Dear reader, ...

This Bulletin issue will make you discover how Intellectual Property can be seen as an economic value for businesses.

We will start with our guest authors from University of Bologna: Prof. Ms. Paola Giuri and Prof. Mr. Salvatore Torrisi are sharing an interesting article with us on different motives behind the patent use based on a survey carried out as part of the InnoS&T project funded by the European Commission.

In the following, we are moving into an inspiring collaboration of the Danish Patent and Trademark Office (DKPTO), the Danish Industry Foundation and number of external experts within the frame of “IPR Business Insight” project, aiming at helping Small and Medium-sized Enterprises (SMEs) to build their own business capacities based on Intellectual Property Rights (IPR).

To complete the picture, you can read about IPR and company performance in Europe in an article showing the results of a recent OHIM study, revealing that companies which own IPR are more successful on the market than those that do not.

Have you ever imagined that hyperlinking may constitute IPR infringement? Our next article draws you a colourful picture of linking practices and incite you thinking about “To link or not to link?”.

The intellectual property issues in the Eurostars joint programme are then outlined putting the accent on the applicability of the Horizon 2020 IP rules therein.

Deciding the goods and/or services to be protected by a trade mark is always challenging for applicants. OHIM along with EU national and regional intellectual property offices have created the Harmonised Database to assist applicants in building the list of goods and services in their trade mark applications. OHIM’s article gives you detailed information on this topic.

As always we inform you about our past training and events. In particular, you can read an article on the European IPR Helpdesk participation in the Enterprise Europe Network launch conference.

Furthermore, this issue also brings you fresh news on the Helpline service. Would you like to know which the hottest topics at the Helpline are? Which kind of questions we are receiving?

Discover also our new trade mark crossword and test your knowledge on patent searching through our usual quiz.

Wishing you inspiring reading!

Your Editorial Team
The use of European patents in large and small-sized firms

Paola Giuri, Salvatore Torrisi
Department of Management, University of Bologna

The explosion of patent applications in the last three decades has not developed in parallel with increasing effectiveness of patents as a mechanism for protecting innovation. Instead, the growing number of patents seems to have been boosted by an increasingly strong pro-patent regime. Various studies stimulated by the popularity of patenting raise doubts about the quality of many patent applications and concerns about the implications for innovation and competition. Moreover, the distribution of patent value is not uniform and a large share of patents are never used by their owners either for commercial and industrial applications or for licensing. Such circumstances suggest that there are other reasons for patenting beyond the traditional protection of inventions, which represents the foundation of the patent system.

Although the debate on strategic patenting (e.g., blocking patenting or acquiring the freedom to operate) and its implications for society heats up amongst scholars, there is still limited systematic evidence about the reasons for patenting and the actual use of patents across sectors and countries.

The PatVal2 survey

The PatVal-EU II, PatVal-US and PatVal-JP surveys (hereinafter, collectively, “PatVal2”), involving inventors of patents granted by the European Patent Office (EPO), provide recent evidence on the combination of reasons and actual use of patents. The PatVal2 survey was conducted between 2009 and 2011 as part of the InnoS&T project funded by the European Commission.

Within this project, we collected primary data with a self-administered survey of inventors located in 20 European countries, Israel, U.S., and Japan. The survey examined multiple key dimensions of the inventive process, including the origin of new ideas, the organisation and sources of inventive activities, the reasons for patenting and the use of patents. We received a total of 22,557 responses, yielding a 20% response rate.

This article summarises some key results and underlines the main differences across large, medium and small sized firms.

Reasons for patenting

Figure 1 shows the importance of different reasons for patenting, on a scale varying from 1 (not important) to 5 (very important), at the time of the patent application. Prevention of imitation and commercial exploitation are the most important reasons for patenting, followed by blocking competitors. Cross licensing, reputation and the prevention of infringement suits are less important.

The importance of the causes for patenting varies with firm size: licensing is less important for large firms compared to small and medium-sized ones. Pure defence is more relevant for large and medium-sized firms than for small firms.

Patent use

Patented inventions generate value to their owners if they are used internally (new products, services and processes) or externally (licence to third parties, sale and creation of a new firm).

References:
Figure 2 reports the share of the following patent uses at the time of the survey: commercial use in a product, process or service, patent sale, patent licensing, cross-licensing, and creation of a new firm.

Commercial use represents the most frequent patent use (55%), followed by licensing (7%), new firm creation (4%), and patent sale (4%). Only 1% of patents are used in cross-licensing. In total, 58% of the patents are used either internally or externally.

Small and medium-sized firms are more active in commercial use and licensing compared to large firms. Patent sale and set up of new firms generated by patents are also more frequently observed for small and medium-sized firms than for large firms.

Finally, large firms have larger shares of unused patents in their portfolio (Figure 3).

Strategic use and unused patents

We distinguish four types of patenting strategies in relation to “blocking patents” and “use” (internal or external) of patents:

- **Strategic use**: patent applications are filed to block competitors and are used internally or externally by the patent holder;
- **Commercial use**: patent applications are not filed with the aim of blocking third parties and they are used either internally or externally;
- **Strategic non-use**: patents are filed for blocking third parties and they are not used (“blocking patents”);
- **Sleeping patents**: patents are filed for reasons different from blocking and they are not used.

Most of the patents (39%) fall in the strategic use category (Figure 4). These patents include “block to play” patents, i.e. patent applications filed to prevent others from patenting similar inventions and used in licensing/cross-licensing deals. However, strategic use also includes blocking patents that are used commercially in new products, services or processes. As mentioned before, licensing and cross-licensing account for a small share of patents in our sample.

About 20% of patents are classified in the “commercial use” category; thus, these are the applications filed for reasons different from blocking competitors and used internally or externally.

The share of strategic non-use patents amounts to 27%.

Finally, sleeping patents account for about 14% of the sample. It is worth to remind that these patents remain unused for non-strategic reasons, such as the difficulty of turning the invention into a commercial application or the inability to find a party interested in licensing or purchasing the patent.

Large firms have a smaller share of used patents as compared to small and medium-sized firms. For instance, the share of strategic use is 37% for large firms, 47% for medium-sized firms and 44% for small firms. Instead, large firms exhibit the largest share of strategic non-use - 31% of patents, twice the share of small and medium-sized firms. In addition, the share of sleeping patents is higher for large firms (16%) compared to medium-sized firms (9%) and small firms (11%).

The higher share of unused patents held by large firms is probably due to the large size of their patent portfolio, which increases the likelihood that Research and Development and product managers are not fully aware of all patents owned by their organisation. Moreover, the size of the patent portfolio and greater financial resources make large firms less exposed to the risk of legal attacks by competitors, which reduces their incentive to enforce their patents and use them in cross-licensing. The strong enforcement of large firms then may lead them to accumulate unused patents that are useful to play the “strategic patenting game”.

To conclude, the analysis of PatVal2 data shows that strategic patenting is a significant phenomenon. However, from a social

---

11 Number of observations varies between 599 and 10684 depending on the subsample.
12 Number of observations varies between 599 and 10684 depending on the subsample.
13 For a more detailed illustration of these strategies see Torrisi et al. 2015.
14 Number of observations varies between 599 and 10684 depending on the subsample.
16 Referred to as “block to fence” patents in ibid.
perspective, not all strategic patents are necessarily detrimental.

The attention of competition policy should focus especially on strategic non-use, which accounts for a substantial share of patents. Strategic non-use is likely to be more problematic in the case of complex, cumulative technologies like semiconductors and computer-implemented inventions or in the presence of technical standards such as those related to telecommunications and audio-visual technologies. The PatVal2 survey also points out the existence of several sleeping patents, which are a natural target of policies aiming to improve the valorisation and diffusion of patented technologies.18


---

**IPR Business Insight: Easy access to IPR knowledge for SMEs**

**Danish Patent and Trademark Office**

Let’s face it! Intellectual Property Rights (IPR) are not at the top of the to-do list for Small and Medium-sized Enterprises (SMEs) who are in the process of developing their business, getting financing and bringing their products to the market.

Nevertheless, there are great advantages in knowing the opportunities and pitfalls relating to IPR and using this knowledge to support the business. IPR Business Insight is a project where the Danish Patent and Trademark Office (DKPTO) and the Danish Industry Foundation collaborate with a number of experts in order to help SMEs to learn how to take advantage of IPR.

The overall ambition of the project is to help SMEs make decisions about IPR that will support the growth of their business. This ambition is based on a new study, which concludes that companies with a strategic approach to IPR and/or who engage in trading IPR show better financial performance than companies who do not.

In order to provide easy access to IPR knowledge, the DKPTO has joined forces with some of the professionals that SMEs are often in contact with (accountants, innovation and export advisors). Together with the partners, the DKPTO is developing tools adjusted to each partner’s working practice so that they can help their clients better understanding how to use the IPR system. The tools will be developed during 2015 and will be made available during 2016.

If you have questions about the project, please contact the project manager Mrs. Marie Friis Madsen.

**Contact**

Marie Friis Madsen
mfm@dkpto.dk
+45 4350 8211

---

**Facts**

**IPR Business Insight**

August 2014 - June 2017

Lead partners:
- The Danish Industry Foundation
- The Danish Patent and Trademark Office

Funding: The Danish Industry Foundation
The economic power of IPR: IPR and Firm performance in Europe

Office for Harmonization in the Internal Market (OHIM)

New study from OHIM. Sampling data from more than 130,000 companies finds that companies that own Intellectual Property Rights (IPR) perform significantly better than the ones that do not. It also shows that this relationship is especially strong for Small and Medium-sized Enterprises (SMEs).

In September 2013, we learned what many had suspected - that IPR-intensive industries play an important role in the EU economy. The publication of the first IP Contribution Study\(^1\) revealed that around half of the EU industries are IPR-intensive, and account for one in three of all EU jobs. IPR-intensive industries are responsible for 39% of the EU’s total GDP and 90% of the EU’s trade with the rest of the world. They also are supporting directly or indirectly 35% of jobs and pay wages that are 40% higher than other industries.

But what would be the result of taking that analysis even further? What would happen when, instead of looking at the impact of IP in the industry-level context, you drilled down to the level of individual firms? So, after two years of preparation, the second part of the IP Contribution study was launched in June 2015\(^2\).

This study, based on official public financial data from more than 2.3 million EU firms, covers companies which own patents, trade marks and designs at both national and at EU level. Delving deeper into the role of IPR, over 130,000 European firms were analysed in order to compare the economic performance of firms that own IPR with those that do not. The data on each company’s IPR portfolio was matched with information contained in ORBIS, a commercial database. This database provides financial and other information on millions of European companies, collected from the filings and accounting reports made by the companies in the commercial registers of all EU Member States.

The results yet again bore out the value of IP, this time at the level of individual firms. Companies that own IPR tend to have almost 6 times as many employees than companies that do not, and their revenue per employee is 29% higher on average. The wages they pay, on average, are around 20% higher than firms that do not use IPR.

About 40% of large companies own IPR, the study shows, and although only 9% of SMEs own IPR, those that do have almost 32% more revenue per employee than firms that do not. In other words, while the majority of SMEs do not own IP rights, those that do tend to have significantly more revenue per employee.

The aim of this study, and that of its predecessor, is to provide evidence to support policy making and form a basis for raising awareness among Europe’s citizens about the value of intellectual property. The full study is available on the OHIM website.

OHIM intends to update the industry level figures regularly to enable future trends to be monitored and to better assess the contribution of IPR-intensive industries to economic performance and employment over time.

At the same time, another study is being carried out to learn more about the use that SMEs make of IPR and what their main challenges are. By the end of this year, the “SME Scoreboard” drawn up by OHIM, through the European Observatory on Infringements of Intellectual Property Rights, and in partnership with the European Commission, will provide further insight in this matter.

---


\(^2\) The IPR included in the study are patents, trade marks and designs (and any combination of the three). Copyright and geographical indications, which were part of the first study, were not included in this follow-up study because of their nature (copyright is not always registered, while geographical indications are not registered by individual firms).
To link or not to link?

European IPR Helpdesk

What is linking?

Linking is the Internet’s most popular way to access information, allowing users to directly connect from one website to another by clicking on an icon or text, called “hyperlink” or “link”. Simply by clicking on a link, a user reading one online page can instantly call up an entirely different page without having to go through the process of typing web addresses on the browser bar. Therefore, linking is beneficial for users because it enables them to quickly find information on topics of interest.

Is it a problem?

Any enterprise, even the smaller, uses Internet and websites to increase its commercial exposure and its potential customers. In order to describe and promote the products and services offered, it is common to insert hyperlinks on webpages driving users to contents available in external websites.

Hyperlinking: are we at risk of infringement?

a) Copyright

Webpages include several contents such as images, music, texts, etc., which are potentially subject to copyright protection as long as they are original works. Therefore, when linking, it is usual to drive users to copyrighted contents available on third party websites. This practice raises some concerns from a copyright protection perspective.

Although no specific legislation exists to allay these concerns, two recent cases (Svensson, C-466/12; Bestwater, C-348/13) of the Court of Justice of the European Union (CJEU) gave useful guidance on how to distinguish a fair linking from a copyright infringement.

According to the CJEU ruling, two different cases have to be identified:

- Simple hyperlink (or “simple link” for short) is a link to the homepage of the linked website. For example: www.iprhelpdesk.eu.
- Deep hyperlink (or “deep link” for short) is a link which takes the user directly into interior pages within the linked website, so that the homepage is avoided. For example, www.iprhelpdesk.eu/library.

In the first case, hyperlinking does not constitute copyright infringement. In the second case, the link is able to circumvent restrictive accessibility measures, thus making available the contents to the general public. Such linking practice amounts to copyright infringement.

These considerations are valid for any types of links, no matter whether or not the users understood that they had been sent to another website or that the website is hosting the content itself (framing).

RECOMMENDATIONS

i. Do not insert links to restricted access contents: it constitutes copyright infringement.
ii. Be aware that a freely accessible content can become subject to restrictive accessibility measures at a later time. Therefore, it is advisable to periodically monitor the links provided on your webpages in order to avoid copyright claims relating to copyright protected contents.
b) Trade Marks

Trade mark infringement occurs when one party uses the mark of a third party in a way as to create a likelihood of confusion as to the origin of products or services. Such likelihood of confusion includes also the likelihood of association, i.e. where the trade mark use leads the consumer to think that the infringer is somehow associated, affiliated, connected, authorised or sponsored by the trade mark owner.

As a result, any kind of link that falsely leads the end user to conclude that such an affiliation exists between the website owner and the trade mark holder could amount to trade mark infringement.

This circumstance can occur when an image link reproducing third parties’ trade mark is inserted to connect users to the trade mark owners’ website.

For example, the use of Ferrari’s prancing horse logo to link to the trade mark owner’s website could constitute trade mark infringement if the consumer is likely to believe that the linked site (e.g. Ferrari official website) is somehow associated with the site providing the linking.

The above mentioned risks are even stronger when the hyperlink is made via framing. In this case, the consumer could be more easily misled in relation to an existent economic or sponsorship relationship between the companies behind the two websites.

RECOMMENDATIONS

i. Avoid using images or topography of links reproducing logos or fonts of registered trade marks: it could imply that the linked website is somehow associated with the website hosting the link.

ii. To elude the risk of potential confusion, it might help including an EXIT screen indicating that the web user is leaving the website 1 and is being directed via link to the unrelated website 2.

c) Unfair Competition

A hyperlink might also give rise to liability insofar it is considered as an unfair competition act. Although unfair competition provisions are provided by national legislations, it is possible to identify consequences of hyperlinking that might generally have relevance in this regard.

Indeed, any kind of link could be source of liability if:

- it creates an unwelcome association that could harm the reputation of the linked website owner (e.g. a vegetarian restaurant would not appreciate to learn that its website is linked to a fur manufacturer website);
- it makes an unfair use of the content of the linked site leading to discredit of a product or a service offered by a rival (e.g. a food products manufacturer describes the features of its products on its website, including the sentence “elsewhere of inferior quality” whereby the word “elsewhere” forms a hyperlink to a direct competitor’s website);
- it suggests the existence of an economic affiliation (e.g. the manufacturer of budget products refers in his website to high quality products offered by another producer, providing a link to the official website of the latter, taking an unfair advantage from the suggested association).

Furthermore, in so far as “framing” leads end users to believe that the material that they see originates with the framer, rather than with the website where it is published, this act may amount to unfair competition.

RECOMMENDATIONS

i. Avoid inserting any type of link that could:
   - create unwelcome associations in consideration of the business run by the website owner;
   - imply a discredit of the products and/or services offered by a competitor;
   - suggest the existence of a false economic affiliation.

ii. Include an EXIT screen indicating that the web user is leaving the website 1 and is being directed to an unrelated website 2 via the hyperlink. By giving proper attribution to the linked site and content, linking parties can avoid consumer confusion as to the source of the content.

Still in doubt?

After reading our recommendations, if you are still in doubt on whether a specific linking practice could be source of liability, you can:

- have a look at the linking policies often published in the websites themselves. Although they do not constitute binding law, they can inform you whether or not a particular linking practice is welcomed by a company;
- consider the opportunity to negotiate a linking agreement with the website owner in order to avoid any risk of liability. Such contract, indeed, will stipulate the terms of the authorised linking;
- contact our Helpline offering free of charge tailor-made advice on individual IP questions and providing written answers within three working days.
Intellectual Property rules in Eurostars projects

European IPR Helpdesk

Eurostars is a joint programme between EUREKA and the European Commission, co-funded from the national budgets of 34 Eurostars Participating States and Partner Countries and by the European Union through Horizon 2020. It supports international innovative projects led by research and development performing Small and Medium-sized Enterprises. With its bottom-up approach, Eurostars supports the development of rapidly marketable innovative products, processes and services that help improve the daily lives of people around the world.

Participating countries allocate funds to their participants following national funding rules and procedures. The Intellectual Property (IP) rules applicable in Eurostars projects are, however, those laid out in the Horizon 2020 Rules for Participation (in particular under articles 41 to 49). It is therefore important for potential project participants to understand these rules before taking part in a Eurostars project, and to remember them when drafting their consortium agreement.

If your organisation plans to take part in a Eurostars project, you may be wondering what rights and obligations you will have in relation to the results you will create.

In terms of ownership, the principle is that each Eurostars participant owns the results that it generates; if results are generated by several partners jointly, a default joint ownership regime will automatically apply until the co-owners reach more specific arrangements. According to this default joint ownership regime, each of the co-owners is entitled to grant non-exclusive licences to third parties as long as prior notice is given to the other co-owners, as well as a fair and reasonable compensation. This default joint ownership regime is therefore quite general and will not always closely match the needs of the co-owners, as it does not deal with issues such as direct exploitation (and possible financial compensations to this regard), non-commercial exploitation (e.g. use of the results in further research) or possible territorial or sectorial divisions in the exploitation of the jointly-owned results. For this reason, it is always recommended to conclude a separate joint ownership agreement tailored to each project result, once this result has been created.

It is in any case worth highlighting that these ownership and joint ownership regimes are only default ones: the partners will have the opportunity to alter them by way of subsequent agreements, such as for instance assignment agreements. Eurostars participants are indeed, in principle, allowed to transfer the ownership of their results to third parties. While doing so, they should however remember that certain rules should be followed: other partners will have to be notified of the transfer before it occurs, and all relevant obligations (access rights, protection, exploitation and dissemination) will have to be passed on to the transferee along with the results.

Once results have been created, their respective owners will have the obligation to protect those which are capable of commercial or industrial application. The choice of protection should be appropriate both in scope and in strength, but discretion is given to project participants as to the choice of protection mechanisms. For instance, an invention could be protected by patent or utility model, but keeping it as a trade secret may also be an option.

Finally, it should be noticed that Eurostars is a joint programme: therefore, additional rules enacted at national level may also apply, depending on the participating countries. A good practice would therefore be to check with the National Project Coordinator (NPC) whether any specific national requirements should be reflected in the project consortium agreement.

To help you draft your own agreement, a skeleton of consortium agreement is available on Eurostars website. You can download it here.

---

1 You can read more on confidential information in our fact sheet “How to manage confidential business information, available at http://www.iprhelpdesk.eu/FS_How_to_manage_confidential_business_information”.

The Harmonised Database

Assisting trade mark applicants in building their list of goods and services

Office for Harmonization in the Internal Market

Building a successful trade mark takes a lot of time and money. So it’s worth thinking about protecting your investment by getting it registered – because if you don’t – someone else might!

When applying for a trade mark you will need to provide a representation of the sign along with a list of the goods and/or services for which the trade mark will be registered and used. Creating this list is an important and often challenging task. “Important” because what you include in the list will define the scope of protection of your trade mark. “Challenging” because finding the right description can be difficult and time consuming. Indeed, not all descriptions of goods and services will be acceptable. Furthermore, within the trade mark application the goods and services must be classified in accordance with the Nice classification\(^1\). Describing the goods and services in a way not acceptable by the relevant Intellectual Property Office or listing them in the wrong class will delay the examination process.

But you are not alone - there is help available: the OHIM along with EU national and regional intellectual property offices have created the Harmonised Database which makes building the list of goods and services easier and quicker.

The Harmonised Database is the world’s largest multilingual database\(^2\) of descriptions of goods and services used when applying for a trade mark. The database includes descriptions that have been agreed to be acceptable classification terms by OHIM and national and regional IP offices in the EU. This means that users selecting terms of the Harmonised Database do not run any risk of classification objections, thus benefiting from a faster and more predictable examination process, saving time and financial resources.

There are over 72,000 reasons to use the Harmonised Database - that’s how many descriptions of goods and services it lists!

But there are other really good reasons you should use it:

**Fast Track** - if you need a quick result, using the Harmonised Database gives you access to the Fast Track accelerated registration process. Fast Track allows the publication of a Community trade mark application in half of the time or less (7 days average time to publish a Fast Track trade mark).

**Easy Navigation** - the terms contained in the Harmonised database are organized under a multi-level structure, called Taxonomy, where goods and services are grouped together in a hierarchical way. This makes it easier for you to get an idea of terms you may use and to build your list.

**Up to date** - the Harmonised Database is dynamic! Regular contact with trade mark users ensures that it always contains new descriptions, reflecting the latest trends as markets evolve and.

Furthermore, in some offices such as the OHIM, the Harmonised Database can be used when making an e-filing. The Harmonised Database is also accessible on classification tools such as TMclass\(^3\) and the Goods and Services Builder\(^4\).

**Goods and services are for life...**

Bear in mind that once you have filed your application that is it for as long as your trade mark stays registered - it will not be possible to add any goods or services. If you have missed something off or need a registration for other goods and/or services, maybe because your business has changed or expanded, you will have to make a new application.

So getting the right list of goods and services, from the start is probably the most important part of the whole registration process.

**Think future:** You may actually be using your trade mark for more goods and/or services than you realise. And don’t just think about what you are doing today – consider where your business may go – about five years ahead is enough.

**Be realistic:** It might be tempting to list more goods and/or services than you will use your trade mark for. But remember, if you don’t use your trade mark for all the goods and/or services covered by the registration, you may lose all or part of your registration if someone else challenges it. Being realistic reduces the risk of others seeing your trade mark as a problem.

---

1. A classification established by the Nice Agreement and consisting of 45 classes (34 for goods and 11 for services). The classification is available [here](#).  
2. The Harmonised Database is available in 34 languages, which helps applicants when filing a trade mark in language other than their own.  
3. TMclass – a tool allowing applicants to search and classify goods and services (terms) when applying for trade mark protection.  
4. The Goods and Services Builder – a tool allowing applicants to create their list of goods and services and export this list for the purposes of a trade mark application.
The European IPR Helpdesk at the Enterprise Europe Network Annual Conference 2015

European IPR Helpdesk

This year the Enterprise Europe Network Annual conference was held in Brussels from 8th to 10th of June.

The event launched a new five years period for the Network (2015-2020). More than 800 Network members and representatives from European Institutions had the opportunity to exchange ideas and best practices. The event was aimed at extending the knowledge on the services offered to SMEs by Enterprise Europe Network members, raising awareness about EU funding programmes and support initiatives and strengthening the links between Network members.

For the European IPR Helpdesk the conference was a chance to explore and discuss on various IP topics and to increase, develop, and strengthen relations with Network members.

The first day of the conference was marked by working meetings on our stand in the lively networking exhibition area of the congress centre. We have discussed on matters of interest in the field of Intellectual Property (IP) and received very positive feedback from Enterprise Europe Network members using the European IPR Helpdesk services.

On the second day a workshop dedicated to the European IPR Helpdesk Ambassadors scheme brought together Enterprise Europe Network members from different countries and fields of expertise.

The workshop session highlighted the role of the European IPR Helpdesk Ambassadors as local support for IP advice and training in national languages in Europe.

Last June the European IPR Helpdesk has launched a third call for applications with the purposes to extend the geographical and knowledge extend of the scheme and indeed to widely reach European Small and Medium-sized Enterprises (SMEs) helping them build their own IP capacities.

During the afternoon a workshop session on “Access to finance” examined topics of key importance for SMEs and investors. The workshop engaged participants in a discussion on how companies and other types of organisations involved in research and innovation may gain easier access, via financial instruments, to loans, guarantees, and equity finance.

Among other speakers, Mr. Cyrille Dubois from the European IPR Helpdesk provided input on the use of IP as leverage for attracting investors and collateral for obtaining credit and loans as well as receivables for securitisations. A specific accent was put on the value of intangible assets for the financing through new funding schemes.

The Enterprise Europe Network launch conference was an occasion for the European IPR Helpdesk team to learn from the participants and of course to share its knowledge and expertise on IP.

We are pleased to have taken part in this global forum and to exchange with long-standing and new Network members, helping SMEs to innovate and grow internationally.

1 The Ambassadors scheme is a result of cooperation between Enterprise Europe Network and the European IPR Helpdesk designed to foster a strong network of regional IP focal points. More information on the Ambassadors scheme is available on the European IPR Helpdesk website.
The European IPR Helpdesk Helpline answers your questions concerning intellectual property (IP) within three working days. You get practical first-line support directly from our IP experts and free-of-charge.

If you are curious about the type of IP queries the Helpline is currently dealing the most, these are shown in the illustration on the right.

If you would like to talk to one of the IP experts of our helpline, please dial +352 - 25 22 33 – 333

www.iprhelpdesk.eu/helpline

**Your IPR queries matter to us: Ask the Helpline**

In this respect, “computer-implemented inventions” can be defined as inventions whose implementation involves the use of a computer, a computer network or other programmable apparatus, having one or more features realised by means of a computer program. It seems therefore that patentability must not be denied merely because a computer program is involved. You could seek patent protection if the subject matter of your invention as a whole, i.e. a machine with related software, has a technical character - this technical character must be present in all variants covered by the patent claim.

**How can computer software be protected in Europe?**

At the European level, Directive 2009/24 seeks to harmonise Member States’ legislation in the field of the legal protection of computer programs by defining a minimum level of protection. Member States protect computer software as such by copyright, by analogy to the protection given to literary works within the meaning of the Berne Convention for the Protection of Literary and Artistic Works.

Copyright will protect only the computer program in the form written by a programmer i.e. its source code. Neither the functionality of a computer program, nor the programming language or the format of data files used in a computer program in order to exploit certain of its functions constitute a form of expression of that program, and thus, those are not protected by copyright.

Article 52 of the European Patent Convention (EPC) excludes software from patentability to the extent that a patent application relates to a computer program as such. A distinction is, however, made between “software patents” which are excluded according to article 52 EPC and so called computer-implemented inventions which are accepted at the European Patent Office.

In Horizon 2020, the general principle is that each partner has the right to transfer its own project results to a third party, such as its mother company.

However, if the transferee is located in a third country, i.e. a non-EU country non-associated with Horizon 2020 (such as the US), transfers will be possible in theory, but may be made subject to certain conditions. This will depend on whether your own Grant Agreement contains an optional clause to this effect (article 30.3 of the Model Grant Agreement).

If this optional clause is included in your Grant Agreement, the transfer of project results to a third party located in the US – or in any other non-associated country – will be subject to a prior, formal notification to the European Commission. Following this notification, the Commission will have the right to object to the transfer, if it considers that it is not in line with EU competitiveness interests, not consistent with ethical principles, or not consistent with security considerations. If the European Commission objects, no transfer can take place; if it allows the transfer provided that certain conditions are met, no transfer can take place until these conditions are fulfilled.

If the optional article 30.3 is not included in your GA, transfers to third parties will be allowed, regardless of their location.

In any case, if a transfer is possible or allowed, please note that the transferee (US company) will still have to comply with certain obligations, such as the obligations to exploit, disseminate, and grant access rights to the project results (please see article 30.1 of the Model Grant Agreement).
It’s here! The Training website has a new look!

European IPR Helpdesk

We are pleased to reveal our newly designed website part on the Training Activities of the European IPR Helpdesk, feel free to take a peek!

We have worked hard to extend the training support from a single dimension operation to an interactive offer that is capable of responding to the entire needs of our target group – you!

We encourage you to visit and explore the site so we can introduce you to our full suite of training and capacity building solutions. A few of our new website’s goals are to make it faster, easier to navigate and more user friendly. We shifted to a user-centric layout so you can easily navigate our site and locate the information you are seeking.

The new training webpage is hierarchically structured. Starting with the overall description of our training approach, we continue with the distinction between the two main types of our training support: onsite and online training.

The onsite section provides a detailed description of the different types and topics of onsite training sessions. Either – being a multiplier or intermediary – you could be the co-organiser of one of our large trainings or your own training event could be supported by a presentation of one of our IP experts. The online section explains the various possibilities of web-based IP Training. We offer regular and individual webinars as well as clips for self-studies. The curriculum comprises of a number of training offers that have been developed in direct response to the needs of our target group.

Upcoming events like onsite training sessions organised directly by the Training Team are always announced via our newsletter and the events calendar. You’ll find our conferences, seminars and webinars with links to register for these great events.

If you have any questions, please contact us at training@iprhelpdesk.eu.

The European IPR Helpdesk on tour: Take a look at a selection of our recent events

The world is turning and during the last 3 months the European IPR Helpdesk Team had the chance to be part of several IP events which were organised in various places all over Europe offering wide-ranging thematic orientations. In addition the training team provided several IP workshops building capacities in IP management among SMEs and researchers. Here a bunch of our recent events:

Upcoming IP training events:
• 15 September 2015, Bonn / Germany: Impact & Innovation in Horizon 2020
• 8-9 October 2015, Copenhagen / Denmark: International Strategy Development Training for Life Sciences Executives of SMEs

Upcoming webinars:
• 16 September 2015: The services of the European IPR Helpdesk
• 18 September 2015: Introduction to IP
• 30 September 2015: IP in EU funded projects / Horizon 2020

• 4 November 2015, Dublin / Ireland: Impact & Innovation in Horizon 2020

For further information, please have a look at our online event calendar.
Riding the wave of desalination

With the permanent expansion of world population, the need for new sources of potable water has been long recognised. These needs have led to the development of devices for extracting fresh water from the ocean. One way is to combine the availability of wave energy with the proximity of seawater and have desalination systems that are powered by wave energy and that do not require an external power supply.

Try finding patents covering wave powered seawater desalination systems using Espacenet.
Step one: To find similar patents, identify the most pertinent aspects of the invention – common technical features that may be found in related patents – and for each aspect, define a comprehensive set of synonyms. To perform the search, the following concepts – groups of synonyms covering the different aspects of the invention – can be defined:

- drone*, unmanned airplane
- deliver*, ship*

The combination drone deliver* yields this list of patents that contains relevant documents as the one listed below:

US2014254896 (A1) - UNMANNED DRONE, ROBOT SYSTEM FOR DELIVERING MAIL, GOODS, HUMANOID SECURITY, CRISIS NEGOTIATION, MOBILE PAYMENTS, SMART HUMANOID MAILBOX AND WEARABLE PERSONAL EXOSKELETON HEAVY LOAD FLYING MACHINE

As can be seen this method of delivery has been patented by amongst others Amazon. This patent, out of the three obtained, looks like the one covering the product:

US2005006525 (A1) - Unmanned aerial vehicle for logistical delivery

Step two: To continue the search you can use relevant classification symbols assigned to this relevant patent and combine them with properly chosen keywords to cover the concepts that should be present in relevant patents. Amongst the classification symbols assigned to the relevant found patent, one covers unmanned aircrafts B64C39/024.

Combining B64C39/024 with deliver* or ship* results in a good list of documents,

US2014110527 (A1) - SELF-SUSTAINING DRONE AIRCRAFT FREIGHT AND OBSERVATION SYSTEM

US2015120094 (A1) - UNMANNED AERIAL VEHICLE DELIVERY SYSTEM

US2016175276 (A1) - DELIVERY PLATFORM FOR UNMANNED AERIAL VEHICLES

US2015183528 (A1) - Landing Pad For Unmanned Aerial Vehicle Delivery

US2015158599 (A1) - ROBOTIC AERIAL VEHICLE DELIVERY SYSTEM AND METHOD

The search cannot be considered as complete at this stage. A comprehensive approach would require more search statements involving keywords and classification symbols.

Our results demonstrate that the field is quite patented and that Amazon has protected some features of its new delivery system.

A 30-minute delivery for your online orders

Amazon is introducing a super fast delivery method based on drones. Watch this film to see how this works. The use of drones in the supply chain is also expected to drive down delivery costs.

Try finding patents covering this type of delivery method using Espacenet.
**GLOSSARY**

**Blocking patents** are patent applications, which are strategically used as a barrier to pre-empt rivals from getting their patents granted and/or entering into markets and technologies.

**The Harmonised Database** is a multilingual database of descriptions of goods and services that have been agreed to be acceptable classification terms by OHIM and national IP offices in the EU, used when applying for a trade mark.

---

**EDITORIAL BOARD**

The following members have actively participated to the shaping of the current Bulletin.

**External members**

- **Mr Andrew Czajkowski**
  World Intellectual Property Organization

- **Ms Pascale Foujols**
  Executive Agency for Small and Medium-sized Enterprises

- **Ms Alexandra Mayr**
  Office for Harmonization in the Internal Market

- **Ms Anne von Zukowski**
  European Commission

- **European IPR Helpdesk**

- **Ms Inna Dimova**

- **Mr Cyril Dubois**

- **Mr Onur Emül**

- **Ms Claire Fentsch**

- **Mr Rosario Gurrieri**

- **Ms Léa Montesse**

- **Mr Jakub Ramocki**

- **Mr Arne Reich**

- **Ms Nina Weiler**

**GUEST AUTHORS**

- **Prof. Ms Paola Giuri**

- **Prof. Mr Salvatore Torrisi**
  University of Bologna

---

**DISCLAIMER / LEGAL NOTICE**

The European IPR Helpdesk project receives funding from the European Union’s Horizon 2020 research and innovation programme under Grant Agreement No 641474. It is managed by the European Commission’s Executive Agency for Small and Medium-sized Enterprises (EASME), with policy guidance provided by the European Commission’s Internal Market, Industry, Entrepreneurship and SMEs Directorate-General.

Even though this Bulletin has been developed with the financial support of the EU, the positions expressed are those of the authors and do not necessarily reflect the official opinion of EASME or the European Commission. Neither EASME nor the European Commission nor any person acting on behalf of the EASME or the European Commission is responsible for the use which might be made of this information.

Although the European IPR Helpdesk endeavours to deliver a high level service, no guarantee can be given on the correctness or completeness of the content of this Bulletin and neither the European Commission nor the European IPR Helpdesk consortium members are responsible or may be held accountable for any loss suffered as a result of reliance upon the content of this Bulletin.

Our complete disclaimer is available at [www.iprhelpdesk.eu](http://www.iprhelpdesk.eu).

© European Union (2015)