



Practicum 1

A consortium has worked on a “smart fabric” that can detect and adjust the perspiration level of the user, giving him/her more comfort

Project participants are sure that this fabric is really a “hit” and can be exploited in Europe, e.g., for sport garment

One of the researchers also wants to publish an article in a prestigious journal

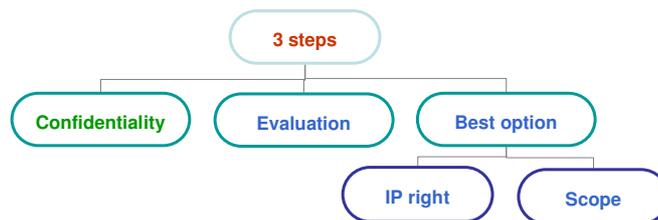
What to do first?



**Protection-Use-Dissemination:
PART OF THE SAME STRATEGY**



Planning the right strategy



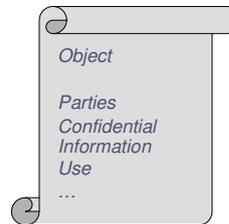
Joint decision participants + IP expert



Step no 1

Regardless of the fact that we may have only a new **idea** or **something that can be protected by IP rights**, any communication to staff, potential investors...whoever...

confidentiality commitment



Step no 2

Identification of the **nature of the results...** and the **“natural” way of protection**

		Subject-matter	IP rights	
IP	Industrial Property	Inventions	Patents	Trade Secrets
			Utility Models	
			Plant Varieties	
		Distinctive signs	Trade Marks	GI, DO
			Trade Names	
‘Aesthetic’ creations	Industrial designs			
Design of chips	Topographies of semiconductor products			
	Intellectual Property	Literary, artistic and scientific works	Copyright and neighbouring rights	



Step no 2

Identification of the **nature of the results...** and the **“natural” way** of protection

In our example:

Patent: national/EP... PCT application

Utility model

Trade secret

Technical aspect

Trade mark: national/Community TM...

Commercial aspect

Design: national/Community design...

‘Aesthetic’ aspect



Step no 3

Decision about the **“most effective”** method of protection and its scope

IP rights are territorial rights

Particular decision upon our best/worst

Ultimate aim: **to make the most of our results (whatever they may be... and whatever our size!)**



Money, markets... Potential

Objectives
Potential
Market
Licences
Budget

National patent	National coverage Procedure: 2-3y ~ €12 000 (20y)
European patent	Most European countries are part of the system Procedure: 3-5y 3-5 countries: + economic than national way 6 countries (10y): ~ 32/38 000 € (study commissioned by EPO)
PCT application	> 135 countries More time to decide where to apply



Money, markets... Potential

Objectives
Potential
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National TM	National coverage Proced.: 8-15m Fees ES 2009: €154,38 x class; e-filing, cheaper	National design	National coverage Proced.: 6-10m Fees ES 2009: €90,85 up to 10 (e-filing, cheaper)
Community TM	Validity in all EU Proced.: 12-18m Fee: €1050, €900 e-filing, up to 3 classes (from 1 May 2009)	Registered Community Design	Validity EU Proced.: ~ 6w Fees: €350 (basic application + publication)

Unregistered Community Design!



Technology Transfer (TT)

Know your results

Management of background & foreground

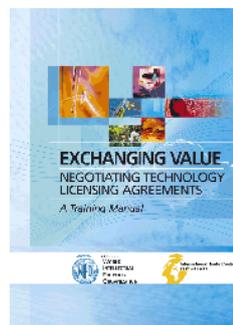
TT basics to start:

Know your partner (*due diligence*)

Challenges:
Many participants lack expertise
Underestimation of importance
expert assistance

Good faith ("*win-win agreements*")

Good negotiation ("*we don't have the agreement that we deserve but the one we negotiate*")



Very helpful to start with TT

Written in an easy-to-read style

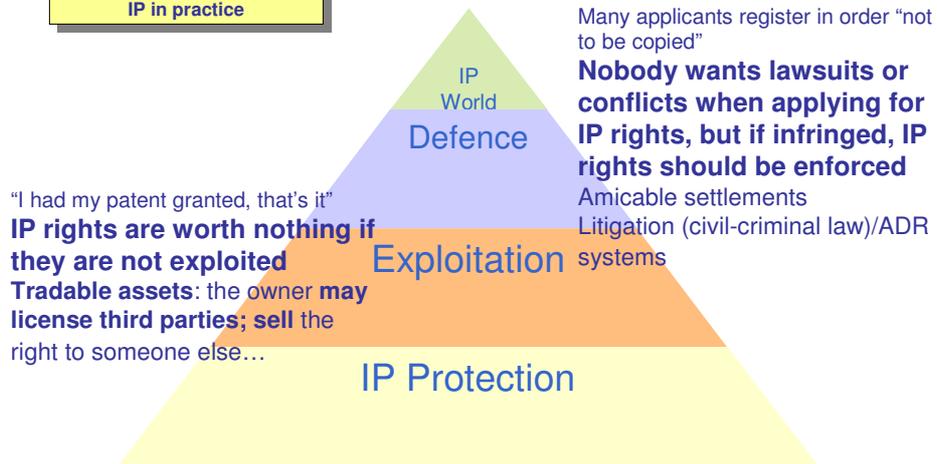
Practical manual to enhance knowledge and skills on all the major issues to be addressed while negotiating licensing agreements

It also has annexes with additional materials, such as a number of case studies and other helpful information

A pdf version is available on the WIPO website:
http://www.wipo.int/sme/en/documents/guides/technology_licensing.html



Protection/exploitation FP7
IP in practice



Practicum 2
FP7 IP rules Quiz



Find the term corresponding to each definition

background

licences and user rights to foreground and background

foreground

information and IP rights (granted or applied) that participants hold before the signature of the grant agreement

access rights

making foreground available to the public

dissemination

results generated in the project and IP rights attached to the results



Choose the right answer

Regarding the definition of background available to the project, a **positive list** is...

- a) a list that defines the background that will not be made available for access rights
- b) a list that defines the background that will be made available for access rights, excluding all the rest
- c) a list that states that everything not included in it will be made available for access rights
- d) a list that details the economic conditions for access rights to participants' background and foreground

The positive list defines the background that shall be made available for access rights whenever necessary. All the rest is excluded.



Choose the right answers

Participants have the joint ownership of the results...

- a) only if they state so in their consortium agreement
- b) when they generate foreground by common efforts and their individual contributions cannot be ascertained
- c) whenever they decide to own the foreground jointly
- d) if the coordinator of the project so agrees with the European Commission

Joint ownership situations may arise either because participants so agree, or because foreground has been generated by common efforts and it is impossible to ascertain individual contributions.



Choose the right answer

Generally speaking, "protection" of foreground means...

- a) ensuring that all project works are carried out in the safest way
- b) ensuring that the foreground is safe for humans and environmental-friendly
- c) protection by intellectual property rights, such as patents
- d) protection of foreground by patents exclusively

Protection of foreground means protection by intellectual property rights, such as patents, utility models, copyright, trade secret, etc.



Choose the right answers

When a participant wants to grant an exclusive licence to its background or foreground...

- a) it shall first obtain a written statement by which the other participants waive their access rights
- b) such exclusive licences to foreground cannot be granted
- c) it shall simply inform the other parties of its intentions
- d) the European Commission might object to the granting of an exclusive licence to foreground

The other participants shall waive their access rights in writing, while the Commission may object exclusive licensing in some cases.



Choose the right answers

Before carrying out any dissemination activity participants shall...

- a) consider the protection and use of foreground
- b) inform the European Commission
- c) consider the legitimate interests of the other participants
- d) inform the other participants

Participants shall consider the protection and use of foreground, as well as the legitimate interests of the other participants, who shall be informed in advance.



Choose the right answers

Use of foreground can be done...

- a) in further research and/or commercial activities
- b) only when the foreground has been previously disseminated
- c) by participants alone or in cooperation with third parties
- d) only when all participants decide on a common strategy

Use of foreground can be done in further research or commercial activities, by participants alone or in cooperation with third parties (technology transfer).



Choose the right answer

Access rights shall be granted...

- a) whenever necessary and following written request
- b) only if the granting participant is willing to grant them
- c) at the beginning of the project, once and for all
- d) by all the participants to the coordinator and the European Commission

Access rights are granted following written request, if and whenever necessary for carrying out the project or for using own foreground.



Choose the right answer

Access rights for use shall be granted...

- a) always royalty-free to foreground, to background on fair and reasonable conditions
- b) royalty-free for both foreground and background
- c) on fair and reasonable conditions for both foreground and background
- d) royalty-free or on fair and reasonable conditions, depending on the agreement between participants

Access rights to both background and foreground for use are granted royalty-free or on fair and reasonable conditions. Participants decide.



Choose the right answer

According to the FP7 rules, certain entities affiliated to the participants...

- a) do not have any access rights, unless participants so agree
- b) may enjoy access rights for the purposes of using foreground which is their property
- c) have the same access rights as participants
- d) have the same rights as participants, but always granted on fair and reasonable conditions

Affiliated entities may enjoy access rights for use purposes, provided that foreground has been transferred (in whole or in part) to them.



Good job!

Thank you for your attention

ipr-helpdesk@ua.es
alicia.blaya@ua.es