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**Conference “IP as an economic asset: Key issues in valuation and exploitation”**

**SUBJECT: Encouraging valuation and exploitation**

**Berlin, Friday 01 July 2005**

I would like to address, in a very practical manner, three main points today:

1. The role of IP in the innovation system
2. Valorisation of patents
3. Exploitation of public research

**First, the role of IP in the innovation system**

- Innovation is a key driver of competitiveness and patents form an important element of innovation performance. The European Innovation Scoreboard shows a strong correlation between Member States doing well in the field of patents and strong performance on other indicators. A high score in the field of IP is an indicator of a strong innovation system.
- Germany achieves high scores in the indicators related to Intellectual property which include EPO, USPTO, and Triadic patents, new community trademarks and industrial designs. Germany also does well on “knowledge creation”, measuring the investments in R&D activities, “innovation & entrepreneurship”, measuring the innovation efforts at firm level, and “innovation applications” measuring performance in terms of labour and business activities and their value added in innovative sectors.
- However, there are large differences in IP culture between Member States. Patenting is quite strong in countries such as Sweden, Finland, Germany, and the Netherlands but in many other Member States, no strong IP culture exists yet. Many Member State governments are well aware of this problem and have developed instruments and support services to assist SMEs on IP issues. We therefore encourage Member States to strengthen IP culture. To facilitate their efforts the Commission is launching a study

to identify and benchmark publicly-funded support services in the area of IP and to identify good practices.

- One major barrier for many companies, in particular for SMEs, in applying for a patent is the high cost. The total cost of an EPO patent is currently up to € 30,000. Translations of granted patents account for nearly 40% of the total costs. The Community Patent would significantly lower these costs. The proposed Community Patent Court would considerably reduce the costs of potential litigation. This is why it is imperative that the Council decides on the adoption of the Community Patent as soon as possible.
- The next step would be to get European companies to pursue full, triadic protection. The triadic patents for which protection has been sought at the EPO, the USPTO and the Japanese patent office are generally assumed to imply higher commercial returns. In absolute figures, the US (34.3%) and the EU-25 (31.5%) accounted for nearly two thirds of triadic patent families in 2000 and Japan for a further 26.9%.
- However, when standardised by population size, a completely different picture emerges. Japan has the highest number of patents in total triadic patent families per million population (93) followed by the US (54) and the EU (22). In Europe, only Finland and Sweden can keep pace with Japan whilst Germany outperforms the US.

## **Second, valorisation of patents**

- Valorisation of patents is critical for start ups and SMEs in obtaining finance. Patents have become an increasingly important part of companies' portfolios but this is not adequately reflected in their balance sheet. In some cases the development costs can be included but these often do not reflect the market value. This often creates difficulties for companies in obtaining funding. The problem is especially acute for high-tech and research based SMEs for whom their IPR is their main asset. For SMEs debt financing is the largest part of external financing but for this they can not use their IPR as collateral.
- Accountants categorise intellectual property rights as intangible assets which are often not shown on the balance sheet except in the case of mergers and acquisitions. Nevertheless, when a bank assesses collateral for loans it looks at the balance sheet of the business where the IP often does not appear. So far, banks have not developed a standard or guideline for treating IP with respect to e.g. credit extension.
- Several interesting methods have, however, been developed to assess the market value of patents. These should be further investigated by the financial community. The responsibility for implementing these methods lies with the financial community and accounting bodies. The UK Association of Chartered and Certified Accountants has for example already called for valuation mechanisms to be used within a commercial environment and for the inclusion of IP in financial reporting by SME's.

- In the context of the current development of International Accounting Standards for SMEs the Commission could based on industry consensus suggest to the International Accounting Standard Board that the SME version of the standards leave more scope for including intangibles. As this is an independent body the results of this line of action are difficult to predict. At this stage it seems more appropriate to take a practical approach and investigate the possibilities within the current rules for the financial community to provide financing based on companies' IPR.
- An example of this practical approach can be found here in Germany where the Bundesanstalt für Finanzdienstleistungsaufsicht, the financial regulator withdrew detailed rules on how banks should assess the risks of loans. The banks now have to set up a risk management system and can decide for themselves what they accept as collateral. Patents and other IPR could form a basis for collateral in this system. We are following these developments with interest and call upon the banks to use the opportunities offered by this new system.
- The Commission and the IP-community both have a role to play in raising awareness and understanding within the financial community of the value of IPR. As a start, DG Enterprise will bring together the various stakeholders in September in a workshop where the issue will be further explored. We also call upon the IP-community to actively participate in the discussions with the financial community.
- An important prerequisite to translate IP assets into commercial success is a company's innovation management capability. An important attraction for private investor finance is trust in a company's innovation management, whether headed by a single entrepreneur or a larger management team. However there are few standard measurements to establish this innovation management capability.
- The use of Innovation Management Certification as a self-assessment tool to improve a companies' innovation potential and as a quality label for investors can provide a solution to this problem. Enhancing the innovation management skills of SMEs and providing certification of the fact the companies have incorporated these competences, could help entrepreneurs to increase the (intangible) value of their company.
- Currently few national or regional programmes specifically address the promotion of Innovation Management Techniques and we call upon governments to change this. DG Enterprise will explore how innovation management certification could be implemented in a user-friendly manner and be presented to external investors as a dependable label.

### **Third, exploitation of public research**

- There is still a large untapped potential in the research done by universities, who should do more to obtain patents. A survey of European universities showed that they filed 7 patents on average in 2003 whereas US universities filed nearly 36. In terms of licensing, European universities are also far behind. US universities on average had 120 active licensing contracts generating in total over 6 billion euros in revenue.

European universities had, on average, only 12 active licensing contracts generating in total 205 million euros. The potential benefits are high in both monetary and societal respects.

- University College, Dublin for example developed a technology allowing for much quicker BSE testing. The new technology reduced the time needed from 14 days to 3.5 hours giving a great reduction in costs for the agricultural market. The licensing of this technology led to the creation of a significant number of high skilled jobs and has generated nearly €2.0 million in royalty income for UCD.
- The link between universities and business should be strengthened. The filing and exploitation of patents by universities should be stimulated and contacts with the business sector intensified. The potential of public research needs to be exploited. There are already good examples at national level such as the Association for University Research and Industry Links (AURIL) in the UK. It is the professional association representing all practitioners involved in knowledge creation, development and exchange in the UK with more than 1600 members from universities, NHS Trusts and public sector research establishments. They maintain close links with industry to find solutions for common problems. AURIL has also been working towards the creation of an Institute for Knowledge Transfer to further professionalize the profession and improve results.
- To support this cooperation at a European level, DG Enterprise has supported ProTon Europe, a pan-European network of Technology Offices linked to Public Research Organisations and Universities. They disseminate good practices and provide training to members of Technology Offices. They also address one of the principal barriers to the exploitation of research results, the alignment of university and industry interests. Together with other European stakeholders – European Industrial Research Management Association. (EIRMA), European university Association (EUA) and the European Association of Research and Technology Organisations (EARTO), ProTon developed a Handbook on responsible partnering.
- The Handbook describes a voluntary programme of Responsible Partnering aimed at improving the organisation, management and overall effectiveness of joint research and strategic knowledge transfer activities involving public research organisations and companies. The Handbook contains guidelines (not rules) intended to help senior managers in the public and private sectors responsible for the creation, transfer and application of knowledge.