Case Study

FUPOL: Resolving potential IPR conflicts within a FP7 project

September 2012

Project details

Name of coordinator: Cellent AG
Business sector: Information Technology
EU Funding Scheme: FP7 – ICT work programme
Type: Large scale integrating project
Project Acronym: FUPOL
Website: www.fupol.eu

1. Background

Fupol is a large scale integrated project within the FP7 - ICT work programme, aiming to develop software which is able to automatically collect, analyse and interpret a number of opinions expressed on the Internet. This should enable governments to gain a better understanding of the needs of citizens. Likewise the software will have the capabilities to simulate the effects of policies and laws and to assist governments in the whole policy design process. Therefore the project proposes a comprehensive new governance model to support policy design and implementation lifecycle.

The FUPOL consortium consists of 17 partners from 10 EU countries (Austria, Croatia, Cyprus, Germany, Italy, Latvia, Romania, Spain, France and the UK) also including the Chinese city of Yantai. It comprises innovative companies, leading research institutes, high-level political organisations as well as strong pilot partners.
2. Problem faced

After having submitted the project proposal, the consortium needed to improve their IP strategy, because of its weakness in foreseeing actions aimed at avoiding and resolving potential IPR conflicts arising during and after the project implementation.

3. Action undertaken

Because the consortium was uncertain on how to develop a concrete strategy able to tackle conflicts on IPR related issues, the project coordinator decided to contact the European IPR Helpdesk to seek assistance on the crucial aspects to be considered in IP management.

After a thorough examination of all the relevant documents, the Helpline service of the European IPR Helpdesk sent the coordinator a written answer highlighting some fundamental issues needed to be considered to avoid and/or resolve IP conflicts that might arise during FP7 projects. Particularly for those projects involving many partners, the Helpline considers that the following issues should be taken into account when defining conflict resolution aspects in an IP strategy:\(^1\):

- In the establishment of the project coordination structure, partners should consider having a body in charge of detecting and dealing with potential problems related to the generated results, as early as they are identified. This can be either an exploitation manager, represented by one of the partners, or a consortium committee including representatives from the consortium partners, responsible for the knowledge management.
- Determining the law applicable to disputes arising among partners facilitates the choice of the competent jurisdiction for conflict resolution.
- To avoid high costs and difficulties of judicial proceedings, it is highly advisable to foresee alternative dispute resolution (ADR) mechanisms\(^2\).
- Applicants should be aware of technologies and IPR belonging to third parties that might be necessary for the implementation of the project (this can be done by state of the art searches, including patent search\(^3\)). In this way, potential infringements of third parties’ rights may be avoided.
- Should any limitation affect the other partners’ access rights, they must be informed.

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\(^1\) For a more comprehensive approach on all the issues needed to be considered when setting an IP strategy in the framework of FP7 projects, we strongly advise that you read our series of fact sheets on IP management during the research project’s life cycle, available on our website in the library section.


\(^3\) See the IPR Helpdesk fact sheet on “How to search for patent information”, available in the website library section.
When negotiating the terms of managing a jointly owned foreground, it is advisable to clarify how to proceed in the case of infringement of third parties' rights (e.g. readily obtain the necessary licences to avoid liability) and also to consider the costs arising from legal procedures (e.g. lawyer costs, court costs, experts costs, etc.).

4. Outcome

What is important to point out is that, thanks to a thoughtful and comprehensive strategy on the management of the results generated in a research project, the final product or service is very likely to have a commercial impact. More precisely, the possibility of the project result easily reaching the market place depends on consideration of the above mentioned actions within the consortium agreement and, more generally, in the overall strategy. In fact, having a strategy focused on a proper management of the IP would prove beneficial to avoid conflicts in order to:

- save time and money that can be used in commercialisation of the results;
- help you to gain the peace of mind to concentrate on marketing the results;
- facilitate the attractiveness of the results to investors since, without any limitation or other impediments due to the ownership of IPR, the results will be promptly marketable.

Furthermore, thanks to the advice of the European IPR Helpdesk, the consortium was able to reshape its IP strategy and improve those aspects related to IPR conflicts potentially arising from the project. This also received a positive assessment from the project evaluators and greatly helps with a flawless project implementation.

5. Lessons learned

✓ Dealing with potential IPR conflicts among partners and with third parties is essential when conceiving the IP strategy in any research projects, mainly within a FP7 project.

✓ Considering ADR clauses is very important for transnational projects involving many partners, such as the ones within FP7.

✓ Foreseeing a thorough IP management is likely to lead to a successful research project.

✓ Avoiding IPR conflicts is crucial to smooth project implementation and to the marketability of the results.
GET IN TOUCH

For comments, suggestions or further information, please contact

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ABOUT THE EUROPEAN IPR HELPDESK

The European IPR Helpdesk aims at raising awareness of Intellectual Property (IP) and Intellectual Property Rights (IPR) by providing information, direct advice and training on IP and IPR matters to current and potential participants of EU funded projects. In addition, the European IPR Helpdesk provides IP support to EU SMEs negotiating or concluding transnational partnership agreements, especially through the Enterprise Europe Network. All services provided are free of charge.

Helpline: The Helpline service answers your IP queries within three working days. Please contact us via registration on our website – www.iprhelpdesk.eu – phone or fax.

Website: On our website you can find extensive information and helpful documents on different aspects of IPR and IP management, especially with regard to specific IP questions in the context of EU funded programmes.

Newsletter and Bulletin: Keep track of the latest news on IP and read expert articles and case studies by subscribing to our email newsletter and Bulletin.

Training: We have designed a training catalogue consisting of nine different modules. If you are interested in planning a session with us, simply send us an email at training@iprhelpdesk.eu.

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This Case Study has been initially developed under a previous edition of the European IPR Helpdesk (2011-2014). At that time the European IPR Helpdesk operated under a service contract with the European Commission.

From 2015 the European IPR Helpdesk operates as a project receiving funding from the European Union’s Horizon 2020 research and innovation programme under Grant Agreement No 641474. It 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 Internal Market, Industry, Entrepreneurship and SMEs Directorate-General.

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