



## European IPR Helpdesk

### Fact Sheet

### *IP relevance in the SME instrument*

**October 2015<sup>1</sup>**

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#### **Introduction**

Selected highly innovative, ambitious and passionate Small or Medium-sized Enterprises (SME) with global ambitions are given the unique opportunity to receive excellent business resources and mentorship as well as substantial funding within the SME Instrument, which is part of the Horizon 2020 programme.

In a highly competitive process, the European Commission (EC) identifies the most promising companies among some of the European SMEs to invest and support as part of the SME Instrument. Selected companies could receive up to €2.5 million in funding, and world-class business support and mentorship.

The SME Instrument is for high growth, highly innovative SMEs with global ambitions that want to disrupt the established value networks and existing markets. They should actively invest in innovation and have a strong ambition to grow. Typically, participants in the programme have been established for a while rather than being at a start-up stage.

Companies with an “innovation history” are particularly promising candidates: for example SMEs based in an innovation hub, companies who have received grants,

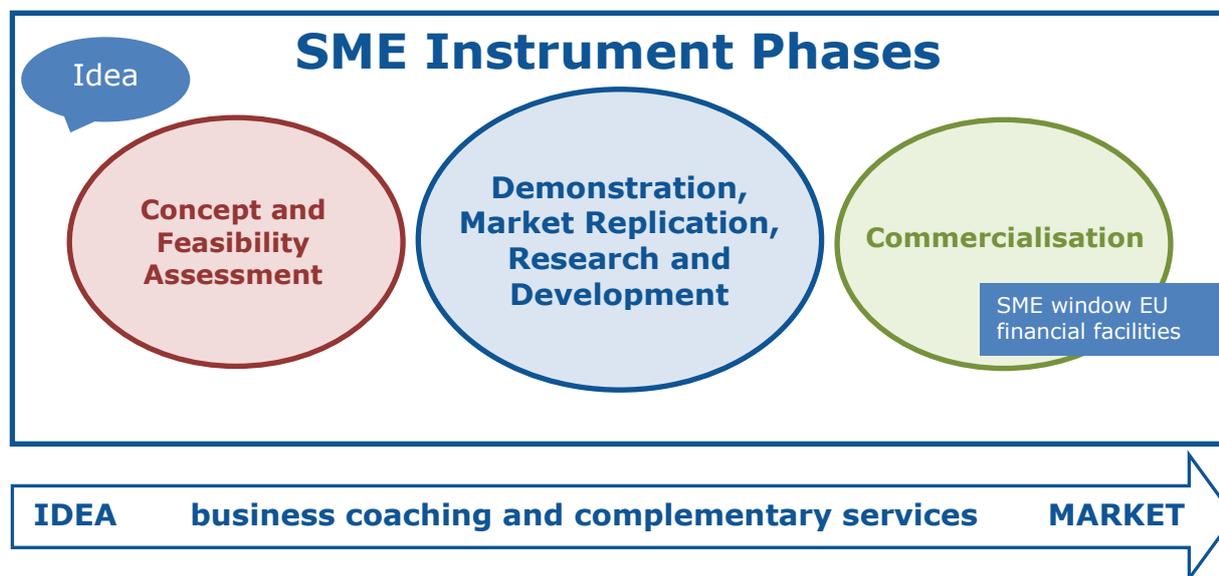
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<sup>1</sup> This fact sheet has been initially published in October 2014 and updated in October 2015.

venture capital funding or innovation-related tax benefits, or enterprises who have won an innovation prize in the last 2 years.

The SME Instrument has three Phases, with the aim of transforming disruptive ideas into concrete, innovative solutions with a European and global impact. It is recommended to start by applying for Phase 1, but direct entry into subsequent phases is also possible, depending on the quality of the proposals.

This fact sheet helps identifying the most relevant intellectual property (IP) aspects that applicants should take into account when writing proposals and business plans needed in the first two Phases<sup>2</sup>. Indeed, in the SME Instrument as in any other funding scheme, identifying the IP is essential to demonstrate that your project is innovative and has a commercial impact. Sound IP management is also essential to attract investors during the commercialisation phase.



### 1. Phase 1: Idea to concept (6 months)

The European Union (EU) will provide €50,000 in funding for SMEs to carry out a feasibility study to verify the viability of the proposed innovation or concept.

More precisely, the EU funds will allow SMEs to assess the technical feasibility and the commercial potential of its innovative ideas through risk assessment or market analysis.

<sup>2</sup> This fact sheet has the aim to simply point out the IP implications in the SME Instrument. For a deeper explanation of the single elements highlighted in this document please consult our specific fact sheets on the topics listed in "Useful Resources" below.

## Proposal

Project proposals in Phase 1, should include a description of the overall innovation idea and an initial business plan (10 pages) as well as the description of the activities to be undertaken under this phase.

The evaluation criteria are the following:

- Possible economic impact
- Excellence in innovation
- Commercialisation potential
- SME capability to achieve the envisaged results

IP plays a crucial role in all of the criteria mentioned above. In fact, the impact of an idea is to a certain extent determined by its novelty. Accordingly, a good way of showing the innovative character of your project is to specify in the proposal the current state of the art before explaining how the innovative idea goes beyond it.

How will the development of your idea help your business, and contribute to the economic growth in the EU? Can you demonstrate that no similar solutions are already available in the market? How will the results meet the needs of and benefit the target market? What is the commercialisation potential of your idea? Which exploitation channels are the most appropriate? What are the most suitable forms of IP protection? These are only a few of the IP-related issues that you are required to address in your proposal by providing a business plan, including a solid strategy for IP management<sup>3</sup>.

To answer all these questions and meet the evaluation criteria, SMEs applying for funding under the SME Instrument should:

- Focus on **the business opportunity**
- **Describe how** and **explain why the company** will **succeed** in innovating in that specific field
- Provide broad information on **competing solutions**
- Demonstrate high **level of innovation** (planning to develop a solution that does not exist on the market)
- Propose the most suitable ways **for its commercialisation**

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<sup>3</sup> Only proposals that successfully address all the required aspects will have a chance of being funded. There will be no possibility for significant changes to content, budget and consortium composition during grant preparation.

Searching intellectual property information<sup>4</sup> – for example in scientific literature and patent databases - is often a very efficient way of acquiring **strategic business intelligence** in all these fields. In fact the **information contained in patent documents can help**:

- ✓ Evaluate the market opportunity for a product, service or process, whether it fulfils the needs and wants of a (preferably increasing) market better than those provided by competitors and which are better than substitution-technologies – *market analysis*
- ✓ Analyse the solutions already existing on the market – *IP landscape/state of the art*
- ✓ Investigate competitors' R&D activities, owned technology, current and future plans – *competitor analysis/competitive intelligence*
- ✓ Search for technology which may be acquired to enhance the innovative idea, or required in order to develop the idea – *licensing in*
- ✓ Search for any technologies which are needed to develop the idea, to ensure that any IP rights which protect them do not prevent their use - *freedom to operate*
- ✓ Identify technology whose use is not restricted (e.g. patents not granted or withdrawn, or not enforced in a specific territory) in order to further develop on it and provide new solutions – *technology intelligence*
- ✓ Find key partners for commercialisation.

Carrying out this kind of analysis will help SMEs demonstrate the extent to which their innovative idea will contribute to increasing their competitiveness and growth, and provide benefits for the EU market.

### **Business plan**

When applying for funding under the SME Instrument (Phase 1), applicants have to submit an initial business plan of 10 pages to demonstrate:

- How the innovation project fits within the overall business strategy of the company
- The relevance and rationale of the innovation project for the management team of the SME
- The expected growth potential of the proposed solution in terms of turnover, employment, market size, **IP management**, sales, return on investment and profit etc.

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<sup>4</sup> The European IPR Helpdesk fact sheets on trade marks and patent searches explain how to extract and analyse IP information. They are available in the [library](#).

Accordingly, applicants should highlight the measures which they intend to take to maximise the impact of the project in terms of:

- **Dissemination and exploitation of results**
- **IP and knowledge protection and regulatory issues**

Therefore, they need to explain how they intend to exploit the project results, e.g. through their own **direct commercialisation** efforts or by **licensing to third parties**. In the first case applicants need to put forward whether this will be done in cooperation with third parties, the estimate of the total funding requirements and the approximate time to first sales/employment.

More specifically on IP, applicants need to describe key IP items needed for the project and who owns them.

It is fundamental that an outline of the status and the strategy for IP protection is included. For IP rights which need formal registration, such as a patent, it should be made clear whether an application has already been filed or is intended.

It can happen that regulatory and/or standards requirements are to be fulfilled for the exploitation of the innovation. Should this be the case, applicants need to list them and indicate if and how they will be addressed in the feasibility assessment.

Summing up, at this stage the business plan serves to show how the proposed work in Phase 1 of the SME instrument fits into the overall plan to reach the market; in a few words, whether or not the proposed idea can be turned into a viable business.

The **outcome of a Phase 1** project is therefore a **feasibility study**, including the drafting of a **more elaborated business plan**. The latter has to be aligned to the business strategy, helping internal growth or targeting a transnational business opportunity.

It is important to bear in mind that SMEs granted funding will have professional support – **coaching service** – throughout its participation in the SME Instrument. The coach will be chosen from among business experts with the aim of enhancing the company's innovation capacity and helping to align the project to strategic business needs.

Note that if you need further help to, for example, analyse IP rights issues, assess the market potential or develop an innovation strategy, the Phase 1 grant can be used to hire a consultant to do so, and the costs will be considered as eligible costs.

## 2. Phase 2: Concept to market maturity (1-2 years)

Assisted by the EU, the SME will further develop its proposal through innovation activities, such as demonstration, testing, piloting, and scaling up or miniaturisation. It will also draft a more developed business plan (around 30 pages). The EU aims to contribute between €0.5 million and €2.5 million. The SME is required to co-finance 30% of the project cost at this stage.

### *Proposal*

Proposals for participating in Phase 2 should be based on a feasibility assessment and an elaborated business plan.

At this stage, a number of R&D activities may be, or have to be, carried out. When cooperating with other parties<sup>5</sup>, applicants should take care in managing the IP assets in order to:

- Define their own background IP, i.e. consider existing knowledge, know-how, IPR, and take into account potential rights of third parties that may be needed for the project;
- Assess the state-of-the-art;
- Have a well-defined plan concerning the dissemination and exploitation of project results, including measures to provide **open access** to scientific publications where applicable;
- Secure confidentiality<sup>6</sup>.

Moreover, proposals should contain a specification for the outcome of the project, including a first commercialisation plan, and criteria for success. For this purpose applicants should:

- ✓ Explain the **novelty of their innovation business project**;
- ✓ Describe the **expected key market application(s)** extracted from the results already achieved, that differentiates their project and provides the highest added value for potential customers;
- ✓ Describe the expected performance/impact on defined needs, when in use, including improvement potential over time, regarding costs, environmental benefits, ease-of-use and any other relevant benefit and/or added value for end users and/or potential clients compared to alternatives solving the same or similar problems: the main **advantages of their solution** with respect to competing solutions.

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<sup>5</sup> It is worth noting that when entering in collaboration projects a consortium agreement is needed to address (amongst other things) the ownership and access to key knowledge (IP rights, data etc.) during the project and the subsequent exploitation.

<sup>6</sup> Confidentiality is crucial in all the SME Instrument's Phases. Indeed it has to be managed in each activity entailing knowledge sharing with partners in order to avoid the leak of innovative ideas. For a better understanding of confidentiality issues, have a look at the fact sheet on "How to manage confidential business information", available in the European IPR Helpdesk online [library](#).

IP information research and analysis, as described above, will help cover these issues.

Regarding the **commercialisation plan**, you are required at this stage to present a draft strategy concerning the tools which you intend to use to bring the final result to the market<sup>7</sup>. This would entail consideration of different exploitation channels<sup>8</sup> such as:

- Sale
- Licensing
- Spin-out
- Joint venture
- Standards

All this should be supported by:

- An overview of the company's IP status – identification and classification of the IP portfolio, its protection and management;
- A description of the measures to ensure there are no legal barriers to commercial exploitation – *freedom to operate*;
- Explanation of regulatory or standards requirements to be fulfilled for final commercialisation.

### **Business plan**

In addition to a clear and elaborate business strategy, the Phase 2 business plan (30 pages) should be presented, elaborating the one that was issued as the outcome of Phase 1. It should explain the **innovation management** and **commercial relevance of IP generated** during the project. In addition to the issues already addressed, the business plan should further define:

- How to capture IP – guiding principles and policies;
- How to protect IP – knowledge management;
- How IP is key to the success of the business model;
- How IP can be used as financial asset.

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<sup>7</sup> Please bear in mind that the plan is a living document and needs to be revised according to the development of project results.

<sup>8</sup> The European IPR Helpdesk has published a series of fact sheet on IP commercialisation, downloadable from the [library](#).

The **outcomes of Phase 2** could be a new product, process or service, a business innovation plan incorporating a detailed commercialisation strategy, ideally backed up with the support of private investors.

This means that the business plan should be shaped to meet the needs and concerns of venture capitalists, angel investors and other financing institutes, by showing that:

- There is a demand for the solution in the market;
- The product is superior to competing products – if any;
- There are no third parties' rights that could be an obstacle to successful commercialisation;
- Adequate steps to prevent "free riding" on your success by dishonest competitors have been taken.

As such, any indication that confirms **due diligence**<sup>9</sup> on your part in the management of IP assets is likely to play an important role in convincing lenders and investors of the potential of your solution.

### **3. Phase 3: Prepare for market launch**

Participating SMEs will receive extensive support, training, mentorship and help to access risk finance<sup>10</sup> as the project is further developed into a market-ready product. Additional support for further developing investment readiness, linking with investors and customers through brokerage activities, assistance in applying for further EU risk finance, and a range of networking opportunities will be provided by the **Enterprise Europe Network**<sup>11</sup>. The EU will not provide additional direct funding in this Phase.

**By the end of Phase 3**, your business should have placed one or several innovations – e.g. product, process or service – on the market, thus boosting its competitiveness and growth.

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<sup>9</sup> For a better understanding of the IP due diligence, read the European IPR Helpdesk specific fact sheet on it, available in the [library](#).

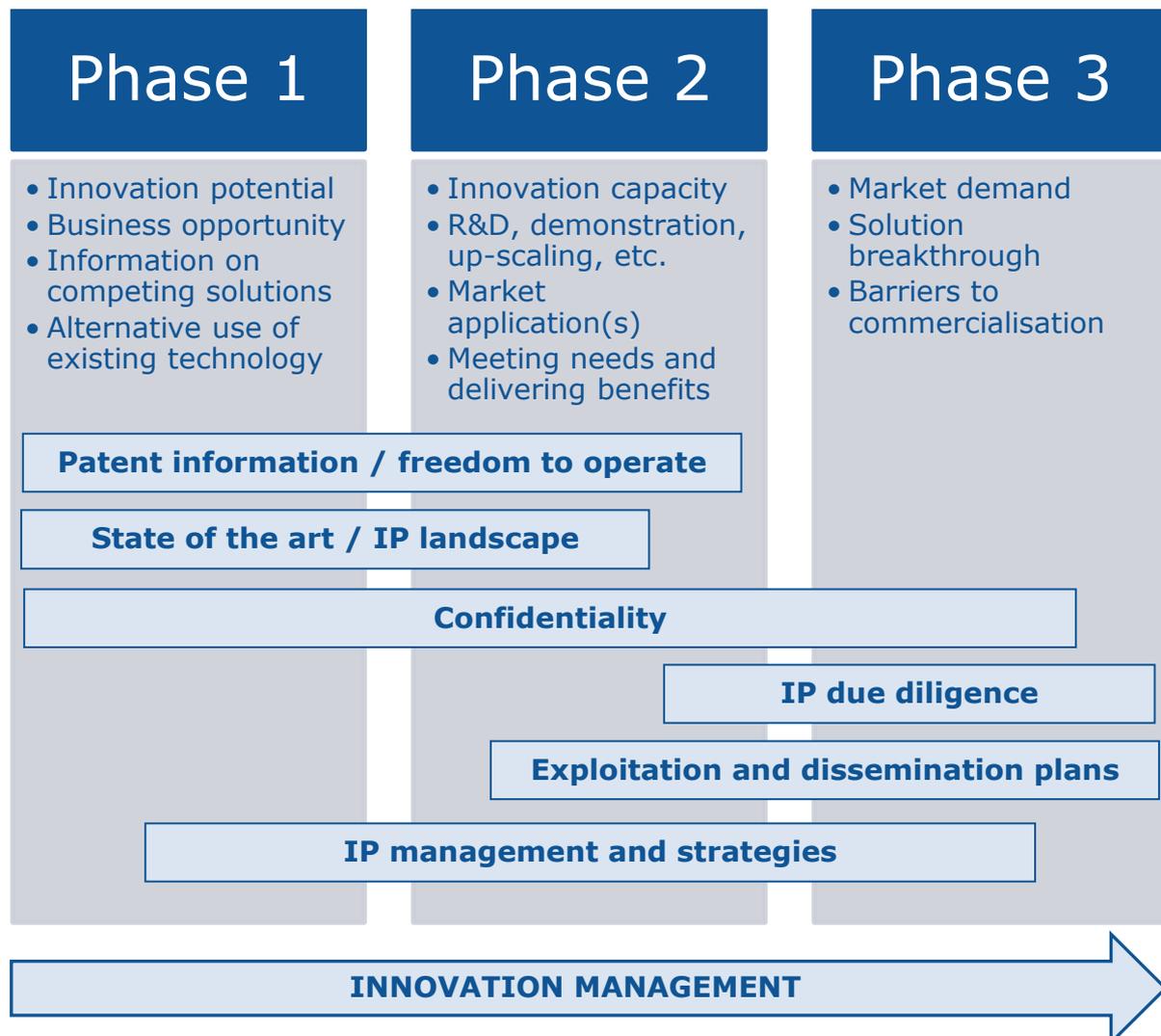
<sup>10</sup> The European IPR Helpdesk has published a fact sheet on "IP assets for financial advantages", available in the [library](#).

<sup>11</sup> Note that the Enterprise Europe Network organisations will assist SME Instrument participants throughout the three Phases via the Key Account Management (KAM) support.

### Summing up

It is worth noting that the business plans mentioned above are not three different documents, but rather one living document that should be developed systematically in accordance with the progress of the project.

As described above, IP plays a crucial role in the entire innovation process from the use of patent information, the overall IP management, and IP considerations within the different commercialisation approaches.



## Useful Resources

For further information on the topic please also see:

- SME Instrument EASME website: <http://ec.europa.eu/easme/en/horizons-2020-sme-instrument>
- SME Instrument Horizon 2020 website: <http://ec.europa.eu/programmes/horizon2020/en/h2020-section/sme-instrument>
- SME instrument H2020 Online Manual and related FAQ <http://ec.europa.eu/research/participants/portal/desktop/en/funding/sme-participation.html>
- Enterprise Europe Network: <http://een.ec.europa.eu/>
- Fact sheet on "IP due diligence: assessing value and risks of intangibles": <http://www.iprhelphelpdesk.eu/Fact-Sheet-IP-Due-Diligence>
- Fact sheet on "How to manage confidential business information": <http://www.iprhelphelpdesk.eu/Fact-Sheet-How-to-Manage-Confidential-Business-Information>
- Fact sheet on "How to search for trade marks": <http://www.iprhelphelpdesk.eu/Fact-Sheet-How-to-Search-for-Trade-Marks>
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- Fact sheet on "Automatic Patent Analysis": <http://www.iprhelphelpdesk.eu/Fact-Sheet-Automatic-Patent-Analysis>
- Fact sheets series on "Commercialising IP": <http://www.iprhelphelpdesk.eu/library/fact-sheets>
- Fact sheet on "Intellectual Property Valuation": <http://www.iprhelphelpdesk.eu/Fact-Sheet-IP-Valuation>
- Fact sheet on "IP assets for financial advantages": <http://www.iprhelphelpdesk.eu/Fact-Sheet-IP-Assets-for-Financial-Advantages>

## GET IN TOUCH

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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.iprhelppdesk.eu](http://www.iprhelppdesk.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@iprhelppdesk.eu](mailto:training@iprhelppdesk.eu).

## DISCLAIMER

This Fact Sheet 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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