



European IP Helpdesk

Stay ahead of the innovation game.

European IP Helpdesk Webinar:
FTO

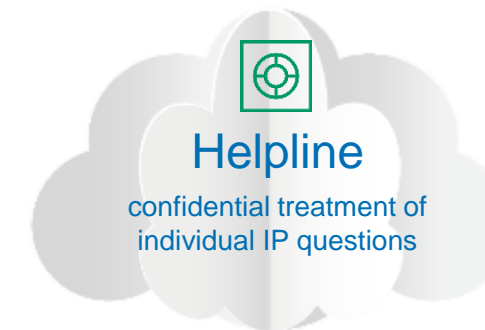
Dr. Christian Hackl
Senior IP Advisor

October, 2024



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: 43 ambassadors from 26 EU countries



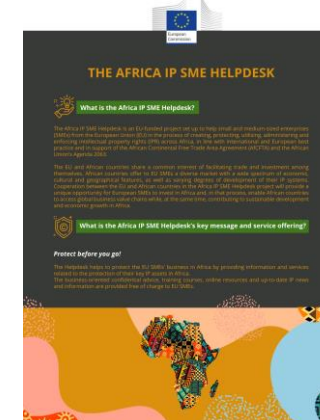
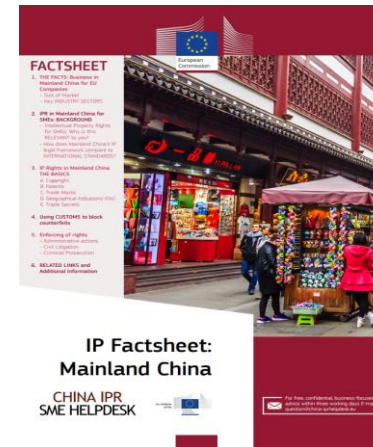
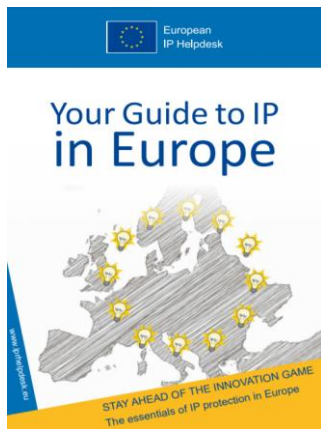


The EC IP Helpdesks





EC IP (SME) Helpdesk Hub – Gateway to Information



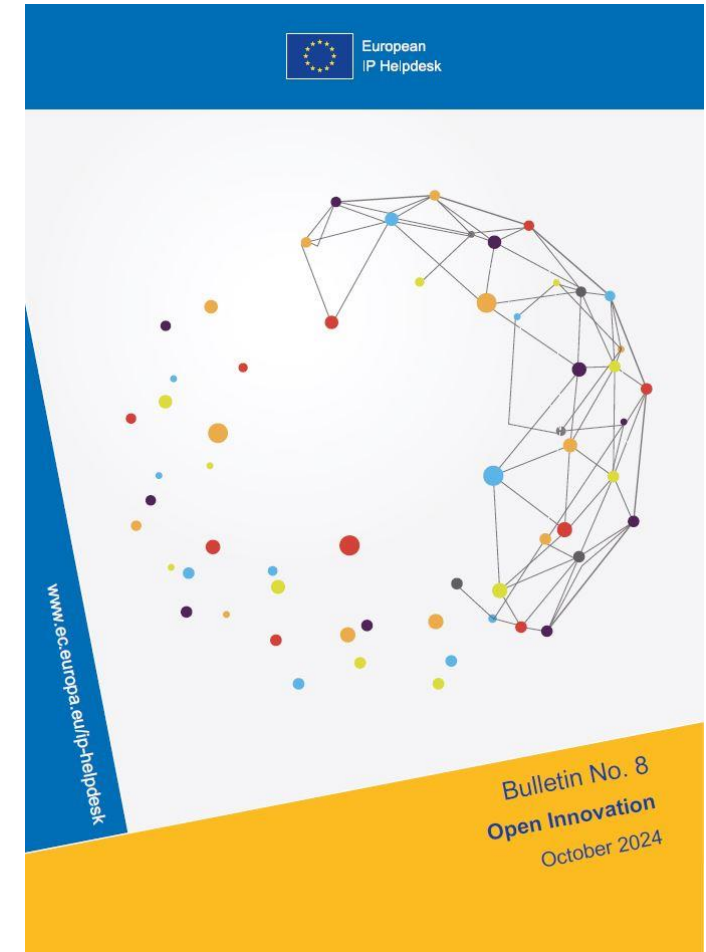
- E-learning modules & more
- Guides / Topic, country, sector-specific factsheets / Infographics
- Case studies



Out Now: Bulletin - Open Innovation

This Bulletin edition sheds light on how Open Innovation approaches and practices have evolved over the years and delves into the intricate relationship between Open Innovation and IP management.

Access to the [Bulletin!](#)





Ambassador Scheme

- **Cooperation scheme** with the Enterprise Europe Network (EEN): 43 ambassadors – 26 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**





Upcoming events



Europa - Upcoming events

21
OCT
2024

Training and workshops
[EU - Webinar: Patents and Innovation](#)

(*) Live streaming available

22
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Training and workshops
[EU - Webinar EPO Coop: Patent protection for EU funding beneficiaries - MedTech](#)

(*) Live streaming available

22
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Training and workshops
[EPO Event: Patents and Innovation in European Universities](#)

(*) Live streaming available

24
OCT
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Training and workshops
[EU-13 Roadshow: Strengthening IP Awareness and Community Engagement in the Widening Countries - Novi Sad](#)

📍 Novi Sad, Serbia

24
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Training and workshops
[EU - Webinar: IP & Open Science](#)

(*) Live streaming available

29
OCT
2024

Training and workshops
[EU-13 Roadshow: Strengthening IP Awareness and Community Engagement in the Widening Countries - Brno](#)

📍 Brno-Medlánky, Czechia

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OCT
2024

Training and workshops
[EU - Webinar: Freedom to Operate](#)

(*) Live streaming available

30
OCT
2024

Training and workshops
[EU - Webinar: IPR and Software](#)

(*) Live streaming available



FTO

Freedom to Operate

“The ability to perform a commercial activity without infringing 3rd party’s IP rights.”



Different Types of IPR?

Registered IP

Patents

Utility models

Registered trade marks

Registered designs

Unregistered IP

Copyright

Database right

Unregistered trade marks

Unregistered designs

Soft IP

Know-how

Trade secrets

Confidential information



What is a patent?

- *A patent is a negative right*
- *A patent is the right to exclude others from*
 - *making*
 - *using*
 - *offering for sale*
 - *selling*
 - *or importing*

*the patented invention for a limited period of time
in a certain geography*

A challenging task – for experts!
This training is to give you some
basic information

FTO-analysis: search for 3rd party IPR which can block your activities



Let's assume:

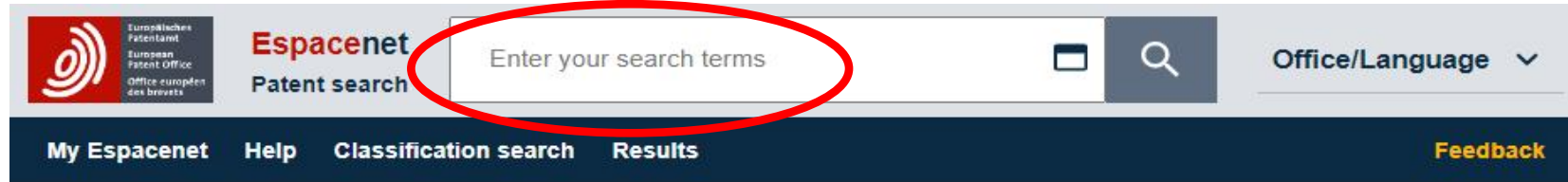
You are in an ongoing R&D-project and would like to do a first FTO-analysis

- What would you do?
- Where would you search for 3rd party patents?



The Espacenet database (over 140 million docs)

<https://worldwide.espacenet.com>



Espacenet: free access to over 140 million patent documents

**Also for identifying
potential partners**





The Espacenet database (over 140 million docs)

Logo: Europäisches Patentamt / European Patent Office / Office européen des brevets

Deutsch English Français

Contact

Change country

Navigation: About Espacenet Other EPO online services

Search Result list My patents list (0) Query history Settings Help

Smart search

Advanced search

Classification search

Quick help

- [How many search terms can I enter per field?](#)
- [How do I enter words from the title or abstract?](#)
- [How do I enter words from the description or claims?](#)
- [Can I use truncation/wildcards?](#)
- [How do I enter publication, application, priority and NPL reference numbers?](#)
- [How do I enter the names of persons and organisations?](#)
- [What is the difference between the IPC and the CPC?](#)
- [What formats can I use for the publication date?](#)
- [How do I enter a date range for a publication date search?](#)
- [Can I save my query?](#)

Related links +

Advanced search

Select the collection you want to search in [i](#)

Worldwide - collection of published applications from 90+ countries

Enter your search terms - CTRL-ENTER expands the field you are in

Enter keywords in English

Title: [i](#) plastic and bicycle

Title or abstract: [i](#) hair

Enter numbers with or without country code

Publication number: [i](#) WO2008014520

Application number: [i](#) DE19971031696

Priority number: [i](#) WO1995US15925

Enter one or more dates or date ranges

Publication date: [i](#) yyyymmdd

Enter name of one or more persons/organisations

Applicant(s): [i](#) Institut Pasteur

Inventor(s): [i](#) Smith

Quick access

Discussion forum

Classic Espacenet



The Espacenet (n docs)

The screenshot shows the Espacenet Patent search interface. At the top, there is a search bar with the text "Enter your search" and a search button. Below the search bar, there is a navigation menu with "My Espacenet", "Help", "Classification search", "Results", and "Advanced search". The "Results" and "Advanced search" buttons are circled in red. Below the navigation menu, there is a breadcrumb trail "Home > Results". The main content area shows the search results page with a "Query language: en de fr" dropdown menu. Below that, there is a search filter section with "AND" and "+ Field" options. The filter section contains two groups of filters. The first group is "AND" and contains two filters: "Title" and "Title or abstract". The second group is "OR" and contains three filters: "Publication number", "Application number", and "Priority number". Each filter has a dropdown menu for the field name and a dropdown menu for the search criteria. The search criteria dropdowns are currently set to "All" for the first group and "Any" for the second group. Each filter has a text input field and a close button (X).



The Espacenet (on docs)

Logo: Bundespatentamt, European Patent Office, Office européen des brevets

Espacenet Patent search

Enter your search

My Espacenet Help Classification search **Results** Advanced

Home > Search

Query language: en de fr

OR + Field

OR + Field X

Title or abstract All → Group

Title or abstract All → Group

AND + Field X

Description Proximity → Group

< 3 words away from

Description Any 2024 → Group

Also for identifying potential partners



Let's assume:

You are in an ongoing R&D-project and would like to do a first FTO-analysis

- What would you do?
- Where would you search?
- You found a very similar patent (claims!)

In what part of the patent document would you search?

Is this the end?



A patent

- **Has to be applied for**
- **Has to be granted**
- **Has to be valid (max. lifetime 20 years, renewal fees)**
- **Has to be valid in a certain territory**



Let's assume:

You are during a R&D-project and would like to do a first FTO-analysis

- What would you do?
- Where would you search?
- You found a patent with very similar claims

Is this the end?

Not necessarily!



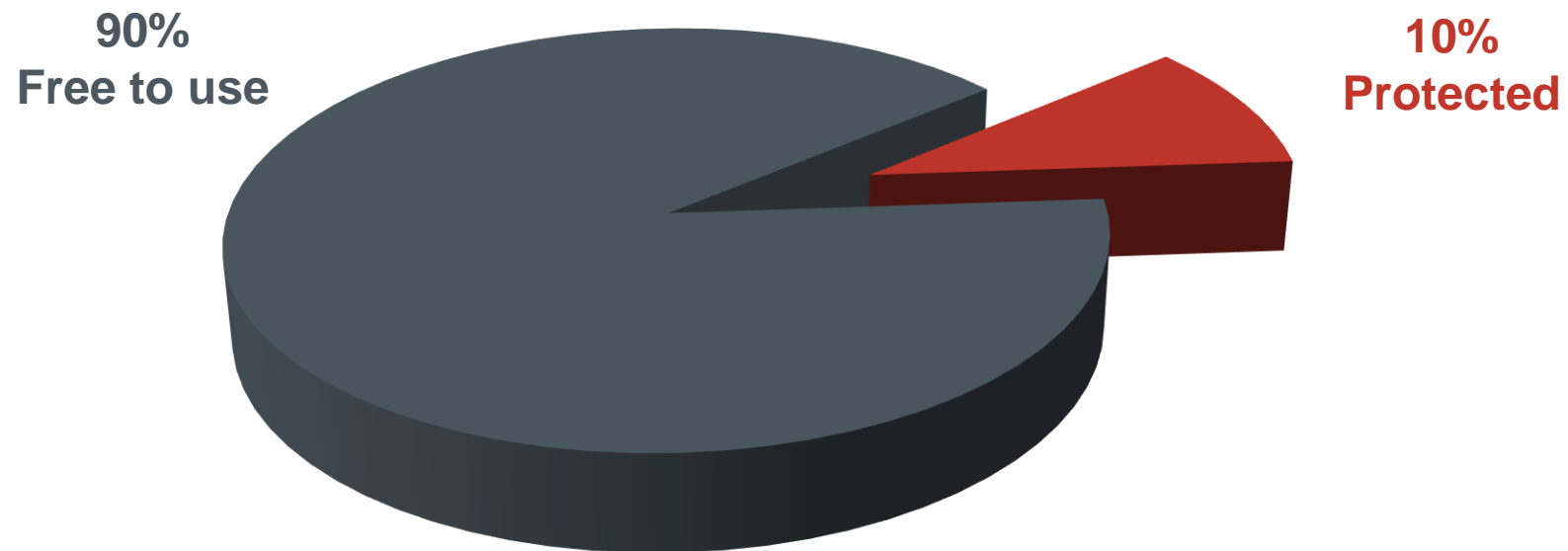
A patent

- Has to be applied for
- Has to be granted
- Has to be valid (max. lifetime 20 years, renewal fees)
- Has to be valid in a certain territory

18 months after filing, a patent (application) will be made public (appear in databases, such as Espacenet) – regardless of the legal status (if not withdrawn before)



Off all solutions found in patent documents



You can find many great solutions for free!



FTO-analysis

Before: search for any 3rd party IP-rights which can block your commercial activities

More precisely: search for any valid 3rd party IP-rights which can block your commercial activities in a certain geography

Business Strategy!



When would you do a FTO-analysis?

- Eg. before the start of a R&D-project (investment)

Remember: Patent protection for a new product



When can a patent be granted?

- **New**
- **Inventive**
- **Commercially applicable**



FTO versus Patentability Ia

Let's assume:

- You conducted a FTO-search before the start of a R&D-project
- You found a patent with very similar claims (not expired, valid in Japan only)
- Your business strategy: doing business in Europe

FTO



Patentability



Strategic question: Would you start the R&D-project, already knowing that you cannot get IP protection?



FTO versus Patentability I_b

Let's assume:

- You conducted a FTO-search before the start of a R&D-project
- You found a patent with very similar claims (expired patent, was valid in Japan only)
- Your business strategy: doing business in Europe

FTO



Patentability



Strategic question: Would you start the R&D-project, already knowing that you cannot get IP protection?



FTO versus Patentability II

Let's assume:

- You have a new idea: computer mouse which needs no cable or battery – it generates its electricity by the movement of the mouse
- Search: let's assume: you found no patent on this specific idea (valid or expired / no application)

Patentability



Check non-patent
literature as well

FTO



Many existing patents on basic
mouse – you build upon



(19)
Bundesrepublik Deutschland
Deutsches Patent- und Markenamt

(10) **DE 10 2008 017 546 A1** 2009.10.15

(12)

Offenlegungsschrift

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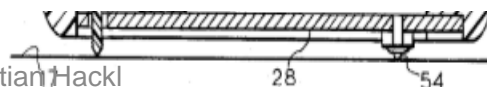
(56) Für die Beurteilung der Patentfähigkeit in Betracht
gezogene Druckschriften:

DE 10 2005 016293 A1

EP 07 86 849 A1

US 2004/01 96 262 A1

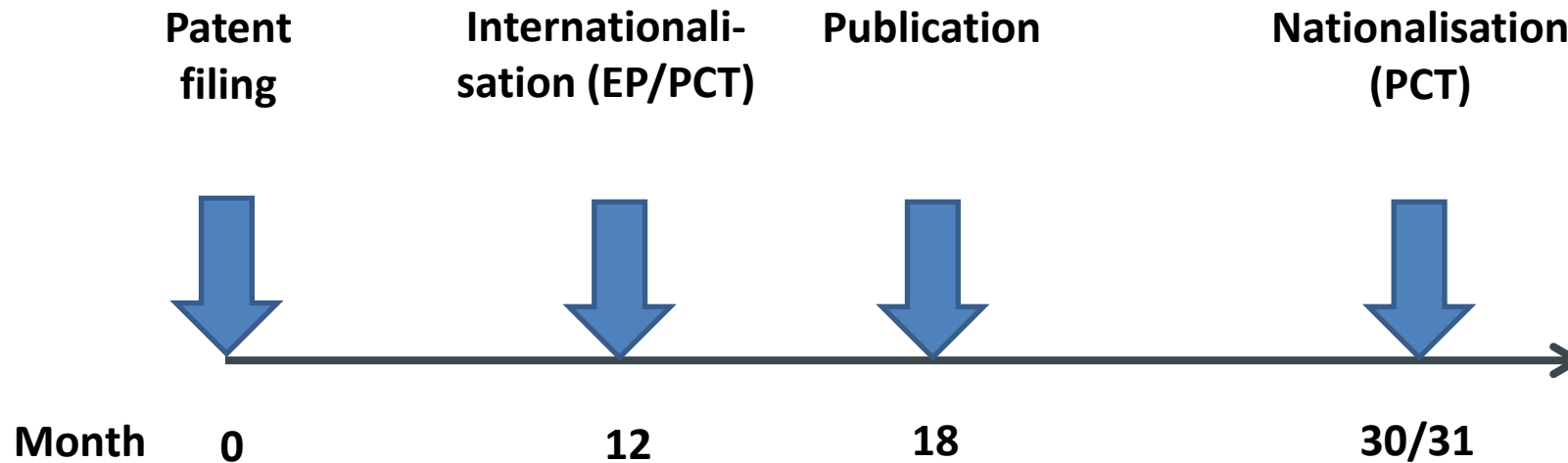
The invention relates to a computer mouse (1) for wireless operation of a computer system. A power supply for the computer mouse (1) is provided without the use of rechargeable batteries or batteries. For this purpose, the computer mouse (1) has a dynamo (2) and an energy storage device (3). By actuating the dynamo (2), energy is generated which is temporarily stored in the energy storage device (3).





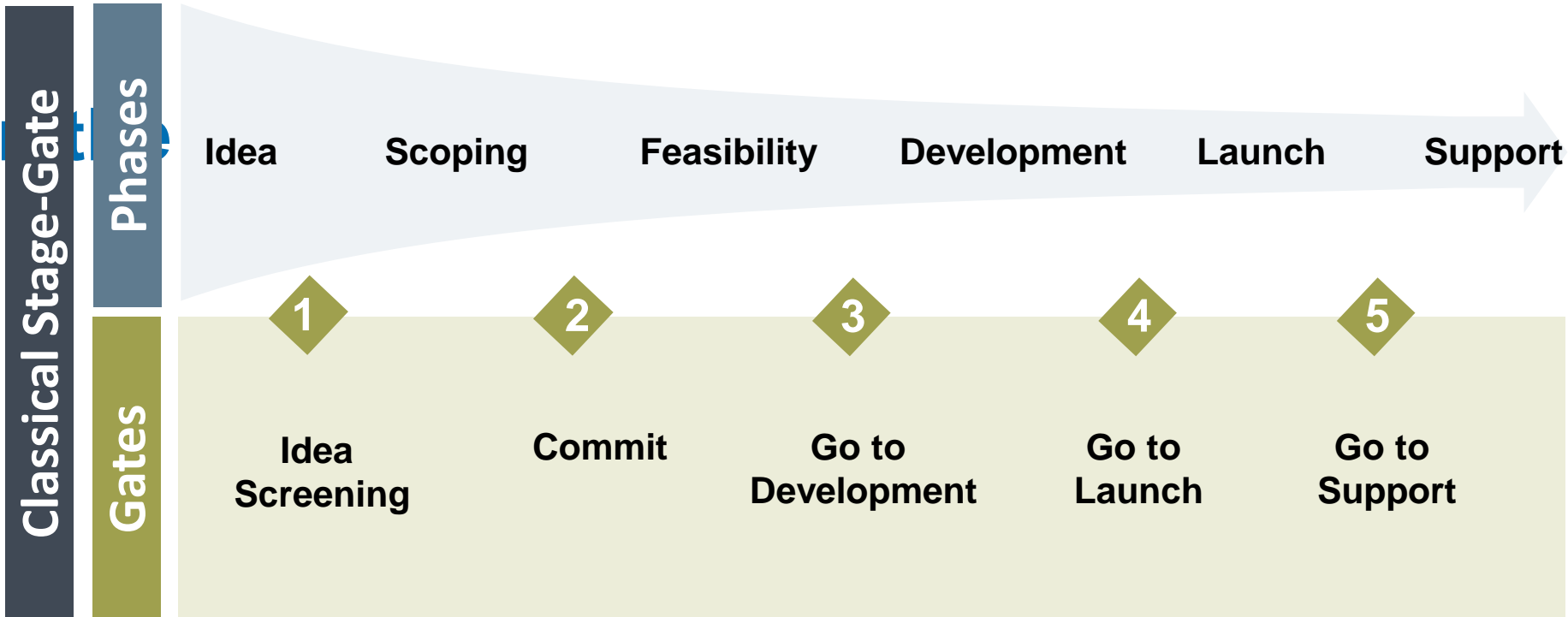
Ongoing Patent Monitoring

- Keep IP monitoring updated (FTO and technology/competitor watch)
- Keep in mind timing of events:





FTO in the





Possible Strategies

Let's assume:

- You did a FTO-search just before the end of the successful R&D-project
- You found a very similar European patent (you want to do business in EU)
- The patent is valid in main EU-member states



Your options:

- Wait for patent to expire
- Modify product / design around
- Move commercial activities (outside validated territories)
- Get a license (cross-licensing), buy patent (M&A)
- Try to invalidate 3rd party's patent
- Abandon R&D-project



Case study: FTO

https://intellectual-property-helpdesk.ec.europa.eu/regional-helpdesks/european-ip-helpdesk/europe-case-studies_en

The image shows the cover of a case study report. At the top left is the European IP Helpdesk logo. At the top right is a green circular badge with the text 'CASE STUDY'. The main image is a traffic light with the green light glowing. Below the traffic light, the text reads: 'Freedom to Operate. How a rather late identified third party patent almost killed an innovation project – but ultimately resulted in a significantly improved product that has innovated the protective clothing industry.' At the bottom right, the website 'www.iprhelpdesk.eu' is listed.



Contact:

- Website: ec.europa.eu/ip-helpdesk
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- Twitter [@iprhelpdesk](https://twitter.com/iprhelpdesk)
- LinkedIn [/european-ipr-helpdesk](https://www.linkedin.com/company/european-ipr-helpdesk/)





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