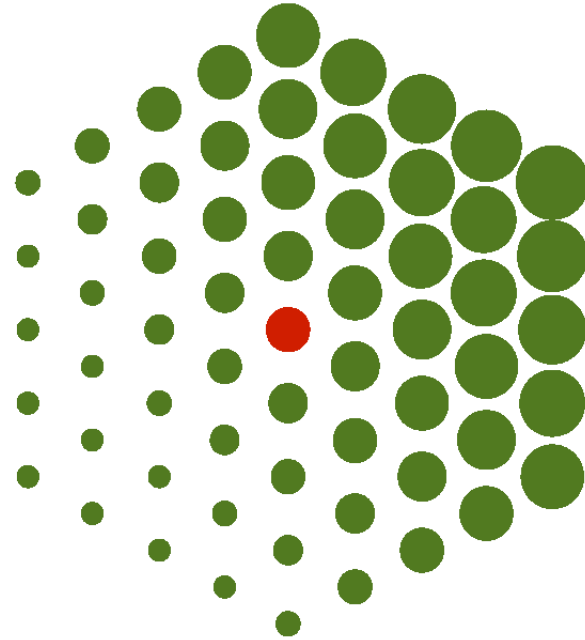


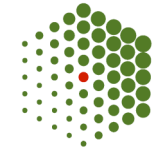


INNOVATION WORKS™



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Common interests? IP ownership and protection

Casimir Annual Meeting
Rome 27/28 November 2007
Dr. Martin Raditsch - EMBLEM



Agenda

- Introduction
- IPR
- IPR in Framework Programms
 - Application process
 - Use and dissemination
- Contract
 - Exclusion of PEKH from access
- Consortium Agreement
 - Use of knowledge
 - PEKH, Knowledge, Access Rights
- Summary



Introduction (I)

Intellectual Property Rights (IPR)

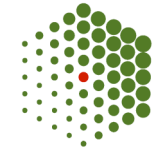
- Intangible “Intellectual” Asset
 - Inventions
 - Material
 - Experimental protocols
 - Ideas
- Types of IPR
 - Patents
 - Copyright
 - Trade secret



Introduction (II)

IPR - Patent

- Strongest IPR
- Granted to the owner by the state
- Limited lifetime (20 years in general)
- Right to prevent somebody from practicing your invention
- Criteria for patentability:
 - Novelty
 - Inventive Step
 - Commercial applicability



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IPR in Grant Agreements (I)

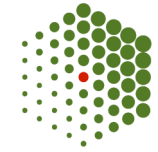
...during the application process

- Discussion while preparing the application:
 - Exchange of ideas
 - Exchange of material
 - Exchange of unpublished results
 - ! Safer under CDA, may be included in LOI !
 - Contact with TTO
 - Plan for Use and dissemination:
 - Includes plan for protection and marketing of IPR
 - !For the benefit of (European) society at large!
 - Contact TTO



IPR in Grants Agreements (II)

Use and Dissemination



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➤ Use:

- “...the direct or indirect utilisation of knowledge in research activities or for developing, creating and marketing a product or process or for creating and providing a service.”
- Requires adequate protection of IPR
- Beware of Novelty-destroying publications!
- Contact TTO

➤ Dissemination:

- “... the disclosure of knowledge by any appropriate means other than publication resulting from the formalities for protecting knowledge.”
- Includes Patents, commercial use
- Contact TTO



Contract

- Pre-Existing Know-How (PEKH)
 - All Know-How that existed prior to signing the Contract with the EC
 - Possibility of excluding certain PEKH from access by other partners e.g. when:
 - you have made commitments to third parties
 - you think about starting your own company
 - you simply do not want to share everything with the whole consortium



Consortium Agreement

General Regulations on IPR



- Confidentiality
- Exclusion of PEKH
- Identification of prior commitments
- Access Rights to Knowledge and PEKH
 - Knowledge: everything developed during the project
- Generally: Partners are referred to TTO to request Access



EXAMPLE

Re: Notification of unavoidable obligations with respect to the Collaborative Project (Large-scale integrating project) “project name (FRAMEWORK PROJECT)” under the EC FP7 program

Dear Prof. XYZ,

In accordance with the EC FP7 grant agreement, Annex II Art. II.3i) and II.32.3

UNIVERSITY would like to inform you of unavoidable obligations prior to the signature said grant and the respective Consortium agreement.

UNIVERSITY hereby gives formal notice that it will not be able to grant *access rights* to UNIVERSITY IPR developed:

outside of the FRAMEWORK PROJECT project (“*background*”) under the FRAMEWORK PROJECT project (“*foreground*”)

prior to fulfilment of prior obligations towards UNIVERSITY’s commercial partner

However, UNIVERSITY hereby confirms that, where reasonably possible, it will be able to provide such needed *access rights* to UNIVERSITY *background* and *foreground* on fair and non-discriminatory market conditions.

Please will you ensure that the appropriate contacts of all the FRAMEWORK PROJECT partner organisations are informed and (ideally) obtain acknowledgement of their receipt of the above.

With kind regards,



Consortium Agreement

Access Rights



- Standard for EMBL:
 - Consortium Members get free access to Knowledge for:
 - duration of the project
 - for carrying out the work under the project
 - Consortium Members usually get access to PEKH at preferential conditions or for free for:
 - duration of the project
 - for carrying out the work under the project
- if no other prior obligations are existing!



Summary

- Consider IP and plans for Use and dissemination in your application
- Beware of novelty destroying publications
- **Think of sharing or not sharing PEKH**
- Think of prior commitments to e.g. companies or academic partners
- Contact grants office, legal advisor and TTO



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