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## **Response to Call for Views on Industrial Strategy**

This is a response from CIPA to the UK IPO's call for views.

The Chartered Institute of Patent Attorneys ('CIPA') is the representative body for Chartered Patent Attorneys in the UK. Most CIPA fellows (around 2240 people) are Registered Patent Attorneys regulated by IPReg (a national Regulatory Authority supervised by the Legal Services Board under the Legal Services Act 2007) and are also qualified European Patent Attorneys (although the three groups do not completely overlap).

As requested in the call for views, we will begin by commenting on the specific ideas raised in the Annex and will then provide further ideas for consideration.

### **IP Trading Platforms**

CIPA supports the development of IP Trading Platforms by the private sector. As stated in the document, this is a relatively new area and the platforms that have been developed to date are certainly not perfect. This may be partly due to the fact that the same IP right can have very different values to different businesses. CIPA believes that improved platforms are being developed and that their development should be left to the private sector. The UKIPO should raise awareness of these platforms as part of its outreach and educational activities without promoting any one of them over the others.

### **B2B Model Agreements**

CIPA strongly supports the creation of a toolkit similar to the Lambert toolkit, including templates for the most common forms of agreements used by businesses, to cooperate in research activities. The toolkit should help businesses, particularly those with less experience of entering and managing such research relationships, to identify the appropriate type of agreement for the relationship and to enter productive negotiations. CIPA would like to assist in developing the toolkit.

Our members report that it is often most difficult to negotiate such agreements with businesses (usually SMEs) that have little prior experience and that are not using specialist IP advisors. We believe that UKIPO could work with other IP experts to provide education and training



for SMEs in this area. CIPA would be very happy to cooperate with the UKIPO and other interested bodies in developing and delivering suitable training.

### **Voluntary IP Register**

CIPA is well aware of the pros and cons of such voluntary registers. We recommend that the UKIPO should study the registration systems already operating in countries such as Canada, China and the USA and should also review the work that has already been done by some organisations in the UK. Subject to the results of these studies, we believe that the UKIPO should proceed with a pilot project for a voluntary register for one particular type of right and then review the results of this pilot before deciding whether to proceed further. Unregistered designs or a defined area within copyright may be a suitable area for such a pilot project. Clear statements would need to be issued to ensure that participation is truly voluntary and that no adverse conclusions should be drawn from not including a specific right in the register or from not picking up an included right in a freedom to operate search.

### **New Financial Products**

CIPA believes that lack of knowledge about and therefore confidence in IP is a significant barrier to banks providing financial products based on IP. We would like the UKIPO to target more of its educational activities at banks so that they will be better placed to develop new products based on IP. Similarly, educational outreach should also be provided to insurance companies, accountants and business advisers as they may well be the first point of contact for SMEs that could benefit from new financial products. The UKIPO may also wish to review the work being done by large IP owners in supporting smaller collaborators. CIPA will be very willing to work with the UKIPO on outreach activities.

### **IP Licensing Resolution**

There are already a number of different routes available for resolving such disputes so CIPA is not convinced of a need for the UKIPO to set up a tribunal.

### **Royalty-free Patents**

CIPA believes that patents stimulate innovation. In some cases, patentees decide to make their technology freely available to others by abandoning some of their patents or by publishing statements on their websites that specific patents are available for licensing at reduced or zero royalty rates. A number of organisations are already carrying out research in the area of open IP and open innovation. We suggest that the UKIPO should review this research. At present, CIPA is not aware of any need for the UKIPO to take on a role in this area and would query the value of an initiative that would necessarily be limited to UK patents. If the UKIPO wishes to proceed further, we suggest that a consultation be carried out to determine whether any benefits would outweigh the expense.

### **IP Valuation Standards**

CIPA supports the research that the UKIPO has already done (Hidden Value UK IPO 2017) and is continuing to do in the area of IP Valuation. This paper recommends some areas for further research such as interlinks between intangible assets valuations and IP strategy and we encourage the UKIPO to follow up on these specific areas. We are not convinced of the

benefits of the UKIPO developing a valuation standard, particularly as the same right can have very different values for different businesses and the value of a right can vary significantly over time depending on factors such as developments in case law and technology.

### **Other Suggestions**

#### **International Harmonisation**

The UK has played a leading role in international discussions on harmonising IP laws. CIPA is very keen for this to continue as we believe that there is potential to reduce the cost and complexity of IP systems globally. Significant progress has been made and it is important to keep pushing forward.

#### **21<sup>st</sup> Century IP**

Harmonisation discussions are based on reconciling differences between systems already existing in various jurisdictions. CIPA would support the UKIPO initiating discussions with stakeholders about what sort of IP system they would want if starting from scratch, without the constraints of existing systems. Such discussions should take account of the potential impact of new technologies such as, for example, AI and gene editing. CIPA would be keen to participate in such discussions.

#### **Consider IP Terms for Any UK Funding Program for Research**

If the UK wishes to implement a program to fund research, for example in place of the EU's Horizon 20/20, the UKIPO should consult with stakeholders to ensure that the IP terms are simple and flexible. CIPA is ready to assist in any such discussions.

#### **Maintain Focus on Core Activities**

CIPA encourages the UKIPO to maintain its focus on the core activities of granting strong IP rights in a timely manner. These activities underpin the IP system in the UK and must remain the top priority for the UKIPO particularly when budgets are constrained.