European IP Helpdesk

Stay ahead of the innovation game.



IP & Software

European IP Helpdesk 17.11.2026

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

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

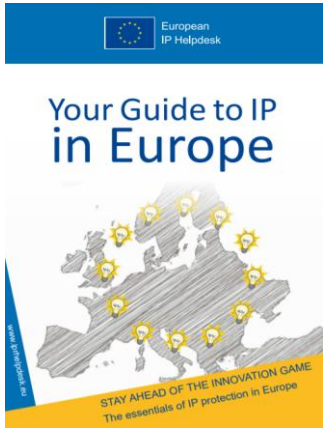
Ambassadors
local IP support throughout Europe

Events
info point at key networking events and conferences

The EC IP Helpdesks



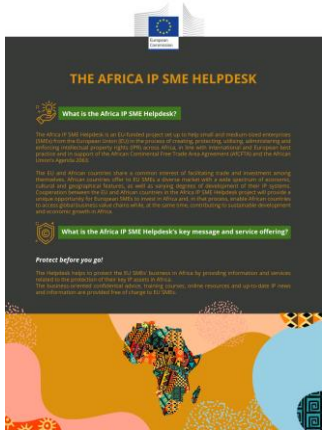
EC IP (SME) Helpdesk Hub – Gateway to Information













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

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



13 NOV 2026
Upcoming
Training and workshops
EU - Webinar AI Act
Live streaming available

17 NOV 2026
Upcoming
Training and workshops
EPO Training Coop: From Lab to Market - Aligning IP with Investment and Growth: Arevo
Online only
Live streaming available

17 NOV 2026
Upcoming
Training and workshops
EU - Webinar: IPR and Software
Live streaming available

18 NOV 2026
Upcoming
Training and workshops
EU - Webinar: Freedom to Operate
Live streaming available

19 NOV 2026
Upcoming
Training and workshops
EU - Webinar: Finding Patents
Live streaming available

26 NOV 2026
Upcoming
Training and workshops
EU - Webinar: Consortium Agreements
Live streaming available

01 DEC 2026
Upcoming
Training and workshops
EU - Webinar: Addressing IP impact and innovation in EU projects
Live streaming available

03 DEC 2026
Upcoming
Training and workshops
Webinar: IP in EU funded projects with a special focus on MSCA
Live streaming available

09 DEC 2026
Upcoming
Training and workshops
EU - Webinar : Unitary Patent
Live streaming available

14 DEC 2026
Upcoming
Training and workshops
EU - Webinar: Patents and Trade Secrets
Live streaming available

Thank you!

- www.ec.europa.eu/ip-helpdesk
- helpline@iprhelpdesk.eu
- training@iprhelpdesk.eu
- X @iprhelpdesk
- LinkedIn /european-ipr-helpdesk



European
IP Helpdesk

www.iprhelpdesk.eu

European IP Helpdesk

Stay ahead of the innovation game.

IPR and Software

Dr Eugene Sweeney, CEO, Iambic Innovation Ltd
Senior IP Policy Advisor, European IP Helpdesk
es@iambicinnovation.com

1

European
IP Helpdesk

www.iprhelpdesk.eu

Today's speaker



Dr. Eugene Sweeney

Director, Iambic Innovation Ltd; Senior Advisor, European IP Helpdesk
International (ISO) and European (CEN) Standards Committee Member for ***Innovation Management and IP Management***

- **> 40 years in the software industry**
- 1970's **Researcher** – computer modelling/simulation
- 1978 **First start-up**: microcomputer software applications for engineers
- 1980's **Computer & Network industry:** Developing, sourcing and taking new software and ICT technologies to market
- 1990's **Early-stage technology investment** and commercialisation(software & ICT)
- 2000 - **Consultant** in Innovation, IPR and research exploitation

2

© European Union (2025)

Roadmap

- What is special about software
- Why and how to protect software
- Software exploitation



3



WHAT'S SPECIAL ABOUT SOFTWARE?

4

© European Union (2025)

Software is everywhere

Chips → Devices → Apps → Comms

Software is the fuel and the glue

5

Software is…

Dependent	• Relies on other technologies, systems or data
Cumulative	• Based on pre-existing components, integration, derivatives • Can be combined in different ways to create new products and services
Convergent	• Takes advantage of merging/converging technologies; e.g. Cloud, sensors, IoT, etc.
IPR issues to address	• Rights for access and use

6

© European Union (2025)

Software can…

Software can operate **globally**	• Rapid scalability
Software can be **trans-border**	• Cloud, Internet, IoT, blockchain, AirBnB, etc.
Issues to address	• Language, cultural, regulatory, IPR, privacy and security

7

Software has many facets

Different forms	**• source code, executable**
Can be delivered in many ways	**• product, service**
Any…	**• time, place, device**
More than technology	**• aesthetics, brands, marketing, etc**
Multiple IP Rights	**• Patent, copyright, design rights, etc**

8

© European Union (2025)

Dynamic and disruptive

- It moves and changes **fast**
- **short** life-cycles
- **New paradigms** and applications
- Highly **scalable** with high potential
- **Less capital** needed to get going

Windows for PC since 1985

26 Different versions (69 Editions)

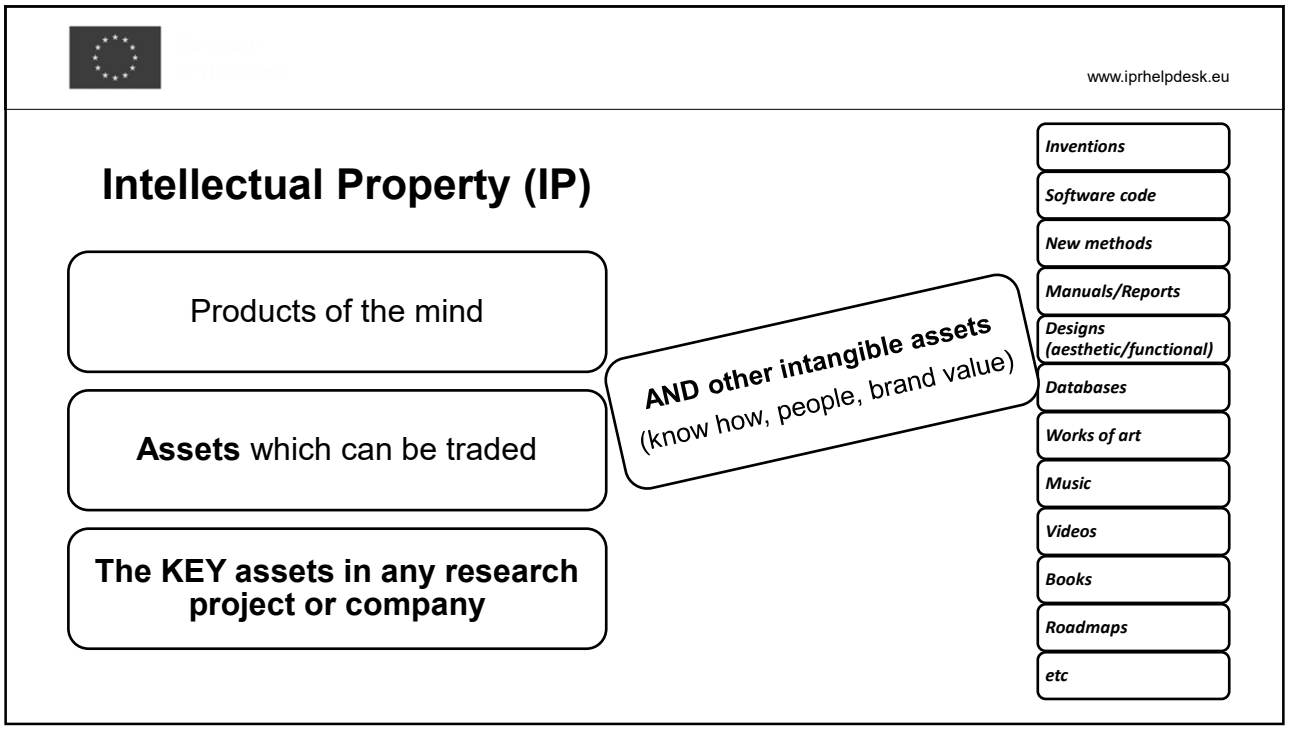
9



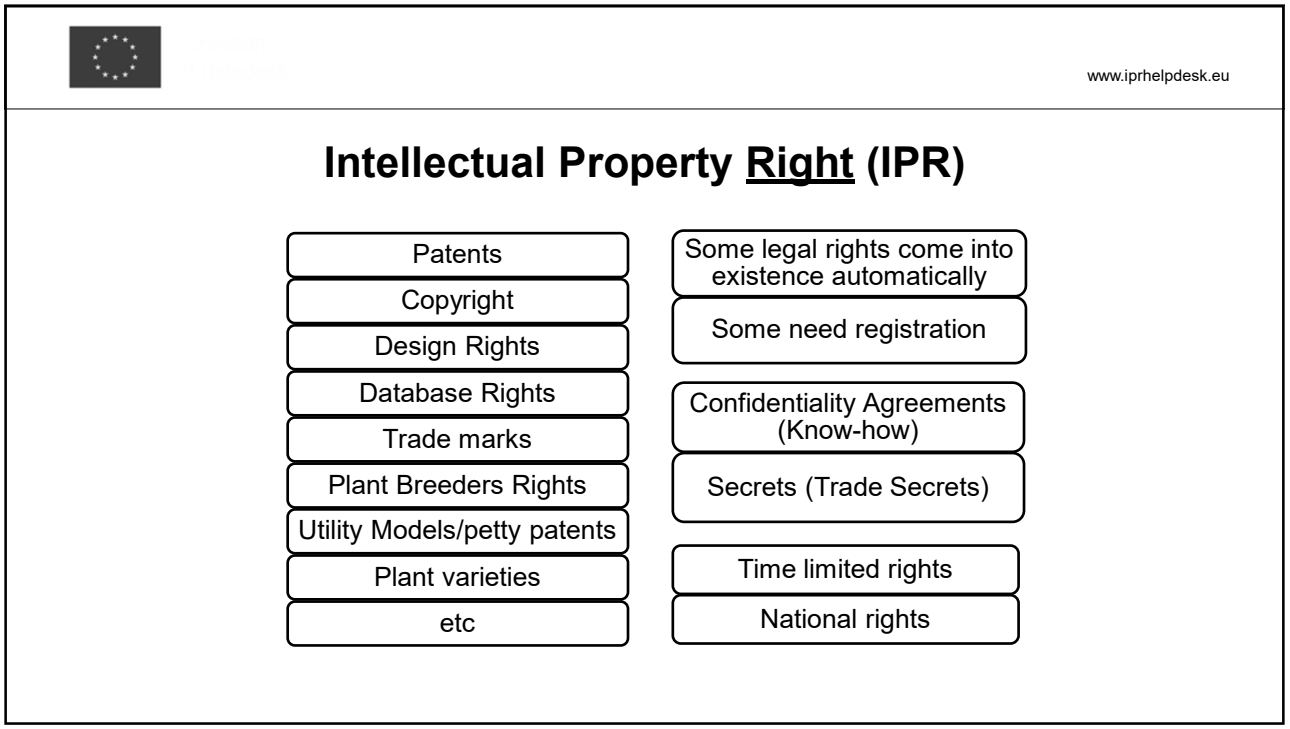
PROTECTING SOFTWARE (WHY AND HOW?)

10

© European Union (2025)



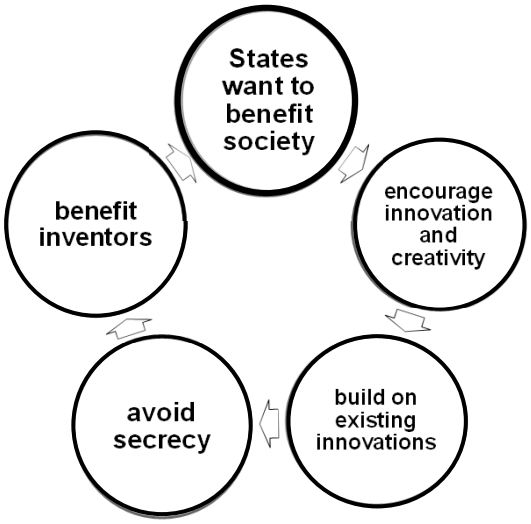
11



12

© European Union (2025)

Why IP Rights?



13

What is the deal?

legal right to prevent others using their creation (without agreement)

commercial purposes (only)

for a **limited period**

disclosing details

so others can develop new innovations

14

© European Union (2025)

Who benefits?

The state by avoiding secrecy	• **Improves innovation capacity, stimulates innovation, enriches society**
The creator by being able to prevent unauthorised commercial use	• **Unless they come to an agreement (which may be financial)**
Investors (time, money, facilities, etc) from the limited monopoly	• **To get a return on investment**

15

Don't confuse IP and IPR

Intellectual **Property**
key **assets**

Intellectual Property **Rights**
legal tools to support commercial exploitation

IP Protection is a strategic commercial decision

Don't forget other **intangible assets**
(know how, people, brand value, goodwill)

16

© European Union (2025)

www.iprhelpdesk.eu

Strategic decisions

YES! There are commercial opportunities? → Would IP protection support exploitation? → Benefits greater than costs? → If so, **invest!**

Assessment, protection and exploitation must be considered together

17

www.iprhelpdesk.eu



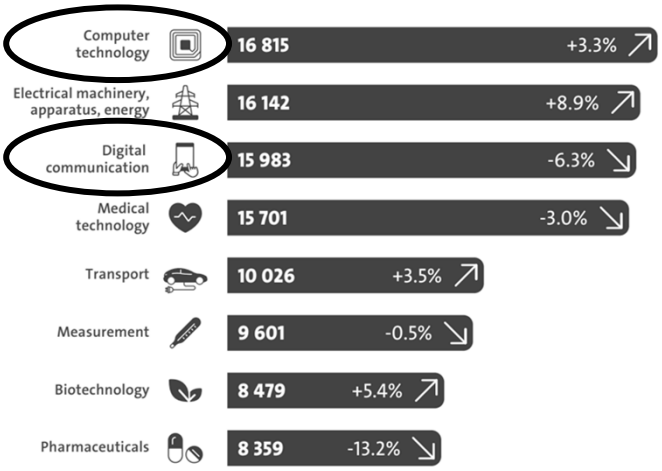
IPR AND SOFTWARE

- **Patents**
- **Copyright**
- **Design Rights**
- **Database Rights**
- **Trade marks**
- Plant Breeders Rights
- Utility Models/petty patents
- Plant varieties
- etc

18

© European Union (2025)

ICT Patents



Source: EPO Patent Index 2024

Top Technology Fields

AI and battery technologies drive growth

19

What can you patent?

Almost anything of technical character that is not a mere discovery and is:

- **New/Novel** (not previously disclosed publicly)
- **Inventive** (not obvious to "one skilled in the art")
- **Industrially applicable/has a technical effect**
- **Sufficiently described**

What can't you Patent?

- **Computer programs**
- **Scientific theories**
- **Mathematical methods/algorithms**
- **Aesthetic creations**
- **Schemes, rules and methods for performing mental acts**
- **Playing games or doing business**
- **Presentations of information**

Some important exceptions in law and its interpretation in the USA and elsewhere

20

© European Union (2025)

Software Patents in Europe..
European Patent Convention

Computer programs are not patentable	**software code**
Computer-implemented inventions are patentable	*"inventions whose implementation involves **the use of** a computer, a computer network or other programmable apparatus, **realised by means of a computer program** (i.e. software)"*
Needs to have a technical effect	not **business** or **financial**
BUT… in USA	"technical effect" requirement is not so rigid (and USA is a large market!)

21

(Software code) Copyright ©

Copyrights protects the **expression** of the method **not the method** itself	• The code as such (source and binary)
Copyright also protects **related written materials**	• Design material • User guides
Comes into existence **automatically**	• so **keep good records** to prove date of creation.
Lasts **at least 50 years**	• national variations

NB: Not interface information, data formats, ideas or principles.

More than enough for software!

22

© European Union (2025)

Use a copyright notice	• the copyright symbol ©, and/or the words "Copyright"; the publication year; the copyright owner. • For example: **© 2020 Iambic Innovation Ltd.**
On every component	• **package or box** the software comes in, if any • **manual** and other written documentation • computer **disks or other media** containing the software (if any), and • appropriate **computer screens** (e.g. the opening screen, status bar, at activation, on the about or credit screen).
In the software code (if made available)	• As a minimum on the **first and last page** • Preferably **on every page**, or liberally throughout the code.

23

Software patent *OR/AND* Software copyright

Patent

What it <u>does</u> (regardless of how expressed)



(19) Europäisches Patentamt / European Patent Office / Office européen des brevets

(11) EP 2 097 841 B1

(12) EUROPEAN PATENT SPECIFICATION

(45) Date of publication and mention of the grant of the patent: 25.06.2014 Bulletin 2014/26

(51) Int Cl.: G06F 17/50 (2006.01)

(21) Application number: 07824443.1

(86) International application number: PCT/GB2007/004206

(22) Date of filing: 05.11.2007

(87) International publication number: WO 2008/053239 (08.05.2008 Gazette 2008/19)

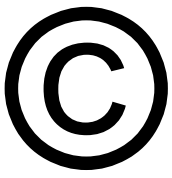
(54) POLYNOMIAL SYNTHESIS
POLYNOM-SYNTHESE
SYNTHÈSE POLYNOMIALE

(84) Designated Contracting States: AT BE BG CH CY CZ DE DK EE ES FI FR GB GR HU IE IS IT LI LT LU LV MC MT NL PL PT RO SE SI SK TR

• JABIR A M ET AL: "MODD: a new decision diagram and representation for multiple output binary functions" DESIGN, AUTOMATION AND TEST IN EUROPE CONFERENCE AND

Copyright

What it <u>is</u> (its expression)



Research	Develop	Program	Test	Take to Market

24

© European Union (2025)

www.iprhelpdesk.eu

Copyright?

A legal right for creators **and** owners of creative, literary and artistic works

- For **owners**: **economic rights**
  - related to **financial gain** from the use of the work
- For **creators(authors)**: **moral rights**
  - to **link them** (or not) with their work

NB: Owners may not be the same as creators

A wide range of works

- Books
- Music
- Paintings
- **Films**
- **Teaching materials**
- **Software code**
- **Databases**
- Technical drawings
- Advertisements
- Maps

25

www.iprhelpdesk.eu

What are the rights?

The **owner** can **authorise or prohibit** others from using the work without permission (may be €).

- **Reproduction** of the work in various forms (e.g. making copies of your work)
- **Distribution** of copies of the work (e.g. **software**)
- **Public performance** of the work (e.g. music, or a play, in a theatre)
- **Translation** of the work into other languages (including **computer languages or to binary**)
- **Adaptation** of the work (e.g. turning a novel into a movie)

The **creator** can **asset their moral rights** to be named as the author, **or not to be named**

26

© European Union (2025)

How long does the right last?

For a literary, dramatical, musical or artistic work	• **70 years** from the end of the year in which the last surviving author dies.
For other types of work (e.g. **software code, data**, etc)	• varies, but usually **less than 70 years**

27

New Copyright Directive 2019/790
in response to developments in ICT

To **increase the availability of works** for people across Europe, creating more favourable conditions for the **distribution of TV and radio programs**

To **modernise the key exceptions** in favour of education, research and preservation of culture, **focusing on digital and cross-border use**

To **create a fair marketplace for online content**, especially for press publications, online platforms and remuneration of authors and performers

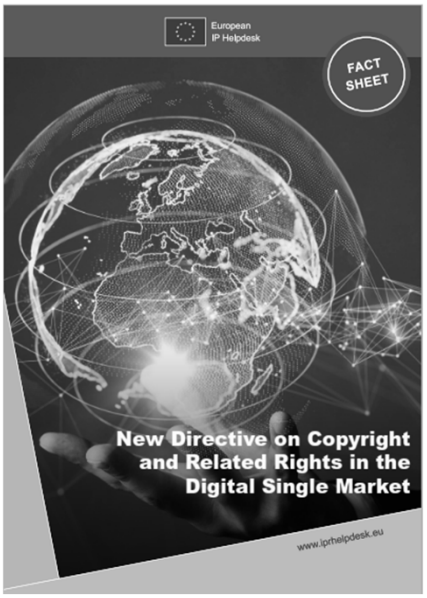
28

© European Union (2025)

More information

New Directive on Copyright and Related Rights in the Digital Single Market - European Commission

EU IP Helpdesk Webinar "Copyright and Collaboration"



29

The AI Act

Official Journal of the European Union — EN L series

2024/1689 — 12.7.2024

REGULATION (EU) 2024/1689 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 June 2024

laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act)

The AI Act rules on GPAI apply from 2 August 2025.

To ensure safe and trustworthy AI, the AI Act puts in place rules for providers of AI based systems, including transparency and copyright-related rules

30

© European Union (2025)

The AI Act

Generative AI, like ChatGPT, will have to comply with transparency requirements and EU copyright law

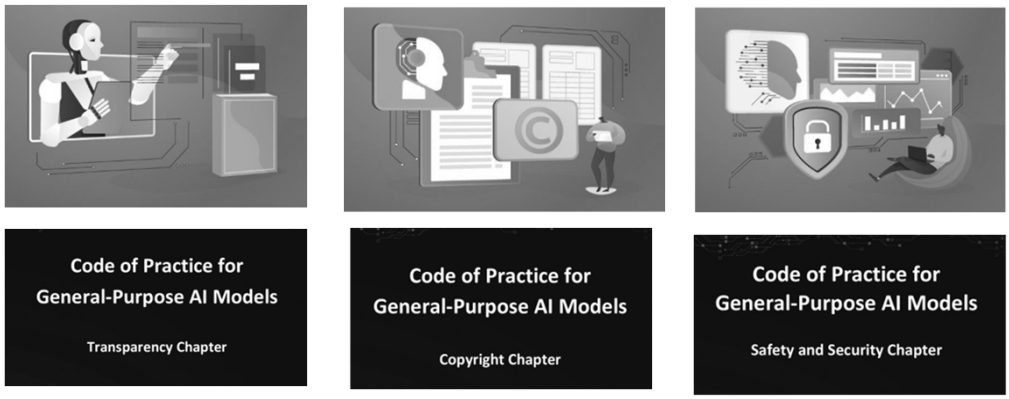
The AI Act rules on GPAI apply from 2 August 2025

- **Disclosing that the content was generated by AI**
- **Designing the model to prevent it from generating illegal content**
- **Publishing summaries of copyrighted data used for training**
- **Content generated with the help of AI (images, audio, video files, deepfakes, etc) – must be clearly labelled as AI generated so users are aware when they come across the content**

31

Code of Practice for General-Purpose AI Models

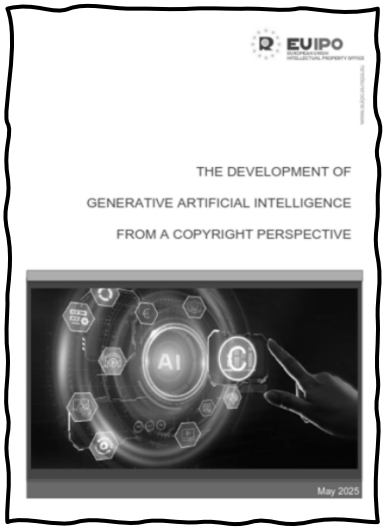
Published 10 July 2025



The General-Purpose AI Code of Practice | Shaping Europe's digital future

32

© European Union (2025)



EUIPO
EUROPEAN UNION
INTELLECTUAL PROPERTY OFFICE

IP Helpdesk Webinars
- **"IP and Artificial Intelligence"**
- **"IP and Artificial Intelligence – Advanced"**
- **"The AI Act"**



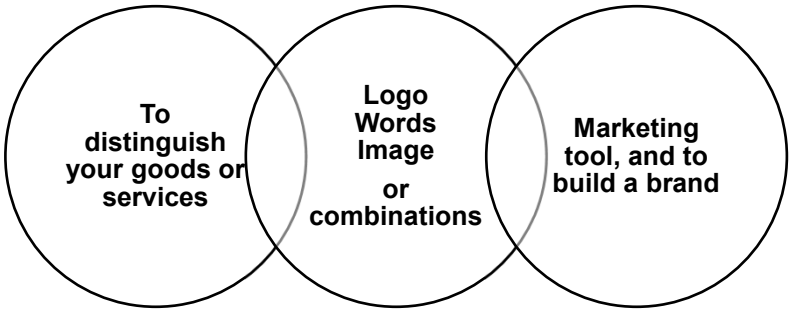
20 - 21 November 2025 in EUIPO, Alicante (Spain).

Database Rights

- **Copyright** protects the **contents**
- **Database right** protects the **collection** if there has been a "substantial investment" in obtaining, verifying or presenting the contents of the database.

© European Union (2025)

Trademarks



"Patents dominate in Telecommunication and Hardware, but **trademarks and copyright dominate in software"**

JRC Report, "IP and Innovation in ICT", 2015

35

Technological Protection Measures (TPMs)

To protect software copyrighted works	• for example, through **encryption**
Any technology (software or hardware) which restricts access	• a **password** to gain access to a website containing scientific papers • to a **chip** in a games console, which only allows games to run in a given location • Security **dongle** • Authorisation/Activation **code** • Etc
Stand alone in law	• it is an offence to infringe, in addition to any copyright infringement that occurs though by-passing the TPM

36

© European Union (2025)



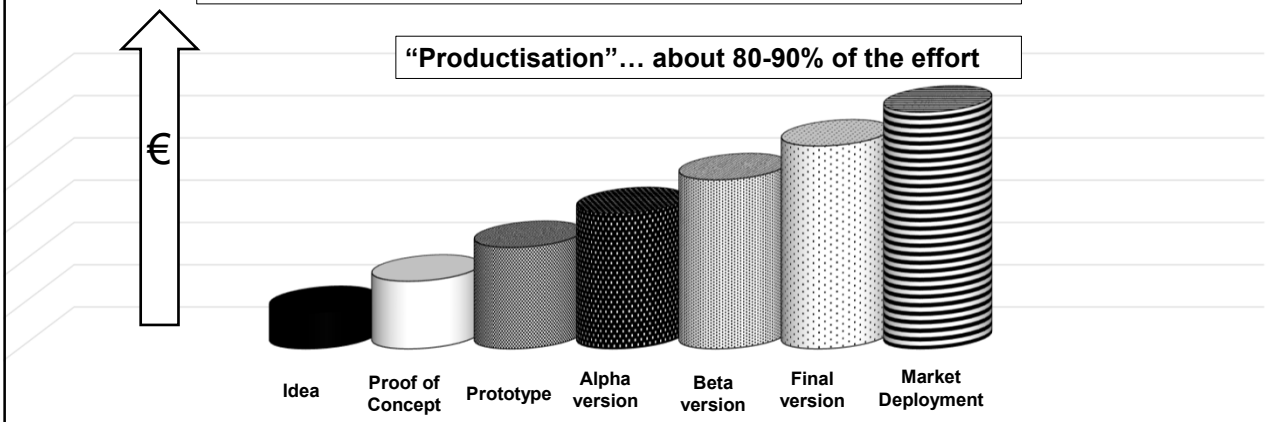
SOFTWARE EXPLOITATION

37

Software value creation

Research Develop Program Test Take to Market

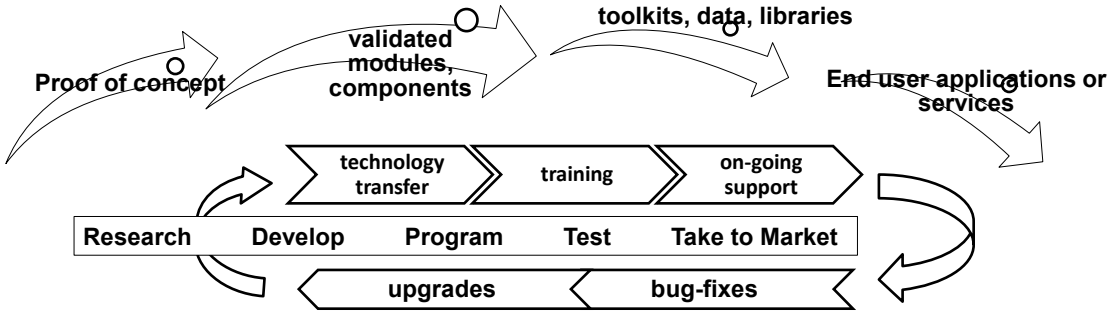
"Productisation"… about 80-90% of the effort



38

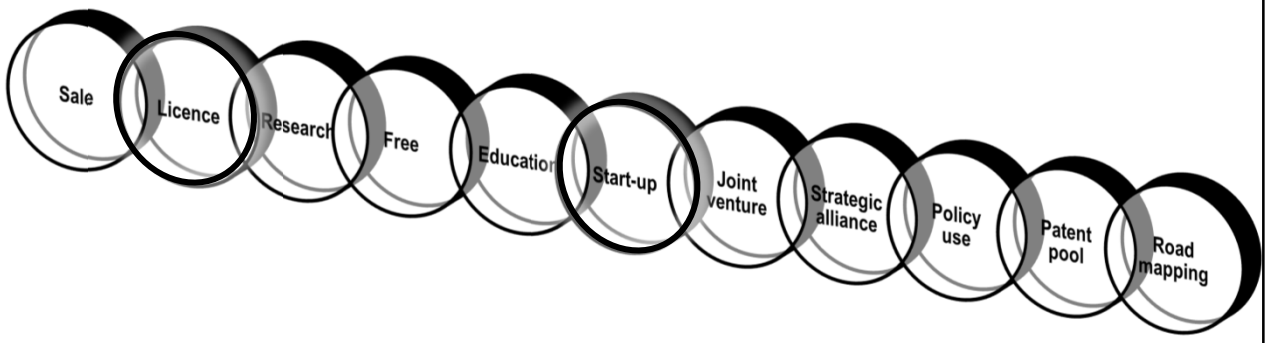
© European Union (2025)

Who is your customer??



39

Exploitation Strategies depend on objectives (commercial or other)



40

© European Union (2025)

Licence or New Company?

Licensee has expertise and resource	New Company must acquire expertise and resource
Can address different fields of use and geographical areas	Needs a critical mass of expertise and a committed and enthusiastic team
Established markets & suppliers	New markets for new suppliers
Evolutionary/incremental technology	Revolutionary or platform technology
The IP fits a gap in someone else's portfolio	Delivers a unique business advantage
Low financial commitment – less risk	Needs capital - more risk
Early returns – may grow over time	Returns take longer – but could be large

41

VC funds investing heavily in favour of Software — Drive for **capital growth** rather than profitability

Investors don't wait around…. — ICT has **rapid growth** potential

New paradigms, low capital investment and rapid growth — make **ICT start-ups attractive for investors**

US VC deal count by sector

	2022	2023	2024
Software	7378	5757	5560
Pharma & Biotech	1149	1030	940
Other	1010	776	766
Media	496	362	299
IT Hardware	580	510	471
HC Services & Systems	1415	1203	1147
HC Devices & Supplies	807	744	655
Energy	231	244	238
Consumer Goods & Services	2413	1740	1492
Commercial Products & Services	2341	2170	2065
Transportation	207	176	143

PitchBook-NVCA Venture Monitor • As of December 31, 2024

42

© European Union (2025)

www.iprhelpdesk.eu



SOFTWARE LICENSING

43

www.iprhelpdesk.eu

Licensing (in general)

IP Helpdesk Webinar
"IP Commercialisation and Licensing"

Granting right to use Granting the right to use the **protected IP** under agreed terms and conditions

- Field of use
- Geographic territory
- To validate not sell
- Subject to

Can an SME reach all market sectors and territories?

European IP Helpdesk Bulletin No.1 - IP Licensing



European IP Helpdesk Bulletin / June 2019: IP Licensing - European Commission

44

© European Union (2025)

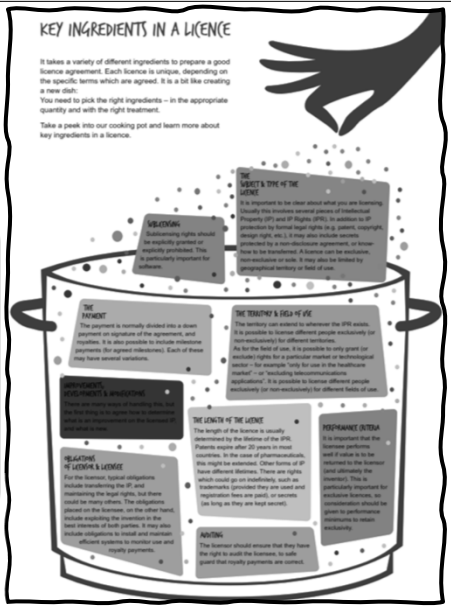
www.iprhelpdesk.eu

Every clause in a licence agreement is a negotiating point wherever you are in the value chain

e.g. licence to end users

- **For a fee or free**
- **Individual user** (end user licence)..
- **Multiple users** may install the product under licence, but only one is allowed to use the software at a given time.
- For **specific hardware** (node licence)
- **Multiple licenses** for multiple computers (or multiple users)
- **Site licence**: geographical, or organisational
- **Floating (network) licence**. Can be installed on many computers, but number of licenses purchased determines the number of concurrent users.
- **etc**

BEWARE of bundling!



45

www.iprhelpdesk.eu

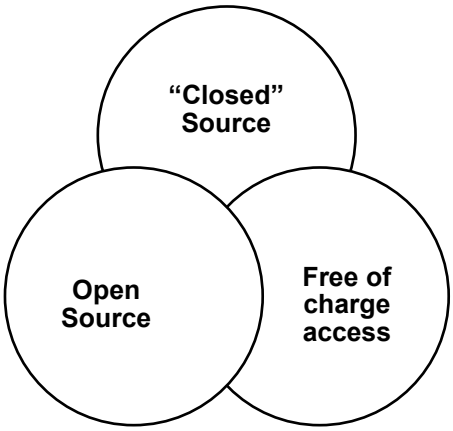
Updates and improvements

Software is never finished!	• **Bug** fixes • **Upgrades**: Improvements, operating system, new add-on products, etc • Ongoing or limited **support**
Depends on revenue models	• **Free or Fee** • **Subscription**, **one-off** payment, **as needed** etc… • Options for first refusal • **Ads or Ad-free** options
Many and varied options in a software licence agreement	• **Choice depends on position in value chain, sector, application and business model**

46

© European Union (2025)

Licensing Source Code



47

Licensing software - "closed" source

- For commercial reasons
  - Need to generate revenue stream and restrict copying
  - Need to control improvement and evolution
- Supplied as
  - Binary **(No access to source code)**
  - Service
- Terms
  - Rights to install and use (for certain uses)
  - **No modifications**
  - **Restricted (or prohibited) transfer**
- Usually Fee based
  - licensing fees
  - Service fees

48

© European Union (2025)

www.iprhelpdesk.eu

Licensing software – free of charge access to source

- To make market ready
  - Protected by other IPRs
  - **Need to control distribution for commercial reasons**
- Supplied as
  - Software code only
  - Maybe licence to access other IPR
  - With support
- Terms
  - Rights to install
  - Modifications permitted
  - restricted licensee (no transfer)
- Free of charge
  - Commercial use may require licence to other IP Rights

49

www.iprhelpdesk.eu

Licensing software - Open Source

- **Fundamental concept**
  - Access to **source code**
  - **Freedom** to use, install, copy, modify **and redistribute (but not unconditionally!)**
- **Just another type of licence!**
  - Many different versions (~70) and variations (~1500)
    So check and choose carefully
  - Beware clauses which affect commercial use
- **Good for**
  - building community of developers and users
  - **Needs management**
    how will it be funded?
  - How will it be **sustainable?**

Choose **only if appropriate** and can be **justified** ⇨ **not "policy" or "ideology" decision**

50

© European Union (2025)

Two main types of Open Source licence

Permissive Licences (e.g. MIT, Apache, BSD…)	Copyleft Licences (e.g. GPL, MPL, EUPL…)
• Do not control how modified code is licensed • Modifications can be released under any licence, open source or not • Must include attribution, permission and copyright notices	• Additional conditions about derivative works • Same rights included in derivative works (**Strong**) - GPL • No restrictions on derivative works, but original code must have same rights (**Weak**) – EUPL, LGPL, MPL

51

European Union Public Licence

- **Weak copyleft**
- Open source licence in **all EU official languages (**OSI certified 2009)
- Compliant with EU law
- Interoperable and compatible with other licences



EUPL | Interoperable Europe Portal

52

© European Union (2025)

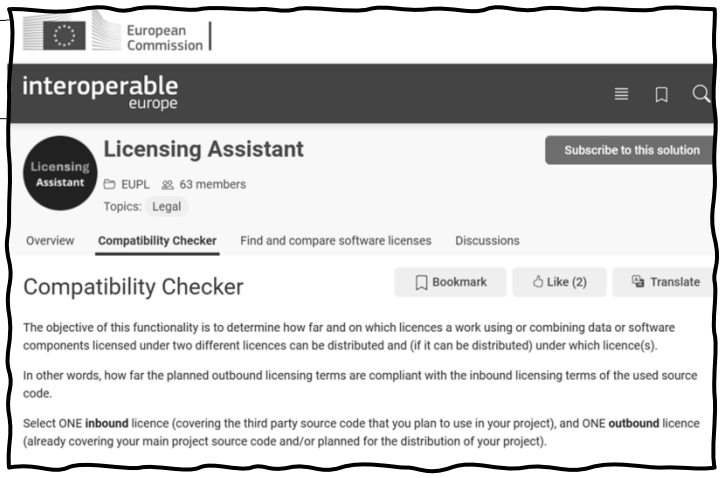
Compatibility Checker

How compliant are:

the (planned) outbound licensing terms

with the

inbound licensing terms



Compatibility Checker | Interoperable Europe Portal

Managing Open Source Projects

Someone must **manage and sustain**	• Quality and validation • New releases into community • Build and sustain the community
Beware **too many "forks"**	• Detrimental to building critical mass in the community, and "brand" identity and commercial success
Must provide **source for free**	• Can charge for executable, added value services or products (e.g. training or toolkits)
Added value **services and products** may be supplied	• Software freely available under OSS licence • Support contract or consultancy services may be purchased from owner or **third parties**

© European Union (2025)

Open Source Sustainability
How to meet ongoing costs

Initial costs usually covered by funder or project

You need to plan for sustainability

What are the ongoing costs?

- Infrastructure & hosting
- Support & training
- Maintaining and updating the codebase
- Management costs
- Marketing and promotion

Not just about

- revenue generation
- releasing code and hope it will survive!

Must also

- Build the **community**
- Keep **interest** alive
- Encourage **use** and code **improvement**

55

Key sustainability issues

Attracting third party interest

- More than just awareness, must also **encourage engagement** to build a community

Managing community

- Managing project **contributions**
- Having clear contributor guidelines and agreements

Release management

- **Coordinating** contributor activity
- Addressing the **IPR and licensing** issues

56

© European Union (2025)

www.iprhelpdesk.eu

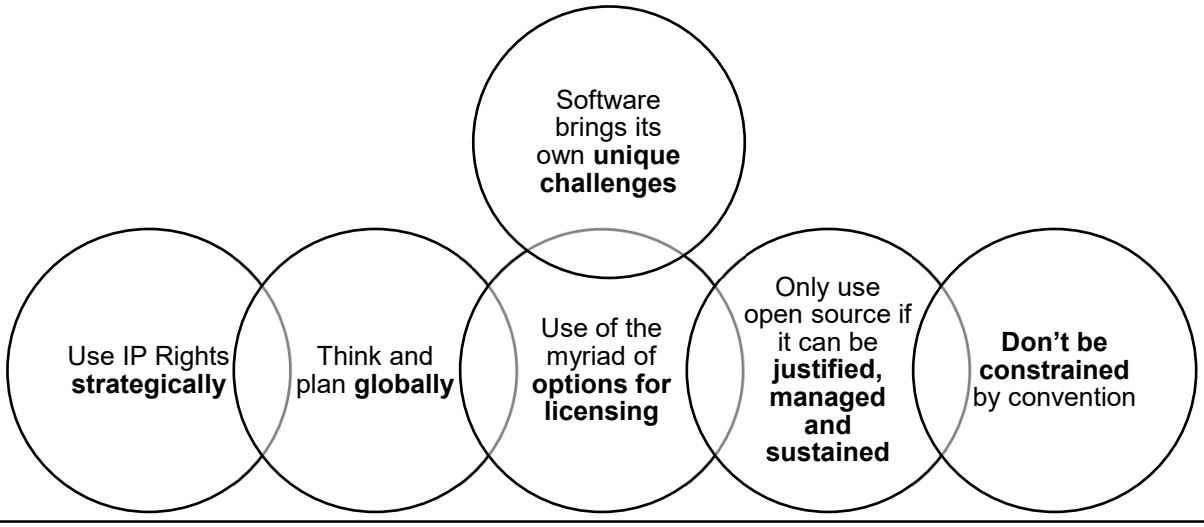
Company types using Open Source software?

hardware companies	• To increase the market for their hardware (e.g. printers, phones, white "smart" goods, etc
software companies	• In their own products
services companies	• To build a market for their services (e.g. support, training, customisation, etc.)

57

www.iprhelpdesk.eu

Summary



58

© European Union (2025)

Presentation produced by Dr. Eugene Sweeney, Iambic Innovation Ltd.

DISCLAIMER

The European IP Helpdesk provides free-of-charge first-line support on IP-related issues aiming to help current and potential beneficiaries of EU-funded projects, as well as EU SMEs, manage their Intellectual Property assets.

The European IP Helpdesk is managed by the European Commission's Executive Agency for Small and Medium-sized Enterprises (EASME), with policy guidance provided by the European Commission's Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG Grow).

The information provided by the European Union IP Helpdesk is not of a legal or advisory nature and no responsibility is accepted for the results of any actions made on its basis. Moreover, it cannot be considered as the official position of EASME or the European Commission. Neither EASME nor the European Commission nor any person acting on behalf of EASME or of the European Commission is responsible for the use which might be made of this information.

© European Union (2024)

© European Union (2025)