IPR in FP7 and Consortium Agreement

Brussels, 8th June 2010

IPR in FP7 funded projects

- Under which conditions can the participants exchange their knowledge?
  Access rights, Confidentiality
- Who owns the results generated under the project?
  Ownership, Joint ownership
- How to exploit the results?
  Protection, Use and Dissemination

Intellectual Property rules applicable to FP7 projects are mainly stated in:
- The regulation (EC) No 1906/2006 (rules for participation)
- The relevant grant agreement model (annex II - general conditions)
- The consortium agreement (rules adopted by the project participants)
FP7 Background

- Background refers to information, including IP rights, held by the participants prior to their accession to the grant agreement and needed for the project.
- Background remains the property of the participant that brings it into the project.
- Participants shall inform each other of any limitations to access background.
- Where appropriate, the participants may agree to exclude specific background.
- In their consortium agreement, the participants may clarify the definition of needed and identify which background is made available to the project (i.e. open (or not) to access rights).

FP7 Foreground

- Foreground refers to the results, whether or not they can be protected, which are generated under the project (including the related IPR).
  Personnel rights to be taken into consideration.
- Ownership/joint ownership of foreground:
  Each participant is the owner of the results it generates during the project.
  When the results are generated in common and the respective parts of the participants cannot be determined, the foreground is jointly owned.
- Participants may modify the ownership regime.
FP7 Access rights

- Access rights to background and foreground shall be granted when a participant needs another participant’s background or foreground in order to carry out its project work or to use its own foreground.

- The participants may define specific conditions (e.g. in relation to the intended purpose and confidentiality obligations) in their consortium agreement and/or bilateral agreements.

- Access rights do not confer the right to grant sub-licences unless otherwise agreed.

- The participants may define the economic conditions (royalties) under which they grant access rights in the consortium agreement, provided that the minimum conditions of the grant agreement are respected (e.g. access rights to foreground needed for the implementation of the project shall be granted on a royalty-free basis).

FP7 Protection, use and dissemination

- When the foreground can be industrially or commercially applied, its owner shall protect it (taking into account the legitimate interests of the participants). This may be done by means of IPR (e.g. patent, copyright, trade secrets, etc.).

  If no protection, information of the European Commission before dissemination takes place.

- The participants shall use the foreground, or ensure that it is used (together or individually, directly or indirectly, e.g. in further research or commercial activities).

- The participants shall also disseminate the foreground as swiftly as possible by any appropriate means.
Consortium agreement

• FP7 rules on Ownership, Access rights, Protection, Use and Dissemination and Confidentiality are interrelated.

• The applicable rules may, to some extent, be adapted/supplemented in a consortium agreement in light of the specificities of the project and the needs of the participants, provided that it remains consistent with those rules.

• Consortium agreement models can be used, provided that they are closely adapted to the specificities of the project and the needs of the participants.

IPR support services

IPR-Helpdesk
(November 2007 – October 2010)

• Website
• Free of charge Legal Helpline
• On line modules and on site trainings

NB: The IPR-Helpdesk’s purpose is to provide a first line assistance to current and potential participants in research and innovation EU funded projects on intellectual property related issues and not to give legally binding advice.
IPR-Helpdesk is a constituent part of the “IP Awareness and Enforcement: Modular Based Actions for SMEs (IPeuropAware)” project which is financed by the CIP Programme, DG Enterprise and Industry of the European Commission.

Thank you for your attention

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