



The UK Intellectual Property Office

The IP attachés initiative

An important initiative by the IPO a couple of years ago was the appointment of IP attachés to support UK businesses in China, India, Brazil, and Singapore (for South East Asia). The IP attaché network is managed and funded by the Intellectual Property Office (IPO) and supported in country by the Foreign & Commonwealth Office and UK Trade & Investment (UKTI).

In an evaluation of the IP Attaché Programme this year, it was confirmed that the IP attachés provide a focal point in host countries for supporting UK businesses with IP related issues. They also promote UK government interests and work with local intellectual property right enforcement agencies. They help to build IPO relations with the governments of host countries, and to understand and actively engage with IP policy makers.

The attachés help businesses navigate the complex IP landscape in their individual markets, building knowledge in the IP community, supporting UKTI in advising businesses, and helping support individual business cases where possible. This support is highly valued by business users and UKTI alike with 79% of business users rating their interactions with the attachés as valuable. This is particularly true as no similar source of centralised expertise was previously available. UK businesses are able to make decisions more confidently and better protect their IP with the attachés in place, and in many cases money, jobs and time have been undeniably saved or protected – and in some cases revenue is even going up.

The main area for improvement the review revealed is around communicating the attachés' remit. As the programme succeeds in many areas, stakeholders want more. Providing a clearer understanding of what the attaché network is and what they can and cannot do will clarify for service users and government colleagues what they can expect and what services must be obtained elsewhere. As such, key recommendations are:

1. Communicating the exact attaché remit will help alleviate frustrations.

Clearly understanding the programme scope and aims is key to user satisfaction. Knowing exactly what is within the remit of the Attaché Programme is essential as expectations of the programme are high and sometimes unrealistic.

2. Feeling informed makes people value the programme more.

Ensuring information is communicated proactively, in a timely manner would make stakeholders feel even more positively about the programme (and its capabilities). Not having to chase the attachés for responses or information is highly important. Providing prepared information could also cut out the attaché as a 'middle man' between UKTI colleagues and UK businesses, in terms of providing commercial answers – and would likely save time for the attaché as well.

3. A clear schedule of market IP 'updates' would help alleviate the sense that the programme is reactive.

Giving IPO colleagues a structured reporting style to help develop their knowledge, covering specific market and industry advances, developments and resolutions of issues is desired.

Although many businesses and policy representatives openly acknowledge and appreciate receipt of newsletters from the Chinese attaché, proactive information sharing even from China isn't always cutting through. Some feel the attachés only make contact if responding to particular issues being brought to them by IPO colleagues.

4. The IPO should also consider whether expanding services in a single market or offering an additional market for coverage is feasible at this time, as it would certainly be welcome.

A schedule of new market rollouts or additional hires would help service users anticipate changes and upcoming support.

5. Finally, in terms of succession planning, the IPO needs to have a plan in place for when the individual attachés move on.

Any handover should be proactively addressed with service users. Bridging gaps, for example with dual attachés (current and new) in market in transition periods, and making proactive introductions would help address any potential concerns.

Patent reform

Patent reform is often a euphemism for a liberalising agenda - aimed at weakening IP rights, and undermining enforcement measures.

In Europe policy makers have a somewhat schizophrenic take on IP. In their eyes, patents sit uneasily alongside academic, theoretical, unsubstantiated competition principles. On the one hand EU lawmakers trumpet the introduction of the wonderful new unitary patent system - aimed at making patenting and enforcement cheaper and more efficient across the EU. At the same time the European Commission frowns when you actually go to court and enforce your patents, seeing it as some kind of abusive, anti-competitive behaviour. This is what we are experiencing in the telecoms sector right now. There are influences in Brussels that even regard traditional patent licensing as a 'dirty business'. Yet again other parts of the Commission have projects on "valorising" IP, optimising value extraction from patents.

Fortunately, in the UK the IPO recognises the value of IP and licensing and has been involved in some excellent research work to understand the contribution IP licensing makes to the UK economy. We would urge the IPO to carry this pro-IP, pro-innovation message to Brussels. In Europe, as we contemplate patent reform for the 21st century, we still have an uphill struggle to promote the value of IP, patents and licensing - vital components of the innovation and growth agenda.

Transitional provisions for the repeal of section 52 of the CDPA

The repeal of section 52 of the Copyright Designs and Patents Act 1988 will remove a permitted act in law which reduces the term of copyright protection for artistic works that have been industrially manufactured. The Government ran a consultation from 15 September to 27 October 2014 to hear views on when to implement the repeal of section 52 of the Copyright, Designs and Patents Act (CDPA) 1988. This consultation gathered evidence on the potential impact of the government's proposal to implement the repeal on 6 April 2018.

In our policy paper PP10/14, we indicated that the potential impact on UK Industry of the repeal of section 52 CDPA remains to be seen. The IP Federation commends the IPO on launching this consultation at this stage, and urges that any further proposed changes in this area are subject to a consultation process involving users of the IP system. It is crucially important for businesses (large and small) to be made aware of the proposed transitional provisions in good time in advance of the new law coming into effect (through targeted IP awareness workshops and education campaigns, for example), and for the subject provisions to be sufficiently clear so that users can understand the effect of the proposed legislative changes and operate competitively with sufficient certainty in a complex business landscape of IP rights.

Proposal to amend the marking provisions for registered designs

The IP Federation continues participation in the PPWG (the Patent Practice Working Group)

and Marks & Designs Forum (MDF), and has been involved in extensive discussions on the bringing into force of the Intellectual Property Act 2014. On 1 October 2014 section 15 of the Act came into force to introduce a new measure as to how proprietors could mark patented products. Section 15 of the Intellectual Property Act 2014 amends section 62(1) of the Patents Act 1977 to provide for the marking of products with a relevant internet link. The internet link references a posting on the internet where details of the relevant patents are listed. The internet link must be accessible to the public free of charge and must clearly associate the product with the relevant patent numbers.

As we indicate in our policy paper PP11/14, the IP Federation welcomes the changes introduced by section 15 of the Intellectual Property Act 2014 on the marking of patented products and would like these new measures extended to registered designs.

Extending the new marking provisions introduced by section 15 of the Intellectual Property Act 2014 to registered designs would benefit all those working in the design industry. Indeed, until the virtual marking provisions recently brought in for patents are extended to registered designs, the accepted benefits of virtual patent marking cannot be realised by IP owners and third parties because manufacturers will still need to mark their products with respect to registered designs, and third parties will need to look for information in separate places. The economic benefits of virtual marking will not be realised until the burden of physical marking is completely removed. Furthermore it would be extremely beneficial if proprietors could refer to a single internet link which lists details of all the relevant registered rights, patents and/or registered designs, pertaining to a particular product. A further advantage is that the introduction of these provisions would also simplify marking across territories.

David England, 5 December 2014