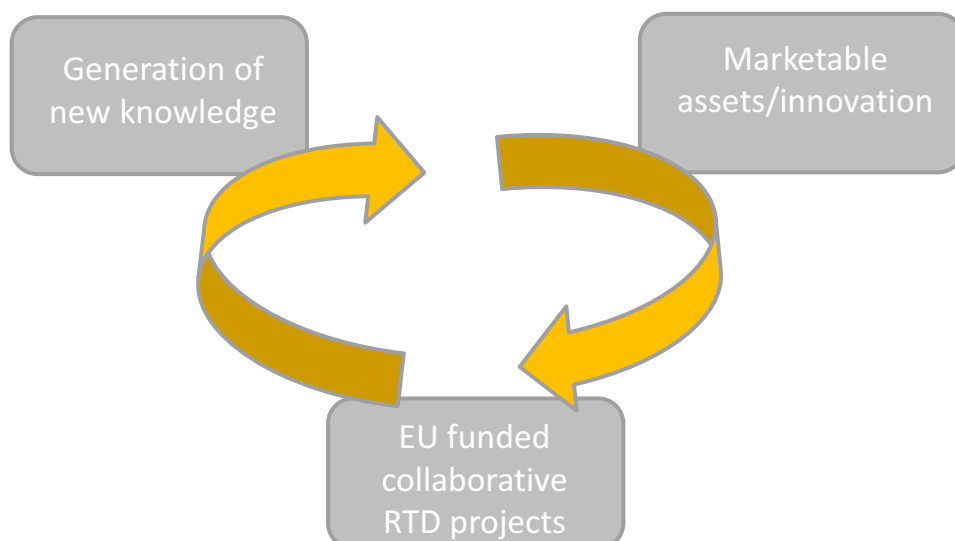


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Innovation Circle



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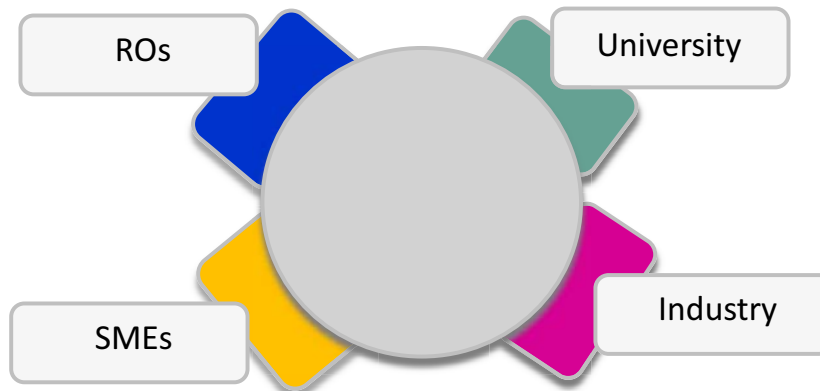


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Collaborative Projects



It is in the nature of collaborative projects that different partners with varying mindsets and interests come to sit at one table.



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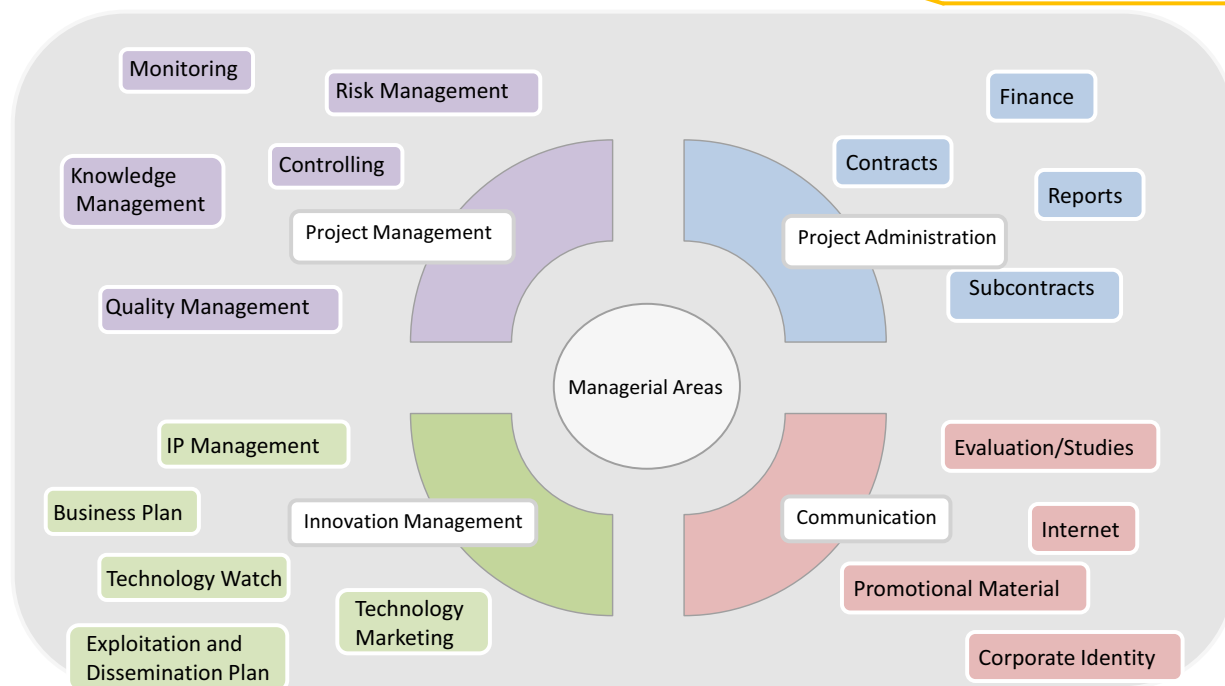
How should the overall management of a collaborative FP7 project look like?

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FP7 Management



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IP Management



IP matters are a constant, even „natural“ element of the innovation process or project life cycle: from the very start, on the way, right until the end – and even beyond.

Thus, IP know-how and IP management are a prerequisite to successful R&D projects.

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What is meant by „intellectual property“ and „intellectual property rights“?

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Intellectual Property (IP)



- Some intangible assets *can be/are* protected by **intellectual property rights (IPR)**
- IP components:
 - **Industrial property** (mostly registrable IP)
 - **Literary and artistic works** (mostly unregistrable IP)
- **Soft IP** (= indirect means for protection of intangible assets)

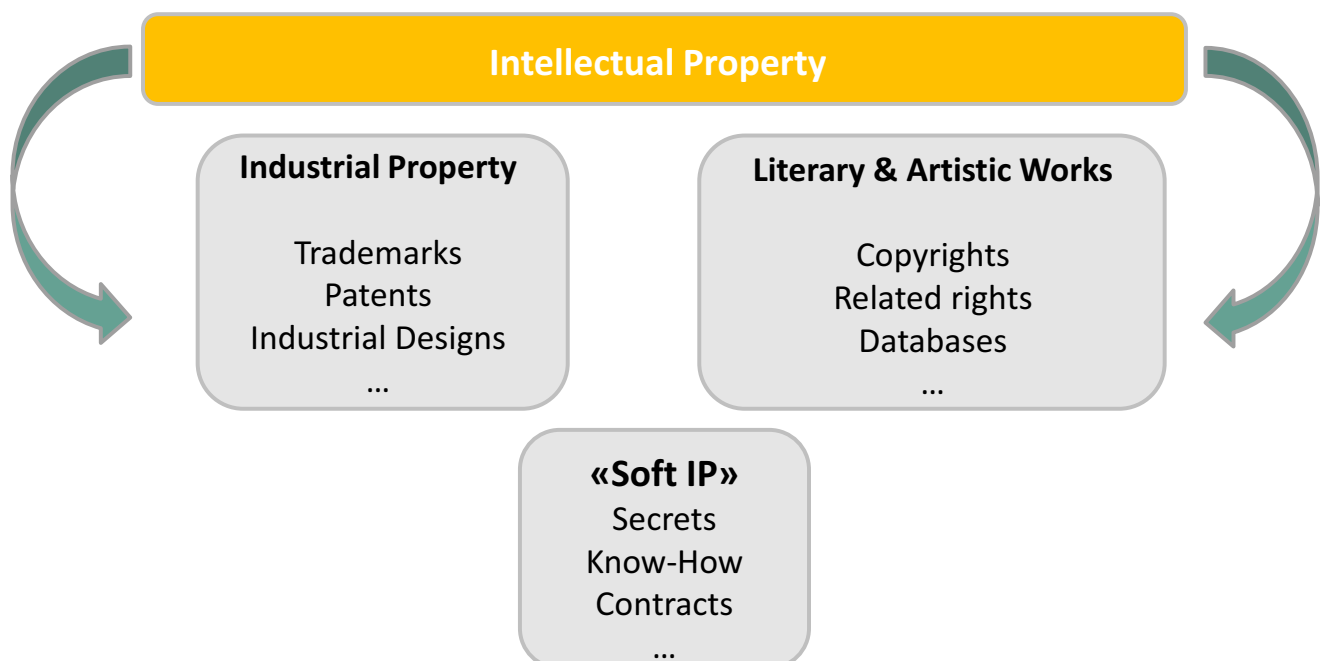


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IP Capital



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Where do I find rules regarding IP in FP7 projects?

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IP Rules in FP7

Protection of IP in FP7 projects is dealt with in ...

- ... Grant Agreement
- ... Consortium Agreement
- ... *Guide to Intellectual Property Rules for FP7 projects*
(= not legally binding)



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Overview: FP7 Agreements



Grant Agreement

- Signed by European Commission and project coordinator, all other project members join the agreement
- Partners accede to the funding agreement by signing a form
- Little room to negotiate

Consortium Agreement

- Comprises individual agreements between the partners of the consortium
- Recommended for all projects, obligatory for some areas
- Signing normally before or shortly after project start
- Model agreements: DESCA, EICTA, EUCAR



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Is there a specific vocabulary used in FP7 projects?

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Vocabulary in FP7



Key terms in the context of FP7 are:

- Background
- Foreground
- Use
- Dissemination/publication
- Access rights



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At which stages of my project does IP matter?

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IP in FP7 Project Lifecycle



Before Project Start

- Proposal preparation, incl. plan for the use and dissemination of research results
- Defining project-related know-how
- Defining IP protected areas
- Negotiating a CA/NDA

During Implementation

- Strategy for securing and managing research results
- Granting of access rights

After Project End

- Disseminating and securing generated IP
- Exploitation of the results
- Valorisation of intangible values
→ Commercialisation

IPR issues are relevant at all stages of the project

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Before Project Start



Every project starts with an idea

- Define the **state of the art**
- **Screen** already existing project landscape
- Search in **patent databases & documents**
- **Protect technical drawings** (e. g. by copyright or trade secrets)
- Protect all **information linked to the idea**



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Before Project Start



No project without partners – no project without negotiations

- **Define ...**
 - ... intangible assets of the project,
i. e. „background“ & „foreground“
 - ... **use & dissemination strategy**
 - ... **access rights regime**
- Set up **confidentiality agreement**
- Sign **Consortium and Grant Agreement**



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Before Project Start



Let's take a closer look!



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Before Project Start



Searching patent databases – for instance: „esp@cenet“

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Before Project Start



Summary & contact

Patent Searches

→ get a **first approach** to the prior art via Databases for applications/granted patents / trademarks

- National patent offices
- EPA: espacenet
- USPTO
- WIPO

Use **support of experts** for more advanced searches



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Before Project Start



Use and dissemination strategy

- **Strategic plan**
- Every contracting party has to **ensure**, that project **results are secured, disseminated and used** → all results have to be used
- Project **partners have to be informed** in advance (45 days) about publication activities



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Before Project Start



Confidentiality agreement

- Identifys **relevant information**
- **Defines use of information** as well as **restrictions**
- Already very **important at the proposal stage**, when valuable information is exchanged between potential project partners
- Includes **possible sanctions**



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Before Project Start



Ways to protect intangible assets

Industrial Property

Trademarks
Patents
Industrial Designs



Literary & Artistic Works

Copyrights
Related rights
Databases



«Soft IP »

Secrets
Know-How
Contracts

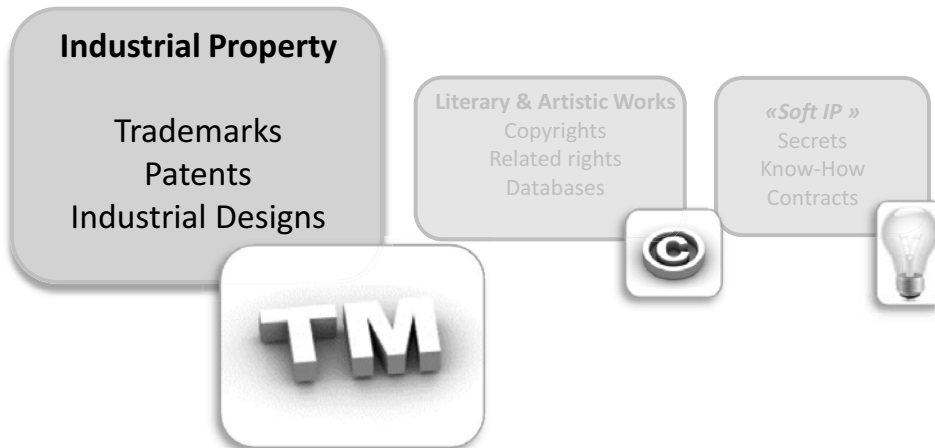


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Before Project Start



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Trademark



What is a trademark (TM)?

It is a **sign**, or a combination of signs, used in the trade to **identify** and **distinguish** the **goods or services** of one enterprise from those of another. A trademark owner is granted exclusive rights to:

- *use the mark in relation to the good or services with respect to which it is registered*
- *prevent others from using a substantially identical or deceptively similar mark in relation to the goods or services registered by the mark.*

What can be protected as trademark?

Words, letters, numerals, pictures, shapes and colours, as well as any combination of the above.

It is now allowed for the registration of less traditional forms of trademark, such as **three-dimensional signs** (like the Coca-Cola bottle), **audible signs** (sounds, Nokia jingle), or **olfactory signs** (smells, such as perfumes).

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Patent



What is a patent?

It is a title providing the *inventor* and/or the *applicant* with the **exclusive right** to prevent others from possessing, using, selling, manufacturing and importing the patented invention or offering to do any of these things within a definite geographical area.

What can be patented?

Patents maybe granted for any invention concerned with the *functional* and *technical* aspects of *products* and *processes*. To qualify for patent protection the invention must satisfied the so-called **conditions of patentability**:

- *Novelty*
- *Inventive step (non-obviousness)*
- *Industrial Applicability (utility)*
- *Patentable subject matter*

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Utility model



What is a utility model?

It is a title of protection for **certain inventions**, such as inventions in the mechanical field. Utility models are usually sought for **technically less complex** inventions or for inventions that have a **short commercial life** and normally **do not meet the patentability criteria**.

The **requirements** for acquiring a utility model are less stringent than for patents. While the “novelty” requirement must always be met, that of “inventive step” or “non-obviousness” may be much less or even absent altogether.

In the **EU** only **17** countries provide registration process. The latter is often significantly simpler and faster, taking - on average - six months. Finally, utility models are much cheaper to obtain and to maintain.

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Industrial design



What is an industrial design?

It refers to the right granted in many countries to protect the **original, ornamental and non-functional features** of a product that result from design activity. The right concerns merely the **appearance** (the 'design') of a product, not the product itself. It allows the owners to exclude others from making, importing, selling, hiring or offering articles for sale in which the design is embodied.

What can be protected?

It maybe granted for **visual features** of a product (i.e. shape, ornamentation, pattern, configuration, etc.). Designs that are dictated solely by the article's **function** are excluded from protection.

To qualify for protection the design must show:

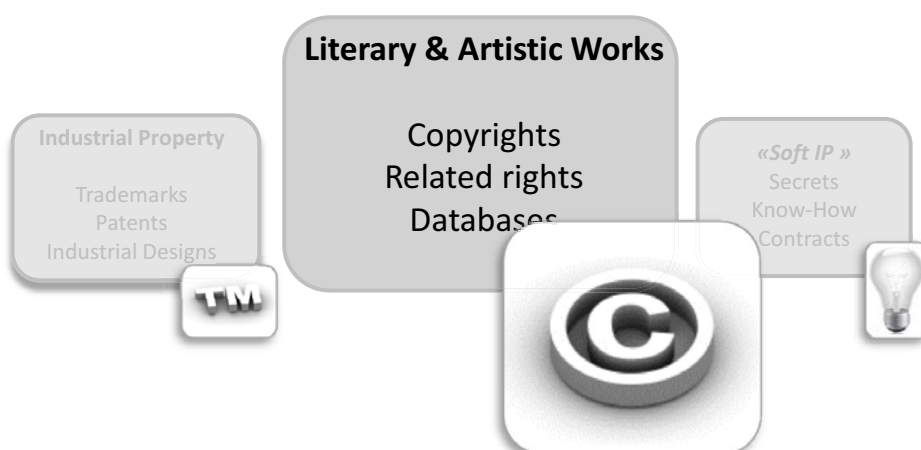
- *Novelty*
- *Individual character*

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Before Project Start



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Copyright

Definition

Unregistered IP Right applies to a wide range of creative, intellectual, or artistic forms, or "works", **copyright protection is automatic**

Condition: Work, original, man made (*intellectual effort*)

→ e. g. poems, plays, literary works, movies, dances, musics, photographs, software, computer programmes, paintings, ...

Granted rights: two important rights

- 1) **Patrimonial rights** : Commercial exploitation → limited duration
- 2) **Moral rights**: Respect of the work and its author → unlimited

Specific use of copyrights in logistics

For instance: working documents, handbooks, documents related to activities, Internal/external publications, website, software, etc.

Interesting tool:
i-DEPOT » (OBPI)

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Before Project Start



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Before Project Start



Soft IP

Definition

No specific definition, «Soft IP» are intellectual assets which are not included in industrial property or in literary and artistic works, but have a really important value for companies

Soft IP components

Know-how, trade secret, confidential information

Protection of Soft IP

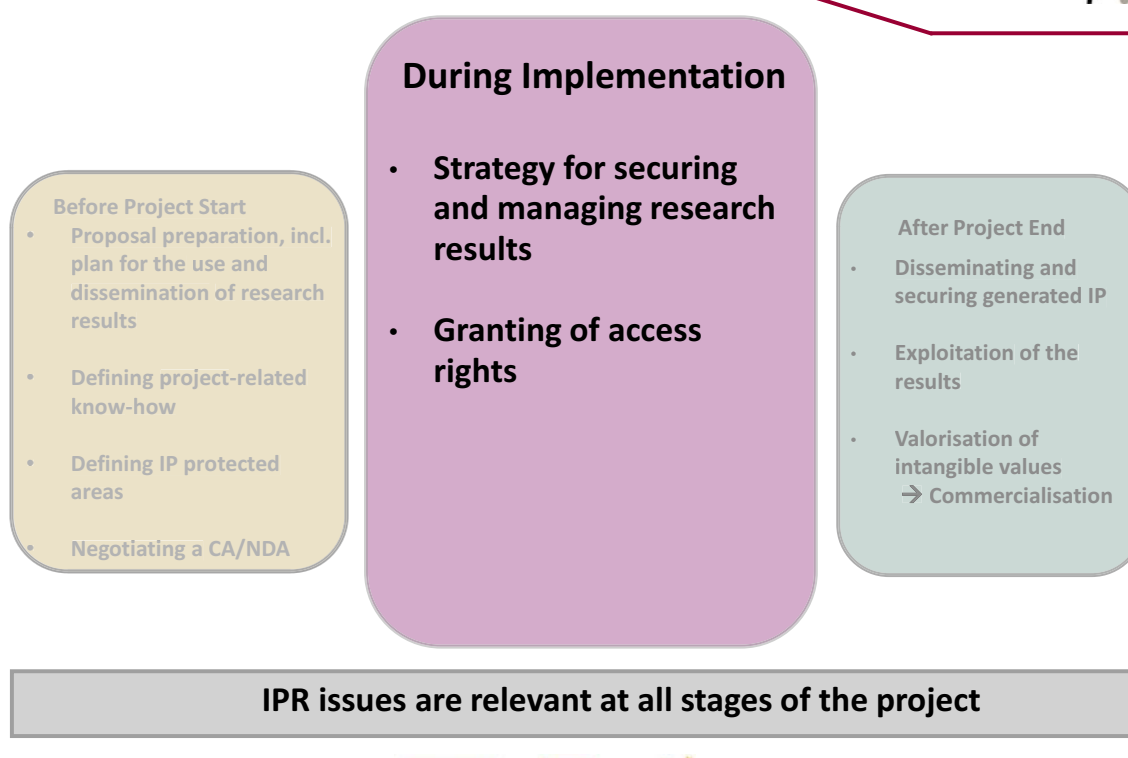
- **Are not protected** by registration and specific IP legislation
- Fall under the category of **intangible rights** – associated with other IPR
- **Free of charge**
- Do not involve long or complex registration-processes , **BUT** require internal management

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IP in FP7 Project Lifecycle



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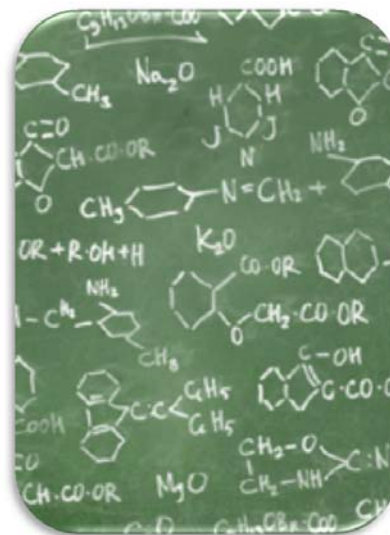
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During Implementation



Secure and manage research results

- Have a **clear strategy for securing and managing** newly generated know-how
- **Continuously update** the use and dissemination strategy plan
- Be clear about ...
 - ... **publication regime**
 - ... **access right regime**



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During Implementation



Ownership of results

- All know-how gained in the project belongs to the **project partner, who generated it**
- If project **partners generate knowledge jointly** without being able to identify the single contribution of each partner
→ **joint ownership**
- Handling of **ownership has to be clearly regulated** by the project partners
(→ Consortium Agreement)



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During Implementation



Granting of access rights

Project participants have to grant other partners access to their know-how, if those need the know-how in order to be able to implement the project or to use the results of the project

	Access to background	Access to foreground
Project implementation	Royalty-free	Royalty-free
Use of results	Royalty-free, or on fair and reasonable conditions	Royalty-free, or on fair and reasonable conditions

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IP in FP7 Project Lifecycle



- Before Project Start**
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- During Implementation**
- Strategy for securing and managing research results
 - Granting of access rights

- After Project End**
- Disseminating and securing generated IP
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 - Valorisation of intangible values
→ Commercialisation

IPR issues are relevant at all stages of the project

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Towards Project End



Use and dissemination of research results

- **Communicate project work** (and results) via different dissemination channels
- Be clear about **how to protect newly gained intangible assets**
- **Make use of research results** – either in further research or by commercial use



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After Project End



Exploitation and valorisation of generated IP

- Be clear about **different options of valorising** generated project results
- Implement **IP portfolio management**



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After Project End



Let's take a closer look!



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After Project End



Exploitation of IP

- Make **direct revenues** (exploitation conceded to third parties)
 - Licensing
 - Franchising
 - Sale
 - Valorise IP = to **increase IP value**, intangible assets
 - **Safeguard intangible values/capital** of the company by enforcing IP-rights
- **Increase organisational business value!**



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STOP

Infringement, counterfeiting &
IPR enforcement

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Infringement & counterfeiting

The term **counterfeit** describes 'fake goods' and is associated to **trademarks** and **copyright**, where the term also refers to piracy. As for **patents**, we talk about **infringement**.

The **common feature** of all these cases is the **unlawful** and **unauthorised use** of intellectual creations (reproduction, commercial exploitation, licensing, copy, reprography etc.).

If you are using intellectual property that belongs to others, you should consider buying it or acquiring the rights to use it by taking a licence in order to avoid a dispute and consequent expensive litigation.

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Enforcement



Letter of demand

Letter sent to a person, whom you believe is infringing your IP rights. The letter will **advise** such a person that court action may be taken if the infringing activities do not **stop** within a certain period of time.

ADR

Mediation and **arbitration** are two forms of ADR where a neutral independent **third party** is designated to **solve** the quarrel. Parties may agree in advance to resolve any disputes by ADR before commencing any court action (e.g. into a contract), or a court may order the parties to pursue a specific form of ADR.

Customs notice

Customs notice may be lodged with National Customs to **protect pirated** or **unauthorised importation** of goods. Customs has the **power to seize** infringing goods that are imported into the concerned country.

Civil actions

You can enforce the rights by filing a **lawsuit** for infringement in a **civil court**. Here you can obtain an "**injunction**" against the infringer which means they will have to stop. You may also get **compensation** – this could be in the form of damages according to any detriment that has been caused to your business or it may be possible to have the profits made by the infringer paid over to you.



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Team



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Services



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