

IP structure PPP-Dutch Separation Technology Institute

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Basic Principles

PPP-DSTI focuses on pre-competitive research and development. In terms of the definitions given in the European Framework R&D, the nature of the research and Development carried out by PPP-DSTI qualifies as Industrial Research, which is defined in the European Framework R&D as follows: "planned research aimed at the acquisition of new knowledge, the objective being that such knowledge may be useful in developing new products, processes or services or in bringing about a significant improvement in existing products, processes or services".

The first priority for PPP-DSTI is to publish the results of its research. This is a leading principle in the course of each research project, sponsored by governmental funding. Based on this principle, protection should be achieved through patenting only (trade secret protection is not an option).

Intellectual Property (IP) rights are looked upon per Industrial Sector (IS). The Partner Companies contributing to a particular IS with one or more tickets, have a say relating to IP generated in that particular IS. At the time a particular IP-related decision is taken, all Partner Companies that have a ticket at that time in that IS can participate in the decision making process.

In the case of so-called cross sector projects in which two or more Industrial Sectors participate, in principle the Partner Companies to be consulted about the IP issues as described in this document, are all Ticket paying Partner Companies of PPP-DSTI in the Sectors involved. The Ticket paying Partner Companies of the Industrial Sectors involved get IP rights unless agreed otherwise and approved by the Executive Committee.

In the below discussion, we use the word Sector to refer to Industrial Sector and Cross-sector.

The patenting procedure

A. Decision to file a patent application

An Invention Disclosure originating from a project in a particular Sector is sent to the PPP-DSTI office. The decision making process of either filing a patent application or not (and publish the results), is organized as follows:

1. The Ticket paying Partner Companies of that Sector (assembled in the applicable Program Committee) have the first choice. PPP-DSTI will file a patent application under the following conditions:
 - At least one Partner Company in the Sector is interested in filing a patent application; as for showing its commitment, each interested Partner Company will pay 1000 Euro to PPP-DSTI.
 - The patent application is filed in the name of PPP-DSTI ("PPP-Dutch Separation Technology Institute").
 - Filing (both the priority filing and the foreign filing) is either done by a patent attorney of one of the interested Partner Companies, or by a patent attorney selected by PPP-DSTI, under the authority of PPP-DSTI (decision to be taken by the interested Partner Companies).
 - The cost of filing the patent application, as well as all costs made during the first 2.5 years (up to / excluding the national filing costs), will be born by the Sector. These costs will not exceed a certain maximum, which is to be specified in the instruction letter regarding said filing.
 - All decisions taken from here up to (i.e. except) the "transfer decision" are taken by the group of interested Partner Companies, in so far as they participated in the Sector at the moment of the priority filing of the patent application in question. A Partner Company from the Sector concerned can decide to join this group also later on in the process.
When a decision to abandon a patent application is taken by the group of interested Partner Companies in the Sector, the application will be offered for transfer, first to the other Partner Companies in PPP-DSTI, and second to the Knowledge Institute where the invention was made; under the conditions as indicated under B, below. When no decision thereon from the indicated groups is received within a month from notification, the decision to abandon the application will become final. Offering is not applicable when the patent attorney finds the invention not patentable.
 - Each real and true inventor mentioned in the patent application will receive a remuneration of at most 1000 Euro upon foreign filing of the patent application, payable by PPP-DSTI.

2. When the Ticket paying Partner Companies in the Sector are not interested in filing a patent application:

The invention will be offered to the Ticket paying Partner Companies in the other Industrial Sectors. If there is interest in such another Sector in filing a patent application, the invention will be transferred in ownership to that Sector.

All the conditions indicated above under A.1 will apply for the Sector to which the ownership is transferred.

3. If none of the Partner Companies are interested in filing a patent application:

The invention will be offered to the Partner Knowledge Institute (KI) where the invention was made. If the KI is interested in filing a patent application, the following applies:

- The invention will be transferred (in ownership) to the KI.
- Payment for this transfer: a lump sum, to be determined by the Director PPP-DSTI and approved by the Executive Committee (see footnote 1).
- Partner Companies present at the moment of the priority filing of the patent application in question retain access rights during the life of the patent that will be applied for by the KI, in the form of an option to a non-exclusive license against reasonable and fair conditions, taking into account a discount (see footnote 2).

4. If neither the Partner Companies nor the Partner Knowledge Institute is interested, NO patent application will be filed, and the results will be published, preferably by the Partner Knowledge Institute.

B. In case a patent application is filed in the name of PPP-DSTI (according to items A1 or A2), the following applies:

Transfer of the patent application

PPP-DSTI will transfer all pending patent applications before entering into the national phase; in any case not later than 2.5 years after the priority filing. The decision making process (which will start 2 years after the priority filing and is to be finished within 0.5 years, i.e. before national filing) is organized as follows:

1. One or more Sector Partner Companies can acquire the patent application:
 - Payment for this transfer: a lump sum, to be determined by the Director PPP-DSTI and approved by the Executive Committee.
 - o The lump sum for the Partner Company will be two (2) times the integral costs made by PPP-DSTI for the transferred patent application;
 - o When two or more Partner Companies want to acquire the patent , the lump sum for each Partner Company will be one (1) time the integral costs made by the PPP-DSTI for the transferred patent application.
 - o When the Partner Company is a consortium of SME's, the lump sum will be one (1) time the integral costs (see footnote 1) per interested SME party.
 - Sector Partner Companies that decide not to join in acquiring the patent application, retain access rights (see footnote 3).
 - There will be no involvement of PPP-DSTI as to how the joint ownership is shaped (matter to be solved by the acquiring Partner Companies).

2. If the Partner Companies in the Sector are not interested in acquiring the patent application:

The patent application will be offered for transfer to the other Partner Companies in PPP-DSTI; the payment for this transfer will be a lump-sum, to be determined by the Director PPP-DSTI and approved by the Executive Committee. The lump sum per interested Partner Company will be three (3) times the integral costs made by PPP-DSTI for the transferred patent application; when the Partner Company is a consortium of SME's, the lump sum will be one point five (1.5) times the integral costs per interested SME Company

When item B1 or B2 applies, the Chair in the Partner Knowledge Institute where the invention was made will receive a remuneration of 5000 Euro at the moment the patent application is transferred, payable by PPP-DSTI. If a Partner Company to which the patent application is transferred acquires an extraordinary commercial benefit as a direct consequence of the information protected by the transferred PPP-DSTI patent families, the Partner Knowledge Institute where the invention was made shall be entitled to receive a reasonable additional fee from that Partner Company with due allowance being made for the contribution of that Knowledge Institute to that extraordinary commercial benefit being acquired. When the Knowledge Institute should feel that such extraordinary commercial benefit exists, then the Knowledge Institute shall contact and consult with that Partner Company.

If neither of the above applies:

3. The patent application will be offered to the Partner Knowledge Institute (KI) where the invention was made. If the KI is interested in acquiring the patent application, the following applies:
 - Payment for this transfer: a lump sum, to be determined by the Director PPP-DSTI and approved by the Executive Committee. The lump sum will be one point five (1.5) times the integral costs made by PPP-DSTI for the transferred patent application.
 - All Partner Companies of PPP-DSTI, participating in PPP-DSTI at the moment of the priority filing of the patent application in question retain access rights (see footnote 3).

If neither the Partner Companies nor the Partner Knowledge Institute are interested:

4. The decision-making is transferred from the Sector to the Executive Committee of PPP - DSTI, and further costs are transferred from Sector budget to PPP-DSTI general budget. The Executive Committee is free to either sell the patent application to a third party (which will happen only in extraordinary cases), or to abandon the patent application. In case the patent application is transferred to a third party, the following applies:
 - Payment for this transfer: market price in the form of a lump sum, to be determined by the Director PPP-DSTI, and approved by the Executive Committee. The proceeds from transferring the patent application, after deducting the integral costs made by PPP-DSTI in this process, are for the benefit of the Sector.

- All Partner Companies present at the moment of the priority filing of the patent application in question retain access rights (see footnote 3).

C. Sublicensing of the patent application

The Partner Company (Companies) or the Partner Knowledge Institute to which the patent application is transferred shall not sublicense the rights thereunder to a third party, unless agreement therewith is obtained from the Partner Companies having access rights.

Footnote 1

The net proceeds from transferring the patent application are for the benefit of the transferring Sector.

Footnote 2

The discount equals the percentage of tickets that the Partner Company has in the Sector multiplied by 0.25, which reflects the contribution from the Partner Company to the whole budget.

Footnote 3

Sector Partner Companies that decide not to join in acquiring the patent application retain access rights during the life of the patent application and the patents resulting there from in the form of an option to a non-exclusive license against market value with a discount (see footnote 2).

The transfer agreement between PPP-DSTI and the acquiring party will include these access rights (i.e. a list of the relevant Partner Companies and their discount rate).