

# IP Strategy

Protein Industries Canada aims to assist companies to capture the benefits of their innovations, avoid risks, and participate and compete fully in all aspects of the intangible economy. Our strategic approach to this IP assistance is threefold: Create, Protect, Commercialize.

This IP Strategy is a two part document. The first is the main body of the IP Strategy, which reflects our overarching approach and policies with respect to IP in the funds we administer (which devolves from our responsibilities under the Contribution Agreement, and should not change), and the second is an Annual IP Strategy Addendum, which will be updated with annual priorities and planned activities.

## CREATE (& OBTAIN) IP

In “Creating” or “Obtaining” IP, we are referring to the generation of IP through a company’s own research and development processes, as well as, through procured access to others’ IP.

In the context of PIC projects, IP rights are described in IP Rationales detailed in project proposals which break down each consortium member’s rights today and in the future (as relevant to the project). Such IP Rationales include a blend of:

- Background IP, including relevant IP developed through previous PIC funded projects
- Third party IP (licensed)
- Foreground IP (anticipated)

It is important to recognize that often there is a gradual build or accumulation of knowledge, not all of which will be formally registered. Some knowledge will be brand new. The validation of concepts is also a good outcome.

Not all IP generators will be in a position to scale up or practice their IP directly, or to build know-how around practical application of their IP. Licensing or purchase of IP can sometimes bring these ideas to market sooner.

Here’s how PIC assists:

- Helping to recognize and name the IP a consortium member already has



- Helping to identify the third party rights a consortium member is/will be using, including access to other consortium member Background IP. PIC does not dictate specific licensing structures for a consortium, rather liaises with and encourages the consortium members to negotiate their own terms of access, within bounds of fairness, reasonableness, and non-discrimination.
- Determining that in-licensed technology is clearly identified and scoped and allows the licensee a path to commercialization
- Helping to recognize and name the IP that will be generated in project
- PIC project selection criteria considers the relevance and feasibility of the IP Rationale and the IP benefit to Canada from the project as a whole

Means of support:

- Proposal reviews
- 1:1 and consortium-based consultations with IP Manager
- Access tools (such as the IP Hub) bringing attention to existing sources of IP

PIC's Director of IP is responsible for implementation and administration of the present IP Strategy, assisting the Board and PIC management in executing it, assisting consortium members in all aspects of project IP Rationales (including IP development, ownership and access terms), providing an IP resource to the Project Selection Committee in reviewing project proposals, and working with consortium members to fulfil their IP plans and objectives.

## PROTECT IP

In "Protecting" IP, we are referring to a couple of different things – helping companies to steer clear of risks and potential problem areas, and helping them to take appropriate steps to secure rights.

For each company, steering clear of risks and potential problem areas involves:

- Being smart about their own freedom to operate relative to other rights-holders
- Resolving with other consortium members who owns the IP outcomes for various parts of the project
- Resolving access and permission questions within a consortium (apart from ownership)

Taking appropriate steps to secure rights involves:

- Registration of formal IP (patents, trademarks, industrial designs, plant breeders rights), as appropriate
- Recognition and tracking of informal IP (trade secrets, unregistered trademarks, copyright, including software and data)
- Each consortium member should avail themselves of applicable legal agreements through external resources – e.g. non-disclosure agreements, material transfer agreements, supply and service agreements, and IP clauses in employment agreements and contractor agreements
- Electronic and physical protocols to protect, e.g., formulations and processes intended to be kept as secrets

Here's how PIC assists:

- Asking questions early within a consortium about freedom to operate, planned ownership, access, so that these are clearly built into the IP Rationale. Neither PIC nor ISED takes any ownership stake in the project IP. Ownership and access are decided within each consortium.
- Reviewing planned ownership pathways to evaluate:

- That there is a clear way to determine whose invention/discovery is whose where work is collaborative
- That the planned ownership is equitable between the consortium members – e.g. avoiding situations where one party does the work, while another gets the IP benefit
- That co-ownership situations are discouraged, so that owners can independently make decisions and take steps with the IP in the future (although exceptions exist)
- Reviewing planned licensing pathways to evaluate:
  - That the licensor has a specific licensing model in mind
  - That the licensor has all of the rights needed for the licensed offering (e.g. data access)
  - That a user/licensee (or type of user/licensee) has been identified and there is a path to commercialization, as appropriate
- Suggesting formal and informal IP pathways, and ways to build on IP already developed or obtained for stacking opportunities, as applicable
- Asking about agreements and protocols
- Asking about foreign filing plans and strategies for protecting IP outside of Canada, as appropriate
- Providing a standing discussion point on IP for Steering Committee meetings so that new developments or IP questions can be raised within the consortium
- Providing a mechanism for resolution of disputes

#### Means of support:

- IP expenses (fees and disbursements) are funded in accordance with Contribution Agreement, including funding for IP registered outside of Canada
- IP Manager check-ins in steering committee meetings and otherwise
- A mechanism for obtaining approvals from other consortium members when selecting subcontractors that will be exposed to IP during project management (part of change order process)
- Tracking of Foreground IP generated in project. All IP data is held confidentially by PIC, shared as aggregate data with ISED, and published in the IP Hub only to the extent approved by the owner, or otherwise publicly available.
- Referral to external resources
- IP programming on IP concepts, precautions to take
- Written Master Project Agreement with IP terms, and dispute resolution provisions. The dispute resolution provisions provide in every case for informal discussion through steering committee delegates, which if unresolved, escalates to non-binding mediation, and if still unresolved, escalates to binding arbitration. PIC also has the right to engage the dispute resolution provisions.

## COMMERCIALIZE IP

In “Commercializing” IP, we mean deployment of IP in a commercial context, such as by:

- Selling a product or providing a service to which the IP relates
- Using IP toward fundraising or company transactional goals, as a balance sheet asset and in due diligence to show indicia of a sophisticated and well-organized company
- Licensing IP to generate income (through royalties, user fees or subscriptions)



We also mean the use of IP in a competitive landscape through:

- Deterrence (e.g. through patent, trademark and copyright notices/markings)
- Enforcement action against infringers
- Use of IP as leverage in business discussions and to motivate partnering

Not all IP is positioned to, or should aim to, be “monetized” – IP also has value for a company while simply being held as an internal asset. There it can serve the purpose of crystallizing and securing a company’s exclusive right while keeping in reserve the option for enforcement or leverage if need should arise.

Here’s how PIC assists:

- Providing funding for some commercialization supports in accordance with our Contribution Agreement.
- Enforcement activity is not funded by PIC, but we do not prevent any company from taking the steps it feels it needs to in order to enforce or assert its IP against a potential infringer, or to transact with or leverage its IP for business goals
- Disputes within a consortium are channeled through the dispute resolution process, as applicable.
- Asking about and tracking new licensing and other commercialization activities annually through Annual Reports
- Providing discussion opportunities about commercialization through steering committee meetings

Means of support:

- IP programming
- Referral to external resources
- Connecting companies together for potential opportunities
- Access to funding network, including funding sources that emphasize IP
- Promotion of non-confidential IP and business successes through PIC’s member-accessible IP registry (the IP Hub), and through other PIC communication channels



# ANNUAL IP STRATEGY ADDENDUM

## MARCH 2024

In addition to regular IP support for projects in development and underway, priority activities this year include:

- Planned IP programming on trademarks with an emphasis on scaling companies planning to export
- Guest lecture at Ivey Accelerate Leadership Program on IP Strategy
- Potential further IP programming on trade secrets, domain names, digital technology/AI and patent opportunities for ingredient manufacturers
- Development of a patent landscape report on ingredient manufacturing
- Liaison with other global innovation clusters to share best practices

