

The European Research Area Green Paper & Intellectual Property

The **European Research Area** that the scientific community, business and citizens need should have the following features:

- 1. An adequate flow of competent researchers**, with high levels of mobility between institutions, disciplines, sectors and countries
- 2. World-class research infrastructures**, integrated, networked and accessible to research teams from across Europe and the world, notably thanks to new generations of electronic communication infrastructures;
- 3. Excellent research institutions**, engaged in effective public-private cooperation and partnerships, forming the core of research and innovation 'clusters' including 'virtual research communities', mostly specialised in interdisciplinary areas and attracting a critical mass of human and financial resources
- 4. Effective knowledge-sharing**, notably between public research and industry, as well as with the public at large
- 5. Well-coordinated research programmes and priorities**, including a significant volume of jointly programmed public research investment at European level involving common priorities, coordinated implementation and joint evaluation
- 6. A wide opening of the European Research Area to the world**, with special emphasis on neighbouring countries and a strong commitment to addressing global challenges with Europe's partners.
- 7. An adequate flow of competent researchers**, with high levels of mobility between institutions, disciplines, sectors and countries

What is said about Intellectual Property on the above points?

Here is the (poor) result:

Under: "4. Effective knowledge sharing."

This should consist of: open and easy access to the public knowledge base; a simple and harmonised regime for Intellectual Property Rights, including a cost-efficient patenting system and shared principles for knowledge transfer and cooperation between public research and industry.

Under: "Sharing knowledge"

Improving knowledge transfer between public research and industry Knowledge transfer must improve in order to accelerate the exploitation of research and the development of new products and services. To that end, European universities and other public research institutions should be given incentives to develop skills and resources to collaborate effectively with business and other stakeholders, both within and across borders (...). A major hindrance is the inconsistent, and often inadequate, rules and approaches for managing intellectual property rights (IPR) resulting from public funding. The Commission has identified good practice and

*models of knowledge sharing between the public research base and industry which will serve to inspire further action at both EU and national levels*¹.

Under: “Breaking the deadlock on patent systems...”

Patenting remains excessively complicated and costly in Europe, and fragmented litigation fails to provide sufficient legal certainty. Given the deadlock in negotiations on the Community patent, other options are being examined, including improving the current European patent system.

Under: “...and addressing R&D-specific IPR issues”

*The objective should be to offer cost-effective European patenting, mutually recognised with the other major patenting systems worldwide and backed by a coherent pan-European litigation system*². In addition, a number of R&D-specific issues, such as the grace period, joint ownership regimes and the research exception, should also be addressed in order to ensure consistent treatment across the EU.

Under: “Progress has been made in creating ERA”

*(The EU has adopted a ‘broad-based innovation strategy’, which will improve the framework conditions for research and innovation. In this context, a modernised Community framework for State aid for research and innovation and guidance for a more effective use of tax incentives for R&D were adopted in November 2006), a European patent strategy is being proposed to overcome the deadlock on the Community patent*³ (...).

¹ Note 24 in the original EU document, stating: “see Commission communication ‘Improving knowledge transfer between research institutions and industry across Europe: embracing open innovation’, COM(2007)182, 4.4.2007, and accompanying staff working document SEC(2007)449.”

² Note 25 in the original EU document, stating: “see Commission communication ‘Enhancing the patent system in Europe’, COM(2007)165, 4.4.2007”.

³ Note 8 in the original EU document, stating: “COM(2007)165 of 4.4.2007”.