



HOW DO YOU EVIDENCE IP IN R&D GRANT APPLICATIONS (AND HOW CAN IP IMPROVE YOUR CHANCES OF SECURING FUNDING)?

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This white paper has been written by an R&D grant writer and a patent attorney to give the company owners, directors, executives and founders of innovation-led businesses of all sizes a more complete picture of how to successfully negotiate the grant application process.

We trust it will provide a wealth of information and insight businesses can use to maximise their chances of developing successful applications for the various and increasingly competitive R&D grant funding competitions open to them, a list that includes Smart Grant from Innovate UK or EIC Accelerator from Horizon Europe.



IP REQUIREMENTS IN R&D GRANTS

Innovate UK R&D Grants

UK Research and Innovation (UKRI) is the national funding agency investing in science and research in the UK. Operating across the whole of the UK with a combined budget of more than £6 billion, UKRI brings together the 7 Research Councils, Innovate UK and Research England.

Innovate UK is the UK's national innovation agency. IUK supports business-led innovation in all sectors, technologies and UK regions. IUK helps businesses grow through the development and commercialisation of new products, processes, and services. Innovate UK has been allocated £2.4bn of a £24bn research and innovation budget between 2022-2025.

The vast majority of this record budget will be distributed in the form of grant funding for innovation-led projects for UK businesses.

Innovate UK's flagship R&D grant funding call is Smart which runs all year, with deadlines every quarter. SMEs and their partners can apply for between £100k and £2m and receive 70% of their total project costs in the form of a non-dilutive grant.

SMES AND THEIR PARTNERS CAN APPLY FOR BETWEEN £100K AND £2M AND RECEIVE 70% OF THEIR TOTAL PROJECT COSTS IN THE FORM OF A NON-DILUTIVE GRANT.



IP related questions and eligible costs in IUK applications will vary slightly from call to call, but in general these requirements are standard:

- › The specific innovation you propose to develop and how this is clearly different from alternative solutions that are already available.
 - › Your freedom to operate (FTO), which is your ability to commercialise without infringing third party IP rights.
 - › How you will protect and exploit the outputs of the project, for example through know-how, patenting, designs, or changes to your business model.
 - › The details of any vital external parties, including subcontractors, whom you will need to work with to successfully complete the project and why these tasks cannot be carried out by project partners.
 - › IP costs generated by your project are eligible. This cost is allowable for SMEs up to a limit of £7,500 per partner. These should not include legal costs relating to the filing of trade mark related expenditure as these are considered to be marketing/exploitation costs and therefore ineligible.
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HOW DO YOU WRITE THE IP-LED GRANT APPLICATION THAT WILL IMPROVE YOUR CHANCES OF SECURING FUNDING?

To make this paper as easy to follow as possible, we have written it as a Q&A based on the questions we are most frequently asked in our respective roles as an R&D grant writer and a patent attorney.

- 01** HOW SHOULD I EVIDENCE IP IN AN R&D GRANT APPLICATION WHEN THERE IS LIMITED SPACE FOR ANSWERS?
 - 02** HOW CAN I USE IP TO EVIDENCE MY COMPANY'S PROPOSED INNOVATIVE TECHNOLOGY GOES BEYOND THE CURRENT STATE OF THE ART?
 - 03** WHAT IS FREEDOM TO OPERATE (FTO) AND HOW CAN I EVIDENCE THAT IN AN R&D GRANT APPLICATION?
 - 04** WHAT OPTIONS DO I HAVE WHEN CONSIDERING HOW TO PROTECT IP GENERATED FROM A GRANT FUNDED R&D PROJECT?
 - 05** WILL R&D GRANTS FUND LEGAL COSTS RELATING TO IP ADVICE AND PATENT FILINGS?
 - 06** R&D GRANT FUNDING FOR 'OPEN INNOVATION' IS A TERM I HAVE BEEN HEARING RECENTLY - WHAT DO I NEED TO KNOW?
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01

HOW SHOULD I EVIDENCE IP IN AN R&D GRANT APPLICATION WHEN THERE IS LIMITED SPACE FOR ANSWERS?

Space is limited in R&D grant applications, with word limits set at 400 - 600 words per answer and there are multiple points to cover in every question, including IP.

In our experience, the core questions (12-15 in total) leave you about 4-6 sentences (split across a few questions) to address IP and FTO. Here is how we suggest you make the most of this precious space:

From a grant writer's perspective...

"Carefully read the guidance for applicants for each question and understand where you should address the different IP and Freedom to Operate points. For example, one question might ask for 'current IP' and another might ask for 'how will you protect IP arising from this project'. Make sure to only address the points you absolutely must in each question."

From a patent attorney's perspective...

"Reference IP and FTO evidence that you can place in the appendices. Supporting information is a key part of any R&D grant application, and the appendices give you the chance to include diagrams, tables, pictures and text. This is much more flexible than the text-only answers required in the core questions.

IP strategy and FTO evidence can be readily summarised using tables or diagrams (such as flowcharts or Venn diagrams) to save on word count and present a more visual representation. In general, the grant application does not require full details of the IP strategy and FTO evidence, but only requires a summary of the key points."

02

HOW CAN I USE IP TO EVIDENCE MY COMPANY'S PROPOSED INNOVATIVE TECHNOLOGY GOES BEYOND THE CURRENT STATE OF THE ART?

'Beyond state-of-the-art' is a crucial factor in the assessment criteria of all R&D grants. Funders want to see 'game-changing' innovation – not 'step-change' innovation.

This is particularly true of the Smart Grant (IUK) and EIC Accelerator (Horizon Europe), where success rates are lower than 10% overall. Demonstrating your innovation goes beyond the current state-of-the-art is even better than stating it and IP will always help!

From a grant writer's perspective...

"It is always a wonderful feeling when a client shares a patent application (pending) or patent (granted) that underpins the innovation I am writing an application for.

The level of technical and legal language in the patent application is gold-dust when proving the proposed technology is cutting-edge.

Quote the patent application reference number early in the application – 'this

innovation project builds on technology (patent-pending XXXX) and seeks to... That reference is very powerful and persuades the evaluators right from the outset that this is a serious application."

From a patent attorney's perspective...

"On top of filing a patent application, there are ways to accelerate processing of the patent application, such as the UK Intellectual Property Office's Green Channel for environmentally friendly technologies.

This will help you quickly obtain a patentability opinion, or even secure an early grant of a UK patent, which provides an official stamp of approval that your technology is a game-changer.

Another option for evidencing innovativeness is to commission a professional opinion from an IP legal advisor with the experience and expertise to assess the patentability of your technology."

03

WHAT IS FREEDOM TO OPERATE (FTO) AND HOW CAN I EVIDENCE THAT IN AN R&D GRANT APPLICATION?

Freedom to Operate (FTO) is explicitly mentioned in IUK grants and EU R&D grants and refers to the right your company or consortium has to commercially exploit (sell) the innovative product, process or service being developed during the R&D grant-funded project.

In simple terms, the assessors want to know that no existing patents are being breached in the development of the novel technology proposed. If no patents or IP are being infringed, then FTO is automatically granted, but how do you persuade the R&D grant assessors this is the case?

From a grant writer's perspective...

"There is a simple answer to this question for applicants to the EIC Accelerator grant – it is a compulsory requirement of that fund to provide a 2-page FTO analysis, ideally prepared by an IP advisory firm. An FTO analysis is a service you can buy from, for example, a patent attorney.

In most R&D grants however, this level of detail is not a requirement.

In my experience as a grant writer, Innovate UK assessors do not need much more than a sentence or two about an FTO analysis to 'tick the box', especially if the proposed innovation is clearly novel."

From a patent attorney's perspective...

"FTO analysis by nature is an open-ended exercise, which means that complexity and costs can spiral very quickly if not monitored.

An experienced patent attorney can help you perform a high-level, red-flag FTO analysis at reasonable cost to identify any potential third party patent that can block your planned commercialisation and is very difficult to design around. Nevertheless, a more comprehensive FTO analysis will be needed in future as your business grows and your commercial activities expand."

04

WHAT OPTIONS DO I HAVE WHEN CONSIDERING HOW TO PROTECT IP GENERATED FROM A GRANT FUNDED R&D PROJECT?

It is a common requirement in an R&D grant application to highlight what outputs from the project can be protected and how this relates to the commercialisation of the project outputs. There are many ways to protect the IP derived from R&D grant projects.

From a grant writer's perspective...

"Be very clear about exactly which outputs from the R&D grant funded project you intend to protect. Specify a 'deliverable' for each of the outputs – 1 or 2 is generally enough. State the deliverables early in the application: 'Key outputs of this R&D project that will be protected by IP rights are XXXX (Deliverable 1.1 in Work Package 1) and XXXX (Deliverable 3.2 in Work Package 3).'

These deliverables should then be the focus of your critical path in questions relating to the project plan, and cornerstones of your commercialisation plan in questions relating to the route to market plan.

Finally, consider how you might retain critical IP within your company by incentivising key

staff members to stick with your company for the long-term. The less likely key staff are to leave, the more likely your company is to retain its 'know-how.'"

From a patent attorney's perspective...

"A whole host of IP rights are available to protect different types of IP. This include - but are not limited to - patents, designs, trade marks, copyright and trade secrets.

In addition, the protection you obtain from these IP rights can be complemented by the right contractual provisions, particularly when there is significant know-how in the R&D project or when IP ownership questions arise due to the involvement of multiple project partners.

It is crucial you understand which IP rights you need and how you go about securing them. In addition, timing is key - IP protection should be sought as early as possible as soon as the innovation is identified and before disclosing it to third parties."

05

WILL R&D GRANTS FUND LEGAL COSTS RELATING TO IP ADVICE AND PATENT FILINGS?

R&D grants will fund a wide range of costs, including staff wages, overheads, capital costs, equipment costs, subcontractors and travel.

Eligible costs must relate to research and development activities. This means technical/scientific staff costs are eligible, while sales and marketing staff costs are not. But what about IP-related costs under R&D grants?

From a grant writer's perspective...

"There is a specific £7,500 allocated to IP costs in most Innovate UK grants.

This is classified as "other costs" and can be used to engage an external IP advisory firm to support in identifying IP and preparing patent applications (not filing costs). It is also possible to include a partner in Innovate UK grants whose tasks solely relate to IP - if you work with an academic partner, they will receive 100% of their costs covered.

In EU grants, such as EIC Accelerator, the use of IP advisory firms as subcontractors is standard and you can allocate the appropriate costs – this is seen as part of exploitation."

From a patent attorney's perspective...

"Planning is important to maximise the IP cost allocation available from the grant.

An intelligent IP strategy should be built into the company's business model from the outset, and an IP legal advisor can advise on what needs to be protected, what legal steps are to be taken, and provide IP cost projections.

That said, the IP budget should not be artificially limited if it turns out that your innovation or technology requires IP protection costs beyond what is allocated from the grant."



06

R&D GRANT FUNDING FOR 'OPEN INNOVATION' IS A TERM I HAVE BEEN HEARING RECENTLY – WHAT DO I NEED TO KNOW?

Open Innovation is the term used to describe the process of collaboration between large companies (corporates) that have a specific challenge they need to solve, and innovative SMEs that could develop a solution.

There are increasing numbers of R&D grant funding calls aimed at fostering open innovation, from Innovate UK and Horizon Europe. For example, a recent collaboration between Phillips and ColorFabb has seen a 100% biodegradable plastic being used to 3D print light filaments.

From a grant writer's perspective...

"Going into these collaborations as an SME, lets face it, it can be nerve-racking given the disparity in company size and power. There is generally a 'mediator' involved in Open Innovation, a neutral third party that will facilitate the relationship.

In particular, this facilitator should be your first contact point for IP, for both the IP brought to the project by both parties, and for any IP generated during the open innovation project.

The application itself requires existing IP to be defined by both parties and the potential IP to be created - this will form the basis for the grant / collaboration agreement. State your existing IP as per the advice in this Q&A - more advice on how best to proceed needs to come from a patent attorney."

From a patent attorney's perspective...

"Collaboration with large corporates can be very beneficial, as they may have access to resources and markets that you lack. On the other hand, innovative SMEs are typically more agile than large corporates when it comes to developing new IP, which is the commercial advantage they possess.

To protect your commercial advantage during and after the project, it is essential to not only ensure that you already have suitable IP rights in place, but also define in the collaboration agreement exactly how your existing IP will be used by your collaborator(s) and how the potential IP to be created will be handled in terms of ownership and commercialisation. Ignoring any of these IP points risks dilution of your commercial position in any collaboration you enter into."

MORE INFORMATION

If this paper has raised any immediate questions or you would like to discuss how best to evidence IP in R&D grant applications (and how to ensure your IP improves your chances of securing funding), please contact Alex (our grant writer) and/or Jason (our patent attorney).

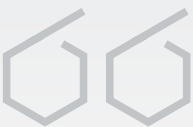


Venturenomix has 15+ years of R&D Grant Writing experience and has raised over £100m from UK and EU innovation grants for startups, scaleups, mid-caps and large organisations. We offer a flexible range of services from full application writing and reviews, to grant project management, covering Innovate UK, EIC funds, Eurostars and Horizon Europe, and more.

A PROVEN APPROACH

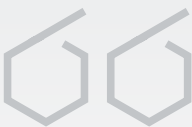
OUR ACCOLADES

You can be truly confident in our abilities – we are recognised as a top-tier firm in Europe, having received accreditations from the IP profession’s leading benchmarking organisations and programmes.



“An excellent firm to deal with. They have invested in gaining a thorough understanding of our approach to projects, their communication is timely and concise, and their advice is easy to understand.”

CHAMBERS & PARTNERS, 2022



“A key strength of Potter Clarkson is their combination of expert attorneys with solicitors, which gives comprehensive advice on highly technical matters using patent attorney expertise and solicitor know-how, as well as commercial and branding matters with trade mark attorneys and solicitors working together.”

LEGAL 500, 2022



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