

## The European IPR Helpdesk

# Bulletin

N°14, July - September 2014

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In this summer issue of the European IPR Helpdesk Bulletin, we bring to you several articles on practical and accessible tools and services available for small and medium-sized enterprises (SMEs) in need of protection of their intangible assets.

Firstly to help SMEs navigate through the different free-of-charge initiatives available to assist them with intellectual property related

matters, we have created an easy to use map of those services. Thinking on the growing relevance of designs in business, the Bulletin features an article from a professional expert on industrial design protection in the EU and the very useful grace period that can be of use particularly to SMEs. In addition and because financial considerations always have a role in the protection of intellectual property by SMEs, this issue provides you with details of the Innovaccess IP cost tool, a free-of-charge tool allowing the calculation of the costs related to different IP titles for a determined period of time within European countries.

Moreover, in the interview that we bring to you in this issue you can read how the benefits of intellectual property protection in a SME outweigh the costs of protection, from the example of a biotech company.

We have also not forgotten Horizon 2020, where many of our readers are currently starting to be involved. For this reason, you can read in this issue an interesting article on the DESCA 2020, a model consortium agreement tailored to be used in Horizon 2020. With this article you will become familiar with the most relevant IP-related clauses in this model.

As always, you can also read about the upcoming IP-related events the European IPR Helpdesk will organise and enjoy the patent quiz.

Wishing you inspiring reading!

Your editorial team

## Intellectual Property Support Initiatives in the EU

Many support initiatives have been put in place to help small and medium-sized enterprises (SMEs) with intellectual property-related matters. Most services of these initiatives are free of charge, but it is not always clear where SMEs should turn to for help, given the wide spectrum of available initiatives.

To help you find your way around the most relevant intellectual property support initiatives to help EU SMEs, use this map!

### Doing business and partnerships at national level

#### National Intellectual Property Offices

All the EU Member States have their own national Intellectual Property office, which provide services beyond registration, including searching services and Helplines. For information on the services available, contact the office in your own country or check [www.innovaccess.eu](http://www.innovaccess.eu).

#### PATLIBs

PATLIBs were created to provide users with local access to patent. They have qualified and experienced local staff who can also offer practical assistance on other kinds of intellectual property rights, such as trade marks, designs and copyright. To find the nearest centre in your region, click [here](#).

### Doing business and partnerships in the EU market

#### European IPR Helpdesk

The [EU IPR Helpdesk](#) is the official IP service initiative of the European Commission providing free-of-charge, first-line advice and information on IPR. The service is targeted at organisations participating in EU-funded research projects, as well as SMEs involved in trans-national partnerships.

#### Enterprise Europe Network

Among other business-oriented services, the [Enterprise Europe Network](#) offers information and advice on IP issues close to where you are. The Network works closely with specialist organisations that help small businesses to use IPR to protect and profit from their ideas and innovation.

#### EPO

In addition to the examination of patent applications and the grant of European patents, as well as the future unitary patents, the [European Patent Office](#) also provides patent information and training services.

#### OHIM

The [Office for Harmonization in the Internal Market](#) provides registration services for Community trade marks and designs, as well as training services. It manages the European Observatory on Infringements of Intellectual Property Rights (IPR), a network that develops initiatives on IPR.

### Going International

#### China IPR SME Helpdesk

The [China IPR SME Helpdesk](#) supports EU SMEs to both protect and enforce their IPR in or relating to **China**, through the provision of free information and services. This is an initiative co-funded by the European Commission.

#### Asean IPR SME Helpdesk

The [ASEAN IPR SME Helpdesk](#) supports EU SMEs to both protect and enforce their intellectual property rights in or relating to ASEAN countries: **Vietnam, Malaysia, Singapore, Thailand** and **Indonesia**. This is an initiative co-funded by the European Commission.

#### Mercosur IPR SME Helpdesk

The [MERCOSUR IPR SME Helpdesk](#) offers free of charge, first-line support on IP and IPR matters that aims to facilitate the expansion of European SMEs already established in, or working with entities in, **Mercosur** countries and **Chile**. This is an initiative co-funded by the European Commission.

#### Indian IPR Helpdesk

The [Indian IPR Helpdesk](#) provides information about IPR laws in **India** and recent amendments/judgments in IPR cases as well as their implications for European organisations, assistance on filing proceedings and enforcement. This is an initiative co-funded by the European Commission.

#### WIPO

In addition to the international registration services relating to the Patent Cooperation system (patents), the Madrid system (trade marks) and the Hague system (designs), the [World Intellectual Property Organisation](#) also provides arbitration and mediation services.

## OHIM Academy

### Office for Harmonization in the Internal Market (OHIM)

Established in May 2011, the OHIM Academy encompasses all the learning and educational activities for OHIM staff, staff of the intellectual property (IP) offices of the European Union, OHIM's stakeholders and non-EU IP professionals. The OHIM Academy is part of the European Observatory on Infringements of Intellectual Property Rights, an interdisciplinary centre that brings together public and private sector experts in the field of intellectual property.

### CONNECTING TO THE JUDICIARY WORLD

If OHIM always focussed on delivering trade marks and designs, it also considered of little value issuing a title that could not be enforced at court by right owners. This meant approaching the judiciary world. A first attempt was made in 2005, but very quickly, the system was completely rethought to make it really innovative, i.e. interactive and practical for the judges.

Since 2008, from the 24 judges' seminars organised under the new format, 14 dealt with different issues related to procedural aspects of IP infringement cases, and covered, from different angles, miscellaneous issues related to indemnification. Other seminars focussed on substantive issues related to trade marks and designs.

A total of 500 participants from all EU Member States and all court levels attended or contributed to these seminars; many returned to receive further training.

Judges and prosecutors come to discuss practical questions in a confidential environment. This level of confidentiality allowed debates to be informal and to obtain responses which a judge could/should not give in an official open forum. During these seminars, debates take place at working tables composed of 10 - 12 judges,

mixed according to their language skills. Countries and levels are mixed. A judge from a Supreme Court may sit with a judge of First Instance. The judges receive the questions well in advance of the seminar and they are required to come duly prepared: the seminars require a high level of interaction by the participants. To support the questions, a mock case with real economic data, known as the Max Case, is used.

In 2014, Max Case will return to support four seminars addressing provisional measures (in March), money laundering and counterfeit (in October) and customs issues (in November). In addition a special event will be organised jointly with the European Patent Office (EPO) in June. This seminar will cover transversal issues related to the protection of secrets.

### OHIM ACADEMY LEARNING PLATFORM

The OHIM Academy has launched a new eLearning Platform aimed at disseminating the OHIM knowledge and expertise among all OHIM stakeholders, enabling access to the learning resources anytime, anywhere and self-paced. The Platform hosts a wide range of learning resources with features for online collaboration. Thus the OHIM has embraced distance learning like many other reputable professional organisations.

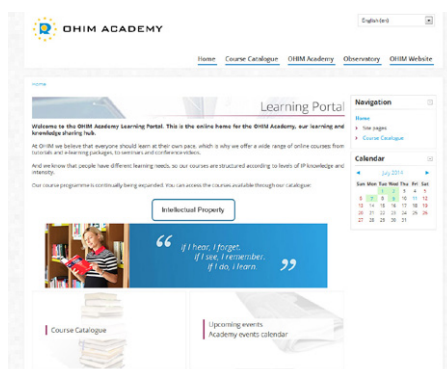
This new platform is called "OHIM Academy Learning Portal" (OALP) and has also the purpose of sharing best practices and the ideas needed to develop a European Network and to contribute to the global discussion concerning IP.

The content available in the Portal covers mainly IP matters and is divided into two different types. The first type refers to eLearning modules and tutorials which are online learning tools intended to provide a thorough educationally sound background on the Community Trade Mark (CTM) and Registered Community Design (RCD) OHIM core business areas and a practical knowledge of the new improved OHIM e-business tools. Among these the following eLearning can be highlighted: CTM in a Nutshell, TMClass tutorial, eLearning for SMEs, etc. The second type refers to the recorded seminars, conferences and webinars that take place throughout the year at OHIM. These events, such as the IP seminars on specific relative grounds, invalidity, webinars on basic IP matters etc., are recorded and then uploaded onto the OALP for dissemination to the OHIM stakeholders.

In addition, special mention must be made of the collaboration with the European Patent Office Academy with whom the OHIM Academy shares similar expectations in making the best use of new technologies for improving the learning process and for providing all stakeholders with the best possible system performance, regardless of location.

The OALP also provides an events Calendar to keep the stakeholders informed about the next training sessions scheduled for the following months.

If you want to see all this for yourself, just go to the new [OHIM website](http://oami.europa.eu) and select the "Learning Portal" option in the "Learning" section, or directly through this [link](http://oami.europa.eu/knowledge).



OHIM Academy Learning Portal (OALP)

<http://oami.europa.eu>  
<http://oami.europa.eu/knowledge>

## International IP Summit in London

### Office for Harmonization in the Internal Market (OHIM)

On 11 - 12 June 2014, London hosted the first International IP Enforcement Summit.

It was co-organised by the UK government and UK Intellectual Property Office and the Office for Harmonization in the Internal Market (OHIM) in partnership with the European Commission.

The Summit attracted a large range of delegates from all across the world. Of the more than 300 attendees, there were representatives from over 30 different countries, including the United States, Canada, China, Korea, Mexico, Switzerland, Norway and Australia, as well as most EU Member States.

The Summit offered a forum to senior leaders from government, private sector, enforcement agencies, IP offices, as well as civil society and creative industries. Over two days, delegates debated and exchanged views on intellectual property enforcement in Europe and globally.

The conference was the first of its kind, and provided a forum for public and private sector representatives, along with civil society, to come together and engage on the issue of IP enforcement. Throughout the two days, the

importance of IP as a motor for economic growth and job creation was stressed, and the threats that IP infringements pose to economies and societies were addressed.

The UK government was represented by Secretary of State for Business, Innovation and Skills, Vince Cable, who opened the conference, and Viscount Younger of Leckie, Parliamentary Under Secretary of State for Intellectual Property at the Department of Business, Innovation and Skills.

OHIM President António Campinos, Heinz Zourek, Director General of the Taxation and Customs Directorate General of the European Commission and Rob Wainwright, the Executive Director of Europol provided an EU view, while Francis Gurry, the Director General of WIPO, Kunio Mikuriya, the Director General of the World Customs Organization (WCO) gave the viewpoint from inside international organisations.

The private sector was well represented, with Paul Polman, the CEO of Unilever and Senator Chris Dodd, the Chairman and CEO of the Motion Picture Association of America also addressing delegates.

The role of the creative industries in the intellectual property framework was stressed,



with speakers including best-selling Scottish crime author Val McDermid stressing the importance of IP in this critical sector. During the gala conference dinner, delegates also heard from renowned tenor Plácido Domingo, who spoke about the importance of IP in entertainment.

The Italian Presidency of the EU signalled during the conference that the fight against counterfeiting would be one of its priorities. The conference concluded with an official communiqué, committing all participants to working together to provide more effective IPR protection.

The communiqué also called for a reinforced effort from government, business and enforcement agencies to address international IP abuses, and to raise consumer awareness of these key issues. Delegates agreed to meet again in 2016 to review progress.



### IP52 - making sense of intellectual property

Ever wondered how an idea for a new product that can change the world becomes a reality? Or realize that nearly everything you use – from your toothbrush to your car to your coffee – is full of patent protections?

In today's modern world, intellectual property (IP) touches every aspect of our lives. It rewards innovators for turning ideas, from a better cup of coffee to a life-saving drug, into the technologies that sustain and enhance our world. Computers that work faster, crops that grow larger and cars that use less fuel are just a small sample of the innovations that are sustainably improving the way we live.

IP52 is a new movement dedicated to better understanding the role of IP in our lives. Each week, IP52 releases new resources – from IP 101 videos and infographics to innovator profiles – that help you discover how important IP is for inventors as well as consumers, and how it helps to evolve products in all industries.

Start discovering the IP basics, its benefits and myths, as well as the relationship between IP and growth at [ip52.org](http://ip52.org)

## INTERVIEW



### KeyGene: why IP is important for SMEs

**"Without protecting its intangible assets it would have been almost impossible for KeyGene to ask seed companies for financial compensation, since they would have used our technologies for free."**

*Mr Arjen van Tunen, CEO of Keygene N.V.*

#### Could you introduce us to the KeyGene Company and its activity?

KeyGene is the largest dedicated agro/food biotech company in Europe, with headquarters in the Netherlands. The company was established in 1989 with initially 3 full-time employees. The company develops and applies methods and traits that are commercialised as Business to Business (B2B) to the world wide seed industry.

#### How does KeyGene contribute to the innovation in the biotech sector?

Through the KeyGene's technologies and traits, vegetable and field crop seed industries can develop better crop varieties. In a substantial number of cases new crop varieties have successfully reached the market and growers all around the world are using these improved varieties with "KeyGene Technologies Inside" the newly developed seeds. Such varieties include, among others, virus resistant cucumbers, long lasting cucumbers, insect-resistant lettuce, hybrid rye, higher yields in corn and canola, anti-lodging canola and so on.

#### Which types of IP do you identify as company assets?

KeyGene's current IP consists of a large number of patents and patent applications, trademarks and trade secrets. In 2012 KeyGene owned 75 different patents and

patent applications that are deposited in a large number of countries all around the world. KeyGene recognises 3 types of patents: top tier patents (that build KeyGene's business), middle tier patents (that contribute to the business of the company) and low tier patents (that supports the company's patent position in a strategic way).

#### How central is IP in KeyGene activities?

KeyGene started in 1989 with the development of a new DNA fingerprinting technology called AFLP that brought a revolution to molecular plant breeding in the 90s. The technology was patented in 1992 and the patent lapsed in 2012. As a result of its strong AFLP IP, KeyGene was able to grow from 3 full-time employees in 1989 to 80 full-time employees in 2004.

In 2004 an innovation push was given to the company, and 3 new technology platforms and a trait platform were developed. For each of the technology platforms and each of the traits in the trait platform the company has set a strong IPR strategy and from 2005 onwards 10 to 15 different patent applications per year were filed. Gradually these patents are being granted worldwide, including in Europe, USA, China and Japan.

Building on its IPR positions KeyGene was able to sustain and expand its B2B activities and to grow from 80 full-time employees in 2004 to 125 full-time employees in 2013.

#### Do you reckon IP as an enhancer to business partnerships?

A crucial aspect to the successful B2B activities of KeyGene is the acquisition of intellectual property rights on the technologies and traits developed. In fact, without protecting its intangible assets it would have been almost impossible for KeyGene to ask seed companies for financial compensation, since they would have used our technologies for free.

Thanks to the IP leverage, KeyGene developed itself from a technology provider to an integrated technology and trait provider with B2B activities with seed company customers in a large number of countries including Europe, USA, Japan, India, China and Brazil.



#### Contact

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## On the IP part of the DESCA 2020 model Consortium Agreement

**Kathrin Werner and Annika Thies**

Helmholtz Association of German Research Centres e.V.

Consortium Agreements (CA) are normally mandatory for Horizon 2020 projects and intellectual property rights are likely to be, once again, a major issue in their negotiation.

This article will give stakeholders some background on the DESCA model CA, the most widely used CA model in FP7, which has been updated for H2020. Some details on the H2020 IP rules, the main modifications in the IP part of DESCA 2020 and the relation between the two will be provided.

### 1. DESCA origins and history

From FP6 onwards, Consortium Agreements have gained increasing importance. In FP6, there was a large variety of model consortium agreements, drafted by different interest groups and in different member states.

To name the most relevant models: ANRT, EARTO-UNITE, EICTA, EU-CAR, French research organisations, German CA-Team, IMG4. This multitude of choices gave rise to considerable effort in negotiations within the consortia, especially where projects involved a larger number of partners. In the run-up to FP7, efforts were thus being made towards creating one single CA model for FP7. The driver of these activities was the DESCA initiative, consisting of most of the FP6 CA model groupings. The result was the DESCA model CA, which was developed with contributions from a large variety of stakeholders from both industry and academia throughout Europe.

Some industrial groupings at the same time maintained their own model CA (most notably, EICTA/Digital Europe and EUCAR; IMG4 based their FP7 model on DESCA).

In the course of FP7, the DESCA model CA became the most widely used model. It was updated twice to respond to changes in the model Grant Agreement and to take into

account experience from stakeholders. A mid-term review was conducted in 2010.

For H2020, the DESCA core group, consisting of ANRT, EARTO, Eurochambres, LERU, VTT, KoWi, ZENIT and coordinated by Fraunhofer and the Helmholtz Association, prepared an update of the DESCA model CA, adapted to the requirements of H2020. This was done with the support and contributions of the DESCA consultation group, gathering about 160 experts from Europe and beyond.

The resulting DESCA 2020 CA was published in March 2014 under [www.desca-2020.eu](http://www.desca-2020.eu).

### 2. DESCA concept and update

The DESCA initiative and its model CA seek to balance the interests of all participant categories: large and small firms, universities, public research institutes and RTOs, in the spirit of the Responsible Partnering Initiative.

DESCA is a simple and comprehensive model, stripped of all unnecessary complexity in both content and language. The modular structure of DESCA, with various options and alternative modules and clauses, provides maximum flexibility.

Elucidation notes with concrete examples and detailed explanations about the various options and clauses are provided throughout the model. These notes will help research managers (who typically do not have legal training) and first-time project participants make informed choices about the best wording to protect their interests.



**DESCA**  
Horizon 2020 Model  
Consortium Agreement  
[www.DESCA-2020.eu](http://www.DESCA-2020.eu)

For the participants and stakeholders involved in DESCA, the broad consensus on the value of DESCA is that it is well-known. The aim of the H2020 DESCA therefore was to only modify the text and the elucidations where necessary.

### 3. H2020 IP regime

The IP-related clauses in the H2020 legal basis are Articles 41 – 49 (Title III) of the Rules for Participation, and based on that Articles 23 to 31 (Section 3) of the Model Grant Agreement.

The H2020 IP regime set out in those provisions is fundamentally a continuation of the regime developed for FP7 (even though the structure of the articles of the Model Grant Agreement differs from the one in previous framework programmes). Readers will find that the terminology has changed slightly. While "Background" stays the same, results are now no longer being referred to as "Foreground", but are named "Results". Instead of "Use", the term "Exploitation" is employed. The underlying concepts however remain valid.

Participants have pre-existing "background" which they may bring into the project, and they (hopefully) generate "results" within the project; the participants enjoy, among each other, "access rights" to the others' background and results where this is needed for project performance or for exploiting one's own results.

New features in the H2020 IP provisions are notably the open access obligations in the dissemination clause, the possibility of additional exploitation obligations and the access rights for the European Union.

#### 4. DESCA 2020 IP part – concept and changes in comparison to DESCA 3.0 for FP7

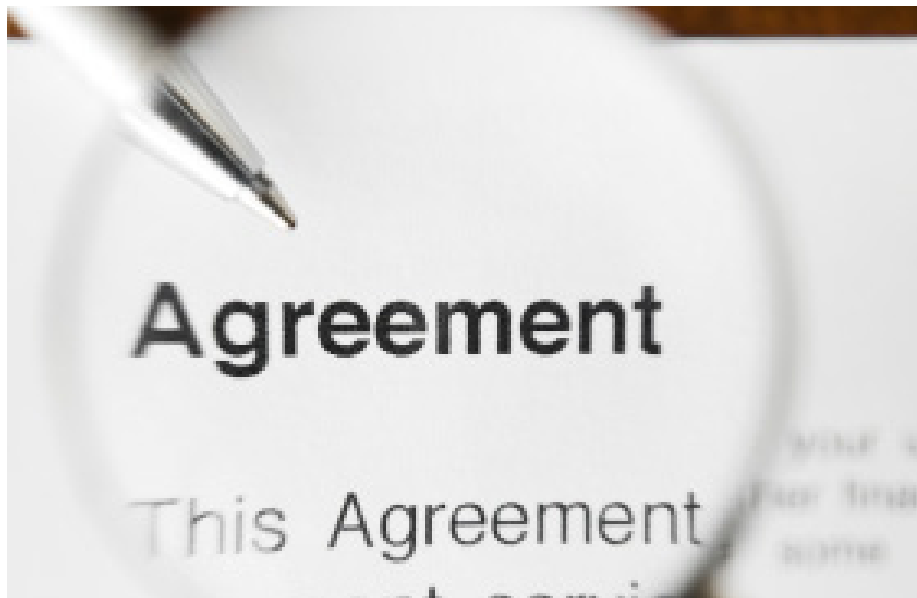
The DESCA 2020 IP part takes up the H2020 provisions on IP.

It employs the same definitions (by reference in Section 1.1) and deals with results, access rights to background and results, and confidentiality in its sections 8, 9, and 10.

Following the approach for the update mentioned above, the explicit aim of the update for H2020 was to keep the continuity of the DESCA FP7 text wherever possible and to change only where necessary to adapt to H2020 or where a large majority within the consultation group were in favour of a change.

##### Areas within the DESCA IP part which as a consequence did undergo some modifications:

- **Joint ownership:** Here a clear majority within the consultation group asked for a change of option 1. The aim was to recognise the difference between a joint owner using the jointly-owned IP internally for non-commercial research, and a joint owner using the same IP in a commercial context by e.g. creating a new product; in the case of commercial use, it was considered appropriate to make provision for compensation to the other owners. The alternative clause in option 2 remains as it is and allows exploitation and licensing of jointly-owned IP without compensation to the other owners.
- **Background list:** The Rules for Participation oblige participants to identify the background for their project. In view of this, DESCA makes provision for an annex in which all participants either identify the background which they bring to the project or explicitly state that none of their IP is needed by another participant. These lists need to be carefully drafted and checked by all participants in order to ensure that background, which is vital for the project success, is not left out.



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- **Introduction of a time limit for approval of publications:** The model grant agreement requires participants to request the approval of their project partners for publications of project results. This obligation is completely unlimited in time – in theory you would still have to ask 10 years after the end of the project any time you want to publish the project results. The DESCA provision suggests a time limit of 1 year after the project as the end of this obligation.
- **Another addition regards exclusive licences:** A new provision is meant to simplify the life of participants by making it clear whom to ask and how to proceed if one partner wants to grant an exclusive license.

There are some new H2020 IP features which are not explicitly introduced into the legal text of DESCA, notably the open access obligations, additional exploitation obligations, and access rights for the EU.

General agreement among the DESCA experts was that these are adequately covered by the general cooperation obligations of the CA and the detailed provisions of the model grant

agreement. It will have to be seen in due time, once practical experience is available, whether provision for those topics should be made in an update of DESCA 2020.

#### 5. Conclusion

Much thought and many discussions have gone into DESCA 2020, but it is still only a model: it is vital that it is adapted and changed to fit the specific circumstances of the individual project.

DESCA has been fortunate to be able to draw on the expertise and experience of many major stakeholders of the EU framework programmes. This allowed a timely update of DESCA to make it fit for Horizon 2020 provisions. If you wish to become part of the DESCA consultation group and be involved in further updates, you are welcome to send an email to the contact address that you will find on our [website](#).

Much as its predecessor, DESCA 2020 is a "living document", which will be further adapted and developed. The DESCA Core Group therefore asks users to provide feedback and practical experience that we might use for updates during H2020. Please do so via our [website](#).

## Local IP support throughout Europe

### Daniel Shalloe

Head of section – Events and Publications  
European Patent Office

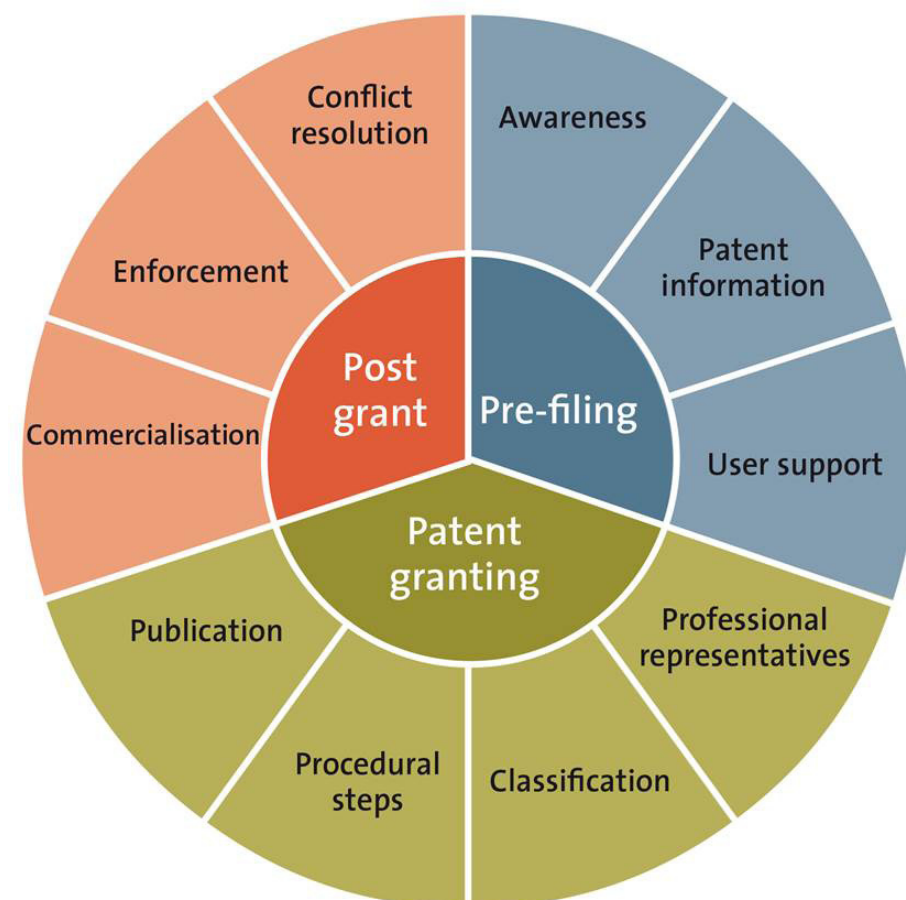
For small and medium-sized companies and research departments that don't have in-house IP expertise, the PATLIB network in Europe is a valuable partner.

There are more than 330 PATLIB centres across the member states of the European Patent Organisation, each providing local advice and support on IP-related issues. Many PATLIB centres also offer patent search and consultancy services.

For many years, the EPO has taken the view that the PATLIB network plays an essential role in its efforts to get patent information used as widely and as well as possible. Local patent centres, like the members of the PATLIB network, can provide a unique service, supporting their customers throughout the innovation process – see the graphic.

The great advantage of local centres is that they can adapt to their users' needs, and become experts in all the factors specific to their geographical location. And, of course, they speak the same language as their users.

Following a successful three-year pilot project with a number of PATLIB centres, the EPO is now proposing to extend its "reorientation project" to additional PATLIB centres. The proposal – which, if approved, is expected to enter into force by 2015 – comprises a raft of measures designed to build up a sustainable



package of services across the network. These measures include:

- advanced training and coaching for the staff of PATLIB centres
- support for introducing extended search services in PATLIB centres
- the creation of a central repository of

documents and tools (standard answers to questions, FAQs, user manuals, help files, tutorials, videos, standard presentations, and so on)

- collaboration with OHIM to integrate trade mark and design services.

This proposal was presented to the delegates at the PATLIB2014 conference, which took place in Istanbul on 15 - 16 May. With some 250 participants, the annual PATLIB conference is a unique occasion for PATLIB staff from many regions to come together, exchange experiences and build up contacts.

More information about PATLIB2014, including many of the presentations, is available at [www.epo.org/patlib](http://www.epo.org/patlib).

The EPO maintains a searchable online directory of all the PATLIB centres, so that the public can easily find their nearest one. [The directory](#) is available on the [EPO website](#).





## INNOVACCESS IP cost tool

### Innovaccess

The IP cost tool developed by the INNOVACCESS network of National IP Offices consists in a unique calculation tool allowing the calculation of the costs related to different IP titles for a determined period of time.

Its use is very simple as only a few criteria have to be selected:

- (1) the kind of IP title concerned, i.e. Patent, Registered design, Trade mark or Utility model;
- (2) the duration for protection (from 5 to 25 years); and
- (3) the countries in which protection is sought (33 European countries are proposed).

The result provided is the total amount per country in their respective currency, divided into two categories:

- the basic costs, related to the application process; and
- the renewals, corresponding to the sum of annual fees for the chosen time period.

This tool can be useful for companies to get a first idea of the cost for protection of their IP when they plan to internationalise their activities for example, or just to plan their budget for the coming years.

Country	Basic cost	Renewals
Belgium	350.00 (EUR)	775.00 (EUR) for 10 years
Switzerland	700.00 (CHF)	1220.00 (CHF) for 10 years
Greece	500.00 (EUR)	785.00 (EUR) for 10 years
Lithuania	640.00 (LTL)	6200.00 (LTL) for 10 years
Turkey	492.00 (TRL)	2570.00 (TRL) for 10 years

A direct comparison of the costs per countries could also help in deciding where to enter the priority application.

The amounts provided by the tool do not take into account the possible IP attorney fees, as these latter vary from one country to another. They also do not consider any additional taxes related, for example, to the number of pages or claims for patents.

However such a tool is to our knowledge unique and a reliable source of data as it is maintained and the calculation data regularly revised by the National IP Offices themselves.

The tool is available on the [innovaccess.eu](http://innovaccess.eu) website under the Cost section accessible on the right upper part of the homepage under "About Intellectual Property", or directly at [http://innovaccess.eu/cost\\_tool.php](http://innovaccess.eu/cost_tool.php).

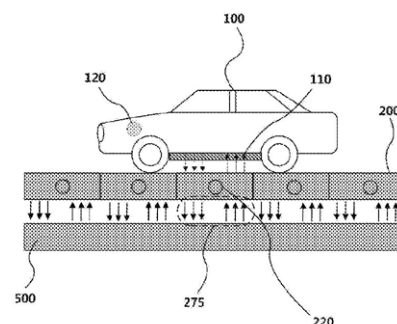
## Fancy a little quiz?

As you know in every issue we include a quiz to help you develop your patent searching skills using Espacenet. Why don't you try using Espacenet today? Here comes our new quiz:

### QUIZ

#### An electric car you never plug in

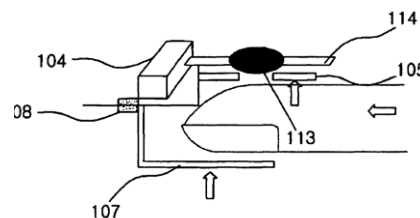
Some hesitate buying an electric car because of the cumbersome, frequent and lengthy charging process. As with any problem in life, inventors come with innovative ways to solve them. If we integrate powered transmitting coils into roadways, electric cars equipped with receiving coils could charge their batteries themselves during their road trip. This type of charging process can also be used for public transport vehicles. Try finding how extensively this field has been patented using [Espacenet](http://Espacenet).



## SOLUTION OF PREVIOUS QUIZ

## Non invasive glucose measurements for diabetes patients

The quiz also relates to a Dyson Award finalist. Florian Lemaitre designed a system for treating diabetes. A watch equipped with a laser sensor measures the sugar percentage in the blood. This measurement is automatically used for a proper dosing of the insulin pen further used by the patient for his treatment. Using [Espacenet](#), try finding patents covering this invention or non-invasive measurement method.



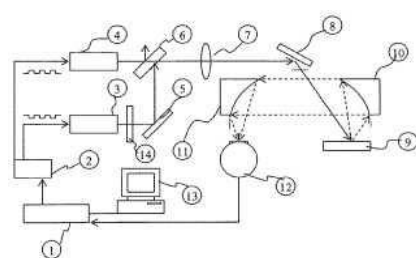
Step one: To find similar patents, identify the most pertinent aspects of the invention – common technical features that may be found in related patents – and for each aspect, define a comprehensive set of synonyms. To perform the search, the following concepts – groups of synonyms covering the different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

- diabet\*
- glucos\*
- laser\*
- invasive
- sens\*, measur\*
- dos\*
- insulin\*
- pen

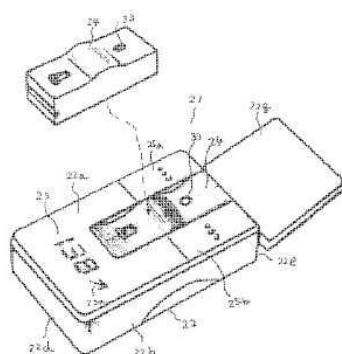
The combination diabet\* laser sens\* yields an [interesting list of documents](#).

This list contains several relevant patents relating to non-invasive measurement of glucose in blood:

[US2007213607 \(A1\)](#) - Non-invasive biothermophotonic sensor for blood glucose monitoring

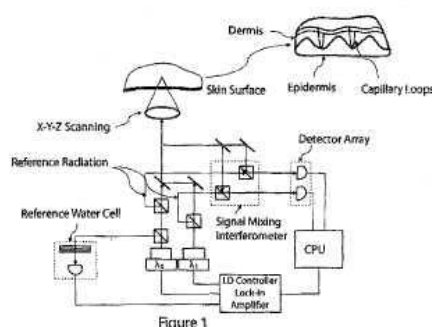


[JP2007330510 \(A\)](#) - BLOOD TEST DEVICE

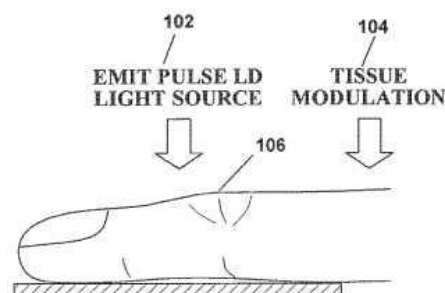


Using the combination glucos\* blood laser, you obtain an even more interesting list:

[US2014058226 \(A1\)](#) - Method and Apparatus for In Vivo Optical Measurement of Blood Glucose Concentration



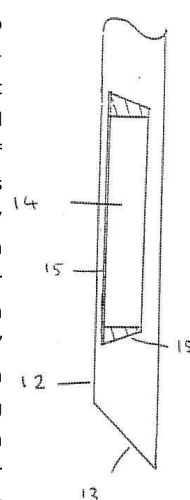
[KR20080072158 \(A\)](#) - NONINVASIVE APPARATUS AND METHOD FOR MEASURING BLOOD GLUCOSE



[WO9001697 \(A1\)](#) - BLOOD GLUCOSE MONITORING

This latter patent also mentions that the laser-based measurement can be combined with the dosing of insulin: "The process controller is operatively connected to an insulin pump 9, arranged for administration of insulin 10 to the blood flow 1."

If we wished, we can continue searching using classification symbols to extend our search to sets we may have missed using keywords.



Step two: Use the classification assigned to relevant documents to refine and complete the search.

There are few classification symbols that are possibly relevant to this invention. The one that seems to broadly cover our patents is [A61B5/145](#) corresponding to measuring blood characteristic in vivo.

Using this classification symbol combined with the keyword combination laser and (glucos\* or diabet\*) yields [additional results](#).

One can browse through those patents to check if additional relevant records could be retrieved. We did not find a patent exactly matching the prize-winning invention but, from our search, we can conclude that such systems are not totally new. The protection which a patent could grant would be on improvements or specific features.

## Community Registered Design, the Grace Period and its Use by SMEs

**Pedro Merino Baylos and Ramón Seoane**

Olswang Spain LLP

### *Concept of design*

Designs protect the appearance of a given product that derives from its material, shape, contours, colours, etc. Though designs do not have to have aesthetic quality, those that are dictated only by their technical function do not qualify for protection.

### *Community designs*

Apart from seeking unified effect and other objectives such as preventing the distortion of the competition in the EU territory and the fragmentation of the Community market, promoting research and innovation, etc., the Community designs system aims at procuring a more accessible and cost-effective design protection system. Instead of filing 28 design applications in the different EU states, protection may be achieved in the whole Union under the Community designs system.

Community designs have unitary character in the sense they have uniform effect throughout the entire EU and accordingly they can only be registered, transferred, surrendered, etc. in respect of the whole EU. The Community designs system includes both registered (up to 25 years protection) and unregistered protection (3 years protection).

### *Protection of Community registered designs*

Community designs must comply with two main requisites to be eligible for protection under the Community designs system. They should be new and have individual character. A Community design is considered to be new if no identical design has been made available to the public before the date of application for registration. On the other hand, a design will be considered to have individual character if its overall impression differs from that produced by any design made available to the public before the date of application for registration.

### *Exceptions to disclosure*

Not all disclosures of a design will be suitable to neutralise the novelty and the individual character of a given design thus depriving it of the protection sought. There are certain exceptions that we may label as innocuous uses, as per the terminology used by the Spanish doctrine.

The first exception relates to the reasonable unawareness of the specialised circles in the sector concerned operating in the EU. By way of example, an "earlier" design may not prevent the validity of a registered design if it is only known by non-specialised circles in the relevant sector in the Community or even if it is known by specialised circles but they operate only outside the EU.

The second relates to the situation where the design is disclosed to a third person under conditions of confidentiality. With regard to this second exception, it may be held that it refers to the disclosure made to a third person who belongs to the specialised circles in the specific sector in the EU.

### *Grace Period*

The interests of design holders are also secured in the Community design system by contemplating further situations that are not able to prevent both the novelty and individual

character of the design whose protection is claimed.

During a period of 12 months preceding the application date (or the date of priority, if priority is claimed), a disclosure is not to be taken into account for the purpose of ascertaining the novelty and individual character requisites if the design whose protection is claimed has been made available to the public by the designer, his successor in title, or a third person, as a result of information provided or action taken by the designer or his successor in title. The same (regardless of the disclosure) applies in the event that the design has been made available to the public as a consequence of an abuse in relation to the designer or his successor in title. The duration of this prerogative is again 12 months.

The grace period allows for the testing of the products embodying the designs in the market place before deciding whether the protection resulting from a registered design is desirable or not. Due to the limited budget of small and medium-sized enterprises (SMEs), the grace period amounts to a particularly useful tool to check if the attention drawn in the market is sufficiently intense and steady to evaluate the marketability of the product and if it is worth being registered, taking into account the application fees (and renewal fees) associated with the registration before the competent body (OHIM). This 12-month term may also be used to find a sponsor, partner, etc. that



may fund or in any manner invest or cooperate with SMEs in the manufacture, promotion and commercialisation of their designed products.

There are other measures provided by the Community design system intended to minimise the financial impact derived from the registration process. The applicant can combine in a multiple application several designs as far as the products that intend to incorporate them belong to the same class of the international classification of industrial designs.

The grace period seems to be especially

appropriate for those sectors such as the fashion and accessories industry that develop a high quantity of designs and whose lifecycle is normally short (a season or even less). Unless a specific design/product proves to have a long-term success, these kinds of undertaking will normally rely on the protection afforded by the unregistered Community design that grants protection against copies during 3 years from the disclosure.

Finally, design holders should also be aware of certain gaps/disadvantages of the grace period. Without limitation, it should be borne in mind

that the scope of the grace period is limited to the disclosure made by the same designer, his successors and third parties as a result of information provided by them, etc.

The disclosure of a similar or identical design that was independently developed by a third party does not fall within the scope of the grace period and accordingly may be a reason for the invalidity of the design for which protection is claimed.

## New training format in 2014 at the European IPR Helpdesk

### Claire Fentsch

European IPR Helpdesk

Taking a leading role in contributing to the change of mindsets towards innovation within the European research and innovation community, the Training Team of the EU IPR Helpdesk is proud to present its new innovation management training scheme for Researchers and SMEs participating in Horizon 2020 calls and projects.

The strategic use and management of Intellectual Property (IP) – in business as well as in international research initiatives – is essential for strengthening the European

scientific and technological base, boosting innovation and ensuring growth in the EU. In this context the new EU Framework Programme for Research and Innovation, Horizon 2020, places even more emphasis on systematic IP exploitation strategies as a means to better protect innovation initiatives and to reap commercial and economic benefits from EU-funded research.

In Berlin, on the 10th and 11th of July, the European IPR Helpdesk presented its new IP training format: "From invention to innovation - Strategies for successful exploitation of Horizon 2020 results" at the German Patent and Trade Mark Office (DPMA). This two-day IP training event addressed the overall topic of how to create value through professional management and exploitation of IP. Following a very practical and comprehensive training approach, participants were made familiar with central concepts and strategies of how to turn intellectual assets into value-creating innovations.

The first day mainly focused on IP and innovation management aspects which should be addressed at the proposal phase of a Horizon 2020 project, such as defining a credible

strategy and "route to market" for potential research outcomes.

The second day addressed practical issues of IP exploitation during and after the project (FP7 or Horizon 2020). This includes best practice in capturing and assessing IP as well as developing the "business landscape" for the successful commercialisation of research results.

Over 80 representatives from academia, research organisations and industry – in particular SMEs – interested or involved in collaborative research projects under FP7 or Horizon 2020 took the opportunity to be a part of it.

The training session in Berlin was actually the first one of a series of three training events.

Our next training sessions will take place in:

- Oxford (11 - 12 September 2014)
- Budapest (13 - 14 November 2014)

We will announce and open the registration of the next event in Oxford at the end of July. So if you would like to attend, just keep an eye on our Newsletter or please have a look at our [online event calendar](#).



Eugene Sweeney, CEO Iambic Innovation Ltd.

## IP Management in the Spotlight under Horizon 2020

European IPR Helpdesk releases new information package

The launch of the new EU Framework Programme for Research and Innovation Horizon 2020 at the beginning of this year effected a paradigm shift: a fresh emphasis on innovation and an increased drive towards supporting the competitiveness of innovative SMEs and entrepreneurs within the EU and internationally.

The proficient management of intellectual assets is an important cornerstone to the increased market-driven funding approach, which is essential to the sustainable success of the exploitation and commercialization of the Intellectual Property (IP) generated in Horizon 2020 collaborative research projects.

With a greater business-oriented approach in Horizon 2020, more emphasis is placed on turning research outcomes and technological developments into value-creating products and services. In this context, proper IP management becomes crucial. Due to an increasing demand by participants since the launch of Horizon 2020, the European IPR Helpdesk has extended its focus to strengthening IP capacity-building even more by offering additional training formats to provide even better "hands-on" strategic advice on IP downstream activities, and advice on suitable IP strategies.

### Information Package: IP in Horizon 2020

Given the importance of effectively dealing with IP in Horizon 2020 projects, the European IPR Helpdesk team is publishing a specific information package on IP Management in Horizon 2020 in order to guide beneficiaries of EU-funded projects through the expectations and requirements of the European Commission and to offer hands-on advice and tips on how to put IP management into practice.

The information package consists of the following documents:

- a series of three Fact Sheets pertaining to the management of IP in central stages throughout the life-cycle of a Horizon 2020 project;
- a model Memorandum of Understanding (MoU) for Horizon 2020 - a helpful tool defining the framework of the negotiations among consortium partners, generally concluded at the very beginning of negotiations on the involvement in a project, even before submitting the proposal;
- Model Non-Disclosure Agreements (NDA) - examples of a One-Way Non-Disclosure

Agreement as well as a Mutual Non-Disclosure Agreement ;

- a Guide on IP in Horizon 2020 for Researchers and SMEs providing an overview of the most important IP aspects in a concise document.

The information package is available [online](#).



## Upcoming training

Please find below an overview of our upcoming training events:

- International IP Training Event: "From invention to innovation" - Strategies for successful exploitation of Horizon 2020 results: Oxford/UK, 11-12 September 2014
- Training: Impact and Innovation in Horizon 2020 projects, Brussels/Belgium, 16 September 2014
- IP workshop: IP in Business, San Sebastian/Spain, 19 September 2014
- IP workshop for Researchers, Luxemburg/Lexemburg, 24 September 2014
- IP workshop: IP in Business, Split/Croatia, 2 October 2014
- International IP Training Event: "From invention to innovation" - Strategies for successful exploitation of Horizon 2020 results: Budapest/Hungary, 13-14 November 2014

For further information, please have a look at our [online event calendar](#).



## GLOSSARY

**Background list** relates to the agreement between the consortium partners in Horizon 2020 projects on the data, know-how or information of each of them needed for carrying out the project or for exploiting the results of the project. The list is mandatory in Horizon 2020 projects and is usually integrated into the consortium agreement.

**Exclusive licence** refers to the agreement under which the owner of an intellectual property right ('licensor') grants exclusive permission to another individual or entity ('licensee') to use the rights for a period of time and within defined territory. In this type of licence, only the licensee is able to use the intellectual property right. Other types of licence are the sole and non-exclusive licences.

## GET IN TOUCH

Should you have any ideas, comments or suggestions related to topics you would like us to cover in future Bulletin issues, please get in touch with us on LinkedIn:

[www.linkedin.com/groups/European-IPR-Helpdesk-3834260](http://www.linkedin.com/groups/European-IPR-Helpdesk-3834260)

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