



INTELLECTUAL
PROPERTY OFFICE

From ideas to growth:

Helping SMEs get value from their
intellectual property

April 2012





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Foreword

I am delighted to introduce the IPO's plan to better support our SMEs. The UK has earned a reputation for innovation, invention and entrepreneurialism. It is vital that the innovative individuals who are leading the way in this are able to protect their ideas and extract full value from them.

In 2011, following his review of IP and growth, Professor Ian Hargreaves set out a number of recommendations on how the IPO could better support SMEs to grow. It is clear to me that they are key to the future growth and prosperity of the UK and that we must do everything possible to put in place the support they need to reach their full potential. This document sets out our plans to provide training and awareness raising for businesses and their advisors, integrate IP advice with the Government's wider business support activities and the 'Business in You' campaign, work with our schools and universities to provide long term skills and provide new options to help businesses resolve disputes. The Government is committed to seeing that these plans become a reality for our SMEs.



Baroness Wilcox
Minister for Intellectual Property

Executive Summary

Achieving strong, sustainable and balanced economic growth is the Government's economic policy priority and Intellectual Property (IP) is an increasingly important means of supporting growth. The UK has many highly innovative SMEs for whom the ability to protect their innovation is crucial to maintaining their competitive edge.

In 2011, Professor Hargreaves published the findings of his Review of Intellectual Property and Growth, highlighting difficulties faced by SMEs in accessing the IP system: a lack of strategic commercially based IP advice; difficulties identifying the right source of advice and the cost of IP management. The Government responded by committing to the IPO publishing plans for better supporting SMEs. These plans were published as part of the BIS Innovation and Research Strategy for Growth¹ in December 2011. This document sets out in greater detail how the IPO will support SMEs and how we intend to deliver these new services.

Many SMEs have only limited knowledge of IP and the impact it may have on their business. Working through partnerships, the IPO will provide training and awareness raising seminars for businesses. This will provide them with the knowledge they need to identify the opportunities and risks that IP presents for their business and to seek further advice at the right point. We will also be providing online tools to help businesses assess their IP assets, and working with partners to fund strategic IP audits for businesses where IP has been identified as a critical issue for their growth.

Once they have identified where IP may be relevant to their business, many SMEs will need to seek further advice on how to make the most of their IP assets. To improve the availability of commercially based IP advice the IPO will be funding Masterclass training for business advisors within other public sector business support schemes, such as Business Coaching for Growth, the Technology Strategy Board's Catapult Centres and the Patent Library network. We will also work in partnership with the British Library to extend the model used at the Business and IP Centre in London to six regional Patent Libraries.

1 <http://www.bis.gov.uk/innovatingforgrowth>

We are also considering further options to create new networks across the country to reach out to SMEs: first, working with the Local Enterprise Partnerships to offer tailored local advice to businesses in different regions and second stimulating the creation of business and IP advice networks across the UK.

Through these services we aim to provide SMEs with the knowledge they need to maximise the value of their IP assets. We will also create a strong network of business advisors that SMEs are able to access for sound commercially relevant IP advice. We know that occasionally things do go wrong and that for many SMEs the concern around the cost and difficulty of resolving disputes is a very real one. This paper highlights some of the issues in this area and some of the work the IPO will do over the next year to improve access to the courts and reduce the costs of IP dispute resolution.

Finally, sustainable growth for the long-term depends on inspiring young people to start up their own businesses and ensuring they have the skills and information they need to protect their intellectual property. With this in mind we will run, in partnership with Aardman Animations, the Cracking Ideas competition to introduce school children to intellectual property. We will also be working with universities to reach students who need a good understanding of intellectual property to benefit their future careers and the wider economy.

IPO training and awareness sessions will provide businesses with the knowledge they need to identify IP opportunities and threats.



SMEs account for 99% of all UK businesses, and employ over 13 million people.

Introduction

SMEs account for 99% of all UK businesses. Together they provide more than half of all UK employment, employing over 13 million people, and have a combined annual turnover of £1,500 billion. But the importance of the UK's SMEs goes far beyond sheer numbers. Small and medium sized businesses in the UK also embody the sort of innovative entrepreneurialism which will be key to our future growth.

Action is being taken across Government to create the conditions these vital companies need to grow with a particular emphasis on support for innovation. Intellectual Property (IP) is one factor in supporting innovation and the Intellectual Property Office provides the services SMEs need to grow, as part of an integrated Government support service.

Measures announced to support SMEs and innovation include:

- The new Business Coaching for Growth programme which represents a step change in the way we support high growth firms. The programme provides bespoke solutions designed to address the specific challenges faced by high growth businesses, such as commercialising innovation and raising external finance. The programme targets up to 10,000 high growth SMEs annually;
- Enhanced support for business improvement and growth through an improved **www.businesslink.gov.uk** website and a Business Link Helpline;
- A new mentoring portal to provide a single, easy to use route to find experienced business mentors;
- Doubling the size of the Design Council's 'Designing Demand' mentoring programme to £1.3 million a year to help SMEs deliver improved products, services and brands to enhance their growth potential;
- Action to deliver a stable, competitive tax system including tax incentives to encourage companies, particularly SMEs, to innovate, for example increases to small firms Research and Development tax relief to 200% in 2011, and 225% this year and the introduction of a Patent Box provision which will provide a reduced 10% corporate tax rate for profits from patents, the launch of a new Seed Enterprise Investment Scheme from April this year, and measures to address tax complexity;
- New approaches to ensure that businesses can access the finance they need to grow and to support investment in innovation, including grants for SME research and development, a new innovation voucher programme to allow SMEs to work with universities, and investment in the Small Business Research Initiative to help SMEs win Government contracts for their innovative products and services;
- Increasing the number of SMEs helped to access opportunities in new overseas markets;

- Introducing a moratorium on new regulation for micro-enterprises, and dropping proposals for new regulations that were going to cost £350 million a year;
- Improving access to public procurement opportunities for SMEs by introducing a new eSourcing solution, *the Dynamic Marketplace*, providing suppliers with free and easy access to opportunities and eliminating some of the bureaucracy associated with the public sector tender process of SMEs, co-funding of workplace learning for SME employees and leadership and management skills support for high growth SMEs to help them develop their growth capacity.

Irrespective of sector, innovative companies recognise that to gain or maintain their competitive advantage they must continually seek to identify, develop and make best use of all their available resources so that they can continue to offer new and improved products and services which secure a strong market. We know that UK SMEs are among the most innovative in the world, but we can also see that too often they miss opportunities to maximise the potential return on their investment in innovation by failing to protect their ideas or intellectual property in ways which would help defend against competitors or generate revenue through licensing. That failing stems from a lack of awareness of intellectual property threats and opportunities, compounded by the complexity of IP service provision which, when businesses are focused on developing new products, services and markets, may deter business people from taking the time to develop effective IP strategies to respond to them. A survey carried out in 2010² found that understanding of intellectual property amongst SMEs was limited with the consequence that few took even basic actions to manage potentially important intangible assets. For example, only around half of businesses surveyed recognised the benefits of checking the Trade Mark Register before deciding the name for a new product or service. A further study³ showed that only 6% of SMEs obtain patent protection for their innovations, as opposed to 13% of large firms. As a result many SMEs are struggling to exploit their own ideas and, as they are unable to protect their IP adequately, are at risk of having others copy them.

Great ideas, properly protected, help SMEs to compete with larger, established companies and to grow. For example, a strong trade mark supports effective marketing and brand development. Evidence shows that use of trade marks is associated with better innovation, growth and productivity⁴. These benefits apply to small, young companies as well as large established ones; a trade mark can help an SME to compete effectively within a market. Similarly use of patents is associated with greater knowledge creation and better use of knowledge within firms⁵.

There are a number of key Government bodies that work closely with business, all focused on growth and particularly supporting growth within SMEs. The IPO aims to link its work in with partners to provide a joined-up innovation support structure for business across the UK. Working in partnership with the Technology Strategy Board (TSB), The British Library, the Design Council, the Manufacturing Advisory Service and linking in to programmes such as Business Coaching for Growth will allow us to reach a wide range of SMEs and provide IP

2 IP awareness survey 2010 <http://www.ipo.gov.uk/ipsurvey2010.pdf>

3 The Impact of the Patent System on SMEs – Hughes and Mina 2010

4 The Value of Intellectual Property Rights to Firms – Greenhalgh and Rogers, 2007

5 Criscuolo, Haskel and Slaughter, 'Global engagement and the innovation activities of firms' (2006), NBER Working Papers 11479, National Bureau of Economic Research, Inc, 2006

advice that links in with their wider business needs. This will mean that there is 'no wrong door' for an SME. If they are working with one of the bodies within the support network, that body will link them to the partners they also need to talk to, making sure that businesses benefit from a complete package of integrated business advice.

Case Study - Ewgeco®

Ewgeco® is the creator of world-leading energy display systems which allow homeowners and businesses to monitor their energy consumption. Their unique systems are patent pending and have global design registrations.

Tanya Ewing, the founder of Ewgeco®, recognised the importance of protecting her invention from the outset and turned to the Intellectual Property Office (IPO) for support at an early stage to develop a sound intellectual property strategy: "The visual design of our energy monitoring system was as important to us as the technology we created. So we initially applied for design registrations, a patent and a trade mark. By submitting these early on in our product development, long before they were granted, we were able to put a value on our idea and raise capital from investors to develop our product."

Ewgeco® has seen exponential growth and investment: "IP has made a significant difference as the protection afforded is evident: we are legally covered, our features have not been copied, and although we are being closely watched by competitors there has been no infringement.



www.ewgeco.com

To understand better the difficulties facing SMEs in gaining value from their IP, in 2010, the Government commissioned an independently led review into Intellectual Property and Growth. The Review team specifically targeted SMEs as part of the consultation process, including a telephone survey of nearly 800 SMEs from around the UK, 20 in-depth interviews with SMEs and views from start ups at events held within the TechHub and at the Intellectual Property Institute. There were also over 100 written submissions to the Review from SMEs and private individuals.

In May 2011 the Review, led by Professor Ian Hargreaves, published its report, identifying three broad areas of difficulty for SMEs:

1. The complexity of advice offerings;
2. A lack of strategic business advice;
3. The cost of IP management.

The Review found that many SMEs find it difficult to identify the best source of advice for their business needs. With multiple sources of advice – from the IPO's own website, which offers basic factual information, to the expert, detailed advice offered by a qualified patent or trade mark attorney – many SMEs found it hard to identify the best source for their needs. Whilst all these different types of advice are valuable, SMEs said that what they needed most was access to basic, low cost advice that enabled them to make informed decisions about their IP. More than that, SMEs wanted that advice to be integrated with wider business advice, and not as an isolated issue, to allow them to make decisions on IP as part of their overall business strategy. The Review recommended that: "The IPO should draw up plans to improve accessibility of the IP system to smaller companies who will benefit from it. This should involve access to lower cost providers of integrated IP legal and commercial advice."

The IPO aims to ensure that UK SMEs know the value of their IP and have access to advice that will help them to grow their businesses.

Although the number of SMEs involved in actual IP litigation remains relatively low, it is clear that SMEs are often concerned by the prospective difficulties of enforcing their IP, or defending a claim against them. Litigation, in any form, can be costly and time consuming for all businesses. For SMEs with limited resources, both financial and human, the prospect of a legal dispute is daunting. In 2006, the Gowers Review estimated that, faced with an infringement claim, the cost of challenging a patent could be £750,000 even for a relatively straightforward case. Changes have been made and the situation is improving. However, in response to the Hargreaves Review, many SMEs still expressed concerns about the difficulties in enforcing their rights, or defending an unjustified claim against them.

The IPO's ambition is to ensure that UK SMEs both understand the value of their intellectual property and can access the advice they need to grow their business by maximising the benefits which flow from their innovation and creativity. The Innovation and Research Strategy for Growth published by the Department for Business, Innovation and Skills in December 2011, outlined some of the measures we are taking to deliver this ambition. This document now provides more information on those plans and a range of other measures we are considering including:

Provision of training and awareness seminars to business;

- Provision of access to online assessment tools to help business to identify their IP assets and build plans for managing them;
- Helping businesses develop strong strategies for management and commercialisation of their IP, the IPO will fund 200 IP audits in 2012/13;
- Provision of a directory of IP advisors to help businesses select the right advisor for them;
- Development of online training for all business advisors to allow them to be more confident in guiding their clients on IP matters;
- Provision of Masterclass training to business advisors who are supporting high growth, high innovation businesses;
- Working in partnership with the Patent Library network to improve their offering to business;
- Working in partnership with the British Library to extend the model used at the Business and IP Centre in London to six regional Patent Libraries;
- Running, in partnership with Aardman Animations, the Cracking Ideas competition to introduce school children to intellectual property;
- Working with universities to reach students who need a good understanding of intellectual property to benefit their future careers.

In addition, we are considering further options to create new networks across the country to reach out to SMEs by:

- Working with the Local Enterprise Partnerships to offer tailored local advice to businesses in different regions;
- Stimulating the creation of business and IP advice networks across the UK.

We are seeking feedback from businesses, business representative organisations and others on how these measures can best be tailored to meet business needs and whether there are any further gaps which need to be filled. A separate formal consultation will be published setting out options for providing alternatives to litigation for SMEs.

If you have any comments relating to the proposals outlined in this document please send them to SME@ipo.gov.uk by 3 July 2012. We will use this feedback to inform and develop existing and planned services and continually improve our offering to businesses.



Chapter 1

Raising awareness and understanding of IP

Improving business understanding of IP

Intellectual property is not generally taught in schools, there is only limited teaching within the university curriculum and many of the intermediaries who will advise businesses at the point of start up will themselves have very limited knowledge of IP issues. As a result, entrepreneurs often lack IP knowledge in the crucial start up phase of a new business. A 2010 survey⁶ showed that many SMEs, and the vast majority of micro-enterprises, have very limited knowledge of IP and its relevance to their business. Only 21% of companies with 50-250 employees were aware that publication of an invention would prevent them obtaining a patent for it, falling to just 14% for companies with less than 50 employees. At the same time just 23% of companies recognised that, in the absence of a contract to the contrary, a contractor would retain copyright in a website created for a company. Again, knowledge in the smallest companies was considerably lower than in larger businesses.

IP can present both risks and opportunities for businesses of all kinds. Many SMEs' first experience of IP will be at the point where a problem has arisen, often when they become aware that a competitor has taken their idea. It is often only at this point that the SME realises they should have taken steps to protect their own ideas. By the same token, SMEs often risk running into difficulties when using IP that they do not own. Helping businesses to understand IP, recognise the potential pitfalls and spot IP-related opportunities to generate income is critical both in avoiding costly and time consuming problems and supporting company growth. Areas where SMEs often experience issues include commissioning of third parties to develop websites or promotional literature for them, the playing of music for staff and customers or selecting a brand or company name which turns out to be too close to a registered trade mark. Many of the problems which arise here could easily be avoided by checking out the position in advance, making sure agreements with third parties are clear or taking out appropriate licences where necessary.

The majority of SMEs do not need a detailed knowledge of IP. What they do need is a good basic understanding to allow them to identify potential value and risk in the IP they own and use. As one SME told the Hargreaves Review 'I need to understand enough of it correctly so I know when I need to get a lawyer and what the associated costs and implications of not doing

6 IP awareness survey 2010 <http://www.ipo.gov.uk/ipsurvey2010.pdf>

so would be⁷. Armed with this understanding SMEs will be able to make the most of the opportunities for increasing revenue from their IP, reduce risks of infringing other people's IP and seek further advice at appropriate points in their business development.

Training events for businesses

The IPO already provides tools and services to support SMEs in building their own knowledge and understanding of IP and its relevance to them. This is delivered through a mix of online tools, literature and events aimed specifically at SMEs, their advisors or with partners who interact with businesses regularly. In 2012/13, we have set a target of reaching at least 25,000 businesses across the country through our partnership events.

Working with the Institute of Directors, we are currently embarking on a pilot to raise awareness of IP amongst their members, by attending their regional events, and we are working in partnership with Companies House to deliver IP awareness events to first time Directors. We also recognise that many SMEs are looking beyond the UK to overseas markets, so we work in partnership with UK Trade and Investment, offering training to businesses who participate in both their Passport to Export and Gateway to Global Growth programmes.

Training tools and events for business advisors

The IPO can't reach every business direct, nor is this what businesses want. Most businesses will have contact with a variety of advisors and intermediaries from start up through the business development cycle. These intermediaries will include banks, accountants and professional bodies as well as public sector channels. By making sure that the advisory community has a stronger understanding of the IP issues which might face business clients, and the associated opportunities and risks, we aim to ensure that all businesses can find high quality IP advice when they need it.

Online Business Advisor Training Tool

Many business advisors hesitate to discuss even basic IP issues with their clients, feeling that the area is too specialised and technical to allow provision of general advice. Whilst in certain circumstances advice will be needed from an expert, many SMEs simply require basic advice or information at an early stage of business or product development, which can help them make decisions about the need for more detailed input from an expert. We believe all strategic business advisors should be able to recognise the role IP can play in business development. We are therefore developing a free online training tool designed to equip all business advisors with a basic knowledge of IP and when it may be relevant to a client's business.

The online package will have content tailored to specific sectors, including case studies, videos and an 'ask the expert' question forum. The training package will not give advisors the skills to provide detailed advice but will allow them to recognise potential IP issues for a business, provide sound advice on basic IP issues and also to identify when a business should seek to engage an IP specialist.

7 Quote from SME Qualitative Interviews; established digital/service content company with 40-500 employees.

Masterclass training for business advisors

For those advisors who work with IP intensive SMEs, or who wish to be able to offer a stronger IP advice element to their clients, the online tool may not be sufficient. The IP Masterclass gives business advisors a more detailed understanding of IP issues and their impact within a business. The Masterclass was developed by the IPO in partnership with The British Library and Coventry University and is supported by both the Chartered Institute of Patent Attorneys and the Institute of Trade Mark Attorneys. It is a two day course, with an additional half day if advisors wish to obtain accreditation by Coventry University, covering the full range of IP rights and related commercial issues offered on a commercial basis to all business advisors. Advisors who have completed the course can offer advice on issues such as valuation of IP, building a brand identity and licensing IP rights.

Over the coming year we will also be funding this training for business advisors within the Business Coaching for Growth Programme, the Patent Library (PatLib) network and at the newly launched Catapult centres. Our work with these networks is outlined in chapter 3.

Helping business manage and exploit its IP

Despite the clear benefits to business in more active management of IP assets, fewer smaller businesses are able to do so. Resources are, understandably, focused on finding and attracting customers with the result that only 11% of businesses report having someone with specific responsibility for managing intellectual property rights and only 8% of SMEs said that they provided any staff training on IP issues⁸.

Online Healthchecks

The IPO online Healthcheck <http://www.ipo.gov.uk/whyuse/business/iphealthcheck.htm> is a tool which helps any business conduct a basic assessment of its IP. The assessment is free of charge and covers important topics such as licensing IP, confidential information and trade secrets and, most recently introduced, franchising.

The Healthcheck involves completing an online questionnaire which examines how a business uses information and innovation to build an overall picture of where the business might be generating or using IP. The business then receives an individual report telling them where they may have unused or unprotected IP, flagging where they may be using IP they don't own, and giving them action points to help them begin developing a business strategy for managing their IP. Over 60% of businesses responding to an IPO survey that had used the Healthcheck said that they had taken action within their business in response to the information received. The report highlights potential opportunities and risks so that relevant action can be taken. Sometimes these actions are simple and can be addressed within the business, others will require professional advice to ensure the company is confident of its legal position. The Healthcheck report will help them make this decision and provides them with details of how to reach IP lawyers and specialist IP support organisations. This can help businesses to make sure they are not risking infringing other people's rights, lowering their risk of legal disputes.

8 IP Awareness Survey 2010 <http://www.ipo.gov.uk/ipsurvey2010.pdf> survey

To date, over 9,000 Healthchecks have been completed, with trade marks being the most popular topic chosen. We have recently extended the range to include a new Franchising tool. Franchising cuts across a number of IP issues, and we received many requests to provide a tool that enabled people to set up their own franchise successfully. The tool was developed in partnership with a lawyer who specialises in franchising law and includes advice not just on IP law but also on related issues such as contract law. This new tool was launched in February at the Franchise Show in London.

We are currently undertaking a complete review of these services to make sure they remain current and meet business needs.

Strategic IP Audits

Whilst the Online Healthcheck is an excellent first step to assessing a company's IP assets, many high growth, highly innovative SMEs need a more tailored assessment to develop detailed IP management strategies.

In 2010/11, the IPO ran a pilot scheme funding IP audits for businesses that had received funding from the Technology Strategy Board. Following the pilot, the IPO surveyed those businesses that had participated on the value they felt the audit provided. 30% of businesses felt an IP audit was vital to their future success and a further 50% felt that the benefits to their future success were 'very significant'.

To date, 9,000 IP Healthchecks have been completed. We have recently extended the range to include a new Franchising tool.

Following the success of the pilot, we plan to extend this scheme. The IPO, in partnership with the Scottish Intellectual Assets Centre, the Business Coaching for Growth Programme and the TSB, will identify start up and high growth companies that would most benefit from an audit.

SMEs will be able to apply for funding for an IP audit via one of the IPO's partners for the scheme. The business, together with its advisor, will need to set out the reasons they feel they will benefit from the audit, either to build a management strategy for the IP already identified throughout the business or to support commercialisation of a new product or service which will allow the business to grow. The business can select a qualified IP professional, either a registered attorney or a business advisor who has completed relevant IP audit training that they are confident can deliver what they need and the IPO will cover the cost of the audit up to £3,000. The audit must cover all aspects of IP, including the formal rights, copyright, patents, trade marks and designs, as well as the informal IP which includes technical know-how and trade secrets. It must also include advice on building an IP management strategy. This will provide guidance tailored to the business on how to integrate IP management into business practices. SMEs will often benefit from advice on filing strategies, how and when to rely on confidentiality agreements to protect intellectual assets, licensing strategies and enforcement of their IP rights.

Case study – Advanced Pest Solutions (APS)

As part of a Technology Strategy Board (TSB) associated project we were aiming to develop environmentally sound, practical solutions to bacterial pathogens that cause major crop loss throughout northern Europe.

One significant aspect of the TSB project was an IP audit. The audit was carried out by a qualified law firm and reviewed access to our University partner's background IP. This provided us with advice on options on how to secure access to the University's IP. Additionally, the audit helped us identify additional patentable outcomes of our project, draft template distribution and licensing agreements to use with manufacturers and advice on maximising brand protection.

Overall, the audit was very useful in focusing on the establishment of commercially agreeable relationships between the parties involved and has highlighted other potential routes for commercialising the project's outcomes. Draft documents produced during the audit have been useful in putting in place some of the aspects discussed in the audit and moving forwards with a number of potential commercial partners.

We are currently undertaking a second audit looking specifically at developing our brand protection and obtaining trade marks.

Summary

Through this package of direct support to business, the IPO aims to provide SMEs with the skills to assess the IP that is owned by and used within their company and identify the opportunities and risks this presents for them. They will also be able to recognise when to seek further advice from specialist sources, and will be able to identify the right source of advice for their needs. Together these measures will allow SMEs to manage and exploit their IP effectively.

Over the next year we will:

- Provide high quality online tools and literature to assist SMEs;
- Develop an online training tool for business advisors;
- Offer Masterclass training for business advisors;
- Review the online Healthcheck tool to make sure it meets current business needs;
- Fund 200 strategic IP audits.



Chapter 2

Improving access to IP advice

Whilst the IPO will maintain its own business outreach service, this is principally focused on general advice, awareness raising, tools to support business and providing training for business advisors. All of these are important and can help business to improve use of their IP, but they are not tailored to the specific needs of an individual company. Comprehensive, detailed legal advice on IP matters is provided by qualified attorneys, but this might not have the commercial focus the typical SME requires and can be very costly. Conversely, business advisors can give general commercial advice but often lack the knowledge of IP to provide a fully integrated service to SMEs. The Hargreaves Review looked in detail at the advice offering available to SMEs and concluded that the current IP service provision is not configured as well as it could be to help SMEs understand and protect their IP or realise value from it.

For many SMEs, and especially start ups when minimising costs is a priority, IP is often not seen as a critical factor, despite evidence that shows that those companies that effectively use their IP have a better chance of survival⁹ and growth¹⁰. However, three-fifths of SMEs surveyed within the Hargreaves Review indicated that they would be interested in better access to advice for start up businesses, which included initial basic advice on IP, and two thirds said that what they really needed was access to an intermediary who could provide basic advice on IP issues, rather than the detailed advice offered by attorneys. Businesses want this advice to be part of an integrated service combining commercial advice with legal IP advice, to achieve maximum commercial benefit their IP.

The Review recommended that:

The IPO should draw up plans to improve accessibility of the IP system to smaller companies who will benefit from it. This should involve lower cost providers of integrated IP legal and commercial advice.

Working with partners throughout the UK, we will create networks of advisors across the UK, offering affordable integrated IP and business advice to SMEs and entrepreneurs. UK wide partners include Invest NI, UK Trade & Investment, Scottish Enterprise and the Welsh Government.

9 Innovation and Survival of New Firms across British Regions – Helmers and Rogers 2008

10 The Value of Intellectual Property Rights to Firms – Greenhalgh and Rogers, 2007

Online directory of IP advisors

Once a business has assessed its IP, it may well need to seek further or specialised advice on specific issues. This might be specific advice on commercial aspects of licensing or using their IP, specialist advice in drafting a patent specification or legal advice in resolving an IP dispute. Many SMEs told the Hargreaves Review that one of the biggest difficulties they faced was identifying a suitable advisor. A quarter of SMEs said that there were simply too many services available and it was difficult to choose the right one. SMEs need to be confident in selecting the right advisor to meet their needs.

The IPO is considering creating an online directory allowing businesses to enter their postcode and obtain a list of advisors within their area, the level of qualifications they hold and also some information about the type of advice they can expect to receive. A simple list of names will not improve the current situation. We plan to add additional information to the register indicating whether the advisor is a qualified attorney, a solicitor who specialises in IP, an advisor who works for an organisation that complies with BS 8538 - the provision of services relating to intellectual property – an advisor who has successfully completed the IPO's master class training programme, and obtained accreditation, or an advisor who has completed the core modules of the IPOs Business Advisor Training Tool.

We are keen to hear from SMEs, their representative organisations and advisors operating in the IP space whether they feel that a directory of this sort would be helpful. Further, if the IPO does create an online directory we would like to know exactly what types of categorisation of advisors would be most useful and what information businesses need to have to make the right decision when identifying a suitable advisor.

Integrating IP advice within public sector business support programmes

Business Coaching for Growth

The Business Coaching for Growth Programme, run by BIS, aims to help up to 10,000 high growth businesses a year address barriers to growth and grow more rapidly. It will target a select group of businesses which are either established SMEs with the potential to increase employment or turnover by 20 per cent or more each year for three years or are new start-ups with the potential to become “gazelles” i.e. the potential to achieve turnover of £1m within three years of starting trading, or to have at least 10 employees within three years.

The programme will be delivered by specialist private sector providers and will offer:

- Coaching of senior management teams to develop and implement growth strategies and develop leadership and management skills;
- Tailored, specialist help to develop a successful investment pitch;
- Facilitated introductions to potential investors;

- Access to high quality facilities by partnering with leading business incubators, science parks and Technology Innovation Centres;
- **Advice on how to identify and protect intellectual property and copyright and develop strategies to commercially exploit IP and innovation;**
- Specialist help to commercialise innovation and to build a culture of innovation within the business;
- Fast track access to trusted sources of specialist advice and support such as the Technology Strategy Board and UKTI;
- Access to business and knowledge networks.

Working with the consortium delivering the programme, the IPO is supporting the delivery of advice on IP. We will provide training for the Innovation Coaches through the IP Masterclass to ensure that businesses with the potential for high growth receive initial IP advice that will help them realise their growth potential. Additionally, the IPO's sponsored audits will be available to those businesses participating in the programme.

Catapult centres

The Technology Strategy Board (TSB) is currently setting up a network of world-leading technology and innovation centres, known as Catapult centres. Catapult centres can create a critical mass for business and research innovation by focusing on a specific technology where there is a potentially large global market and a significant UK capability. These centres will be an important part of the UK's innovation system, making a major long-term contribution to UK economic growth. They will allow businesses to access equipment and expertise that would otherwise be out of reach, as well as conducting their own in-house R&D. Each Catapult will target a specific sector and will help transform the UK's capability for innovation within that technology area. The first Catapult centre, focusing on High Value Manufacturing, opened for business in October 2011 and two more, in Cell Therapy and Offshore Renewable Energy will open in 2012.

The centres will also help businesses access new funding streams and point them towards emerging technologies and complement other TSB programmes to promote collaboration between universities and business. The IPO is working with the Technology Strategy Board to advise on the development and implementation of an IP strategy for the Catapult centres.

The creation of this new network provides an opportunity to engage with a wider group of SMEs and help them manage their IP more effectively. It will be important to ensure that SMEs protect the IP they bring to new collaborations and have satisfactory arrangements for the control of any IP generated as part of their engagement, particularly when entering collaborations with much larger, often multi-national, companies. The IPO will work together with the Technology Strategy Board to develop an SME engagement pack. This pack will provide SMEs with the information and tools to identify their background IP; to positively reassure them as to the ownership and protection afforded to their background IP during engagement with the Catapult;

and to provide them with information to successfully manage, exploit and commercialise any IP they are entitled to, that may be generated through their engagement with the catapult. This should mean that companies are in a strong position to commercialise their results.

The successful management of both existing and newly generated IP is seen as essential to the success of the Catapult centres. IP licensed from the centres will be one of the operating performance metrics. All contract and business engagement staff from each of the seven members of this first Catapult centre will be attending the IP Masterclass. The course will be offered to new Catapult centres as they are launched over the next eighteen months. In addition, TSB staff from both the business and technology sides are being offered a tailored version of the Masterclass.

The Patent Library network

There is already a network of 13 Patent Libraries covering all regions of the UK, offering a variety of services and receiving around 14,000 enquiries each year. Whilst some of these already provide an excellent service, offering business advice together with patent searching and clinics with IP professionals, the services provided in others are more limited. The IPO will work with the Patent Library (PatLib) network, to strengthen the regional advice centres that already exist. The IPO will be offering Masterclass training for advisors at all the PatLib centres, giving them the skills to include commercial IP advice into their wider business advice and to extend the variety of IP services they are able to provide.



The flagship centre of the PatLib network is the Business and IP Centre, based within the British Library in London. The Centre opened in 2006 and since then has seen over 250,000 entrepreneurs and SMEs pass through its doors. Focusing on making the link between IP and business expertise, the Centre supports users through the innovation cycle through to commercialisation. The centre has a team of 12 fully trained information specialists, along with six research specialists. Additionally, an inventor and IP Attorney are in residence. Offering workshops on IP and business and providing one-to-one advice sessions the Centre has a proven model for supporting SMEs within the London area, ensuring they understand and develop their skills in IP, market research, company and financial matters in a way that aims to support business to grow. The most recent evaluation of the impact of the Centre shows a high return on investment, with £4.61 in turnover being generated for every £1 spent¹¹. By sharing the knowledge and expertise that already exists within the British Library across the wider PatLib network to achieve economies of scale, the strengths of the London model can be shared across the UK to improve the commercial management of IP for SMEs and entrepreneurs nationally.

The IPO will partner the British Library in rolling out the model adopted by the Business and IP Centre in London to other Patent Libraries throughout the UK wide network. In the initial project phase the model will be rolled out through six locations, Birmingham, Leeds, Liverpool, Manchester, Newcastle and Sheffield, to support innovation and IP exploitation in their local economies. Once all six centres are fully operational in 2013, they will provide support to over 6,000 entrepreneurs and firms. The blueprint to roll out this model to the six initial libraries will also be available to other PatLibs to further extend this network.

The Business and IP Centre has
12 fully trained information specialists
and six research specialists.

11 Supporting Economic Growth 2007-2009 – an evaluation of the Business and IP Centres impact on London, February 2010, Adroit Economics Ltd for the Business and IP Centre

Michael Korn – KwickScreen

We developed KwickScreen; a portable, retractable room divider which we're currently selling into hospitals. I came up with the idea while studying a masters in industrial design engineering at the Royal College of Art when I was looking at hospitals and how they could make better, more flexible, use of their space.

I used the Business IP Centre to help decide on what IP elements we needed for the KwickScreen and we now have a patent, we have an exclusive licence of using the RolaTubes to make screens, we have registered the design and we also have a registered trade mark for the name KwickScreen.

We only recently launched and a number of trusts are buying screens for isolating patients and also privacy and dignity. For us having a patent has been crucial, where we needed to engage manufacturers and get them to invest their time and efforts in making a product, they needed to know that this wasn't a product that somebody else could then make and copy. So it was that element of security that helped us get a lot of help from people along the way and now that we're selling it into the NHS it also gives a lot of confidence to people that we're buying from that there's not going to be copycat products that are going to come in.

In future we do expect to export the product to other countries where there's also a need for room dividing in hospitals and there's also a lot of demand for this sort of product in other markets such as schools and offices.

Local Enterprise Partnerships

The Local Enterprise Partnerships which have been established across England are led by local authorities and businesses across natural economic areas. They provide the vision, knowledge and strategic leadership needed to drive sustainable private sector growth and job creation in their area. They have strong links into the local business community within their areas and hold the local lead for encouraging enterprise and business growth by developing mechanisms suited to the needs of businesses and entrepreneurs in their area. Although some LEPs are more structured than others, this means that LEPs will often be well placed to identify and deploy appropriate channels for business awareness-raising in their area.

The IPO is considering offering a challenge fund to enable LEPs in England and other local partners in the devolved administrations, to stimulate IP awareness raising and advisory services in their area. Applications would be judged by a panel chaired by the IPO and would need to demonstrate that the work being considered would meet local needs, could be delivered successfully, either directly by the local partner or in partnership with others, and can be developed into a sustainable model within the area after the initial spend.

We would welcome comments on the value of this approach and reflections on how this competition could be run to ensure that the end result is valuable and sustainable in the long term.

Independent IP advisory service

We recognise that cost can be a barrier to SME take up of IP advice. The IPO is therefore considering whether it could act to stimulate the development of stronger, more affordable IP advisory services within the marketplace. One option we are examining is whether there would be value in an IPO-backed service model akin to the popular Manufacturing Advisory Service. Such a service would target SMEs with strong growth potential and include an initial diagnostic report which would include recommendations for further work geared to maximising the value of the company's IP assets. It would be for the client business to decide whether and how to take forward recommendations following the diagnostic, but we propose that the service model would include the potential for capped price consultancy support to do so, potentially with a payment subsidy from the IPO.

The service could be integrated with other business support services. For example, advisors within the Manufacturing Advisory Service could refer businesses to the IP advice service if they identify a significant need for the business to develop stronger IP strategies. One option could be that any IP professional who wished to be able to offer advice on a subsidised basis could register with the IPO, we would then make this list available via the online directory so that SMEs can readily identify potential advisors within the scheme.

We would welcome comments on the value and appetite for such a service and on:

- Which businesses the service should target;
- The level of discount/subsidy IPO would need to contribute to encourage client businesses to take forward diagnostic recommendations;
- What application/referral mechanism would be most appropriate;
- How the IPO can ensure that service standards are high and sustained.

Cost can be a barrier to SME take up of IP advice. The IPO is considering whether it can stimulate the development of more affordable services.

Summary

Through this package of measures we will provide improved access to commercially based IP advice for all SMEs. By working with existing networks that are well known to business we will maximise our reach and ensure that IP advice is provided alongside other forms of business advice, meeting the needs of SMEs. We will explore further the idea of creating an online directory of advisors and are interested in views on whether this will be useful in signposting businesses to the right advisor for them. We are also keen to hear views on how an IP advisory service might work to provide affordable advice to SMEs.

Over the next year we will:

- Consider developing an online directory of IP advisors;
- Provide Masterclass training to business advisors in the Business Coaching for Growth Programme, at PatLib Centres and at Catapult Centres;
- Support the British Library and IP Centre in rolling out their model across the PatLib network;
- Investigate options for working with the Local Enterprise Partnerships to improve the provision of IP advice within their areas;
- Investigate options for creating an IP Advisory Service.



Chapter 3

Long term skills development

Entrepreneurs and innovators of the future

The UK's ability to compete in a global economy increasingly driven by innovation is key to our prosperity. We already have great strengths: our research and knowledge base; world-class businesses in innovation rich sectors; extraordinary creative capabilities and a stable business environment. These strengths combine to give the UK valuable competitive advantages on the global stage, but to maintain our competitive position we will also need a continuing flow of individuals – entrepreneurs, inventors, creators, employees - with the technical and business skills needed to develop new ideas and bring them to market successfully. Our education system plays a vital role in developing that flow, particularly as students prepare for the world of work.

At the moment, few university courses include a strong IP component. Even those courses most likely to lead to careers in IP intensive businesses may not address intellectual property issues. Similarly, school-age children have few opportunities to build awareness of IP issues within the traditional curriculum. We want to help education institutions – both schools and higher education – to integrate IP messages into those courses and classes where it is both relevant and appropriate, so that school-leavers and graduates bring to their future workplace an existing knowledge of common IP issues and opportunities, for example when they can copy material and how to protect their ideas so that they secure maximum value from them.

IP and schools

The IPO introduces school children to IP through its Cracking Ideas competition, run in partnership with Aardman Animations and featuring the Wallace and Gromit characters. The competition makes children aware of the value of creativity, the idea of protecting it and the need to respect other people's IP within a project they can enjoy. It is not designed to give children a deep understanding of the law or how to commercialise IP, rather Cracking Ideas is designed to spark their imagination and provide a little basic knowledge so that in later life pupils remember the key facts and have an initial idea about some of the issues. The online resource at www.crackingideas.com provides lesson plans for teachers, linked to the wider curriculum, challenges and games and an online community for young innovators to chat and get advice.

School children across the country are invited to enter the competition, drawing up their creative ideas around a theme and explaining the relevant aspects of IP within it. The competition has been running since 2007 and this year's competition has a sporting theme. We are aiming to increase the number of entries through partnerships with the Liverpool Space Port and the Girl Guides Association.

CRACKING IDEAS[®]

The 2011/12 Cracking Ideas competition asked children between the ages of 4-16 to come up with ideas for a theme park or theme park ride. Over 6,000 entries from across the UK were received. Regional winners from Northern Ireland, Scotland and Wales attended an awards ceremony at Newcastle Centre for Life where the three overall winners chosen by Aardman Animations were announced:

In the 4-7 age group, Arianwen Skyrme-Croft created 'Toy World' theme park including a puppet show with a central mirror so the audience can interact, a colourful storyboard for a musical, a magical TV advert and a logo with letters featuring things found in the park.

For the 8 to 11 age group, Sula Maclean created 'The Ocean Park, A Whale of a theme park', Sula produced a multi-coloured logo to promote the park on posters, newspapers, TV and radio as well as on-line advert.

Heather Rigby, in the 12 to 16 age group created the 'Levitation Space Coaster' where you can ride all the way into Space... extra fast!' She also remembered to mark her advert using the internationally recognised symbol for copyright.



Universities

UK universities are recognised as world leaders in research, development of cutting edge technologies and achieving breakthroughs in a wide range of technical disciplines. However, the UK has often been seen as less successful in commercialising these ideas and working successfully with industry to generate maximum revenue from them. This is changing. In recent years, many universities in the UK have proven to be highly successful in partnering private industry and commercialising their research.

The European Commission's *Recommendation on the management of intellectual property in knowledge transfer activities and Code of Practice for universities and other public research organisations*¹² sets out some principles for the management of Intellectual Property in collaborations between universities and business, including SMEs. Published in 2010, the Intellectual Property Office's *Guide to Intellectual Asset Management for Universities*¹³ builds on this recommendation to encourage development of Intellectual Asset management strategies in universities, including development of appropriate Intellectual Property management strategies in collaborations with SMEs. Standard licensing agreements, known as Lambert model agreements,¹⁴ have also been drawn up to assist universities and industry participants, particularly SMEs, to collaborate more effectively. These model agreements form a starting point to assist both universities and business in drawing up a licensing agreement. By the end of 2012, we will review the use and effectiveness of Lambert model agreements, evaluating their benefits to see if more can be done in this area.

As a means of building on UK universities' successes in commercialising their research and encouraging improved management of intellectual property and knowledge exchange in universities the IPO has, over the last two years, run the 'Fast Forward' competition. The competition awards prizes of up to £100,000 to fund collaborative projects between universities and business which will deliver long term benefits for both the UK economy and society through development of innovative knowledge exchange practices that set, test, develop or embed best practice. We will be evaluating the success of this competition and the projects it has funded in the Summer of 2012. Following this we will make an announcement regarding the future of the Fast Forward competition in September 2012.

12 http://ec.europa.eu/invest-in-research/pdf/ip_recommendation_en.pdf

13 <http://www.ipo.gov.uk/ipasset-management.pdf>

14 <http://www.ipo.gov.uk/whyuse/research/lambert.htm>

Case study – Easy Access IP

A collaboration between the University of Glasgow, King's College London and the University of Bristol secured £80,000 through the 2011 Fast Forward Competition to fund 'Easy Access IP'¹⁵, a radical new approach to the licensing of university IP.

Universities often have a wealth of untapped IP, which is not taken up and developed readily as SMEs are concerned about the costs and risks of licensing early stage IP, which may require further development. Easy Access IP overcomes this problem by making this type of IP available free of charge, through simple one-page agreements, which allows companies to evaluate it and put it to use quickly and with reduced risk.

Since its launch in April 2011, Easy Access IP has attracted interest from academia and industry, both in the UK and overseas. It is seen by many as a pilot for an alternative method of knowledge exchange, providing business with easy access to currently unexploited IP. This new knowledge exchange model is recognised as having the potential to reach many of the UK's most innovative and IP centric SMEs and in doing so potentially offering a clearer path to innovation and growth.

Over the next three years the IPO will work together with universities to reach those students who need a good understanding of IP to succeed in their later careers. Many universities have already sought to increase graduate employability by offering enterprise and entrepreneurship teaching across a number of disciplines, but our intelligence suggests that this rarely touches on IP issues. We want to help universities to integrate IP messages into those courses where it is both relevant and appropriate.

We recognise that few universities will have access to a sufficient cadre of qualified IP lecturers able to do this across all courses without support. The IPO will therefore strengthen its dialogue with those professional bodies which help to shape university curricula to identify where IP material will complement existing course programmes and to develop suggested course content. We will ensure that university heads of department will be able to access pre-prepared course materials and suggestions on how to find speakers which will bring lectures and tutorials to life. We will also work with university academics to establish a UK IP Tutors Network to support academics in building the knowledge and skills they need to bring IP issues into their courses.

Summary

The IPO will aim to ensure that young people have an awareness of IP issues so that, at a point where it may be relevant to them in the future, they are able to identify the need to seek further information. We will work with universities to ensure that we are supporting them in maximising the commercial benefits of their own IP and equipping their students with the right skills to be able to use IP effectively in their future careers.

Over the next year we will:

- In partnership with Aardman Animations, run the Cracking Ideas competition for school children to promote awareness of IP;
- Evaluate the effectiveness of the Fast Forward competition in stimulating new knowledge exchange activities between universities, Public Sector Research establishments and businesses;
- Work with universities and professional bodies to make sure that IP is included in courses where it will improve the future prospects of their students;
- Review the effectiveness of the model Lambert agreements in supporting collaborations between universities and business.

We want to help universities to integrate IP messages into those courses where it is both relevant and appropriate.

Chapter 4

Future work on dispute resolution

Resolving disputes

Whilst the number of firms involved in IP litigation remains relatively small, many SMEs are concerned about the potential costs of enforcing their rights. We recognise that this is a very real fear for many SMEs.

The Government has taken a number of steps to improve the situation for SMEs in recent years. In 2008, Lord Justice Jackson was appointed to lead a fundamental review of the rules and principles governing the costs of civil litigation and to make recommendations in order to promote access to justice at proportionate cost¹⁶. Following the Jackson Review, key changes were made to the Patents County Court (PCC):

- A cap on the maximum recoverable costs award (£50,000) has been introduced;
- Damages payments have been limited to a maximum of £500,000.



These changes provide greater certainty for SMEs when entering the Patent County Court, allowing them to make a realistic assessment of the potential risk they face, and deterring parties with greater access to finance from escalating costs in an attempt to force a less well resourced opponent to accept an unsatisfactory settlement. The PCC procedures also allow for improved judicial case management, which can allow for hearings to be taken on the papers, reducing costs for both parties.

However, we recognise that more can be done to improve access to the PCC for SMEs. In his Review, Lord Justice Jackson cited a number of examples where a small claims track within the PCC would be beneficial. He referred to instances where a journalist's articles might have been reprinted without permission or a photographer having had photographs downloaded from the internet without permission, and claims for a few hundred pounds might be successfully brought. Currently these would go through the same process as claims for much larger sums, resulting in the cost of bringing a case often being disproportionate to the amount being claimed. Jackson concluded that there was an 'unmet need for justice in this regard'. The later Hargreaves Review observed that the issue of a small claims track had not yet been addressed, and several submissions to the Hargreaves Review had advocated this change. In November 2011, having considered the value for money implications, the Government announced it would introduce a small claims track into the PCC. In January, we published a call for evidence¹⁷, together with an impact assessment, setting out the proposed details of how a small claims track will work to allow lower value disputes to be resolved at reasonable cost.

Alternative dispute resolution

Even with these improved procedures, we recognise that litigation represents a significant potential drain on a company's financial resources. For a small business, the time and energy taken to pursue a case also represents an important opportunity cost when those involved might otherwise engage in other business development activity.

Alternative dispute resolution mechanisms can offer options which are more appropriate to the needs of both parties and represent a more manageable resource profile for smaller businesses. This can be very important where the dispute is between two SMEs which might beneficially work together in the future, with solutions being reached more quickly and cheaply. We are therefore keen to explore what more can be done to assist SMEs in resolving disputes before they reach the court system.

The IPO currently offers a mediation service to any parties involved in an IP dispute who wish to resolve matters without resort to the Courts. The IPO mechanism provides one day of mediation at a standard cost of £1,000. The mediation is intended to allow parties to come to an agreement that they are both able to accept. This avoids lengthy, costly court battles and also allows for commercial settlements which can benefit parties longer term, such as licensing deals for the future. Uptake on the IPO's mediation service has been low: only 13 mediations have taken place within the past 5 years, and just one in the past year. As the usage is so low, we must consider whether it is appropriate for IPO to continue to offer the service, whether the service requires adaptation to be more valuable to businesses or whether the service should

17 <http://www.ipo.gov.uk/types/hargreaves.htm>

cease altogether. We would welcome comments on these questions. We recognise that low usage is, in part, due to poor awareness that the service is available. We would be interested in any feedback on perceived awareness levels and how, if the service does continue, the IPO might increase its visibility.

We also provide an Opinion Service for patents which allows anyone to request an opinion from the IPO on novelty, inventiveness or infringement of a UK patent. This can be either an assessment of whether the patent in question relates to something that really is new and inventive, often in the light of documents the requestor has discovered and sent to the Office as part of the request, or an assessment of whether a certain activity or product will infringe a patent. The service is swift – opinions are delivered within 12 weeks – and inexpensive with a standard fee of £200. The service, launched in 2005, has proven very successful. The Opinion is prepared by an experienced Senior Patent Examiner and provides an independent assessment of the main issues of the dispute. Whilst these opinions are non-binding, they help to give an indication of whether full legal proceedings might be successful. An Opinion can be useful when entering mediation or negotiating a settlement, and can assist in avoiding full litigation.

In 2010 we undertook a survey¹⁸ to examine satisfaction with the Opinion Service and to collect views on how it might be developed. The survey showed that the service was fulfilling its intended purpose of helping to resolve disputes at an early stage and in negotiations to remove infringing products from the market. The survey also showed that there was interest in the IPO widening its Opinion Service both to cover other aspects of patent law and also to consider offering an equivalent service for other IP rights. We are keen to explore whether more could be done with this service to assist SMEs in resolving patent disputes quickly and cost effectively.

There are many details to be considered in adjusting these services and a full consultation will be required. During the course of this year, we plan to publish a formal consultation setting out the options for extending the Patent Opinions service. We will also be consulting informally to gather evidence on the needs of business for a mediation service, with the aim of identifying exactly what sort of service the IPO could best provide for business in this area. We would be very happy to receive any initial views on these ideas.

18 <http://www.ipo.gov.uk/types/patent/p-dispute/p-opinion.htm>

Summary

Recognising that concerns regarding potential IP disputes are a major issue for SMEs, the IPO will support alternative dispute resolution to help SMEs resolve IP disputes quickly and cost effectively.

Over the next year we will:

- Introduce a small claims track for low value intellectual property claims to the Patents County Court;
- Run a formal consultation on the options for extending the Patent Opinions service;
- Consult on the issues surrounding the IPO's mediation service to determine whether there is a need for the IPO to provide a service in this area, and if so what that service should look like.

The IPO provides a service which allows anyone to request an opinion on novelty, inventiveness or infringement of a UK patent.





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