



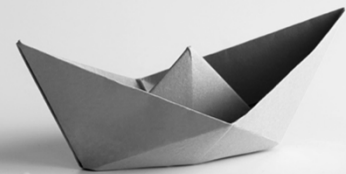
## European IP Helpdesk

Stay ahead of the innovation game.

- 40 years practical experience of early stage technology exploitation
- Experience in Research, Industry and Investment
- Member of ISO and CEN committees developing Innovation and IP Management standards
- Member of Licensing Executives Society

### IP in Business Collaborations

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## Roadmap

- **WHY BOTHER COLLABORATING**
- **IDENTIFYING AND LEVERAGING INTELLECTUAL ASSETS**
- **DEVELOPING SHARED STRATEGIES**
- **MANAGING AND SHARING INTELLECTUAL ASSETS**



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# 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: 44 ambassadors from 27 EU countries



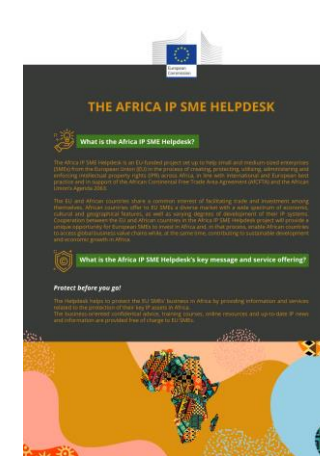
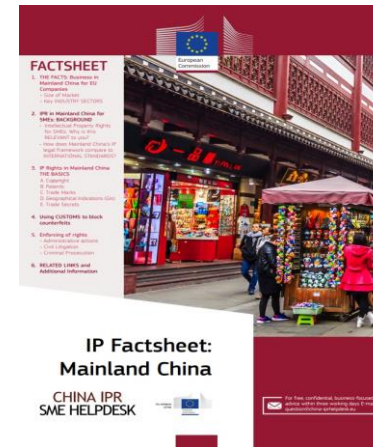
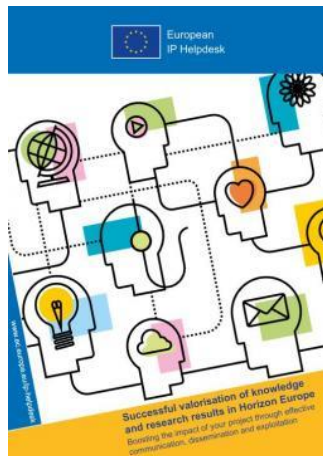


# The EC IP Helpdesks





# EC IP (SME) Helpdesk Hub – Gateway to Information



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



# Upcoming Webinars

- |                                   |  |                                      |   |
|-----------------------------------|--|--------------------------------------|---|
| <p><b>06</b><br/>NOV<br/>2023</p> | <p>Training and workshops<br/><b>EU - Webinar: IP in Business collaborations for SMEs and Start-ups</b><br/>📺 Live streaming available</p>                                     | <p><b>07</b><br/>NOV<br/>2023</p>    | <p>Training and workshops<br/><b>EU - Webinar: IP in EU funded projects with a special focus on MSCA</b><br/>📺 Live streaming available</p>   |
| <p><b>08</b><br/>NOV<br/>2023</p> | <p>Training and workshops<br/><b>EU - Webinar: IP &amp; Open Science</b><br/>📺 Live streaming available</p>  | <p><b>13</b><br/>NOV<br/>2023</p>    | <p>Training and workshops<br/><b>EU - Webinar &amp; Horizon Results Platform: IP in Business Collaboration for SMEs and Start Ups</b><br/>📺 Live streaming available</p>            |
| <p><b>14</b><br/>NOV<br/>2023</p> | <p>Training and workshops<br/><b>EU - Webinar: Effective IP and Outreach Strategies Help Increase the Impact of Research and Innovation</b><br/>📺 Live streaming available</p> | <p><b>15</b><br/>NOV<br/>2023</p>    | <p>Training and workshops<br/><b>EU - Webinar EPO Coop: Patent protection for EU funding beneficiaries - Biotechnology</b><br/>📺 Live streaming available</p>                       |
| <p><b>16</b><br/>NOV<br/>2023</p> | <p>Training and workshops<br/><b>EU - Webinar: IP Management in ICT Projects</b><br/>📺 Live streaming available</p>  | <p><b>21</b><br/>NOV<br/>2023</p>    | <p>Training and workshops<br/><b>EU - Webinar: IP Commercialisation &amp; Licensing - Advanced</b><br/>📺 Live streaming available</p>   |
| <p><b>22</b><br/>NOV<br/>2023</p> | <p>Training and workshops<br/><b>EU - Webinar: Patents and Innovation</b><br/>📺 Live streaming available</p>   | <p><b>23-24</b><br/>NOV<br/>2023</p> | <p>Training and workshops<br/><b>Training Coop with LES &amp; EPO: Succeeding at technology commercialisation &amp; negotiation</b><br/>📍 Vienna, Austria<br/>🏛️ External event</p> |
| <p><b>06</b><br/>DEC<br/>2023</p> | <p>Training and workshops<br/><b>EU - Webinar: IP and Artificial Intelligence - Advanced</b><br/>📺 Live streaming available</p>  | <p><b>07</b><br/>DEC<br/>2023</p>    | <p>Training and workshops<br/><b>Plant Variety</b><br/>📺 Live streaming available</p>   |



# Ambassador Scheme

- **Cooperation scheme** with the Enterprise Europe Network (EEN): 44 ambassadors – 27 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**





- [www.ec.europa.eu/ip-helpdesk](http://www.ec.europa.eu/ip-helpdesk)
- [helpline@iprhelphdesk.eu](mailto:helpline@iprhelphdesk.eu)
- [training@iprhelphdesk.eu](mailto:training@iprhelphdesk.eu)
- Twitter [@iprhelphdesk](https://twitter.com/iprhelphdesk)
- LinkedIn [/european-ipr-helpdesk](https://www.linkedin.com/company/european-ipr-helpdesk)





## Why collaborate?

All companies need to innovate (or die!)

SMEs have limited resources or capacity

Partnering with others can provide access to new assets  
and opportunities

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## Where to collaborate?

What are the **gaps** or in the product or service offerings?

How could the product or service be **improved**?

Are there **new products or services** which could help the  
company?

**Working with others can help**

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## Can you get more value from your IP assets?

IP which is not yet being used, but could be further developed with others?

Core IP which could be built on to develop new innovations?

Applications of IP in other sectors or fields of use?

**Sharing IP can help**

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## Where are new opportunities?

New geographic territories not yet addressed

New fields of use

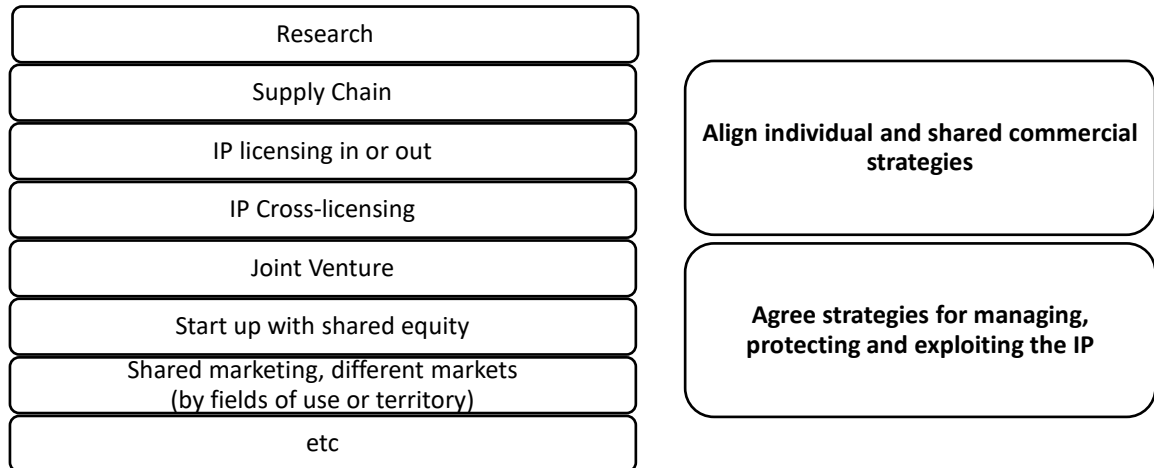
New market sectors

**Working with others can help to access these**

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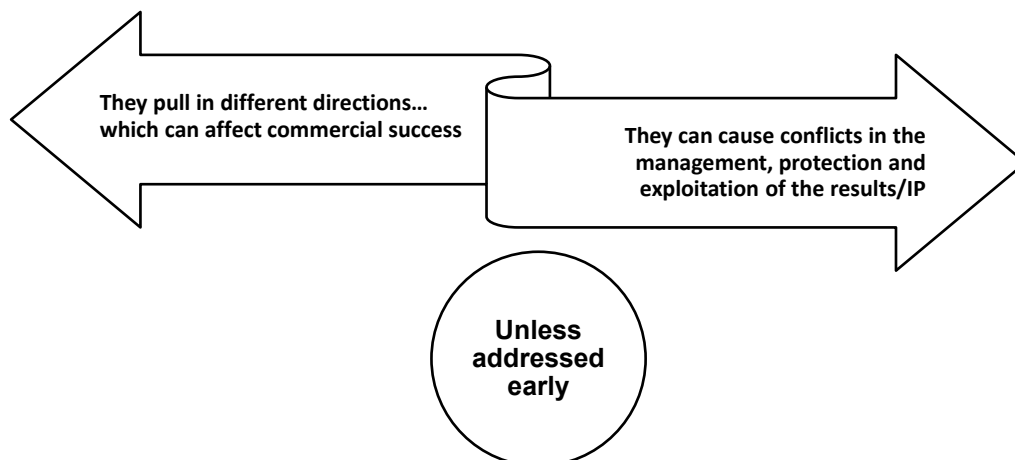
## Many types of business collaboration




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## Different businesses = different motives and cultures




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**COLLABORATION**  
=  
**GIVE & TAKE**  
=  
**“SHARING” ASSETS**

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**Intellectual Assets**

Products of the mind

Assets which can be traded

**The KEY assets in any company**  
**Company USPs**

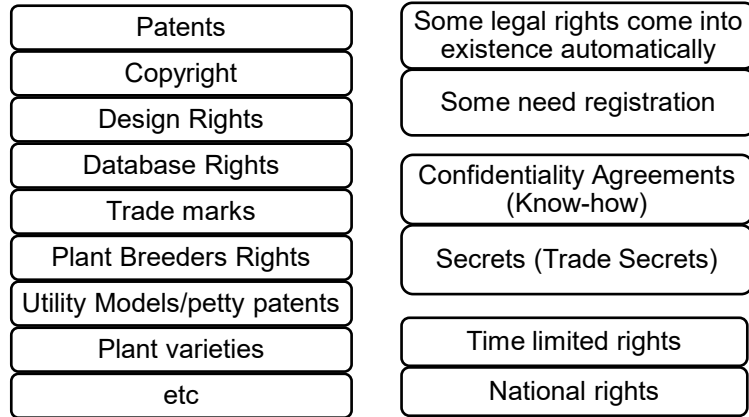
**Collaboration Inputs & Outputs**

- Inventions*
- Software code*
- New methods*
- Manuals/Reports*
- Designs (aesthetic/functional)*
- Databases*
- Works of art*
- Music*
- Videos*
- Books*
- Roadmaps*
- etc*

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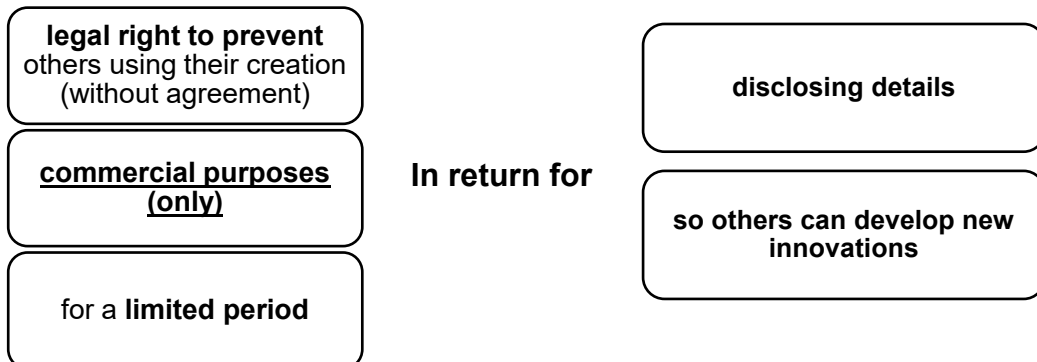
## Intellectual Property Right (IPR)



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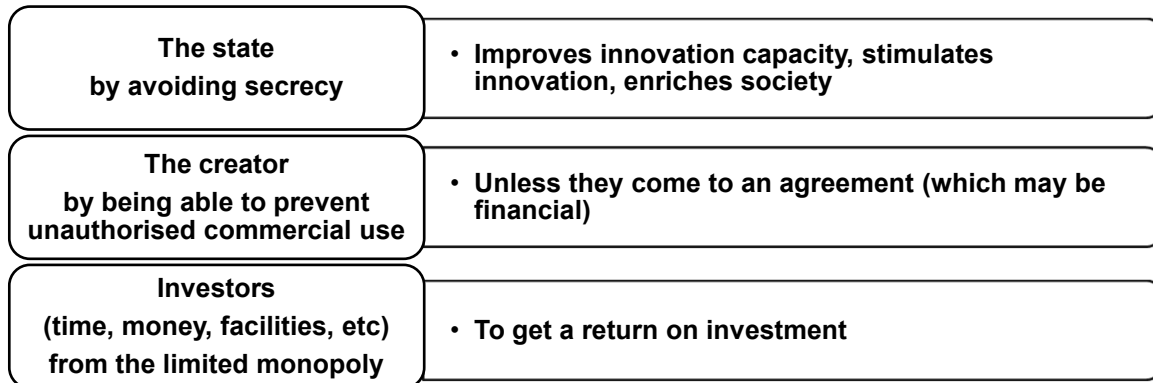
## What is the deal?



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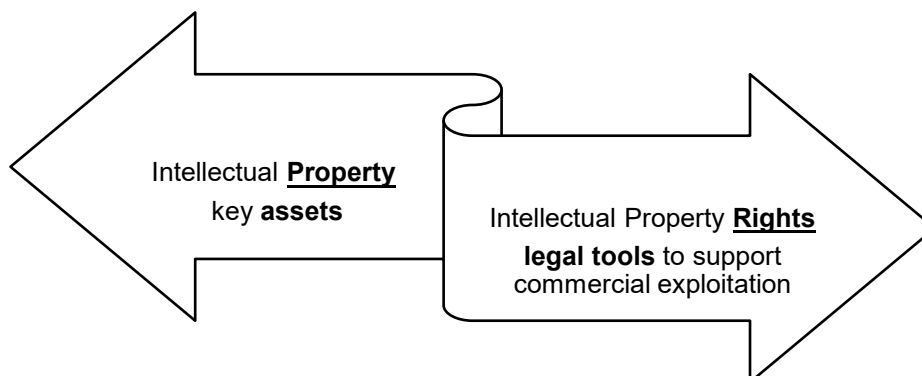
## Who benefits?




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## Don't confuse IA, IP and IPR



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## IP Protection is a strategic commercial decision

Are there are commercial opportunities? → Would IP protection support the business? → Benefits greater than costs? → If so, invest!

Assessment, protection and exploitation must be considered together

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## Many ways to protect

Copyright, Design rights, Utility models, Database rights, Trademarks, Trade secrets, Intangible assets (people, know-how), Tangible assets (test facilities)

Patents dominate Telecomms and Hardware

trademarks and copyright dominate Software & Services

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

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**Ensure all the relevant assets are identified**  
(as well as all the contributors)

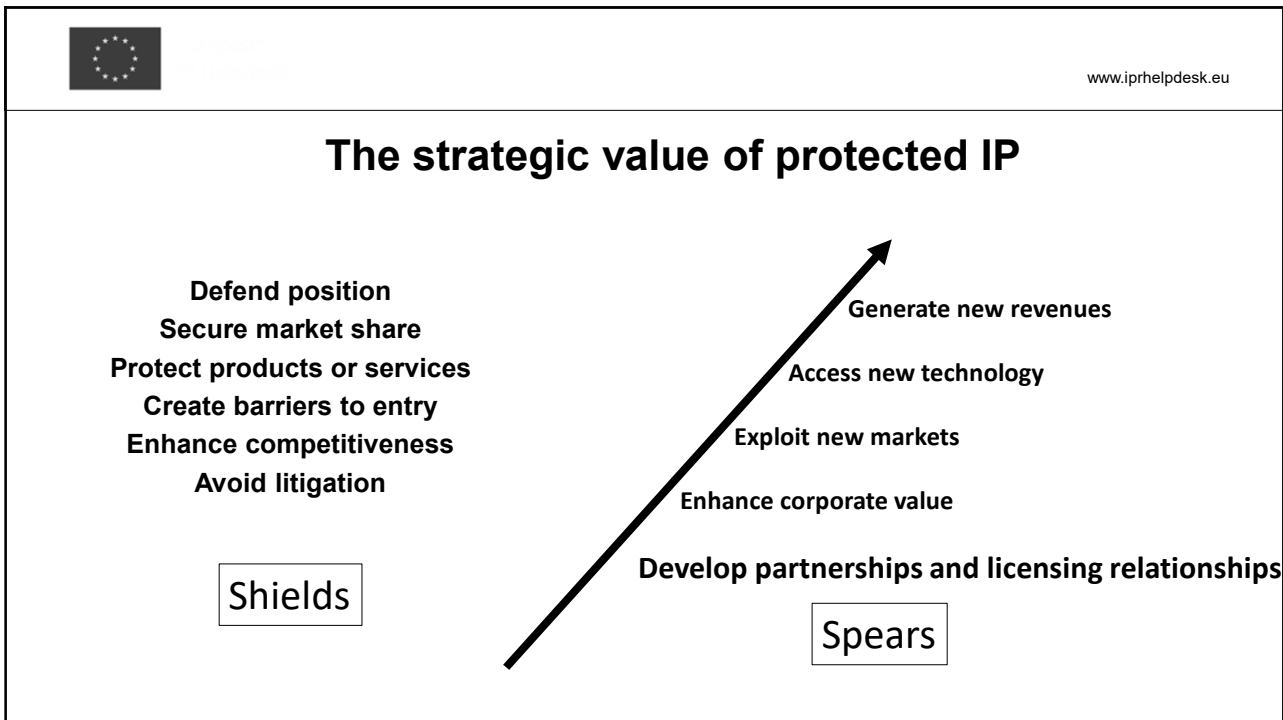
| Patentable IP  | Copyrightable IP   | Designs<br>(design rights)  | Trade secrets, etc   | Intangible assets  |
|--|--|---|--|--|
| <ul style="list-style-type: none"><li>• Computer implemented inventions (software!)</li><li>• Processes</li><li>• Products</li><li>• Apparatus</li></ul> | <ul style="list-style-type: none"><li>• Software code</li><li>• Reports</li><li>• Engineering drawings</li><li>• Manufacturing and user guides</li></ul> | <ul style="list-style-type: none"><li>• Functional</li><li>• Eye-appeal</li></ul> | <ul style="list-style-type: none"><li>• Formulas</li><li>• Methods</li><li>• etc</li></ul> | <ul style="list-style-type: none"><li>• People</li><li>• Know how (e.g. best way to implement)</li><li>• Potential Brand value (supported by Trade or Service Marks)</li></ul> |

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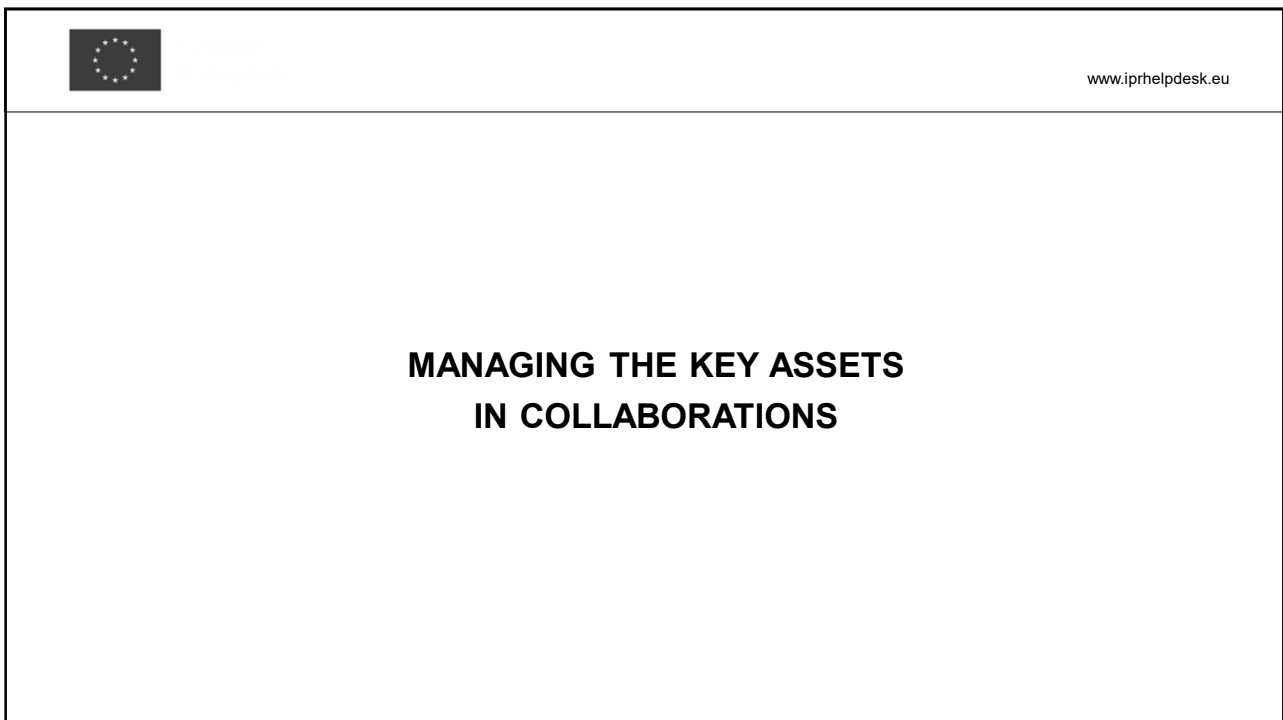


**THE STRATEGIC USE OF  
INTELLECTUAL ASSETS IN  
BUSINESS COLLABORATIONS**

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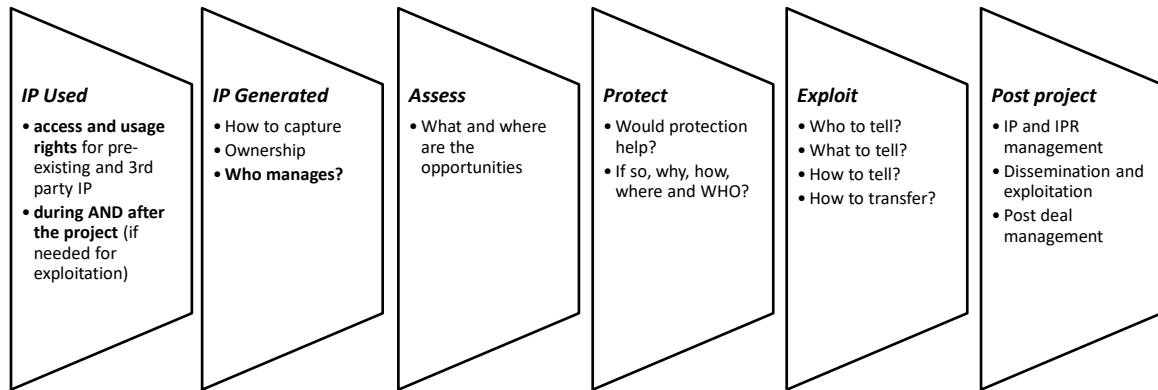


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## The 6 pillars of IP Management



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## REACHING A COMMON UNDERSTANDING

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## What are the collaboration opportunities?

The **opportunities** for **all** the collaborators

**Who** will address which opportunities (individually or collaboratively)

How the collaboration affects **competitive positioning**

What are the **gaps** in knowledge, competence and assets which the collaboration can reduce

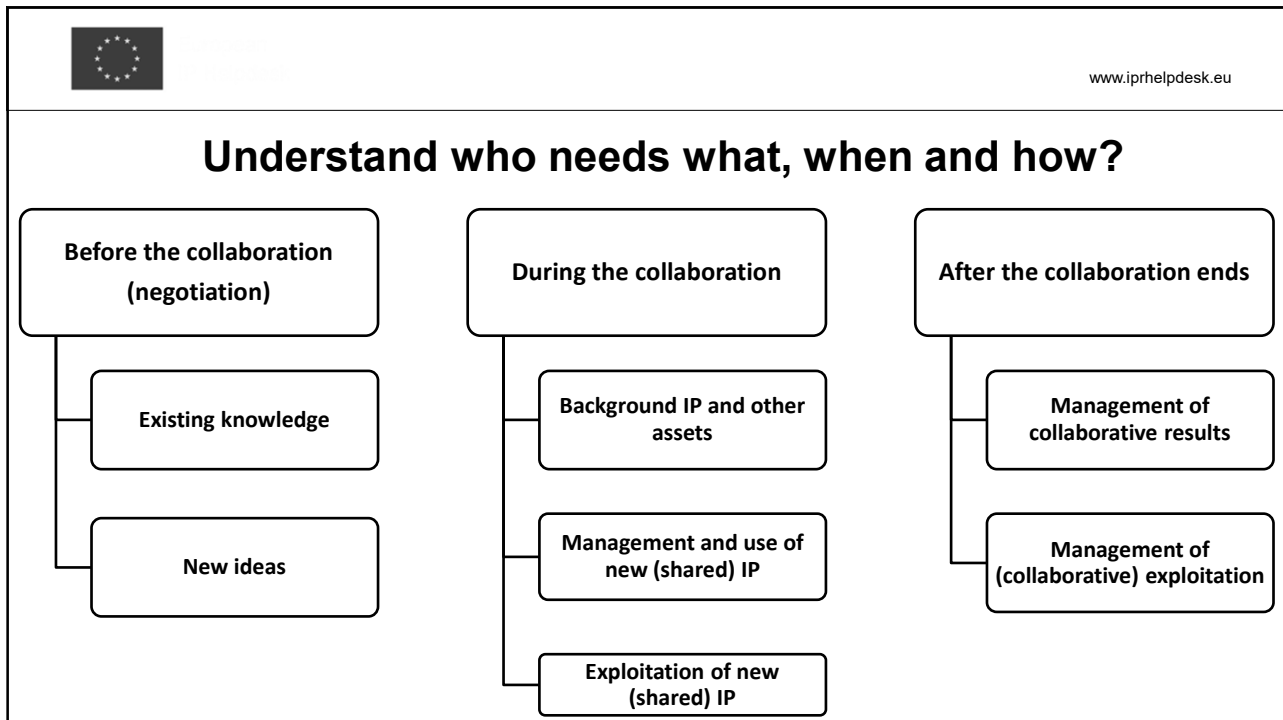
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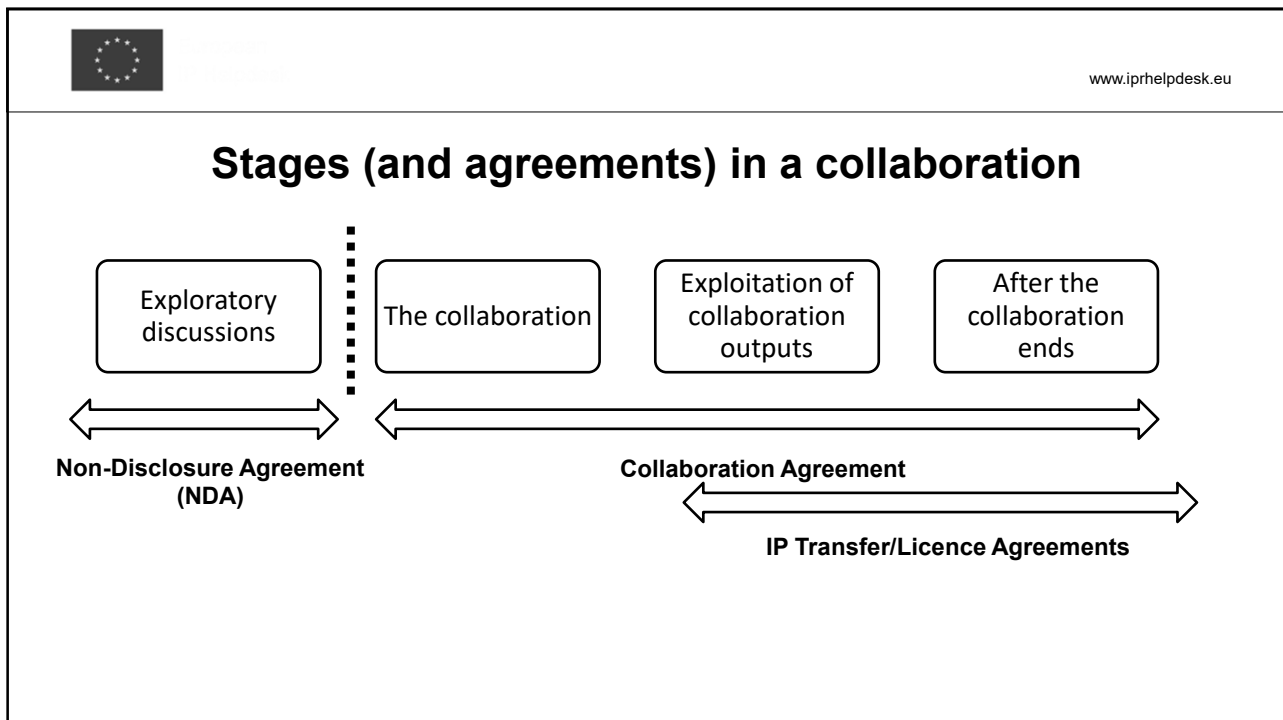
## Needs, Contributions, Benefits, Risks Matrix

| Partner              | P1   | P2  |
|----------------------|--|---|
| <b>Needs</b>         | What are the needs/wants/challenges you want to address? |   |
| <b>Contributions</b> |  | What do you plan to contribute to the collaboration?                                      |
| <b>Benefits</b>      | What do you want to get out of the collaboration?        |   |
| <b>Risks</b>         |  | What are your main concerns or potential risks which might reduce your expected benefits? |

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## Exploratory Discussions

### Protected background

- Make collaborators aware of any existing IP Rights
- Clarify use during and **after collaboration** (research or commercial)

### Unprotected, confidential or secret background

- only on a “**need to know**” basis with **NDA**
- “**Black box**”, or “**Service**” (e.g. **SaaS** rather than software code)
- Mark as “**confidential**” and **minute** all discussions

### New ideas

- Discuss under an **NDA**
- Disclose the potential of the ideas, but not the “**how**” (unless agreed)

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## Non-Disclosure Agreements

**Always have an NDA prior to any discussion** related to confidential information (trade secrets, know-how or new ideas)

An NDA **only covers disclosure, NOT commercial transactions.**

Make the **purpose of the disclosure** clear in the NDA

**Do not use an NDA beyond exploratory discussions**

Confidentiality and trade secret **laws may differ outside Europe**, so ensure NDA serves its purpose – and is “water tight”

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## During the collaboration

**Clear management responsibilities, structures and procedures for:**

- **Accessing** existing IP
- **Capturing, assessing**, and agreeing strategies for **protecting** new IP
- Agreeing terms of **joint ownership**, and its management and exploitation
- **Implementing the exploitation** strategies

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## Capturing the collaboration outputs

**Which partners contributed (and what) - to determine owners**

**Other contributors (e.g. students, advisory board members, etc)**

**Any other external funding or facilities used?**

Any relevant confidentiality agreements

Any publications or disclosures already made?

**What other IP (3<sup>rd</sup> party or background) will be needed to use IP?**

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## Ownership – beware!

### Default position without a written agreement (variations by IP and in national law)

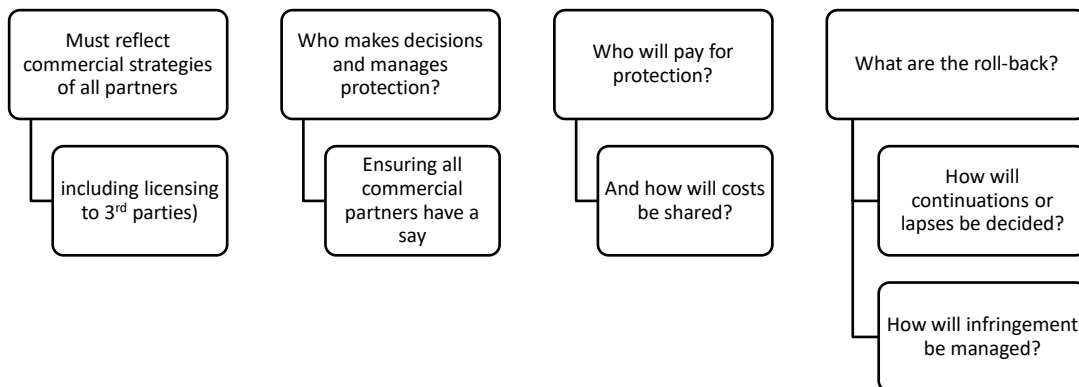
|   |  |
|---|--|
| each joint owner owns an <b>undivided interest</b> in the whole work.   | • It doesn't matter who contributed most                           |
| each has the <b>right to exploit without the other's permission</b>   | • but must pay the other joint owners equal shares of earnings     |
| <b>No right to transfer</b> or grant someone else an <b>exclusive license</b>   | • Without permission of other joint-owners                         |
| If case of <b>infringement</b> , one joint-owner can sue the infringer without consent or involvement of the other(s) | • But any damages or compensation recovered will need to be shared |

**It is always best to have a written agreement!**  
**Processes to agree relative contributions and to take decision**

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## Assessing and Protecting the Results



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## Agree exploitation of the collaboration outputs

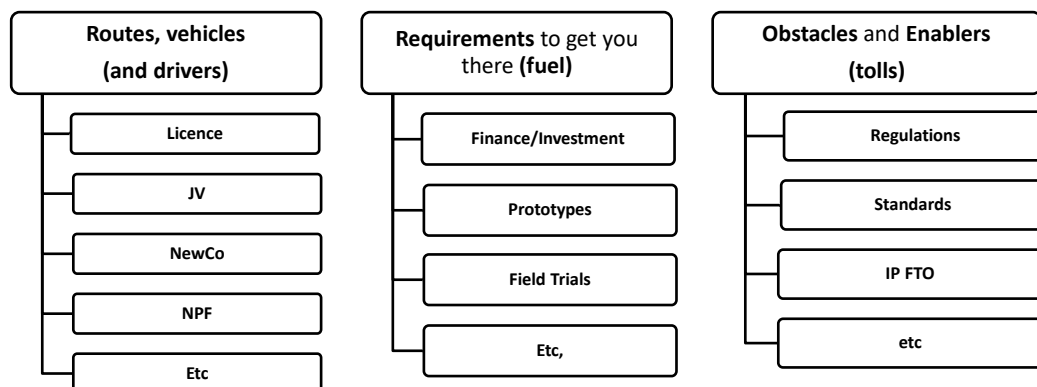
Agree exploitation strategies  
and pathways and  
responsibilities

- **Who exploits** what, where and how?
- How, and **under what terms**, is IP made available for commercial or other use?
- Rights of first refusal for **upgrades/improvement**?
- Who will manage **infringement, litigation**?
- Post-deal **auditing**?


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## Different routes to value creation



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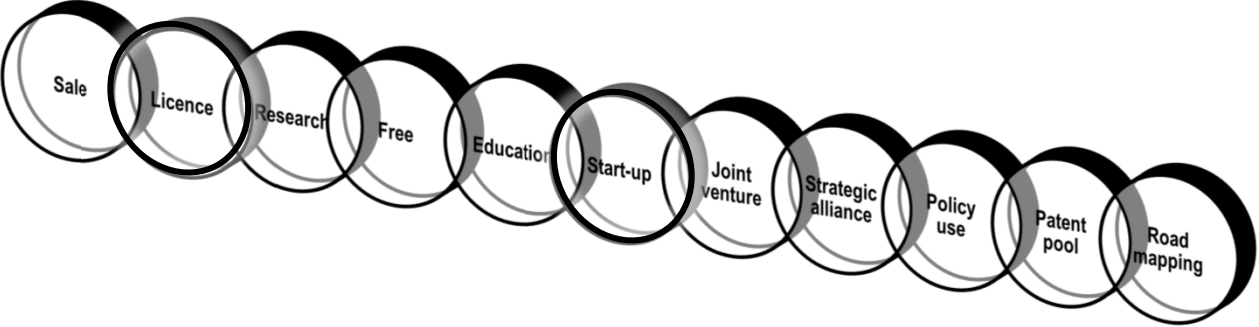


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## Providing Access to Intellectual Assets

Like physical property, knowledge is a **valuable asset** which can be **traded** – bought, sold or leased, given away free, used in JV's, as collateral, etc...

But, **many more ways of extracting value...**



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### Licence

- Licensee has expertise and resource
- Can address different fields of use and geographical areas
- Established markets & suppliers
- Evolutionary/incremental technology
- The IP fits a gap in someone else's portfolio
- Low financial commitment – less risk
- Early returns – may grow over time

### or New Venture?

- New Company must acquire expertise and resource
- Needs a critical mass of expertise and a committed and enthusiastic team
- New markets for new suppliers
- Revolutionary or platform technology
- Delivers a unique business advantage
- Needs capital - more risk
- Returns take longer – but could be large

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## Licensing (in general)

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 conditions

### European IP Helpdesk Bulletin No.1 - IP Licensing




<https://op.europa.eu/oportal-service/download-handler?identifier=3ae24438-9c73-11e9-9d01-01aa75ed71a1&format=pdf&language=en&productionSystem=cellar&part=>




## Every clause in a licence agreement is a negotiating point




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**SOFTWARE LICENSING**


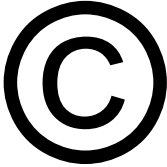


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**Software patent *OR/AND* Software copyright**

|   |   |
|---|---|
| <p><b>Patent</b></p> <p>What it <u>does</u> (regardless of how expressed)</p>  | <p><b>Copyright</b></p> <p>What it <u>is</u> (its expression)</p>  |
|---|---|

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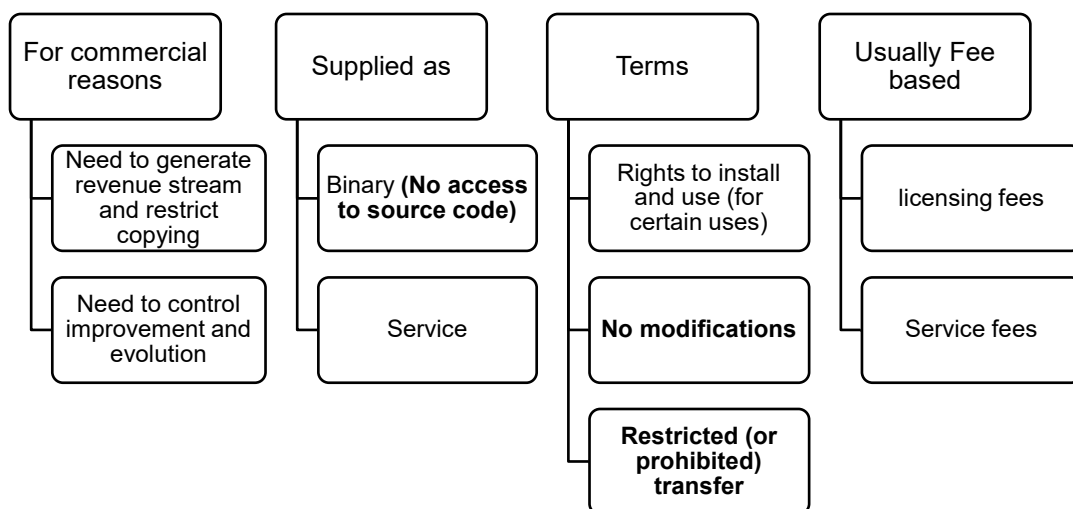


## Licensing Source Code Copyright

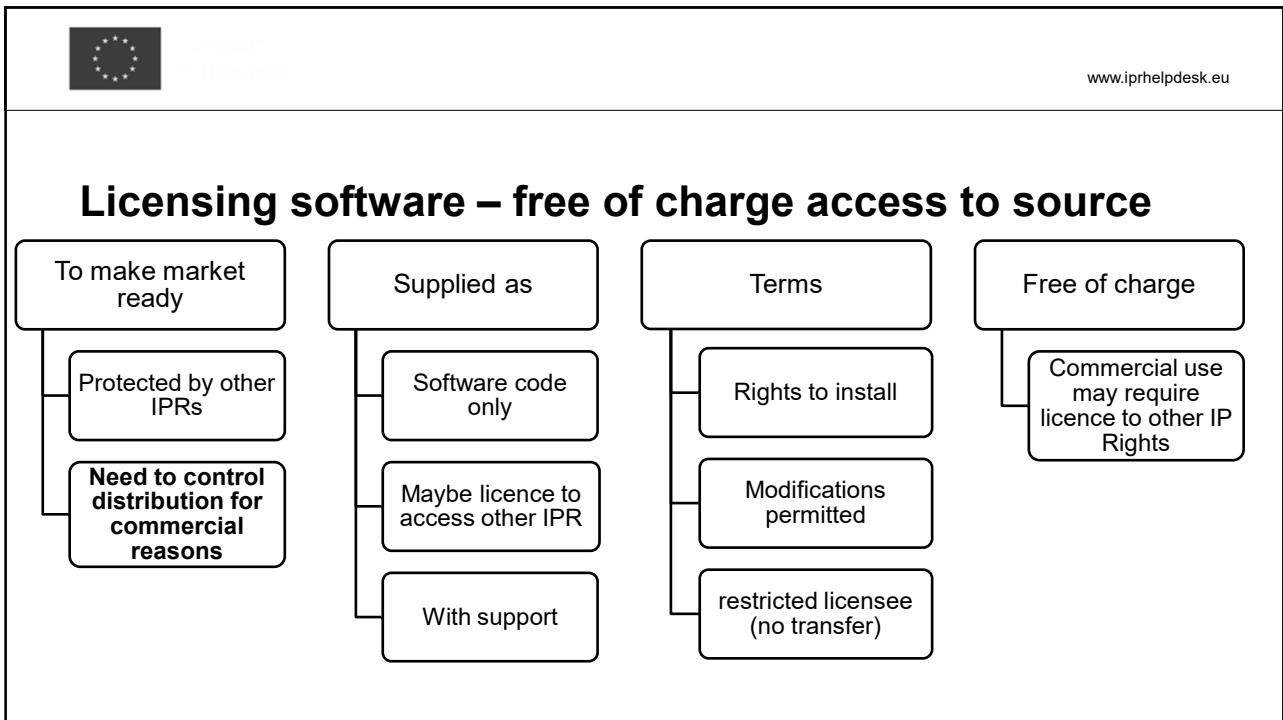
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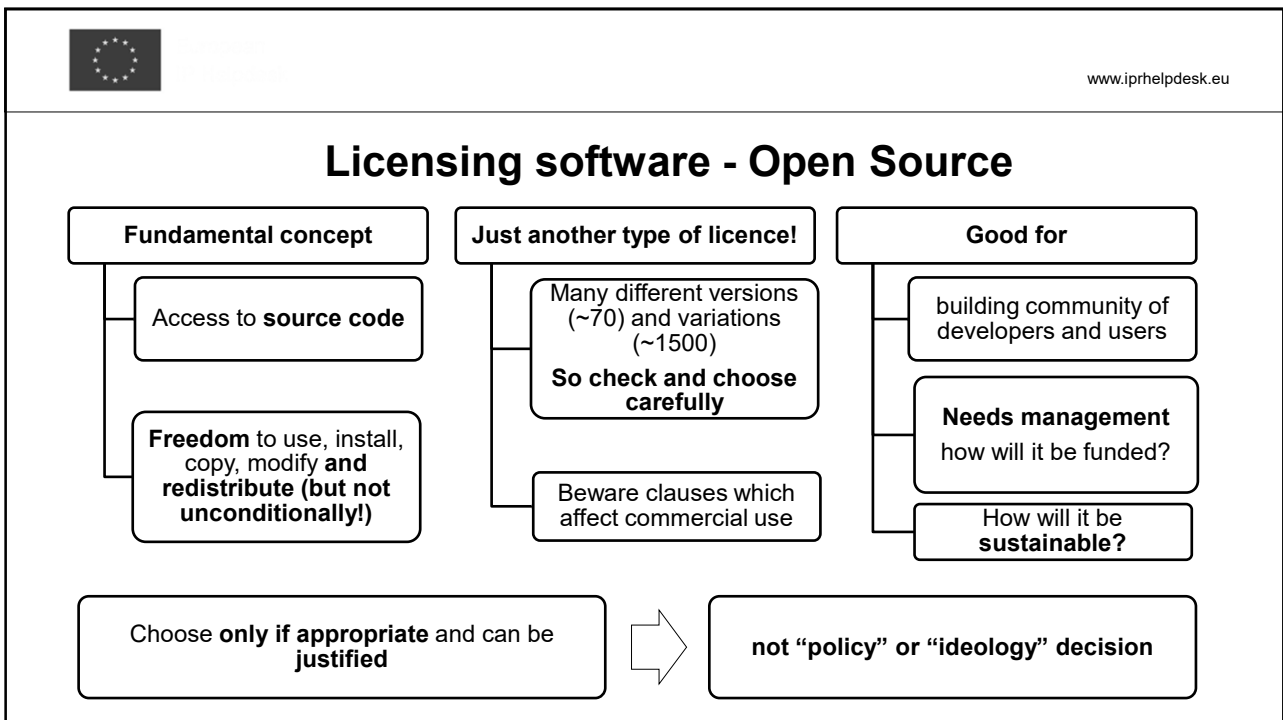
## Licensing software - “closed” source




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## Two main types of Open Source licence

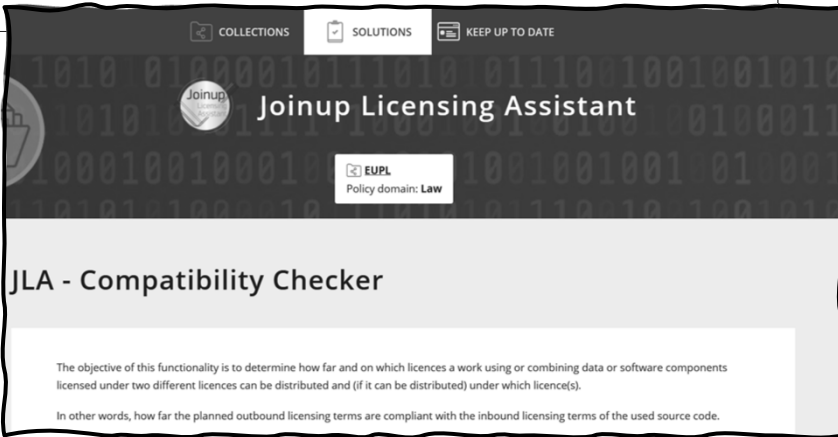
| <b>Permissive Licences</b><br>(e.g. MIT, Apache, BSD...)  | <b>Copyleft Licences</b><br>(e.g. GPL, MPL, EUPL...)   |
|---|--|
| <ul style="list-style-type: none"><li>• Do not control how modified code is licensed</li><li>• Modifications can be released under any licence, open source or not</li><li>• Must include attribution, permission and copyright notices</li></ul> | <ul style="list-style-type: none"><li>• Additional conditions about derivative works</li><li>• Same rights included in derivative works (<b>Strong</b>) - GPL</li><li>• No restrictions on derivative works, but original code must have same rights (<b>Weak</b>) – EUPL, LGPL, MPL</li></ul> |

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## JLA - Compatibility Checker

**How compatible are:  
the (planned) outbound  
licensing terms  
with the  
inbound licensing terms**



<https://joinup.ec.europa.eu/collection/eupl/solution/joinup-licensing-assistant/jla-compatibility-checker>

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**THE END OF THE  
COLLABORATION  
(IS NOT THE END OF THE IP!)**

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**Agree what happens after the collaboration ends**

**Terms of access and use of IP post-collaboration**

**Ongoing management of jointly owned IP and its protection**

Who will **manage** and **monitor existing licences**, and **derivative works** including auditing

How will **infringement and litigation** be managed?

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**More Help...** “Knowledge Valorisation in R&I Collaborations”  
Thematic Package from IP Helpdesk

- **Successful Valorisation of Knowledge and Research Results in Horizon Europe**
- **Your Guide to Intellectual Property Management in Horizon Europe**
- **Article: Leveraging Innovation Through Collaboration - IP Challenges And Opportunities For SMEs In The Context Of EU-Funded Collaborative Research Projects**



*[Knowledge Valorisation in R&I Collaborations \(europa.eu\)](https://europa.eu)*

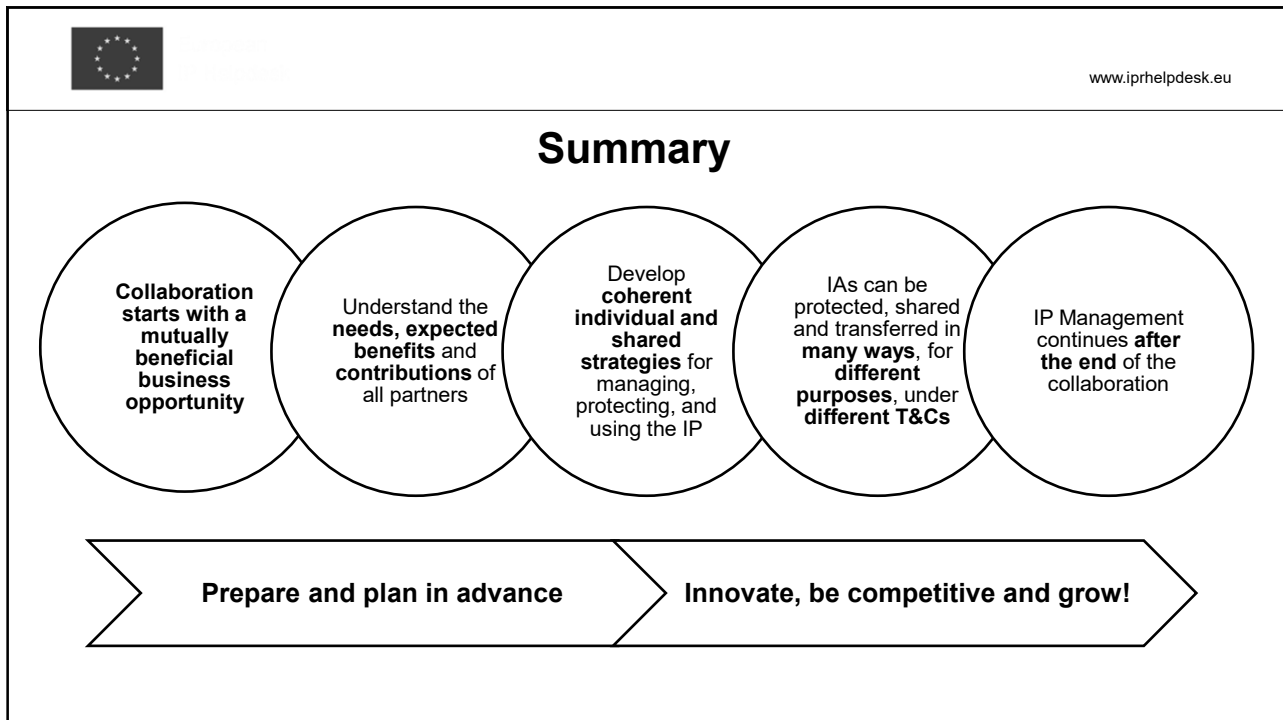


**More Help...** **Horizon IP Scan**  
First-line IP Support Service

- Tailored and free-of-charge
- For start-ups and other SMEs involved in EU-funded collaborative projects
- To show how to protect existing IP when starting a collaboration with multiple partners
- To assist in developing individual and shared strategies to manage and exploit the IP generated during the project



Recorded Horizon IP Scan Info Session at: <https://register.gotowebinar.com/recording/6376832519718074720>



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*Presentation produced by Dr. Eugene Sweeney, Iambic Innovation Ltd. 2023*

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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).

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