



Intellectual
Property
Office

Industrial Strategy: Intellectual Property Call for Views



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Industrial Strategy: Intellectual Property Call for Views

What can we do to encourage innovators to do more collaboration and commercialisation, to stimulate knowledge exchange and promote follow-on innovation?

What are we trying to achieve?

The government wants to find ways to stimulate collaborative innovation and increase licensing opportunities for intellectual property (IP) rights. We know that IP is one of the key drivers of innovation, and whilst the UK's IP regime is consistently ranked as among the best in the world, we are committed to finding ways to improve.

This is one of a number of initiatives on IP announced in the government's green paper 'Building Our Industrial Strategy'. It will form part of the contribution to the next phase of the strategy alongside separate work on approaches to commercialisation in different institutions, and the ongoing negotiation of sector deals.

In the course of the industrial strategy green paper consultation we have heard the overwhelming message that the UK's IP regime is strong, balanced and as a whole is fit for purpose. Therefore the purpose of this call for views is not to initiate a wholesale review of the UK IP legislative system, but to look for targeted, non-regulatory interventions the IPO could make, which would maximise the incentives provided by our world-class IP system.

How can you help us?

We want your ideas. We want to know if there are new products or services the IPO could offer which would encourage more collaboration, more creation and exploitation of IP.

In particular we want to hear from users of the IP system, including those who protect their ideas via means other than formal registration.

Ideas should meet the following criteria:

1. Targeted intervention to either process or policy
2. Within the remit of intellectual property
3. Backed by evidence of the market failure or commercial potential

To give a feel for previous suggestions, the Annex to this document sets out a number of example proposals we have received, both via the Industrial Strategy Consultation and elsewhere.

This call for views is not limited to consideration of these ideas, but in your response, feel free to comment on what you think the positive or negative impact of these suggestions would be to collaboration, commercialisation, knowledge exchange and UK innovation.

Evidence might come in the form of narratives of your experiences, case studies, published analysis or empirical data.

Please send your responses to this call for views to industrialstrategy@ipo.gov.uk.

What will we do with your ideas?

The development of the government's industrial strategy is a continuing dialogue, and a white paper will be published later in the year by way of formal response to the consultation. We will continue to test and evaluate proposals received both through the industrial strategy green paper consultation and via this call for views. The implementation of any viable proposals will be subject to full evaluative impact assessment considering the costs and benefits of the change.

In responding to this call for views, please include the following information:

- Are you responding as an individual, business, intermediary, representative body?
- What does your business do / in what sectors do you operate?
- How large is your business, and what proportion of your assets are IP-based?
- In what UK regions do you operate?
- In what international territories do you operate?
- Is there more the IPO could do to help UK companies operating overseas?
- What do you spend on IP?
- Which aspects of the IP system do you use?
- What do you particularly value about the UK's IP system?
- Do you face barriers when using the UK IP system?



Annex

IP Trading Platforms

There have been a number of attempts to establish primary and secondary IP markets by both the public and private sectors and include IP Auctions, Online Exchanges, Patent Aggregators, IP Acquisition Funds, Defensive Patent Pools and Financial IP Trading platforms. Such attempts have only been partially successful. Many trading platforms, for differing reasons, lack clarity in respect of pricing, volume, coverage and operation and thus cannot be classed as being fully functional, although there are a number of platforms offering a brokerage service which operate successfully.

The IPO recognises the potential for innovative businesses to generate a stronger return on their investment in creativity and innovation if they can trade their IP more easily. Its 2013 'Banking on IP' report highlighted the need to dispose of IP assets and to improve the sale and licence of them.

We consider that financial sector confidence to lend to IP rich businesses will be boosted if they can see that IP assets can be traded as readily as physical collateral.

Through a qualitative survey the IPO has previously sought views on whether anything could or should be done to increase the amount of IP trading through the use of trading platforms. Responses highlighted that this is a young market with little supply or demand at present, but we invite views to the contrary and are keen to hear about the experiences of initiatives from industry, such as the ACID marketplace.

B2B model IP agreements

Since the Lambert Model IP Agreements first launched in 2005 they have helped facilitate collaboration between universities and business. They have prompted businesses to consider their IP in new ways when working with University partners, viewing it as a valuable business asset rather than just a by-product of innovation.

One theme highlighted at recent workshops conducted by the IPO was a lack of an equivalent to the Lambert toolkits for Business to Business (B2B) collaborations.

The IPO is keen to understand what contractual mechanisms are currently used in this environment, including where sectors already use standardised IP agreements. In addition to sector-driven standardised agreements, there are instances where formalities prescribe certain terms be used, such as when accessing public funding. We are interested to find out whether there is a demonstrable need for Lambert-style models to be developed for use in B2B agreements, and what the benefits might be.

Voluntary IP Register

The UK has no official register for copyright works, or designs protected by the unregistered design right (UDR), though there are private sector organisations offering legal deposit and registry services in this area, and some businesses and individuals choose to lodge their IP with a bank or similar institution.

The benefits of a public registry could include legal certainty for creators, providing a means of establishing authorship and/or ownership of rights, and could help to reduce the number of future orphan works. It could also provide greater certainty around the term of protection for UDR, as well as reducing investment risk in intangible assets.

On the other hand, we hear from many businesses that the introduction of such a register would not be welcomed due to the increased legal and administrative burden.

It is also the case that there are useful private sector offerings, as well as initiatives such as the Copyright Hub, already operating in this space, exploring how improvements in digital infrastructure could bring the potential for new technologies such as blockchain to increase data management capability in the IP sphere, and even add value to IP data and generate secondary markets.

It should be noted that UK is a member of a number of international agreements which prohibit signatory states from making copyright protection dependent on complying with mandatory formalities. However countries are not precluded from having optional systems, and over 50 countries currently provide some kind of voluntary registration for otherwise unregistered rights.

New financial products

We have heard calls for banks and financial organisations to offer more IP-specific products to help IP-rich businesses access lending based on their intangible assets. We know that the level of investment in intangible assets has risen dramatically in recent years, and we therefore invite views on whether lending activity has changed in response to this increased realisation of the value of intellectual property.

The 2013 "Banking on IP" report highlighted that intellectual property was not appreciated in mainstream UK lending and that potentially millions of pounds worth of business assets were not being taken into account in lending decisions.

We are keen to hear from both business and the financial sector in respect of this issue. In particular, we would like to understand more about some of the challenges faced businesses in obtaining debt funding based on their IP assets and also from those that have been successful. Additionally we would like to hear from banks as to how the Government can help them overcome some of the challenges they face in developing IP based products and also any providers that are already in the market.

IP Licensing resolution

We are aware that IP trading can present some companies with barriers to innovation, notably in the area of Standard Essential patents (SEPs), where we are told that the issue of portfolio fragmentation can lead to spiralling costs to innovators operating in standards-reliant sectors.

In the copyright sphere the IPO operates a tribunal for the determination of licensing disputes between businesses and collective management organisations. It has been suggested that the IPO should offer a similar system for the determination of licensing disputes between organizations operating in a field involving standards-reliant technologies.

Royalty-free Patents

It has been suggested that over-use of patents can stifle innovation in burgeoning markets. In 2014 Tesla, having previously relied on the patent system to protect their inventions from competitors, took the decision to release their patents under an 'open source' philosophy, with the intention of stimulating the market for electric cars. By making their patents free for competitors to use, they hoped to encourage more innovation in low carbon vehicles and so grow the market in which they operated.

It has been suggested that the UK could build in this capability into its patent system, for example by declaring on the face of the patent that it may be used free of charge. This could serve to stimulate investment in new markets and rapidly grow infrastructure around innovative technologies.

IP Valuation standards

The IPO is investigating the structure of the growing IP valuation market, the range of methods and models available and how they can be tailored to suit business needs. We know that global trade in IP licenses in 2014 was worth more than £220 billion: 1.6% of global trade and rising, and that UK investment in intangible assets protected by IPRs has risen from £47 billion in 2000 to £70 billion in 2014.

The IPO aims to identify the valuation market's structure, behavioural drivers, and whether there are barriers that could be overcome to encourage more businesses to carry out valuations of their IP with a view to being able to trade, protect and invest in it more effectively.

Other countries around the world are also looking at this issue, and some have arrived at commonly accepted, government regulated standard valuation methods, and we would be keen to hear views on whether and how the UK should consider similar activities, and what the benefits would be.

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