



Intellectual
Property
Office

Customer Visit Programme 2016/17



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Introduction

The Intellectual Property Office (IPO) has a statutory responsibility for granting intellectual property (IP) rights in the UK. The Customer Visit Programme has been running since 2013, forming part of a wider schedule of customer and stakeholder engagement, and provides us with an invaluable opportunity to gather feedback that we can use to improve our patents, trade marks and designs services, as well as allowing us to learn more about our customers. This report summarises the feedback we've received through this year's programme of visits.

As the UK prepares to exit the EU, our continued focus on delivery of a world-class IP system is more important than ever. We must ensure that our services and information meet our customers' needs in the best possible way, whether they are an SME, a multinational company, an individual, an educational institution, or an IP professional.

I am of course delighted with the positive feedback we have received for our services and for the skilled and committed people at the IPO who deliver them. This is reinforced by our 2016/17 customer satisfaction score of 87.3%, but there's clearly more we can do. Our challenge is to act on the feedback we receive and to demonstrate an organisation-wide commitment to continuous improvement.

We know that our customers want us to continue to deliver high quality work quickly, but they have also told us where there is room for improvement. Their top ask is a full range of effective e-services, and their feedback will inform our drive towards a 100% digital offer. It is also clear that our customers want clarity on how the UK's exit from the EU will affect the IP system, and we shall do all we can to deliver that.

Our customers have told us that they value greatly the opportunity to meet us and share their views. For our part, we are extremely grateful for the valuable time they give us, and the contribution they make towards shaping our current and future services. I would like to thank everyone who was involved in this year's programme, and I hope they will see in practice how their input is making a real difference to their customer experience.

A handwritten signature in black ink that reads "Sean Denmehey".

Deputy Chief Executive



The Visits

Between April 2016 and March 2017, the Customer Visit Programme held meetings with 25 different applicants or attorney firms - four of which were attended by the CEO or Deputy Chief Executive - and hosted attorneys from Japan and China. We also participated in six Chartered Institute of Patent Attorneys (CIPA) regional events in the UK and one in Munich, allowing us to reach a wider range and larger number of customers. The IPO visit teams included patent examiners, formalities and register administration managers, trade mark examiners and e-services specialists.

In some instances we were able to visit applicants along with their attorneys, which provided an invaluable insight into both the relevant technology areas and the interactions between researchers and engineers and their representatives.

We shared information on our services and collected a wide range of feedback, which is summarised on the following pages, along with further information from the IPO on the issues that were raised.



Patents

Search and examination practice

Our customers appear to be generally satisfied with the quality of the IPO's work and consider it to be excellent value for money.

However, we have also been told by several customers that they consider the quality of IPO work to be not as high as that of the European Patent Office (EPO). A number of customers noted that they had received IPO searches in which documents highly relevant to novelty or inventive step had not been cited, but were subsequently cited by the EPO or an International Search Authority (ISA).


Customers who told us that they believe that IPO reports are lower quality than EPO reports stated that IPO searches still have a place in their filing strategies because they are lower cost, delivered more quickly and produce useful results. One customer stated that better quality searches and examinations would lead to better patents which would improve perceptions of the system. One customer stated that they would like an opposition period - as in the EPO and United States Patent and Trademark Office (USPTO) - because post-grant revocations procedures for invalid patents can be so expensive.

One customer told us that they were not convinced that all claims against which prior art is cited have always been fully considered at search stage and that IPO examiners do not always appear to fully assess whether prior art provides an enabling disclosure.

Customers are generally happy with the IPO's approach to inventive step objections. One customer told us that the bar for passing our inventive step test appears to be lower than the equivalent EPO test, while another told us that the EPO standard can be obstructive.

A number of attorneys noted that proactively helpful comments on the allowability of claims would be welcomed.

Our customers are generally aware that the IPO recruited a large number of patent examiners over the past three years as part of our drive to improve timeliness of casework. Some did note, however, that this appears to have had an effect on the consistency and quality of the objections being raised in some cases - particularly those on clarity - but expectations appear to have been managed well by the IPO and there has been no perceived overall reduction in quality.



We place great importance on providing quality work and feedback from our customers helps us to ensure that we take the right action to maintain high standards.

The IPO provides a programme of continuous development for all our examiners. This includes training on substantive law and search tools and techniques, as well as technical subject matter training. Management training is also provided for more experienced examiners. We have a full team dedicated to ensuring our training is of the highest quality and as up-to-date as possible.


The IPO carries out ongoing benchmarking involving comparisons of IPO searches with equivalent EPO searches. These comparisons involve numerical comparisons of the number of citations raised by the IPO and EPO on equivalent cases, and more detailed manual assessments of the quality of selected IPO/EPO equivalent searches. Overall, the results of these comparisons show that, in the majority of cases, IPO searches are of at least broadly comparable quality to those of the EPO. Comparisons with EPO work sit alongside our internal Inter-Divisional Quality Assessment programme.

Although at the IPO there is no patents “oppositions” procedure as such, it is possible to start revocation actions at the IPO at any point after the grant of a patent (including for EP(UK) patents). These are part of the IPO's patents tribunal, which includes a limiting of cost awards (except in exceptional cases) to a published scale. They thus provide the essential features of an oppositions procedure.

Section 73 of the Patent Act 1977 outlines the circumstances in which the comptroller has the power to revoke patents on his own initiative. As stated in the Opinions service section (below), it is now possible for a UK patent to be automatically revoked when an opinion is issued indicating that the patent clearly lacks novelty or an inventive step.

Examiners

IPO patent examiners are generally viewed by our customers as knowledgeable in their subject areas and as having a pragmatic approach to dealing with objections in a way that progresses cases towards grant, with a good balance between quality and timeliness. Examiners are viewed as friendly, helpful and generally easy to contact. One customer did note that he had struggled to reach examiners on occasion, that telephone calls were not always returned, and that examiners appear reluctant to accept invitations in letters to discuss outstanding objections over the telephone, adding unnecessary rounds of correspondence. Patent examiners were praised for the speed with which they deal with cases close to the compliance date, with one customer noting that the urgency felt by attorneys appears to be mirrored by examiners.



Formalities examiners were complimented for providing accurate advice and information and for being easy to contact. We have been told that when processing problems do arise, customers are generally pleased with the steps we take to resolve them.

We are very pleased that our customers find our examiners to be knowledgeable, helpful and easy to contact. We aim to continually improve our level of service, and the feedback we receive helps to shape the training we give our examiners.

Search and examination timeliness

Customers told us that they need to have time before the end of the priority year to consider search reports so that they can make decisions about further filings at other offices. There is widespread support for our 6-month search target, but several customers noted longer processing times in chemistry and biotechnology. One attorney noted the importance of receiving further searches within the priority year also.

One attorney stated that delays could lead to their clients filing first at other offices and using positive reports from these offices to accelerate processing at the IPO under the Patent Prosecution Highway (PPH), which in turn could contribute to problems with work flows at the IPO. We were told by a number of customers that more applicants would file at the IPO if timeliness was improved.

Several customers told us that they were concerned about delays in processing examinations and granting patents, which for applicants is a key step in the commercialisation of inventions.

There was also concern about the amount of time taken to examine amendments filed on applications where combined search and examination (CSE) had been performed because of the way the IPO currently prioritises amendments closest to the compliance date.

One customer stated that examiners set two-month reply dates for examination reports but often take much longer to examine any response, which leads to unnecessary costs and time pressures for applicants. One customer expressed a preference for reply deadlines to be longer at the beginning of prosecution.

We understand the importance of timely delivery of search and examination reports. We have recruited almost 150 patent examiners over the last three years in order to deliver work more quickly. We are now meeting our six-month search target on 90% of cases, while continuing to reduce the backlog of unexamined applications, which will enable us to process amendments more quickly also.

Accelerated processing

Our delivery of accelerated work is considered to be excellent and customers are generally well-informed about the various acceleration options available to them. However, we have been told that the lack of clarity over acceptable reasons for acceleration (other than the Green Channel, the PPH or the PCT Fast Track) can be problematic as applicants feel that they might need to disclose commercial matters for a case to be accelerated.

One customer stated they would be prepared to pay a fee for an accelerated service, while another stated that third party acceleration requests would be useful.

One attorney expressed concern about the quality of examination reports for some PPH cases accelerated at the IPO, stating that they have sometimes appeared rushed.

CSE is considered to provide a good quality examination early enough to influence decisions on further filings at other offices. Customers have told us they usually use positive reports from the IPO to accelerate elsewhere under the PPH, rather than the other way round.

We have continued to ensure that we deliver a fast service where customers need it, completing over 95% of accelerated actions within two months of the request. We also have a well-established mechanism for keeping commercially sensitive information confidential.

We have consulted on introducing a fee for accelerated services a number of times over recent years, but this has not generally been supported.

Further information on accelerated processing of applications can be found in the IPO's **Patent fast track guidance** (www.gov.uk/government/publications/patents-fast-track/patents-fast-track-guidance) and in the Manual of Patent Practice (MoPP) at paragraph 17.05.1.

Compliance period and divisional applications

Currently, the compliance date for an application is automatically extended by 12 months when the first examination report is issued more than 42 months after the priority date. A number of customers noted that this can cause problems because processing is condensed into a small time window. We were told by one customer that this moveable date – and the variation in response dates set by examiners – can cause problems with automated diary systems and workflows.

One customer suggested that the IPO should allow examination to be deferred. However, the compliance date is generally considered to provide certainty for applicants and third parties and to maintain a positive focus on progressing cases towards grant, which justifies limiting the extension to 12 months.

One customer told us that the option to file a divisional application with only three months of the compliance period remaining appears to lead to rushed processing by IPO examiners and poorer quality work, and expressed a preference for a fixed additional amount of time on the compliance date for any divisional filed.

One customer suggested that the IPO should reduce or waive the fee for extending a compliance period if it is found that the IPO has contributed to delays that necessitated the extension, or that the length of the compliance period could be calculated using a different approach, such as the 'patent term adjustments' used by USPTO.

One customer praised some examiners' use of email for providing updates and issuing electronic copies of exam reports close to the end of compliance period.

We are aware that the compliance period can place a burden on our customers, particularly when an increased number of examination reports are issued more than 42 months from the priority date. As mentioned earlier in this report, we are striving to provide timely examination of patent applications.

Filing behaviour


Many customers told us they routinely file with the IPO to secure a priority date and obtain search results for making decisions on further filings at the EPO or the World Intellectual Property Organization (WIPO). One customer told us they pursue UK applications where a fast grant is useful for commercial reasons.

Several customers told us that they have increased CSE requests because they find that the examination report provides a more useful discussion of the citations at an early stage for little extra cost.

One customer told us that they file with us when they want a faster, cheaper service than they can get at the EPO and when quality is less critical.

We were told by some applicants that they now file more applications and request more searches, but pay closer attention to which applications they pursue and which patents they renew.

The option to request searches on more than one invention in an application was viewed as positive in comparison to the EPO, which forces the filing of a divisional application.



The information we gather on filing strategies helps us to set targets that focus on providing the services that our customers need.

We are pleased that IPO search and examination reports enable customers to make informed decisions about international patent filings.

Changes to Patents Rules

Customers were positive about the recent Patents Rules changes, particularly the notifications of intention to grant and relaxation of the requirements for formal drawings.

We are pleased with the feedback we have received on changes to the Patents Rules. Following feedback on a notification of intention to grant letter which appeared to provide confusing guidance on the deadline for filing a divisional application, we provided to examiners further procedural guidance on issuing these notifications.

Excluded matter

We have been told that excluded matter objections based on the UK Aerotel/Macrossan test are communicated well and consistently by examiners, although some did question examiners' application of the AT&T signposts.

Several customers told us that they were more comfortable with the EPO's problem-solution approach and objections based on novelty and inventive step rather than those raised by the IPO on excluded matter. A number of customers stated that the IPO's assessment of 'technical contribution' is more difficult to understand and overcome than the EPO approach, and that the EPO test was more permissive, allowing patents to be granted for computer programs which the IPO had refused as excluded matter.

One customer stated that design and simulation were hugely important areas for industry, and expressed concerns that the UK patent system did not appear to support this.

One customer questioned whether the precedential value and breadth of interpretation of hearing decisions and court judgments on excluded matter was applied consistently by examiners, but stated that the IPO is more consistent than the EPO in its hearing decisions on excluded matter.

We are pleased that the way our excluded matter objections are communicated received positive feedback. Our approach to excluded matter is governed by the UK courts, both in terms of the approach we take in assessing excluded matter and in terms of where the boundaries lie as to which inventions are excluded from patentability and which are not. Accordingly, we follow the four-step test set out by the Courts in *Aerotel/Macrossan*, taking into account other relevant guidance from the courts such as the AT&T signposts.

We always strive to apply the relevant legislation and precedent case law to specific cases in a correct and consistent manner and our examiners undergo considerable training in this area which is regularly reviewed and updated. For example a number of our examiners who encounter excluded matter most often participated in intensive seminars on the AT&T signposts in the past year and we will continue to train and develop the skills and knowledge of our examiners in this area.

Patent Practice Manuals, Patents Notices and the Code of Practice

Customers were generally very positive about the online, searchable version of the Manual of Patent Practice (MoPP) and the way in which it is updated, and the PDF version is considered to be a useful reference document.

One customer stated that the IPO Formalities Manual was not updated often enough and lacked detail in places, and also suggested that the Litigation and Hearings Manuals could be combined as a single document for consistency and convenience. The same customer suggested that a consolidated online version of the Practice Notices should be made available, as pre-2005 Notices are only available online from the National Archives.

In discussions on the Code of Practice, several attorneys questioned their obligation to amend applications based on objections made under the Code.

We are pleased with the feedback that we have received from customers on the online searchable version of the MoPP.

The Formalities Manual was fully updated in March 2017. An online, searchable version is available at www.gov.uk/guidance/formalities-manual-online-version.

We are currently reorganising the Litigation Manual in a different way to suit better our organisational structure. However, the Litigation Manual and Hearings Manual are aimed at distinct audiences with different requirements; the Hearings Manual being heavily focused on legal matters, and the Litigation Manual on Office administrative procedures.

While there are some cross-references, combining the two would be unlikely to lead to a single cohesive document. We expect to review our Tribunal Manuals next year to see if they can better integrated.

The Code of Practice was established in consultation with users and outlines best practices which contribute to the efficient operation of the patent-granting system. Although adherence is not mandatory, following the points set out in the Code can result in an application being processed more quickly.

Appealing hearing decisions

One customer told us that the costs of appealing a hearing decision were prohibitively high, and suggested the IPO could consider introducing a lower-cost appeal of hearing officers' decisions (e.g. something analogous to the 'appointed person' for trade mark appeals).

In spring 2013, we issued an informal discussion paper on expanding the trade marks appointed person service to patents and SPCs. Responses to that paper did not provide enough evidence to take the idea forward.

Opinions service

One customer stated that the current Opinions service is good, fast and nicely structured and that it cuts out the risk of endless rounds of submissions, while others stated that it varied in usefulness. One customer stated that the new revocation procedures remove prohibitive costs of challenging an invalid patent, while others were unsure of the instances in which patents would be automatically revoked and whether the system would be effective.

It is now possible for a UK patent to be automatically revoked when an opinion is issued indicating that the patent clearly lacks novelty or an inventive step. Since this expansion of the service in October 2014, 22 opinions having been issued indicating that a patent is invalid. Of these, four patents have been revoked, three are pending revocation and four have been amended.

Patent Register Administration

Some customers raised concerns over Patents Register Administration processing delays and quality, particularly for name and address changes.

The pendency time for register updates is longer than anyone would like. We have provided guidance via the CIPA Journal and through a CIPA Webinar to influence filing behaviour and reduce queries.

We are actively addressing backlogs both by increasing resources and by investigating ways to streamline our processes to reduce delays.

Fees

The consistent message from our customers is that IPO fees are low, providing excellent value for money as well as affordability for SMEs. However, some customers believe that low fees give the impression of low quality, particularly when compared with EPO fees. Several customers told us that fees could stand to be increased, with one stating the current fee level gives the wrong impression about the ease of obtaining and exploiting patents.

One customer stated that the increased pressure on academics to publish papers has led to an increase in early patent filings, so low costs at this stage are very helpful.

As stated earlier in this report, one customer stated that they would be prepared to pay a fee for accelerated processing of an application.

Our consultation seeking views on proposed increases to patents fees closed on 6 June 2017 and the responses have been analysed. The government response has been published and is available here: www.gov.uk/government/consultations/proposed-changes-to-statutory-patents-fees. Even with the increases, UK patent fees will remain among the lowest in the world.


Patent Box

One applicant told us that it is unfortunate that the Patent Box scheme is being changed as they had taken advantage of it to move into better offices, attracting better candidates as a result, while another told us that the Patent Box is considered too complicated to be worth using.

One applicant told us that they are more likely to pursue an application in the UK if they intend to use the Patent Box.

One applicant stated that they would like to be able to get a faster grant on patents that they wish to use to take advantage of the patent box because their finance department does not use the system pre-grant.

The Patent Box has been amended by the Finance Act 2016 to comply with the tax transparency rules of the Organisation for Economic Co-operation and Development (OECD). The new rules link eligibility for Patent Box tax relief to R&D expenditure, e.g. where a company does 75% of the R&D on a piece of IP, with the other 25% bought in, then only 75% of the income can go in the Patent Box.



HMRC has published Guidance which can be found on [GOV.UK](https://www.gov.uk) in HMRC's Corporate Intangibles Research and Development Manual at CIRD200000 onwards. While there are several steps involved for the more complex scenarios, there is a flowchart at CIRD275000 which will provide help when identifying which steps are relevant in different cases.

Where an applicant requests acceleration in order to take advantage of the Patent Box, this reason will usually be acceptable if the applicant can demonstrate that a delay in grant would have a significant cash flow impact because of its effect on eligibility for the Patent Box.

The Patent Prosecution Highway (PPH)

One customer questioned the extent to which applications are independently assessed under the PPH, while another stated that greater consistency of approach between countries would be welcomed. One customer stated that using the PPH at the EPO was too burdensome because of the various requirements that must be met.

The PPH allows intellectual property offices to improve efficiency by making use of relevant work already conducted by another office. Whether a patent application meets the requirements for grant remains the responsibility of the patent examiner in the jurisdiction in question.

We will continue to work with other offices to expand and develop the PPH and to make the most of the efficiencies the system can provide while minimising burdens.

Harmonisation

Some customers told us that they would favour an introduction of grace periods for academic disclosures and for inexperienced applicants. We were told that grace periods at the USPTO were an incredibly complicated matter on which to advise clients.

We were told that estoppel in the US is a problem for efficient coordination of patent applications in other jurisdictions.

The UK continues to play a major role in harmonisation discussions, including on grace periods, as part of the B+ Group of Offices. Group B+ are working in close collaboration with international industry groups, and the IPO continues to gather views from UK users to inform this work.



Trade Marks

Customers were interested in the status of EU trade marks after the UK's exit from the EU, as well as the right of UK attorneys to represent clients before the EU IPO.

Clarity over the long-term coverage of EU trade marks, including any transitional arrangements, has been a clear priority in the IPO's work on exiting the EU. The IPO is discussing these issues regularly with CITMA, CIPA, IPFed and other representative groups. We recognise that users want minimum disruption, minimum cost and maximum coverage and we are considering the options that have been put forward.

We know that there are concerns about the continued ability of UK IP professionals to provide a full range of services to clients. Following on from meetings with representatives, we are aware that there are various options, including negotiated retention of full rights, grandfathering of existing rights, and other actions which may help mitigate the effects on UK IP professionals. All are under consideration.

Designs

Those customers who had used the online designs system were positive about it. Several customers were unaware of the system.

We were told by one attorney that their clients are reluctant to apply for national design protection, even with the recent fee reduction. We were able to inform customers about the Registered Designs Examination Practice Guide on the IPO website, which is the Designs equivalent of the MoPP.

Following the UK's vote to leave the EU, it is apparent that a lot of people will want to use the Hague System. One customer stated that the inability to control publication timing is a significant disadvantage of the Hague system, and that there have been some teething problems.

In September 2015, the IPO launched an electronic application service for registered designs. Approximately 98% of applications are now filed electronically.

The Government consulted on reducing the fees for registered designs. The new electronic processing system would reduce our costs, so we needed to pass on those savings to customers. The new cheaper fees were introduced on October 2016 along with the IT system.

Clarity over the long-term coverage of EU Registered Community Designs, including any transitional arrangements, has been a clear priority in our work on exiting the EU. The UK system for protecting design rights is not affected by the decision to leave the EU, and while the UK remains a full member of the EU, Registered Community Designs continue to be valid in the UK. We know that many businesses rely on the Unregistered Community Design. Careful consideration of the pros and cons of any possible changes has been, and will continue to be, part of our work on exiting the EU.

The UK is aiming to join the Hague System in 2017/18, and there will be a focus on being able to do things as quickly and effectively as possible, including online.

E-services

We engaged with customers on the subject of electronic service development, seeking views on the IPO's current online services and preferences in relation to future services. This has included testing service ideas and prototypes to inform the service development projects which will take the IPO towards a comprehensive suite of digital services, including secure online case management solutions.

IPO progress to a 100% digital offer

We have had robust confirmation that customers welcome the IPO's move towards wholly electronic services and we acknowledge especially strong demand for electronic correspondence instead of postal delivery. However, one attorney firm requested that the IPO retains the option to fax-file.

At more than one visit, the IPO's trade mark correspondence service was singled-out as valuable and effective but the lack of a means of receiving patent documents and communications electronically remains a cause of frustration. One patent attorney stated that the IPO is the only office they deal with that still regularly communicates via post, and that postal delivery meant time delays and added processing costs for letters which are immediately scanned and shredded.

Customers were pleased to hear that the Patents Transformation Project has electronic correspondence within its scope for delivery over the next few years. They also provided pointers regarding their ideal ways of working with a future IPO online case management solution.

More than one attorney firm stressed they would value an application program interface (API) into IPO case data to either draw data from the IPO or to check that their case information was in sync with IPO databases.



The EPO and European Union Intellectual Property Office (EUIPO)

Some customers indicated that they would like to see the IPO's services emulate those provided by EPO and EUIPO. One customer requested more filing options via EPOline (e.g address changes and assignments), while another commented that the IPO's current online system for trade marks was more reliable than the EUIPO's. One frequent user of the IPO's online trade mark search service considered it faster than the EUIPO database.

Customers are pleased that work is progressing to allow the EPO's Hosted Filing Solution (formerly CMS) to accept GB National Filings. Customers continued to stress that they do not plan to switch fully from EPOline to the Hosted Filing Solution until it features National Office filing options. They look forward, however, to no longer needing to manage EPOline software updates.

Deposit account balances online

Customers welcomed the IPO's plan to make deposit account balances available online and gave feedback that, in addition to this, online access to their organisations' payment history would also be useful.


Designs

We received useful pointers on how the new online design application service could be improved to suit attorneys' ways of working. The IPO's introduction of options to pay fees by deposit account, save draft applications for later and select designated priority for the EUIPO were all made in response to this feedback.

We also received views on different ways in which customers could receive electronic design certificates as part of a forthcoming development.

Website

Customer feedback about the IPO's website has been mixed. We have noted feedback that the GOV.UK website is easy to navigate, generally intuitive and that IPO's online material is clear and helpful particularly for explaining concepts to inexperienced clients. Frustration remains, however, that the GOV.UK search function searches information from the whole of Government rather than just IPO. Customers welcomed demonstrations from visit teams on filtering search results to show only those relevant to the IPO. Equally, customers welcomed the tip that the 'Law and Practice' heading on the IPO's home page main menu is the route into all the content, tools and services that had been available in the 'IP Pro' area on the IPO's old website.



The customers we have engaged with through the CVP have provided invaluable feedback that we can use to improve our e-services and develop new ones as we work towards providing a full range of digital services.

General matters

Commercial searching

A number of customers expressed an interest in being able to pay for a commercial search from the IPO, as they considered the IPO's Search and Advisory Service (which is not operating at present) to be good value for money.

The IPO is currently focused on its statutory responsibility for granting IP rights and improving timeliness. We will consider our position on providing a commercial service when we have reduced our work backlogs.

The IPO as an International Search Authority (ISA)

One customer stated that they would like to see the UK working as an ISA, and that CIPA members would support this too.

The EPC Protocol on centralisation requires states with one of the EPO languages as an official language to renounce all ISA activity in favour of the EPO.

Business Outreach and IP Education

While several customers noted it was necessary to improve awareness of IP in schools, universities and businesses, the IPO's work on IP education was praised by a number of customers. One customer in particular stated the IPO's Business Outreach team had been excellent in helping their IP manager to explain IP to academics.

Our education and outreach work continues to be a key priority for us. We are pleased that tools and resources provided by the Education and Business Outreach teams have delivered on their aims to raise awareness and make informed decisions on how best to manage their IP.



International Work

One customer praised the IPO for its work internationally – especially in China – and stated that there is recognition that the IPO and the government more widely is working to help UK businesses and the attorney profession abroad, which has aided the selling of UK services internationally.

We also spoke to a customer who had contacted the IPO's attaché in Brazil for advice and found them to be a very useful source of information. Another customer praised the IPO's attachés for helping CIPA to access many people internationally.

One customer stated that they feel that on policy issues the IPO does not pull its weight in Europe, but that ease of communication and accessibility are considered to be positives. Another expressed concerns that the Global Dossier would affect their business by pushing down costs.

The IPO plays an active role in international negotiations on IP, including in the EU and the EPO, working with colleagues across government to ensure that UK interests are strongly represented.

Generally, customers have warmly praised the IPO's support to get the "UK open for business" message across following the UK's decision to leave the EU. We have assisted in facilitating international events and introductions with diverse stakeholders through our attachés in Brazil, China, SE Asia and India. These included high profile events, such as the 2017 UK-India Tech Summit in Delhi. We helped the IP profession with informational material to promote the UK's legal services internationally. We were also told that customers appreciate the support from the IPO's WIPO attaché in negotiations around international treaties.

The EPO

The vast majority of customers praised the very high quality of the EPO's reports, with some stating that they file their top patents at the EPO. The EPO was criticised for its timeliness and very high costs, including fees due on pending work, and for its approach to customers.

Feedback on the EPO's programme for accelerated prosecution of European patent applications (PACE) was generally positive, with one customer stating that it was a better way of accelerating cases than using the PPH at the EPO, which imposes burdensome requirements. One customer criticised the EPO for not accepting batch requests for accelerated processing of multiple applications.

We have been told that attorneys are generally supportive of the EPO's early certainty initiative and work on improving timeliness, but that there are concerns about the EPO's ability to meet their targets by 2020. In particular, there is concern that more objections will be deferred to meet targets, leading to inefficient prosecution. One customer told us that they had seen more unnecessary oral summons and an increase in new prior art cited in summons.

One customer noted that method of treatment cases are not allowable at the EPO, which complicates coordination of cases and means that the EPO as an International Search Authority (ISA) does not provide a good service because they will not search these claims, even if they would be searchable in a different format and patentable in other jurisdictions.

Some customers expressed concern that incorrect information about representation of rights before the EPO had been circulating following the EU referendum. The EPO was praised for responding to this with communications that the UK's exit from the EU will not affect the EPC/EPO.

We are grateful to customers for providing us with feedback about their experiences and priorities at the EPO. This information helps us represent UK users' views at the Administrative Council and to the EPO more generally.

Unitary Patent (UP) and Unified Patent Court (UPC)

There is a lot of uncertainty surrounding the UP and UPC, particularly following the UK's vote to leave the EU, but it is clear that customers want the UK to ratify the UPC Agreement (UPCA). Some attorneys told us their clients will either avoid the UPC or file both national and EP patents so that they can choose whether to avoid the UPC at a later stage. Many customers feel that the benefits of the UPC will not outweigh the risks, for example central revocation. One applicant told us that they plan to test the UP system with some less valuable patents, and that the opt-out provision is critical for their most important patents.

The UK government announced in November last year it is committed to proceeding with ratification of the UPCA. We are working with the UPC Preparatory Committee/other participating states to bring the UPC into being as soon as possible.

At this time our decision to proceed with ratification should not be seen as pre-empting the UK's objectives in the forthcoming negotiations with the EU. Options for the UK's intellectual property regime after EU exit, including our relationship with the Unified Patent Court, will be the subject of negotiation.

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Further information

If you would like further information on the IPO's Customer Visit Programme or have any comments on this report, please contact Suzanne Gregson (suzanne.gregson@ipo.gov.uk).

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