



IP Industrial Strategy – Call for Views

Introduction

Following previous HMG consultations in 2012 and 2016 in this area, we can now report that HMG launched a further consultation on its plans for an “ambitious new Industrial Strategy” in October 2017. The IP Federation among others have positively engaged in this process.

The IP Federation response - policy paper PP 10/17, 15 November 2017

We welcome HMG’s continued firm commitment to encouraging innovation, and particularly collaboration and commercialisation relating to innovation.

While we continue to support all HMG initiatives which are designed to achieve these goals for all innovators, such initiatives should be properly coordinated across HMG departments and agencies, developed in close consultation with large and small businesses, and supported by economic impact assessments. These should also support the wider UK prosperity agenda. (See also our previous policy papers PP 9/12, PP 6/16 and PP 8/17 in this regard.)

Having considered the example proposals in the latest consultation document, we have offered the following specific comments.

Help for small businesses

We welcome any initiative which helps small businesses better to understand IP, its limitations and its potential. The provision of toolkits consisting of standard or model agreements would be supported by all our members, as would any and all efforts to educate small businesses in respect of IP. However, we caution against the UK IPO getting involved in activities involving commercial matters, such as IP trading platforms or valuation in view of the widely differing values and priorities existing within different commercial entities. It is our view that these are areas to which the “one size fits all” principle does not apply. Furthermore, any involvement by the UK IPO in commercial dealings between IP owners would damage its vital position of impartiality.

Voluntary registers

We do not object to the existence of voluntary registers for unregistered rights - as long as users are made aware of the limitations of those registers. However, we remain firmly opposed to any suggestion that the UK IPO should create, maintain, endorse, administer or otherwise be associated with any register of this type. To do so would risk any such register being regarded as having more authenticity - and therefore authority - than is appropriate. We are also concerned that persons with limited understanding of IP will misinterpret the content of such registers: for example, that the omission of an image from a register of images protected by copyright means that that the image cannot be protected by copyright. We also note that images and designs which are protected by rights such as copyright and UDR (unregistered design right) are notoriously difficult to search - even by people well acquainted with IP rights. This, we believe, makes any sort of register of very limited value to third parties and liable to inflict unnecessary burdens on all businesses, including SMEs.

Core activities

We believe that the UK IPO should, first and foremost, ensure that its core activities of granting valid and enforceable IP rights remain highest on the priorities list. Eliminating search and examination backlogs so that strong UK rights are granted quickly and efficiently in our view goes a long way to achieving the Government’s aim of encouraging collaboration and commercialisation by innovators.

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Summary

The IP Federation thus remains strongly in favour of positive action in the above-identified areas. The involvement of businesses (large and small) in the shaping and execution of the industrial strategy is clearly critically important, enabling businesses to operate competitively with sufficient certainty in a complex business landscape of rights.

Dr Bobby Mukherjee, 27 June 2018