



European  
IP Helpdesk



## Patent protection for EU funding beneficiaries

An IP training series offered by the  
European Patent Office and the  
European IP Helpdesk

# Artificial Intelligence



# European IP Helpdesk

Stay ahead of the innovation game.

The European IP Helpdesk

Services





# European IP Helpdesk

- Service initiative of the European Commission
- Addressing **current and potential beneficiaries of EU-funded projects, researchers and EU SMEs**
- Free-of-charge first-line support on intellectual property (IP)
- Hands-on IP and innovation management support
- International pool of IP experts from various thematic fields
- Unique cooperation scheme with the Enterprise Europe Network: 48 ambassadors from 28 EU countries



## Training

free online and on-site sessions



## Website

frequent updates from the world of IP and innovation



## Helpline

confidential treatment of individual IP questions



## Publications

practical IP knowledge through high-level publications



## Ambassadors

local IP support throughout Europe



## Events

info point at key networking events and conferences





# The EC IP Helpdesks

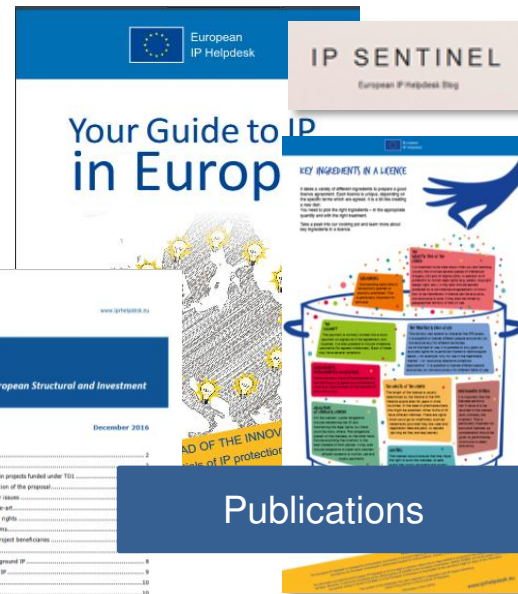




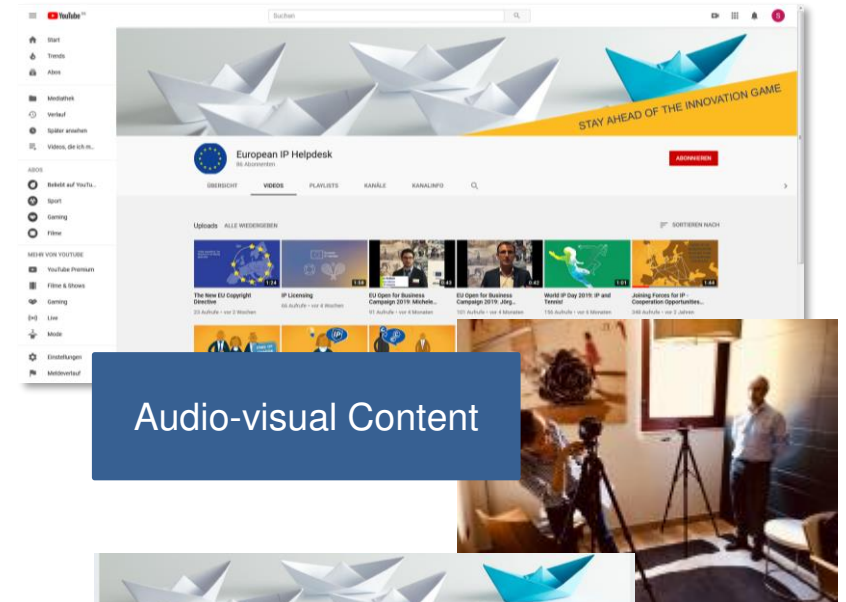
# Communication Formats & Outreach Tools



Website



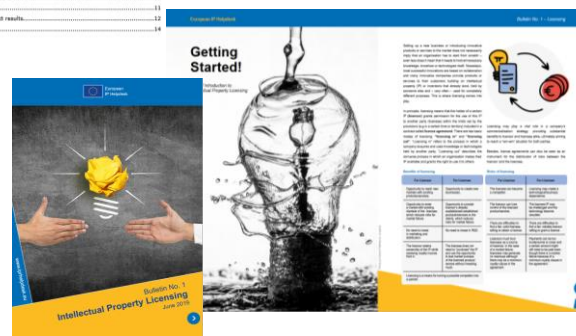
Publications



Audio-visual Content



Training



Social Media



# New Bulletin! Green Deal!

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*EPO study reveals that Europe and US are leading innovation in plastic recycling and alternative plastics*

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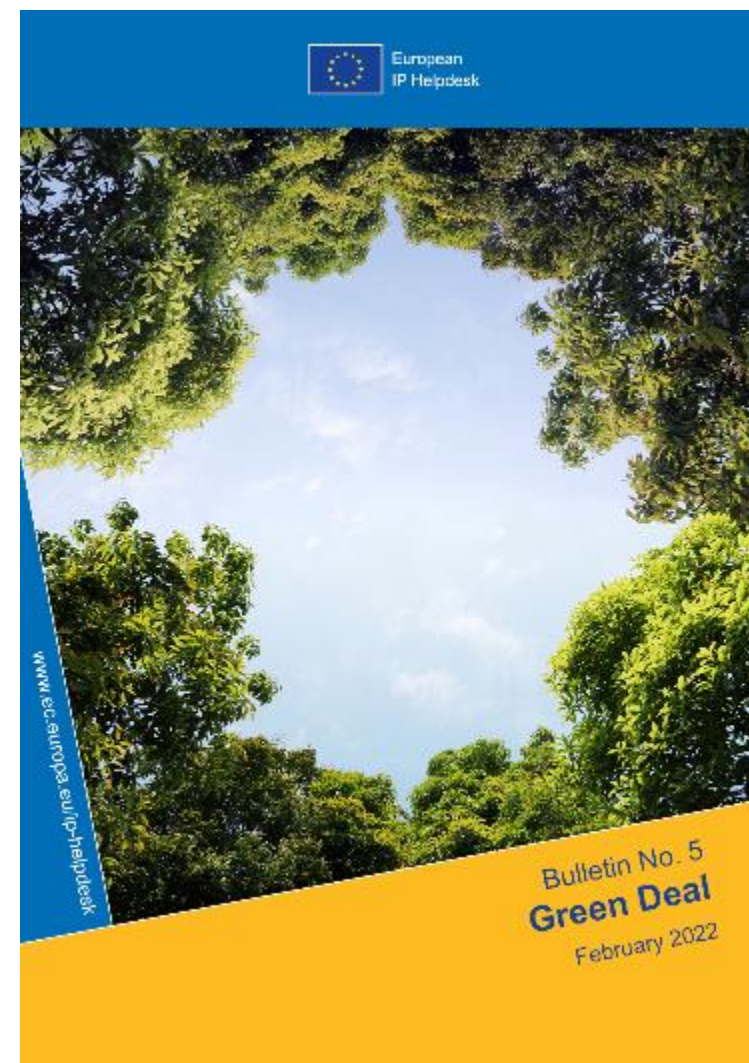
*How a young circular bioeconomy start-up creates sustainable materials for a future without plastic*

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# Ambassador Scheme

- **Cooperation scheme** with the Enterprise Europe Network (EEN): 48 ambassadors – 28 countries
- **Building IP capacities** among European SMEs
- **Overcoming language barriers**
- Making the topic **more accessible**
- Exchange and feedback from ambassadors on **needs of SMEs**
- Local **awareness** and **training events**





**09**  
MAR  
2022

TRAINING AND WORKSHOPS  
**EU - Webinar: Effective IP and Outreach Strategies Help Increase the Impact of Research and Innovation**

Live streaming available

**15**  
MAR  
2022

TRAINING AND WORKSHOPS  
**EU - Webinar: Maximizing the Impact of Horizon project (2020/HEU) results**

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**EU - Webinar EPO Coop: Patent protection for EU funding beneficiaries - Artificial Intelligence**

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CONFERENCES AND SUMMITS  
**High-growth technology business forum: build-to-sell**

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TRAINING AND WORKSHOPS  
**EU - Webinar IP Helpdesk Webinar: IPR & Software**

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**EU - Webinar: IP in EU funded projects with a special focus on MSCA**

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**EU - Webinar: IP and Artificial Intelligence - Advanced**

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**EU - Webinar: Patents and Innovation**

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**High-growth technology business forum: growth-financing**

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**EU - Webinar: The Importance of IP for SMEs**

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TRAINING AND WORKSHOPS  
**EU - Webinar CPVO Coop: Constraints and opportunities for edited varieties. Is the GMO legal framework impacting the creation of new plants?**

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**EU - Webinar: The new Copyright Directive**

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**EU - Webinar: Freedom to Operate**

Live streaming available







# Further learning opportunities:

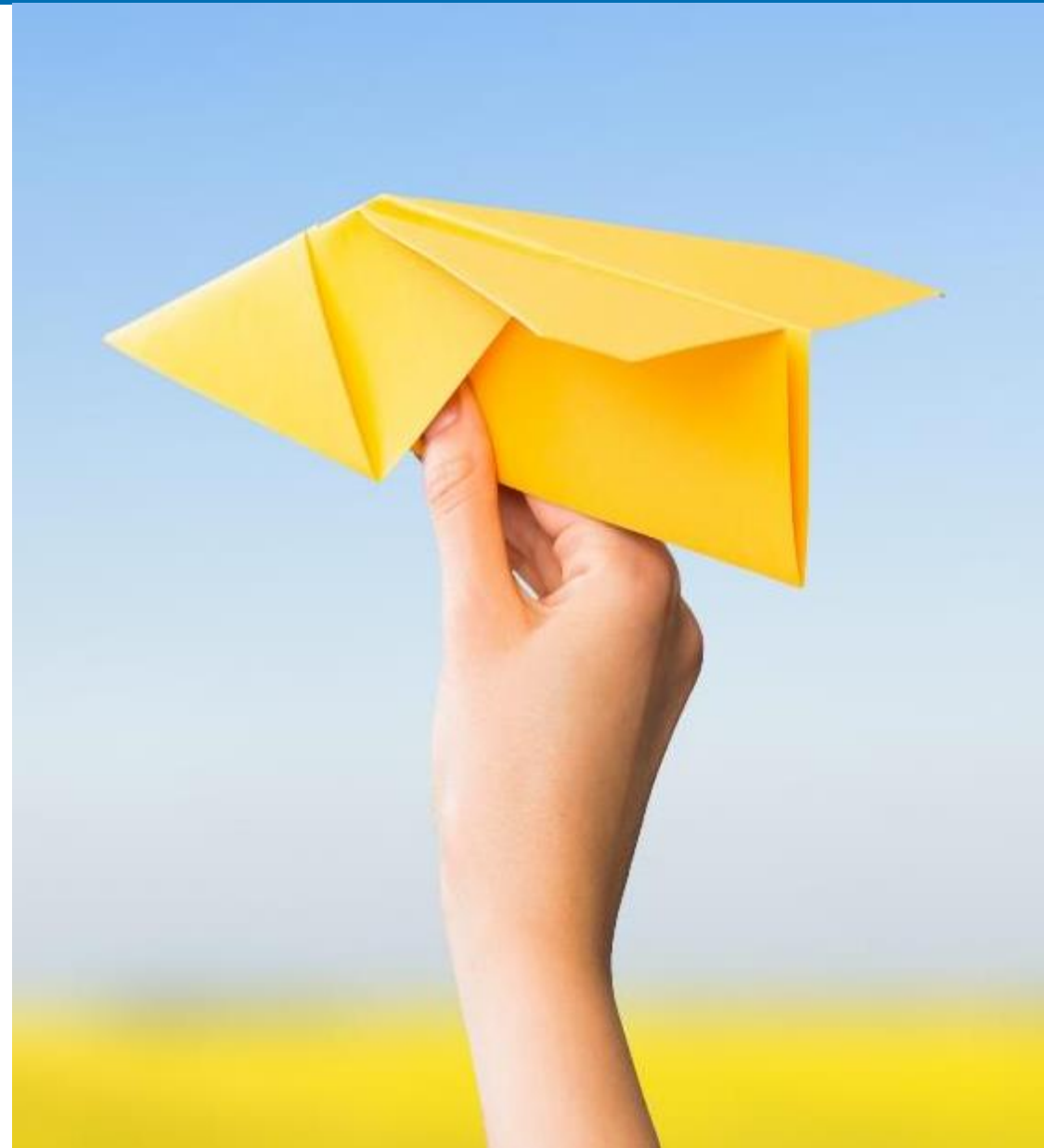
1. [European IP Helpdesk Ambassadors and EEN](#)
2. [EUIPO learning portal](#)
3. [EUIPO – Ideas Powered for business website](#)
4. [WIPO Academy / Diagnostics](#)
5. [The Ideas Powered for business SME Fund](#)
6. [IPA4SME](#)
7. [Horizon IP Scan](#)
8. [\(IP Booster\)](#)
9. [Horizon Results Booster](#)
10. [Leadership4SMEs](#)
11. [EPO Academy](#)
12. [4IPCouncil](#)





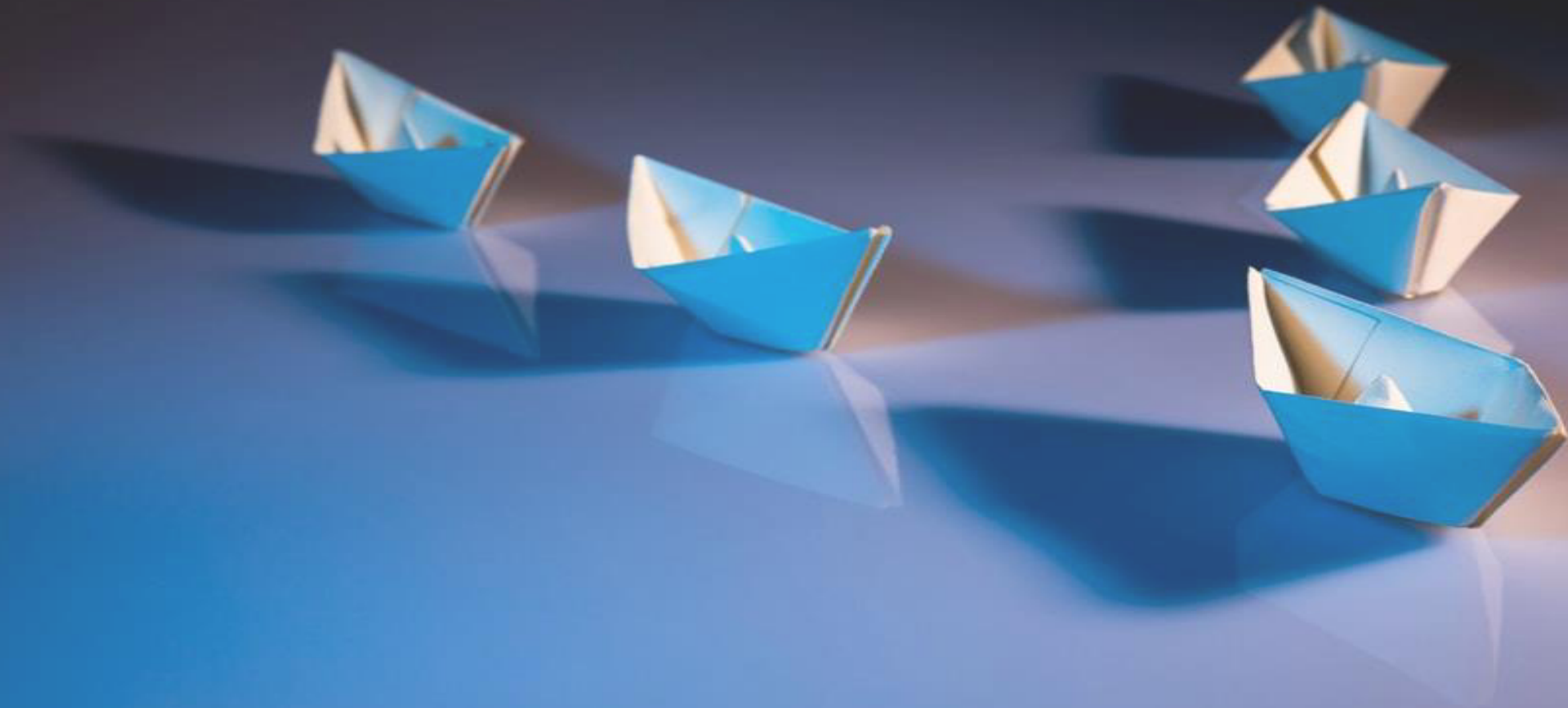
# Thank you!

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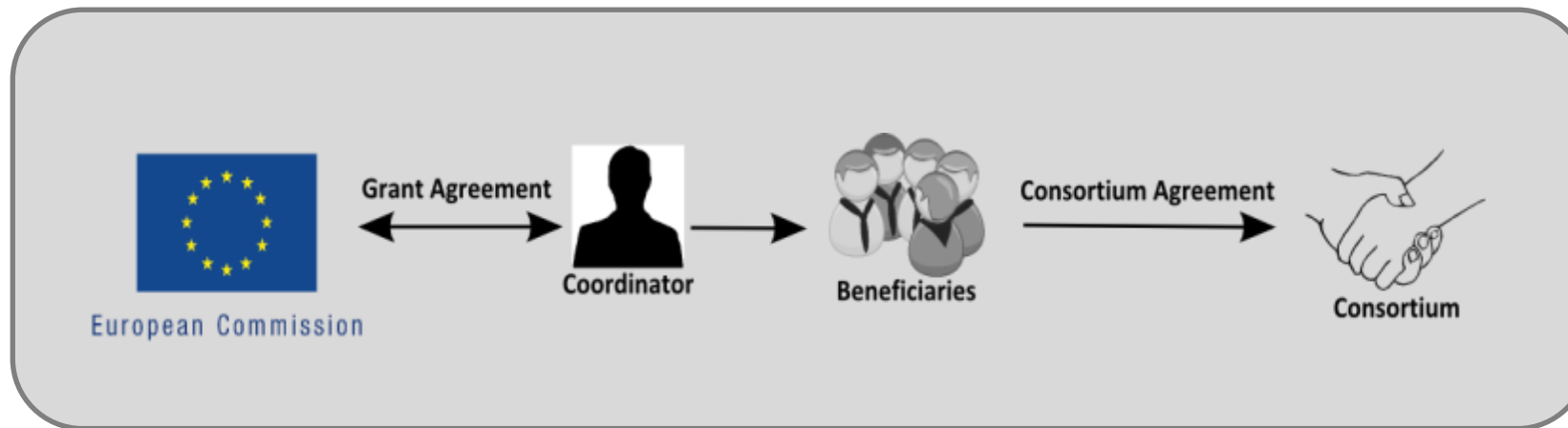


# Rules & Agreements



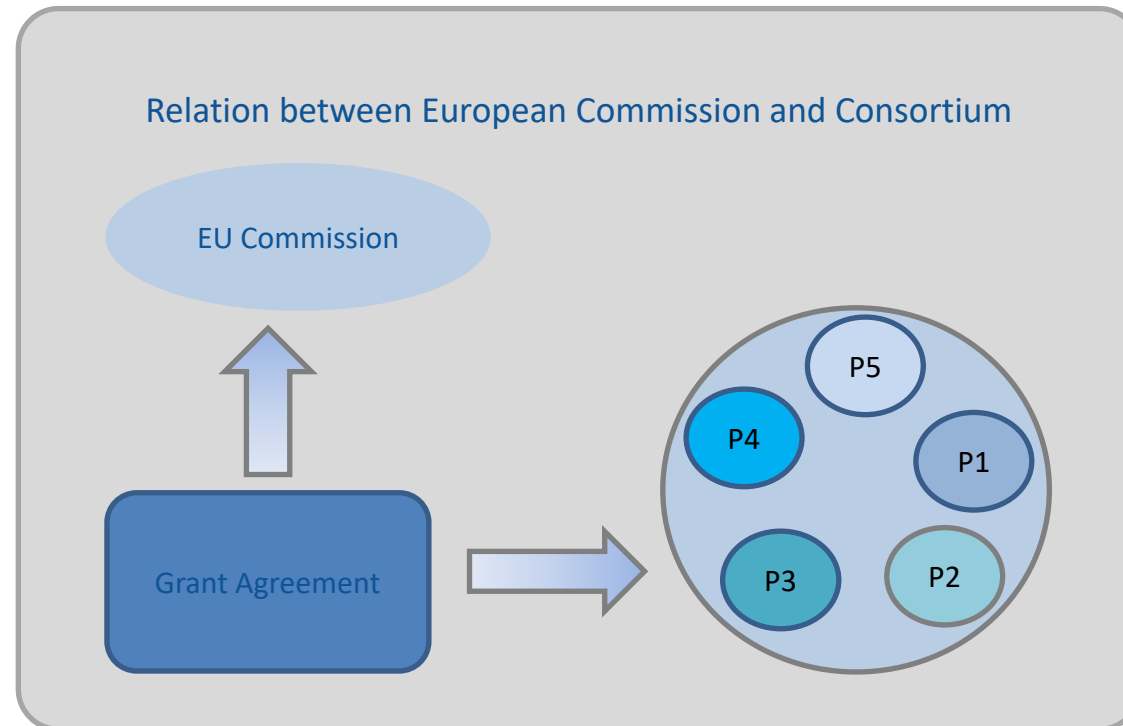


# Overview: Agreements



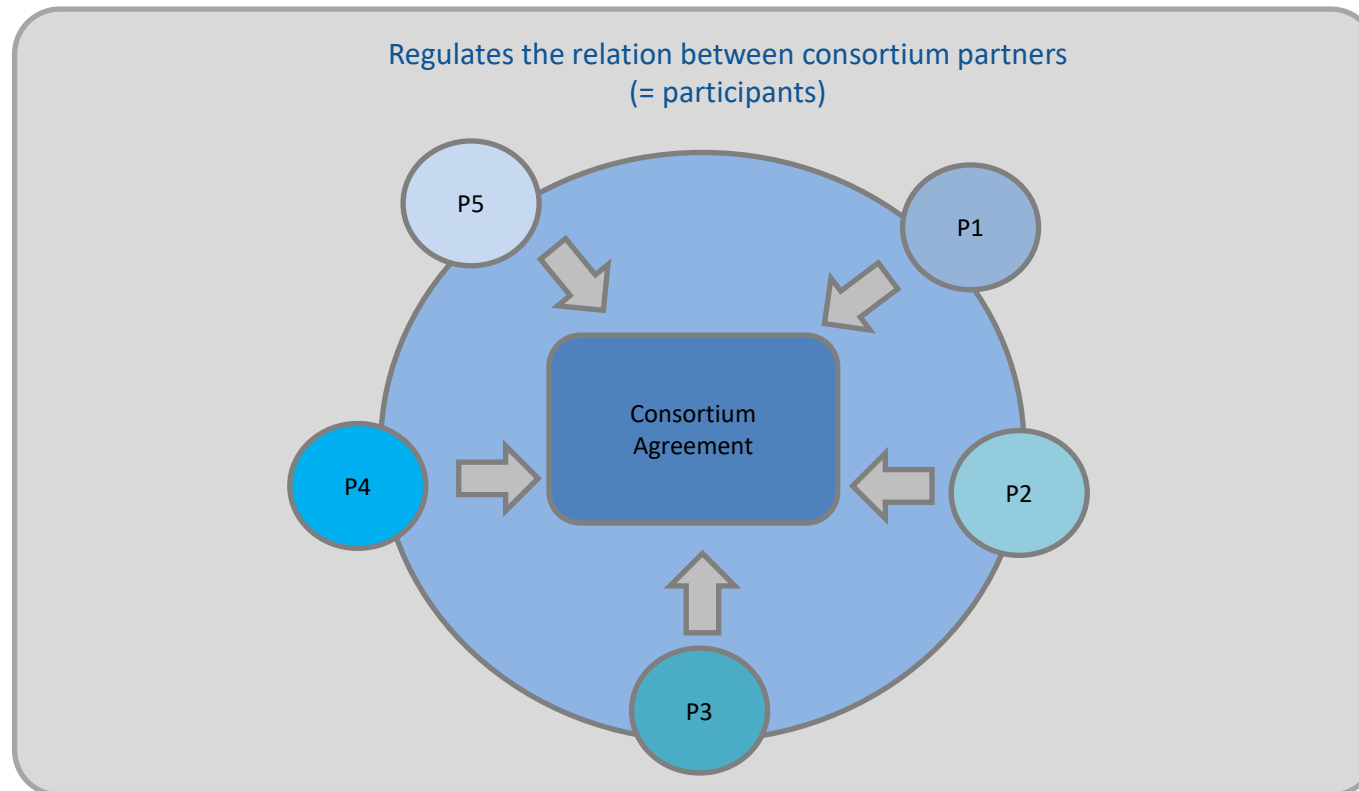


# Grant Agreement (GA)





# Consortium Agreement (CA)





# Specific Vocabulary





# Vocabulary

Key terms in the context of Horizon projects are:

- Background
- Results
- Exploitation
- Dissemination
- Access rights







# Ownership of Results

- In Horizon projects, generally the Grant Agreement establishes that the results of the project belong to the participant generating them.
- It is advisable to take appropriate measures to properly manage ownership issues, such as keeping laboratory books or other kinds of documentary evidence (e.g. a properly completed Invention Disclosure Form).



## Access Rights (I)

- Each project partner has the right to request access rights to the other project partners' background and results **as long as it needs them** in order to carry out its work under the project or to exploit its own results (these are minimum access rights: additional ones can always be negotiated!).
- To avoid conflicts, it is recommended that beneficiaries agree (e.g. in the consortium agreement) on a common interpretation of what is “**needed**”
- Shall be **requested in writing**. Can be granted in any form.
- Are to be requested/granted throughout the duration and up to 1 year (or as otherwise agreed in the CA) after the end of the project for exploitation needs. Once requested, access rights may be exercised as long as they are needed for exploiting the results (e.g. until the background patent expires).

*Access rights do not confer the right to grant sub-licences!*





# NEW: Results Ownership List (ROL)

A new form will be introduced – **Results Ownership List (ROL)** in the final reporting period – This form will detail the final owners of IP after the project is over, and can consist of singular or multiple owners to enable EC follow up of exploitation



# Tracking of Research Results (TRR)

- The Tracking of Research Results project (TRR) aims to enable the policy makers in research and innovation to access, analyze and disseminate the outcomes and impacts of the funded research results in a more comprehensive manner.
- The R&I policy context puts ever higher importance on better demonstrating and increasing the impact of EU funded projects
- The long term nature of R&I and the time-lag between the intervention and the occurrence of any (intended, unintended, positive or negative) impact means that any research that ultimately has a significant impact will typically be undervalued in its immediate aftermath.
- The EC collection of project data is fit for monitoring only

EC tracks results  
up to 4 years after  
project completion



# Other innovation support initiatives



**Horizon IP Scan**  
Helping SMEs manage and valorise  
Intellectual Property in R&I collaborations



**IPA4SME**

<https://www.ipa4sme.eu/>



## Contact:

- Website: [ec.europa.eu/ip-helpdesk](https://ec.europa.eu/ip-helpdesk)
- [helpline@iprhelpdesk.eu](mailto:helpline@iprhelpdesk.eu)
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# Thank you!

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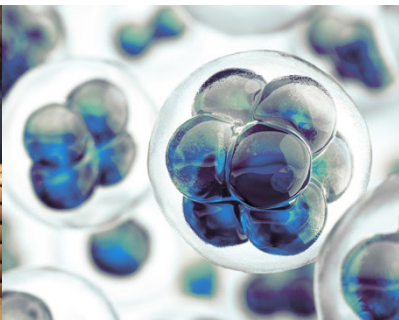




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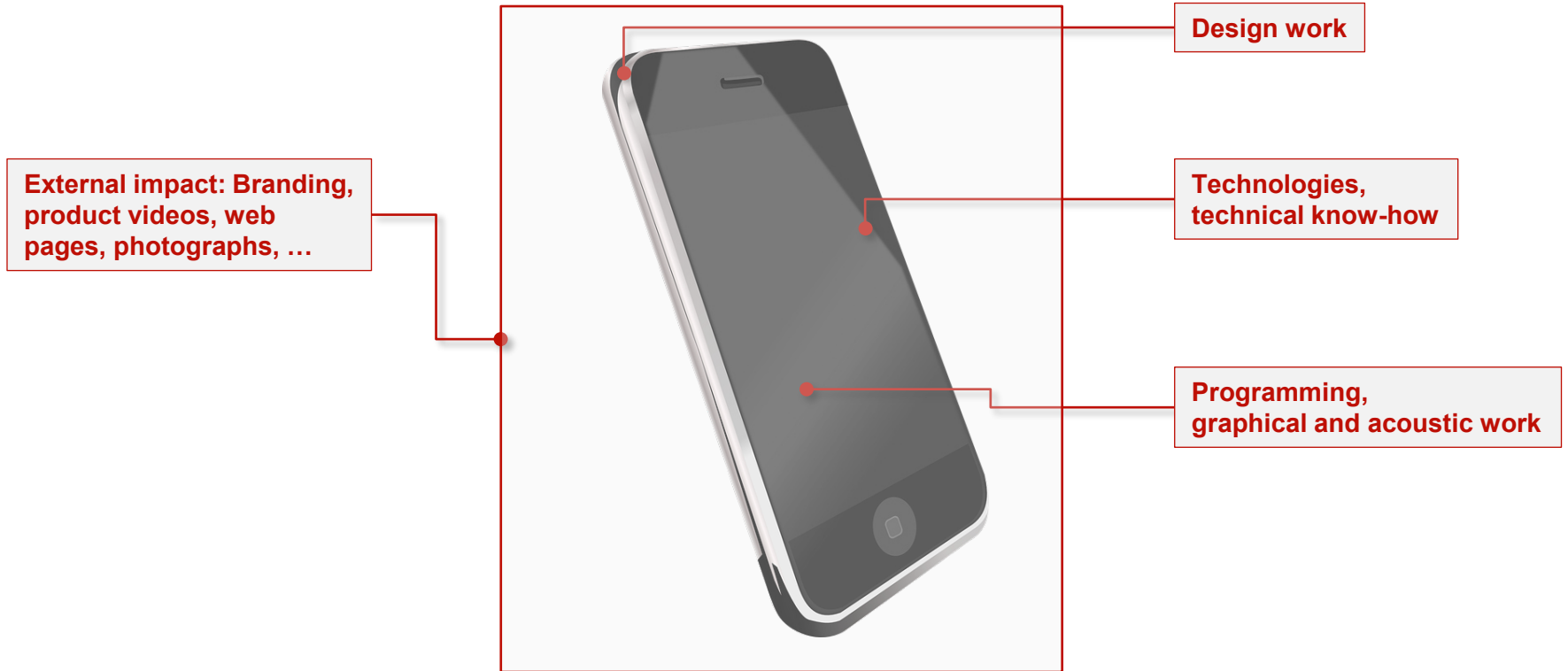
AU61-2022 Patent protection for EU funding beneficiaries

# Getting to know patents

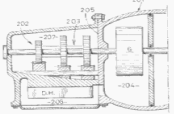








# Creating products and services: To start with an example ...



# Intellectual property rights help to protect your products and services

Legal right	What for?	How?	
Patents	New inventions	Application and examination	
Copyright	Original creative or artistic forms (literary texts, music)	Exists automatically	
Trade marks	Distinctive identification of products and services	Use and/or registration	
Registered designs	External appearance	Registration	
Trade secrets	Valuable information not known to the public	Reasonable efforts to keep secret	

# Patents: Overview

- Patents protect (technical) inventions
- Patent: A legal title which grants the holder the *exclusive* right to prevent others from making, using or offering for sale, selling or importing a product that infringes his/her patent without authorisation
- Principle of territoriality: Valid in countries for which the patent was granted
- Exist for a limited time (up to 20 years)
- Exceptions and limitations apply



# The basic principle of the patent system: Balance of interests



## Benefit the public

by making the detailed description of the invention available to everyone

Technical information available 18 months after filing

## Patents



## Benefit the owner

by preventing third parties from exploiting the invention for commercial purposes without authorisation

Patent valid for max. 20 years

# Patent system: An incentive for economic growth



- Enables patent holders to recoup their development costs
- Makes the latest technological knowledge available to the public
- Inspires further innovation
- Prevents duplication of R&D
- Provides the legal basis for licensing and R&D co-operation
- Attracts venture capital funds and investors

# Three possible routes to get patent protection in Europe



Route	National	European	International
Via	National offices	European Patent Office or national offices	International Bureau or European Patent Office or national offices
Valid in	One country	Up to 38 countries + two extension states + four validation states	Up to 155 countries
In brief	Applications are filed with the relevant national office and are valid for that state only	One single application in DE/EN/FR for all EPC contracting states. Same legal effects as national patents	Centralised international patent application procedure. After the international phase, applicants can choose to enter the national/regional phase in various states. No international patent

# European route: Getting patent protection in an area with some 700m inhabitants

## 38 European member states

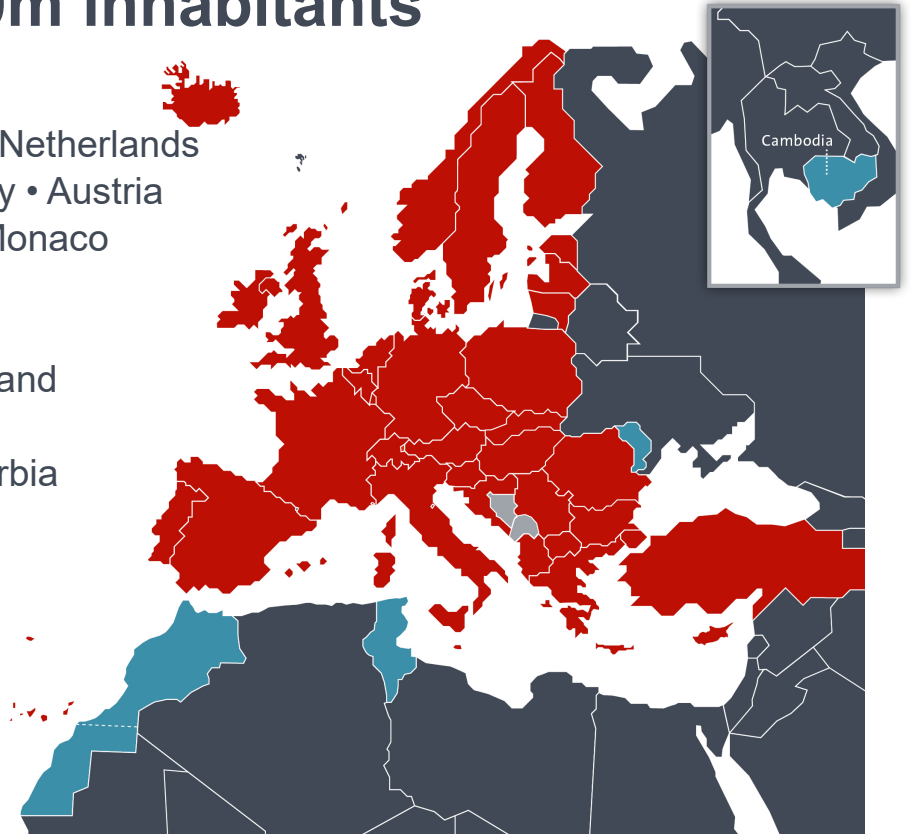
Belgium • Germany • France • Luxembourg • Netherlands  
Switzerland • United Kingdom • Sweden • Italy • Austria  
Liechtenstein • Greece • Spain • Denmark • Monaco  
Portugal • Ireland • Finland • Cyprus • Turkey  
Bulgaria • Czech Rep. • Estonia • Slovakia  
Slovenia • Hungary • Romania • Poland • Iceland  
Lithuania • Latvia • Malta • Croatia • Norway  
North Macedonia • San Marino • Albania • Serbia

## Two European extension states

Bosnia and Herzegovina • Montenegro

## Four validation states

Republic of Moldova • Morocco • Tunisia  
Cambodia



# European route: Patentability requirements

**Patents** are granted for inventions in all fields of technology

To be patentable, inventions must

- be **new**
- involve an **inventive step**
- be **industrially applicable**

They must relate to a product, process, apparatus or use.





# European route: Excluded from patentability<sup>1</sup>

- Discoveries
- Scientific theories
- Mathematical methods
- Computer programs
- Aesthetic creations
- Business methods
- Methods for playing games
- Methods for performing mental acts
- Presentations of information



if claimed  
"as such"

<sup>1</sup> See Article 52 EPC and the case law of the Boards of Appeal.

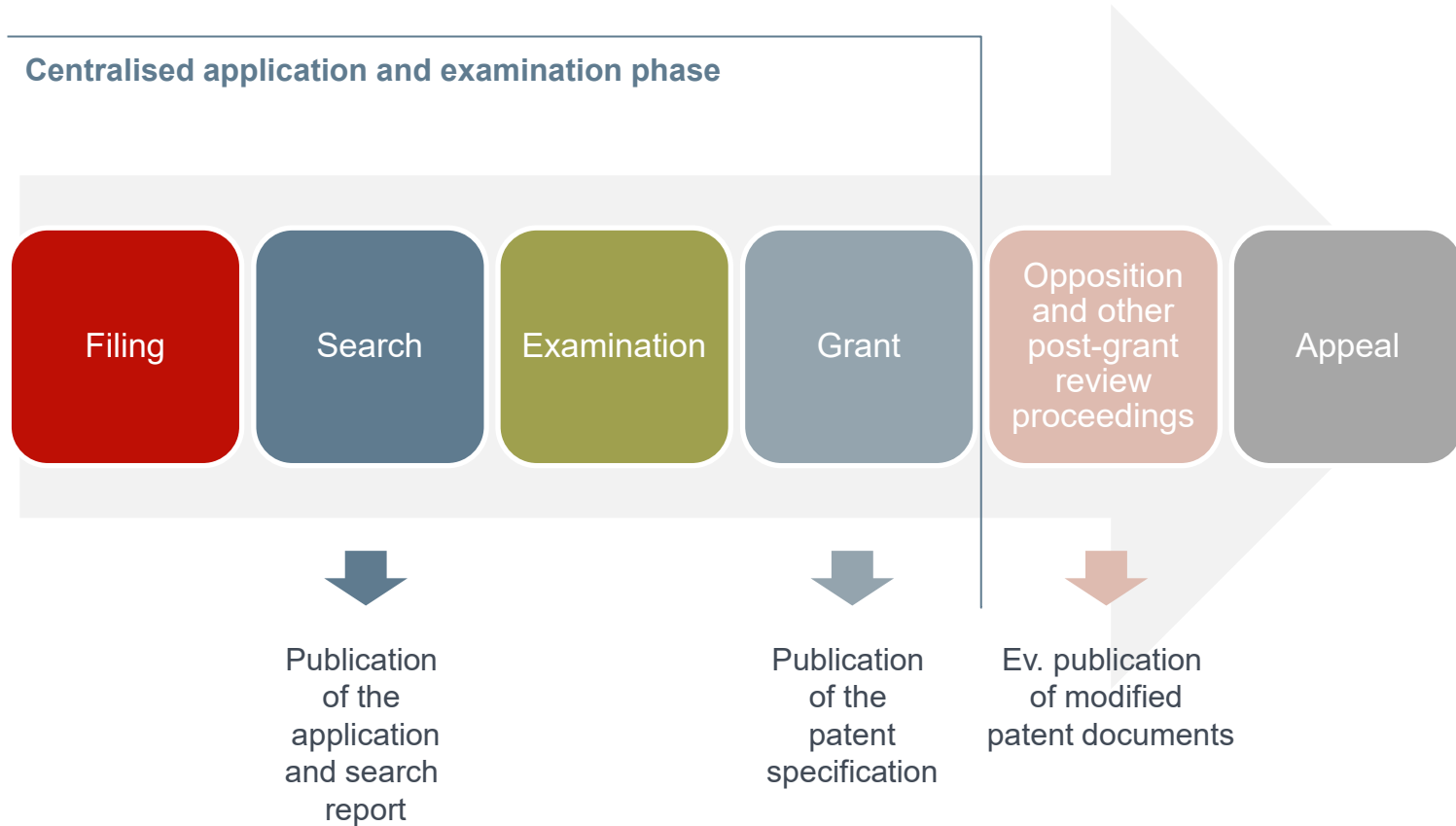
# European route: Exceptions to patentability<sup>1</sup>

- Plant or animal varieties or essentially biological processes for the production of plants or animals (e.g. marker-assisted breeding)
- Inventions whose commercial exploitation would be contrary to "ordre public" or morality (e.g. processes for the cloning of human beings)
- Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practised on the human or animal body





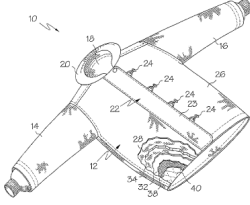
<sup>1</sup> See Article 53 and Rule 28 EPC

# Basic steps in the European grant procedure



# What information do patent documents contain?

- **Title** of the invention, name of the inventor
- **Detailed description of the invention:** how it is constructed, how it is used, benefits compared with what already exists
- **Claims** providing a precise definition of the scope for which legal protection is sought
- **Drawings**
- **Abstracts:** summary of the invention – particularly useful for search engines

(19)		(11)	 EP 1 741 472 A2
(12)	EUROPEAN PATENT APPLICATION		
(43)	Date of publication: 10.01.2007 Bulletin 2007/02	(51)	Int. Cl.: A62B 17/00 (2006.01) A41D 13/00 (2006.01)
(21)	Application number: 06122328.5		
(22)	Date of filing: 15.02.2001		
(84)	Designated Contracting States: DE FR GB IT	(74)	• Taylor, Frank, P Dayton, OH 45409 (US) • Representative: Asquith, Julian Peter Marks & Clerk, 4220 Nash Court, Oxford Business Park South Oxford OX4 2HU (GB)
(30)	Priority: 03.03.2000 US 517919	(71)	Applicant: LION APPAREL, INC. Dayton, OH 45413-0576 (US)
(62)	Document number(s) of the earlier application(s) in accordance with Art. 76 EPC: 01912744.8 / 1 259 294	(72)	Inventors: • Aldridge, Donald New Carlisle, OH 45344 (US)
(71)	Applicant: LION APPAREL, INC. Dayton, OH 45413-0576 (US)	Remarks:	This application was filed on 16 - 10 - 2006 as a divisional application to the application mentioned under INID code 62.
(54)	<b>Firefighting garment</b>		
(57)	A protective garment comprises an outer shell of an abrasion, flame and heat resistant material; a thermal barrier/moisture barrier composite positioned between the outer shell and a weaver of the garment; the thermal barrier/moisture barrier composite including a substantially liquid-impermeable membrane bonded to one surface of a heat and flame resistant fabric substrate, and a first layer of heat and flame resistant insulating material attached to an opposite surface of the fabric substrate; a face cloth positioned between the thermal barrier/moisture barrier composite and a weaver of the garment; and a second layer of heat and flame resistant insulating material attached to the face cloth and positioned between the thermal barrier/moisture barrier composite and face cloth.		
			
FIG. 1			
Printed by Jouve, 75001 PARIS (FR)			

# Conclusions



Patents help to protect (technical) inventions.

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The patent system provides for a balance of interests between patent holders and the public.

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There are different routes to patent protection in Europe.

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It is important to be aware of the patentability requirements, exclusions and exceptions to patentability.

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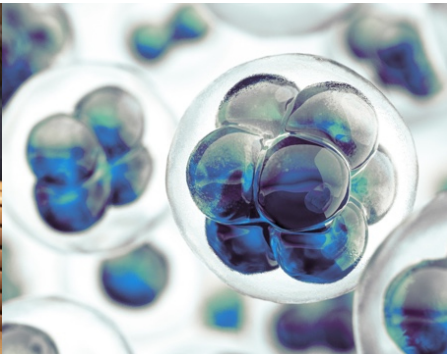


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Office européen  
des brevets

# Patentability of new technological developments in Artificial Intelligence (AI)



Carlos Rivera Pons



Team Manager Healthcare Informatics A



# A brief introduction...

## Studies

- Industrial and Electrical Engineering master degrees from U. Politécnica de Valencia (Spain) and Supélec (France)
- European Qualifying Examination (EQE)

## Working experience

- Development Engineer at BMW (Munich)
- EPO
  - Patent examiner in medical technology
  - Advisor to Vice-President Operations
  - Team Manager – Teams Dentistry and Healthcare Informatics



# Agenda

- **Definition of AI**
  
- How to obtain a patent for AI/CII at the EPO
  - 1<sup>st</sup> hurdle: Ensuring claims are directed to patentable subject matter
  
  - 2<sup>nd</sup> hurdle: Ensuring features are considered for inventive step
  
- **Conclusions**

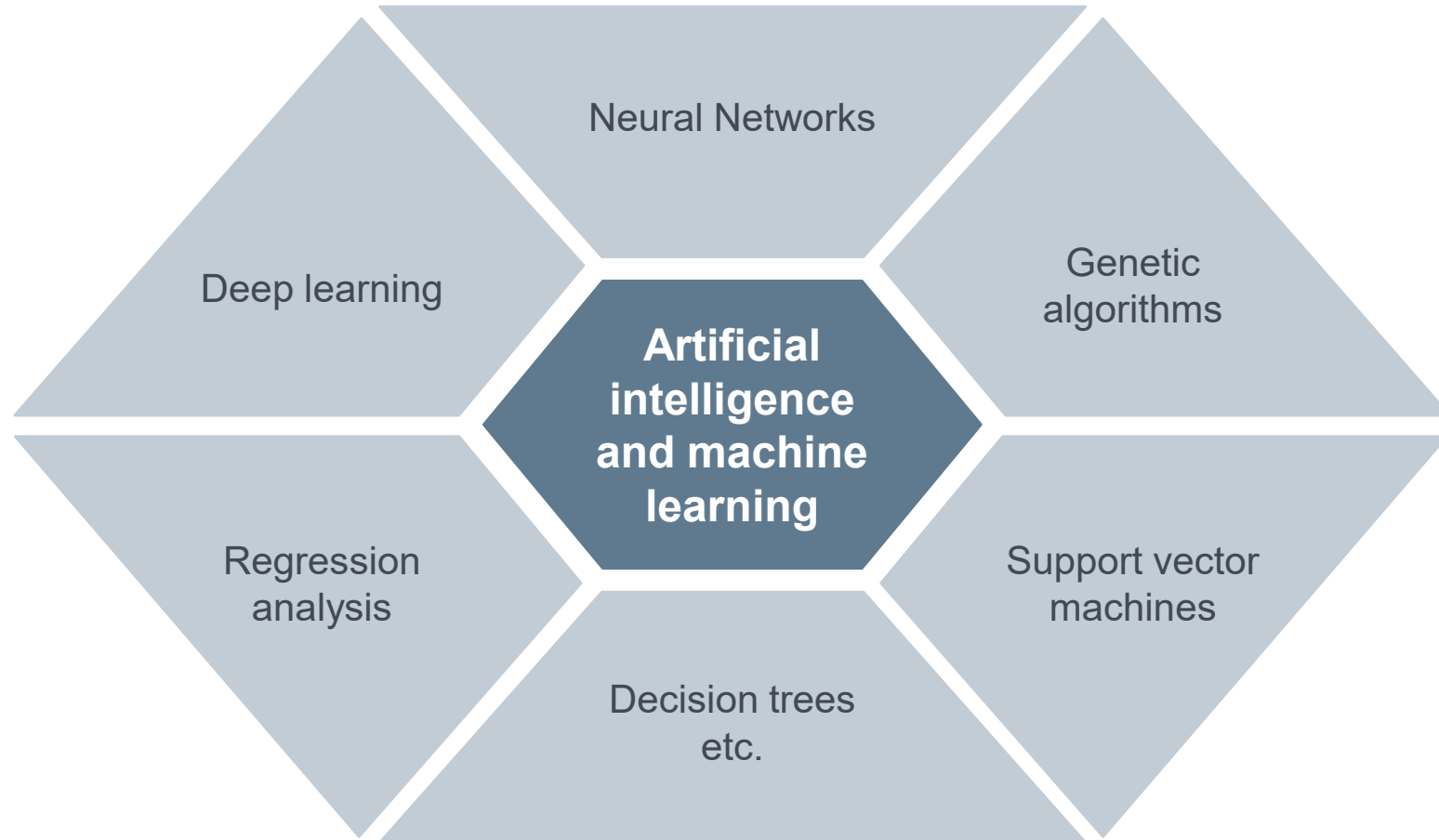
# What is Artificial Intelligence?

Artificial intelligence is the **simulation of human intelligence** processes by machines, **especially by computer systems**.

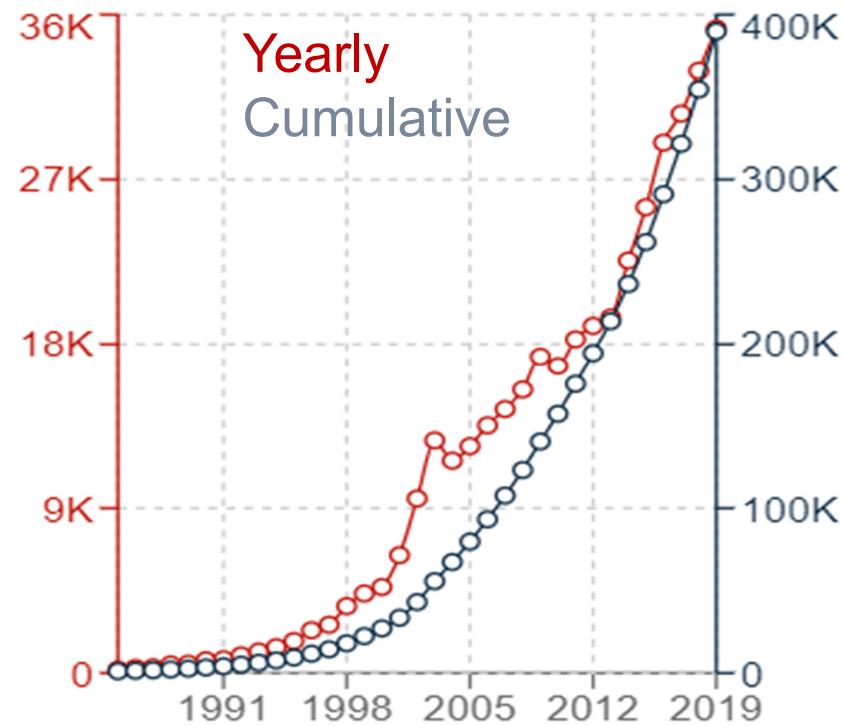
Accordingly, **AI inventions are treated at the EPO under the rules applicable to Computer Implemented Inventions**.



# What falls under the terms of AI and machine learning?



# AI is penetrating all fields of technology



Patent applications dealing with AI in Healthcare

# Main data analysis problems tackled by AI (ML)

## Classification

Identifying the **class of a new observation** based on a training set of observations with pre-assigned class labels

## Clustering

Grouping sets of objects in clusters such that objects in **a same cluster** are **more similar** to each other than to those in another cluster

# Agenda

- Definition of AI and Computer Implemented Inventions (CII)
- How to obtain a patent for AI/CII at the EPO
  - **1<sup>st</sup> hurdle: Ensuring claims are directed to patentable subject matter**
  - 2<sup>nd</sup> hurdle: Ensuring features are considered for inventive step
- Conclusions

# First hurdle for CII: Exclusion from patentability

Excluded from patentability:

Inventions which are **not in a technical field**

Article 52(1) EPC

Not inventions are

- a) discoveries, scientific theories and **mathematical methods**;
- b) aesthetic creations;
- c) schemes, rules and **methods for performing mental acts**, playing games or doing business, and **programs for computers**;
- d) presentations of information.

Article 52(2) EPC

Features (in isolation) relating to non-inventions are **non-technical**

# First hurdle for AI/CII: Exclusion from patentability

- AI/CII claims can contain **technical** and **non-technical features**.

Computer, sensor, processor...

Mathematical/AI algorithm...

- To avoid exclusion from patentability at least **one feature of the claim must be technical** (i.e. computer..., the claim refers to a “Computer implemented method”...) **so the claim does not fall under the non-inventions**



AI algorithm for risk evaluation... (followed by mathematical steps only)



**Computer implemented** AI algorithm/method for...



Device comprising a **processor** configured to run an AI algorithm for...



# Agenda

- Definition of AI and Computer Implemented Inventions (CII)
- How to obtain a patent for AI/CII at the EPO
  - 1<sup>st</sup> hurdle: Ensuring claims are directed to patentable subject matter
  - **2<sup>nd</sup> hurdle: Ensuring features are considered for inventive step**
- Conclusions



## The second hurdle: Assessment of novelty and inventive step

- As with all applications, claims to AI/computer-implemented inventions also have to fulfil the requirements of **novelty and inventive step**
- For the assessment of **novelty** if all features (both technical and non-technical) are disclosed in a prior art document, then the claim lacks novelty
- When assessing **inventive step** of claims having technical and non-technical features, all **those features which contribute to the technical character of the invention** are taken into account.



## Rendering a claim inventive

This means that even if the only differing feature vs. the prior art lies in a **mathematical step or a new AI algorithm**,

such non-technical differing feature **may render your claim inventive**

as long as it **contributes to the technical character of the invention** (*by producing a technical effect that serves a technical purpose*).

# Mathematical features or other non-technical features...

...can contribute to technical character in **two dimensions**

**Application to a field  
of technology**



**Adaptation to specific  
technical implementation**



- The claim specifies (explicitly or implicitly) how the **output** of the mathematical method is used.

**The use is technical.**

(ex. controlling a variable of a device)

- Maths are specifically adapted to exploit the **hardware**.
- Maths are designed based on technical considerations relating to the **internal functioning** of the computer.

## Examples of technical and non-technical purposes

- CI mathematical steps for determining a control variable of a device
- CI mathematical steps for determining a billing amount of a patient
- CI machine learning to classify a file as **virus-infected**
- CI machine learning to determine whether to **buy or sell a stock market** in real-time based on the current stock chart and a training set from the top-trader past activities
- CI artificial intelligence to identify **genes families in a DNA sample**
- CI artificial intelligence to identify **particular consumer markets for targeted marketing**

# Technical and Non-technical AI purposes



## Technical AI uses (application fields)

01. *image processing*
02. *speech processing / recognition*
03. *fault detection*
- 04.. *Classifying heartbeats as irregular heartbeats...*



## Non-technical AI uses (application fields)

01. *Classification of text document based on textual content (cognitive and linguistic matter)*
02. *Classification for determining the price of a service*
03. *Classifying abstract data records without any indication of a technical use being made*

## Additional considerations regarding the 2<sup>nd</sup> hurdle

- The mere application of artificial intelligence or machine learning algorithms (ex. classification...) to any kind of data is obvious and therefore not inventive.
- Artificial intelligence or machine learning algorithm steps can support the presence of an inventive step, only if the claim defines sufficient details so as to be functionally limited to the technical purpose.  
*e.g. the input and the output parameters of the ML / AI algorithm should be specified and causally linked to the technical purpose*

# Agenda

- Definition of AI and Computer Implemented Inventions (CII)
- How to obtain a patent for AI/CII at the EPO
  - 1<sup>st</sup> hurdle: Ensuring claims are directed to patentable subject matter
  - 2<sup>nd</sup> hurdle: Ensuring features are considered for inventive step
- **Conclusions**



# Conclusion: How to obtain a patent for AI/CII at the EPO

- The claims must contain **at least one technical feature** to avoid a “non-invention”
- Non-technical claim features as such are considered for **inventive step**, **only if** they serve a **technical purpose** in the context of the invention.
- The claim features must be **sufficiently detailed** and linked to the technical purpose.
- The claims must be **new and inventive** over the prior art.
- The description must disclose **sufficient details of the invention**



# The EPO's CII practice: Worldwide benchmark

The screenshot shows the EPO website's navigation and content structure. The top navigation bar includes the EPO logo, a search bar, and links for 'Website' and 'Patents'. Below this is a secondary navigation bar with links for 'Home', 'Searching for patents', 'Applying for a patent', 'Law & practice', 'News & Issues', 'Learning & events', and 'About us'. The main content area is titled 'Guidelines for Examination' and includes a 'Table of Contents - Guidelines for Examination' with a link to 'Index for Computer-Implemented Inventions'. The left sidebar contains a list of sections, with 'Index for Computer-Implemented Inventions' highlighted and pointed to by a red arrow.

<https://www.epo.org/law-practice/legal-texts/html/guidelines/e/j.htm>

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Title	Date
Inventor's talk with Jan van der Tempel (NL): Safe transfer to and from offshore platforms	<b>February 2022</b>
Inventor's talk with Pete and Ben Kibel (UK): Fishing hook cover to save seabirds	<b>April 2022</b>
Inventor's talk with Carmen Hijosa (ES): Turning pineapple leaves into a sustainable alternative to leather	<b>September 2022</b>
Inventor's talk with Marco Donolato and team (IT/DK): Magnetic nanoparticles to diagnose disease	<b>December 2022</b>

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## Smart agriculture – June 2022

1. Patenting in smart agriculture – challenges from an examiner/patent office perspective
2. Developing an IP strategy: practical and post-grant aspects of smart agriculture patents
3. IP-related challenges for an in-house IP team in a smart agriculture environment
4. Meet an inventor from the smart agriculture industry.

## Med tech – October 2022

1. Patenting in medical technologies – challenges from an examiner/patent office perspective
2. Developing an IP strategy: practical and post-grant aspects of med tech patents
3. IP-related challenges for an in-house IP team in a medical technology environment
4. Meet an inventor from the medical technology industry.

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From idea to patent	Entry	8 hrs
The art of reading patent documentation	Entry	6 hrs
Introduction to the European patent system	Entry	8 hrs
The European patent system from filing to grant	Entry	7 hrs
Think patents: the value of patent documentation for innovations and research	Entry	4 hrs
EPO patent information tools	Entry	5 hrs
Use patents: cases from research results	Entry	12 hrs
Patent information tour	Entry	4 hrs
IP Management: recorded lectures	Intermediate	30 hrs