European IP Helpdesk

Stay ahead of the innovation game.

European IP Helpdesk

IPR and Software

30 October 2025

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

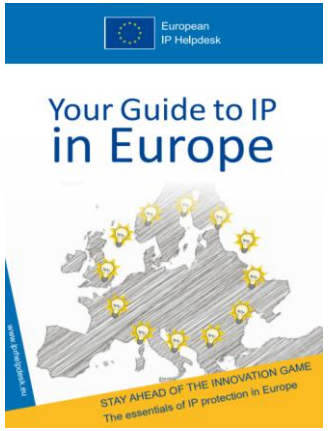
Publications
practical IP knowledge through high-level publications

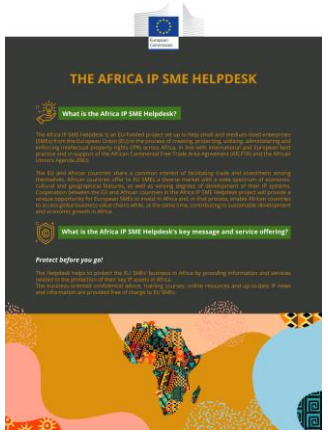
Ambassadors
local IP support throughout Europe

Events
info point at key networking events and conferences

The EC IP Helpdesks

EC IP (SME) Helpdesk Hub – Gateway to Information

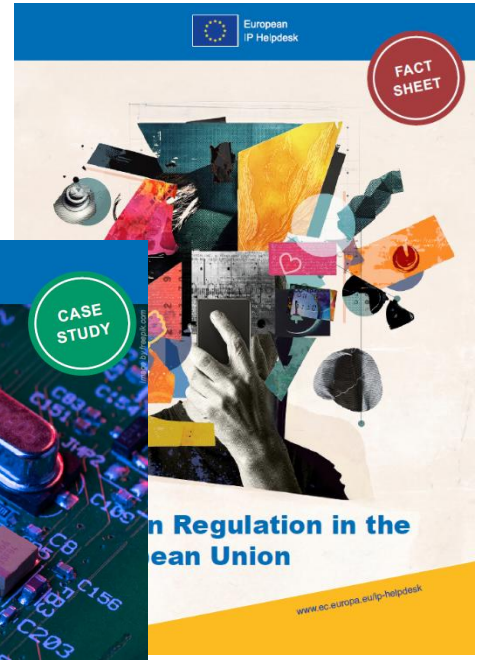




- E-learning modules & more
- Guides / Topic, country, sector-specific factsheets / Infographics
- Case studies

New Fact Sheet!

[Design Regulation in the EU]



New Case Study!

[LUBIS EDA: Debugging for Faster Time to Market]

Upcoming events

30 OCT 2025
Training and workshops
EU - Webinar: IPR and Software
Live streaming available

05 NOV 2025
Training and workshops
EU - Webinar: Freedom to Operate
Live streaming available

12 NOV 2025
Training and workshops
Webinar: IP in EU funded projects with a special focus on MSCA
Live streaming available

18 NOV 2025
Training and workshops
EU - Webinar EPO Coop: Patent protection for EU funding beneficiaries - Biotechnology
Live streaming available

19 NOV 2025
Training and workshops
EU - Webinar: Finding Patents
Live streaming available

20 NOV 2025
Training and workshops
EU - Webinar: IP in Business collaborations for SMEs and Start-ups
Live streaming available

23 NOV 2025
Training and workshops
EU-13 Roadshow: Empowering Innovation: The Strategic Value of Intellectual Assets
Thessaloniki, Greece

26 NOV 2025
Training and workshops
EU - Webinar: Consortium Agreements
Live streaming available

27 NOV 2025
Training and workshops
EU - Webinar: Addressing IP impact and innovation in EU projects
Live streaming available

28 NOV 2025
Training and workshops
EU - Webinar & Horizon Results Platform: Unitary Patent
Live streaming available

Thank you!

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- helpline@iprhelpdesk.eu
- training@iprhelpdesk.eu
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IP Helpdesk

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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

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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

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Roadmap

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

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WHAT'S SPECIAL ABOUT SOFTWARE?

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Software is everywhere

Chips → Devices → Apps → Comms

Software is the fuel and the glue

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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

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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

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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**

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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)

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PROTECTING SOFTWARE (WHY AND HOW?)

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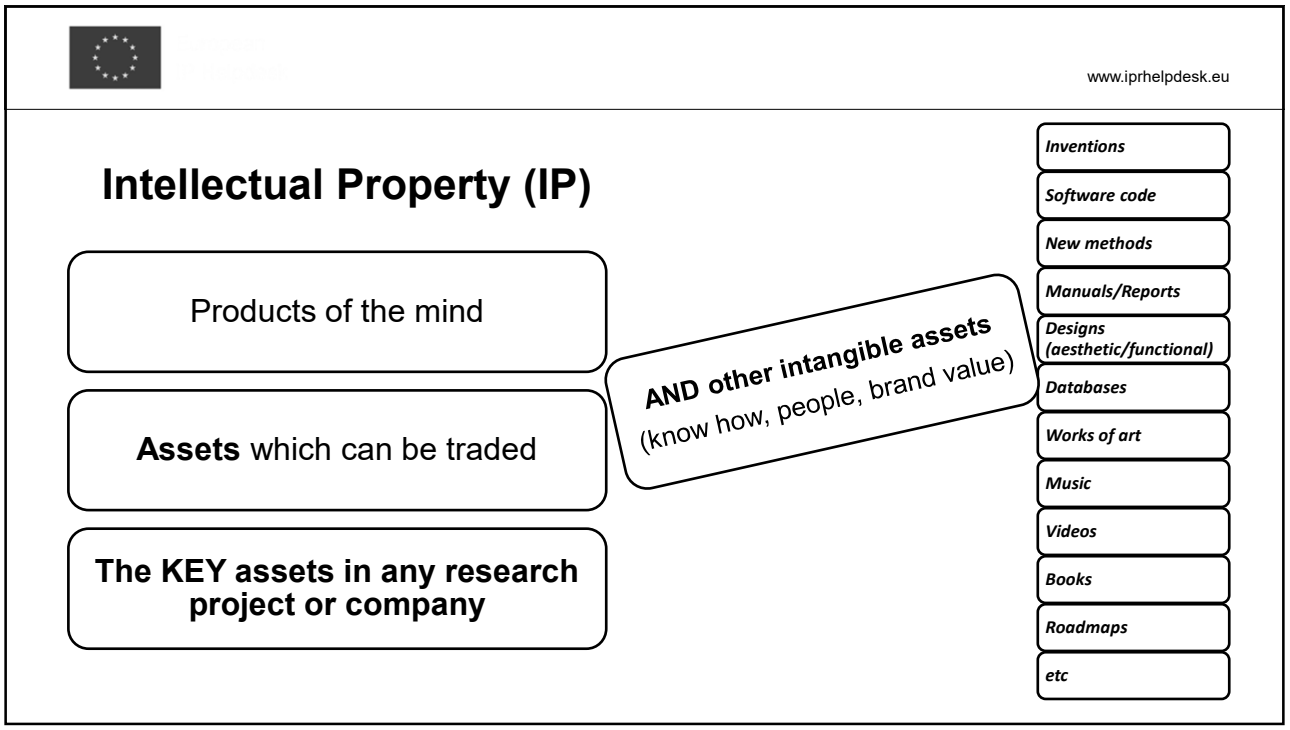

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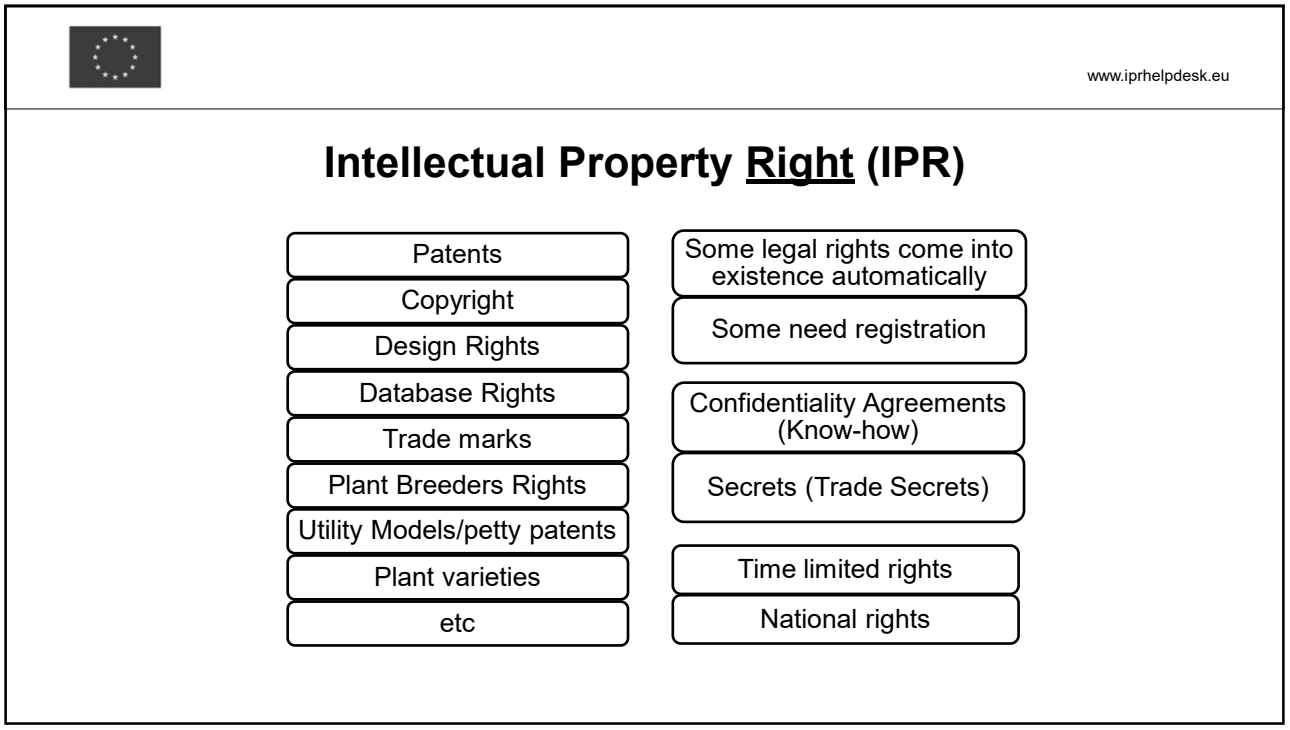

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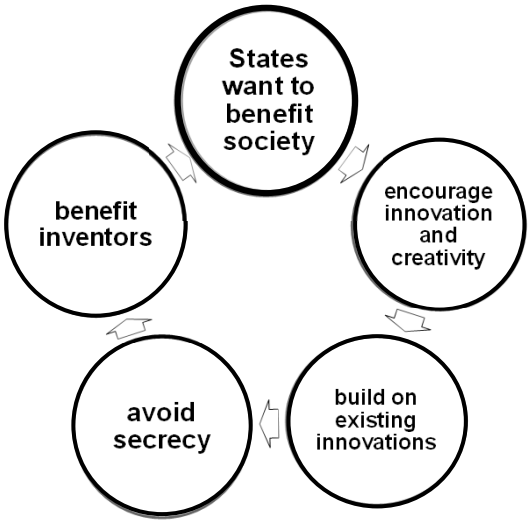
Why IP Rights?



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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

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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**

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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)

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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

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IPR AND SOFTWARE

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

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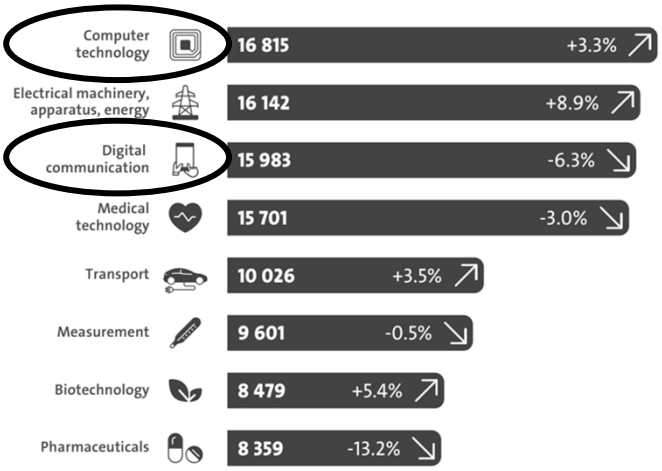
ICT Patents



Source: EPO Patent Index 2024

Top Technology Fields

AI and battery technologies drive growth

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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

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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!)

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(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!

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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.

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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)

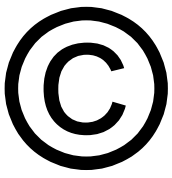
(54) POLYNOMIAL SYNTHESIS
POLYNOM-SYNTHESE
SYNTHÈSE POLYNOMIALE

(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

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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

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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**

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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**

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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

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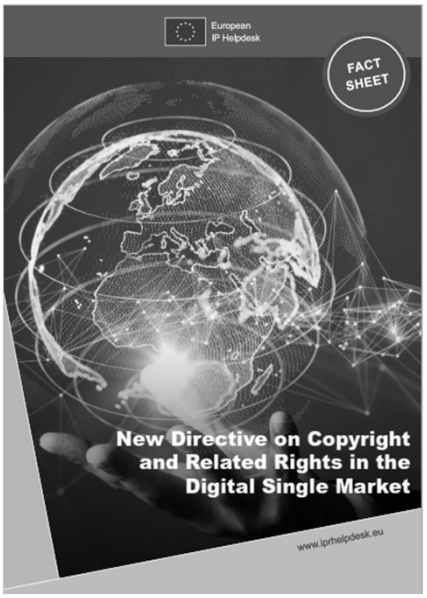
More information

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

EU IP Helpdesk Webinar "Copyright and Collaboration"



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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

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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**

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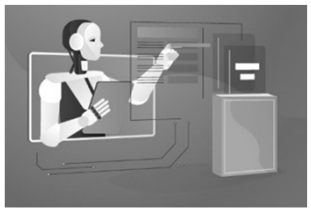
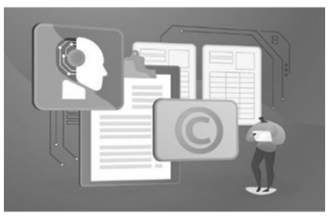
Code of Practice for General-Purpose AI Models

Published 10 July 2025





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

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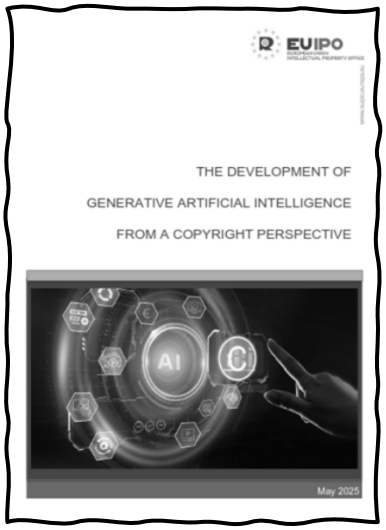

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INTELLECTUAL PROPERTY OFFICE

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.

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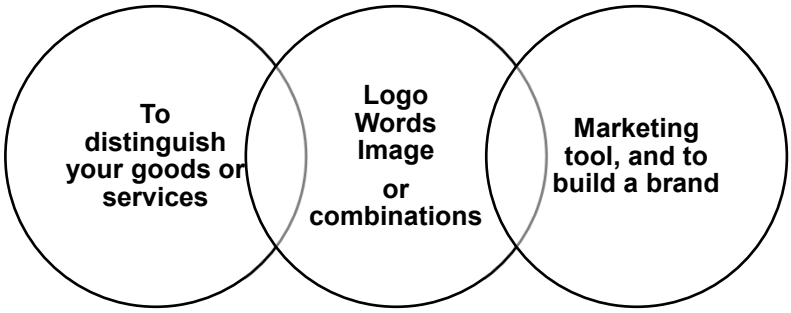
Trademarks



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

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

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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

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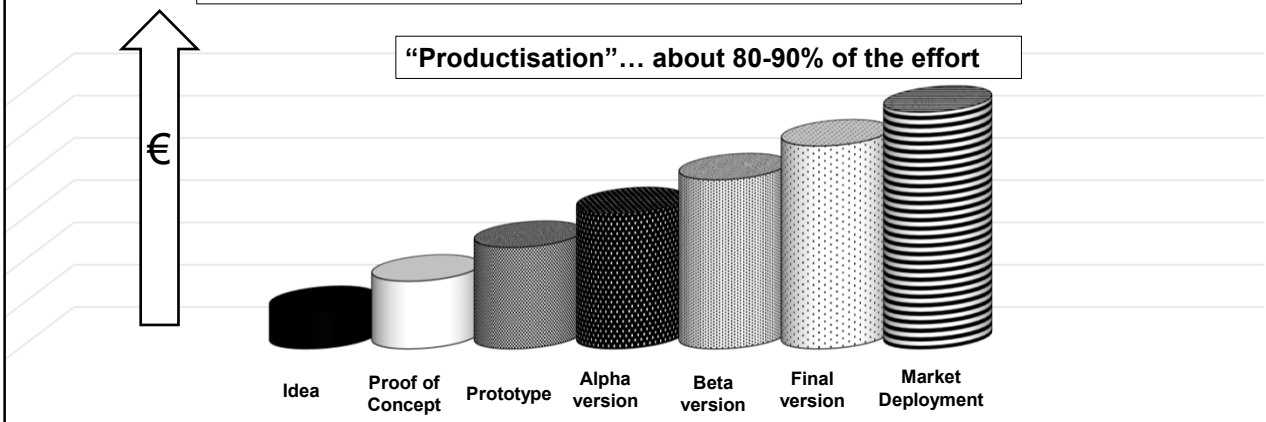
Software value creation

Research | Develop | Program | Test | Take to Market

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



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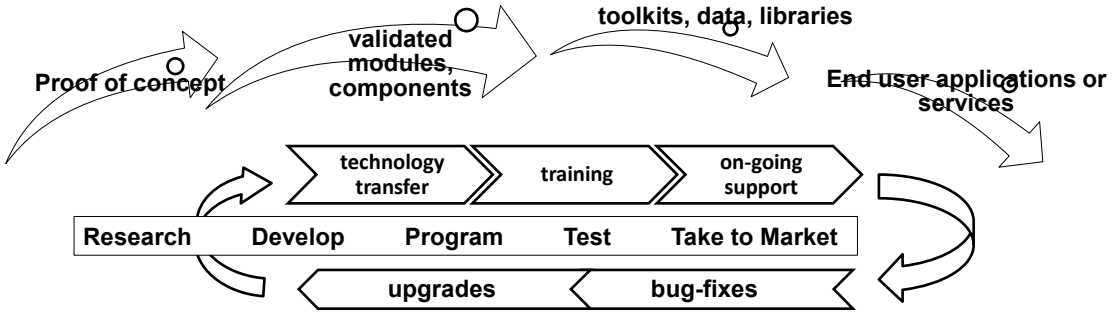
Who is your customer??



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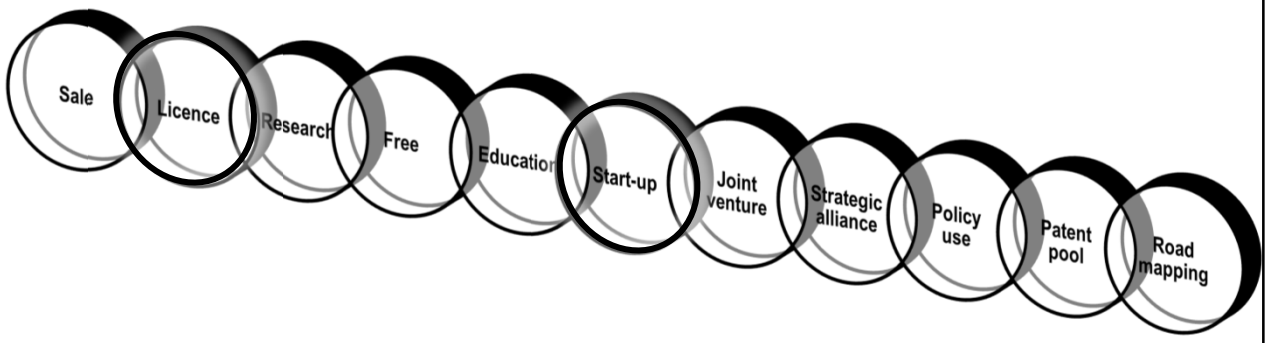
Exploitation Strategies depend on objectives (commercial or other)



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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

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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

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SOFTWARE LICENSING

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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

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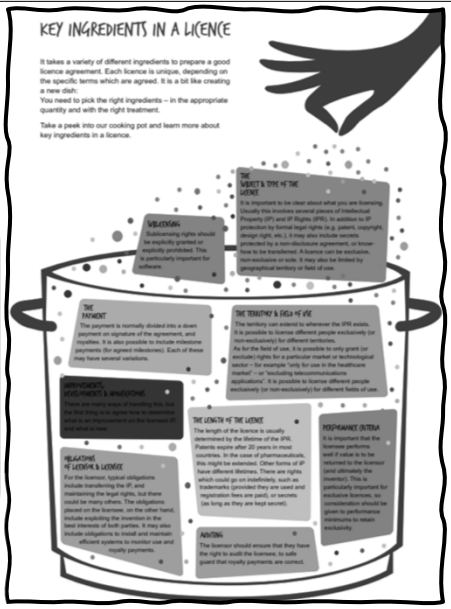
Every clause in a licence agreement is a negotiating point wherever you are in the value chain

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!



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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**

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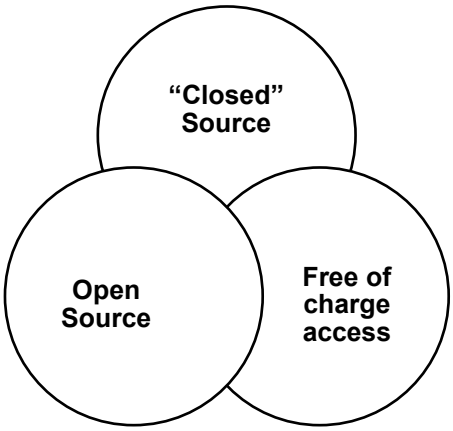
Licensing Source Code



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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

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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

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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**

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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

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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

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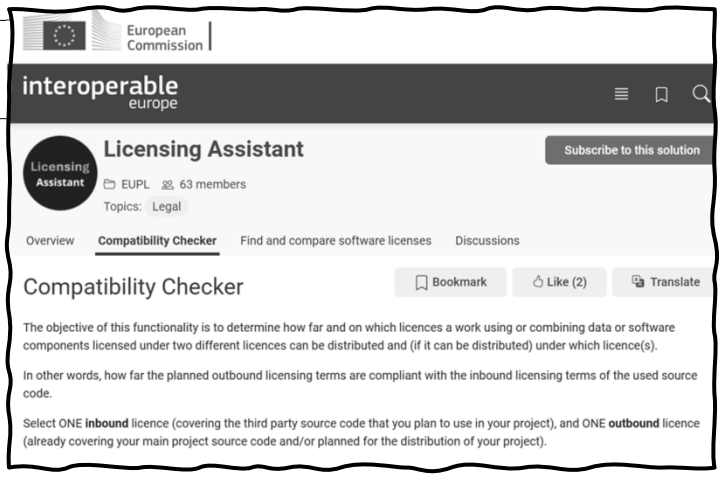
Compatibility Checker

How compliant are:

the (planned) outbound licensing terms

with the

inbound licensing terms



Compatibility Checker | Interoperable Europe Portal

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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**

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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**

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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

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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.)

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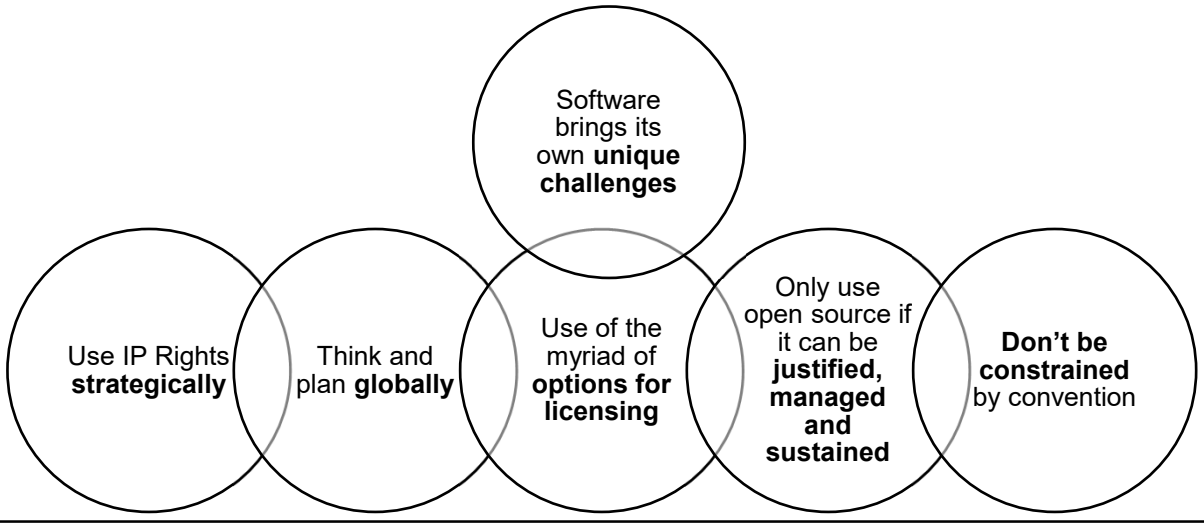
Summary



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

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