



International Trade and Intellectual Property

A Vision in support of the UK Government's Trade Strategy

With the world on the cusp of a 4th Industrial Revolution promising emerging technologies such as Internet of Things, autonomous vehicles, quantum computing, AI and genomics, it is critical to get the IP aspects of trade deals right. In view of the speed of progress, any obstacles to innovation and IP will damage the UK's economy for decades. The profound global challenges posed by the Covid-19 pandemic make successful outcomes from trade negotiations even more important.

The IP Federation's vision is that the overarching UK strategy should actively promote trade, IP and innovation, and improve market competitiveness. The UK should aim to have an outward looking, prosperous and inclusive economy that actively promotes innovative business and sustainable jobs, and is strongly aligned with UK's ambitions to be a science superpower and innovative powerhouse on the global stage. With the UK chairing the G7 and hosting the UN COP26 climate summit this year, there is a golden opportunity for the UK to lead on trade strategy for the global community.

IP Federation Trade Working Group (WG) and Stakeholder Engagement

IP provisions are almost universal in trade agreements and setting standards for IP rights directly reduces trade barriers. Recognising this and the UK Government's trade strategy has meant that our Trade Working Group has been very active this year. We have been particularly active in engaging with the Department for International Trade (DIT) and UK Intellectual Property Office (UK IPO) in UK Government, formally and informally, to offer constructive ideas and comment based on our extensive knowledge of the role of the IP system in UK and overseas markets. We continue to support the UK Government's aim of securing the best possible terms in free trade agreements (FTAs) with Australia, New Zealand, the US, Canada, and others and in acceding to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

IP Federation Asks

It is essential that trade policy in general, and negotiating objectives with individual countries and regions in particular, are developed in close collaboration with industry. Corporates play a key role in supporting the growth of small innovative business and the network of our world class universities and academia. This vital contribution provided by large businesses should be recognised, celebrated and incentivised in the UK trade policy and its implementation.

The IP Federation urges the UK Government to be ambitious in exporting the UK's world class IP system in all its FTAs, recognising the crucial relationship between world-leading innovation and a system of IP rights which is robust, balanced, understood and enforceable. We welcome the Government's explicit assurances in its published strategic approaches to various FTAs (Australia, New Zealand) and in regard to accession to the CPTPP, of its intention to secure patents, trade marks and designs provisions that are consistent with the UK's existing international obligations, including continued membership of the non-EU European Patent Convention. We continue to encourage also that some issues are better dealt with in multilateral agreements than in bilateral FTAs, and we look

forward to the UK taking an active role in the World Trade Organisation and the World Intellectual Property Organisation.

Update on Trade Agreements

In the last (centenary) *IP Federation Review 2020*, we reported the successful completion of the Japan–UK free trade agreement (heavily based on the Japan–EU one) with strong IP provisions. Since then, the EU–UK Trade and Cooperation agreement has been signed on 30 December 2020, with positive IP provisions. The Government continues to progress its trade negotiations with energy with many other nations and regions including the US, Australia, New Zealand, Canada, and the CPTPP.

UK–Australia Negotiations

These negotiations started from scratch. An agreement in principle (AIP) was reached in June 2021. We welcome the inclusion of strong IP and innovation chapters in the AIP, and we continue to monitor closely developments as a full text is finalised. Its agreed IP provisions will likely set an important precedent for other deals. The agreement is expected to be signed in the autumn. Thereafter, there will be Parliamentary scrutiny including under the Trade & Agriculture Committee and the Constitutional Reform and Governance Act 2010 (“CRAG”).

UK–New Zealand Negotiations

These negotiations are apparently at an advanced stage, with an expectation that an agreement will be reached by the end of this year. We are closely monitoring developments in this regard.

UK’s Accession to the CPTPP

The UK has applied to accede to the CPTPP, with an ambitious aim to reach a deal with the CPTPP member states by the end of next year (2022). UK’s application has been given the “green light”, and so, negotiations will follow. The Japan’s economy minister (Japan: Chair of the CPTPP) announced that the first meeting for UK’s CPTPP inclusion would be held soon. The interaction between UK–CPTPP (based on existing CPTPP text) and bilateral negotiations involving CPTPP member states covering different key areas such as intellectual property will be important.

UK–US Negotiations

Recently, there was a comment made by the UK Prime Minister in Washington D.C. that, while the ambition for a comprehensive UK–US FTA continues to be there, the US does not currently have capacity for it.

Other: Future Negotiations (Canada, Mexico, India)

IP Federation has responded recently to the call for input on trade with India, detailing specific issues and relevant provisions which a prospective UK–India FTA should contain to address them. Work is now being undertaken by the Government to develop a mandate based on stakeholder responses, by the end of November 2021.

We continue to follow the developments on Canada, Mexico (amongst others). Through CBI, we have advocated that substantial benefits with these trading partners can be delivered from using IP in the trade context, without relinquishing critical aspects of the UK’s existing and highly rated IP framework including its existing Treaty obligations. In the field of criminal sanctions for trade secret misuse, we have further urged the UK Government to consult us if they are minded in negotiations with Canada, Mexico to adopt stronger criminal sanctions than those that currently exist in the UK.

Exhaustion

A separate IP Federation working group was established to respond to the recent UK IPO consultation in this complex, important area.

Final Remarks

The global trade IP world is fast changing, and we have a golden opportunity to engage and help shape it positively. That is what we are doing, and we are seeing positive results. The IP Federation looks forward to continuing to support the UK Government in achieving desired outcomes from current and future trade negotiations which will be so crucial for innovative British business, to help make the maximum contribution to the Government's ambitions as a global hub for innovation and a science and technology superpower. Watch this space!

Dr Bobby Mukherjee – Chair of the IP Federation Trade Working Group
27 September 2021