



## **IP Federation celebrates 100th birthday by fighting COVID-19 and improving social mobility**

This article first appeared in a slightly longer form on the renowned IPKat blog (<https://ipkitten.blogspot.com/>).

In 1920, the Spanish flu was raging its final battle against the world. By the end of 1920, it had infected a third of the world's population (an estimated 500 million people) and killed 50 million. Europe was seeing a rise of far-right radicalized political movements. In August 1920 the Nineteenth Amendment became part of the US Constitution giving women the right to vote, although it would be decades later when that right would be afforded to all women. The boom of economies in the 1920s would soon come to an end, with Black Tuesday leading to the Great Depression. Though many people didn't know it when the Paris Peace Conference ended, another world war was just around the corner. At the same time, the world witnessed great leaps in progress in science, technology and the arts. By the end of the 1920s, the world would benefit from Alexander Fleming's discovery of penicillin, the first liquid-fueled rocket, Gershwin's Rhapsody in Blue and Winnie-the-Pooh. And on 23 April 1920, the IP Federation (previously known as the less catchy Trade Marks Patents and Designs Federation) was established.



Through world wars, unimaginable technological and social progress, protest and political upheaval, the IP Federation has been steadfastly devoted to representing the views of UK industry in IPR policy and practice within the EU, the UK and globally. It has operated on the belief that an efficient and strong IP system will foster innovations and creation for the benefit of society. That IP can solve and promote solutions that solve the world's pressing issues from climate change to a global pandemic.

The centenary of the IP Federation has coincided with as challenging a time for the world as that faced by its predecessors in 1920. The IP Federation and its members have been tirelessly navigating the COVID-19 crisis - its impact on the lives and

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well-being of its members and society and its toll on the economy. If one reads some mainstream press, you might be forgiven in thinking that IP is the roadblock to finding a vaccine.

But in its 100th year the IP Federation's members have stepped up to share their valuable IP to help combat COVID-19, including tools, data, technical drawings, know-how, scientists and engineers, in order to pool knowledge to accelerate the timeline to find a vaccine. (To read more about this crucial work, turn to *IP Owners Step up to the Plate 2020*.)

While the IP Federation's and its members' energy has been almost exclusively focused on the fight against the second pandemic in the organization's life, the Federation also took a brief moment to look at its past. On a recent celebratory birthday call, members of IP Federation (which today include BT, BAE Systems, Dyson, GSK, Pfizer, Ocado, Arm, Microsoft, IBM, Rolls-Royce, Shell, Merck Sharp & Dohme, Ford and Eli Lilly) shared memories of their work, triumphs and tribulations. As Suzanne Oliver (President of IP Federation) drew parallels between what the IP Federation and its members were facing in 1920 with what they are facing in 2020, she said that the years of turmoil, progress and change have resulted in "the IP Federation being stronger today, than it has ever been."

The IP Federation has been a leader in shaping laws impacting IP-rich industry in the UK and Europe. Members shared stories of their committed work on advocating for considered and balanced legislation and judicial outcomes on issues including: criminal sanctions on design right infringement, experimental use exceptions and patent infringement, the role of IP infringement and the Hague Convention, the interface of competition law under the Competition Act 1998 and the Patents Act, the passing of the IP Bill, Brexit, their input into the relaunch of the IPEC, references to their work in Hansard, patent harmonization efforts, its Supreme Court intervention in *Actavis v ICOS* and on the proposed supplementary unregistered design.

Sean Dennehey, a current adviser to the IP Federation and former Deputy Chief Executive of the UK IPO, said that when he was in the civil service he was always struck by "the professionalism, passion and collaborative spirit of the IP Federation." James Horgan, a former President of IP Federation and assistant managing counsel at Merck Sharp & Dohme, commented that the IP Federation is "better value than any commercial organization. Surrounded by very intelligent people, I have always learned something I needed to know." These sentiments were echoed by John Pollaro. John was heavily involved in the IP Federation as the former VP of Patents EMEA at Procter & Gamble in the late 1990s and early 00s. Now retired in Florida, John congratulated the IP Federation:

*"On reaching a milestone such as this it is natural to wonder how the organization was able to achieve such an accomplishment. In the case of the IP Federation I think the answer is clear. The IP Federation is composed of people who are respected in the profession and have varied experience and expertise. This allows the organization to provide fair and balanced opinions on IP matters. Often these opinions are the result of serious, intense, and sometimes long debate. But always done with a spirit of*

*collegiality and professionalism. As a result, the IPF has always been a source of clear, practical, and actionable positions on intellectual property issues. The political and professional decision makers value those positions and are guided by them.*

*It was my pleasure, in conjunction with many others, to work on some of the early positions in respect to the UP and UPC. In doing this work I found I was part of a team that genuinely had the interest of the profession and of IP foremost in their minds. The object was always to do what was best for all stakeholders.*

*With these thoughts in mind I am confident the Intellectual Property Federation can look forward to continued success in its second 100 years."*

Tony Rollins recounts a particular success story concerning the modernization of the then called Patents County Court:

*"Mike Barlow was involved on behalf of the IP Federation from 2004 in a project under Sir Robin Jacob to look at ways of simplifying and making cheaper litigation in the High Court. This led to the setting up or at least the resurrection of the Patents Court User Group which scrutinised changes to the White Book procedures which form the basis of what is used today. By 2009, Mike Barlow and I were the IP Federation representatives on the Patents Courts User Committee, I recall that I was the representative on the PCC and Mike on the Patents Court but at one point they morphed into one body which considered a new set of rules for the PCC in 2009 at around the time of the Jackson Review on civil litigation costs. The consolidated body was chaired by Lord Kitchin (as he now is). The rules came into force in 2010 at the same time that Mr Justice Birss (as he now is) was appointed to the Patents County Court (PCC).*

*Mike and I thought it would be a really good idea if the PCC (it became known as IPEC in 2013) were to have rules that were based on the EPLA (or at least in part). As a result of this initiative, special rules of procedure were adopted that were different from the Patents Court, i.e. a more front loaded, written procedure than the Patents Court with the pleadings identifying all the arguments to be relied on, a short trial (less than two days), a CMC before the Judge that would decide on the need for disclosure (has to be justified), expert evidence (only permitted if needed and limited), cross-examination (has to be justified and limited), the trial date and date of judgement. Some of the rules, or similar variants, were later adopted by the Patent Court. There were also cost caps introduced. Whilst these rules of procedure are not identical to those of the UPC they were going in that direction (there were also a lot of iterations between the 2009 EPLA proposals and the final UPC agreement and rules which caused changes between the two). A selling point that we used with the Users Committee was that the UK would be in a great position if it had a court up and running at the time the EPLA/UPC finally came into operation. UK practitioners could say to clients: "look we know how to operate under this system we have been doing it successfully for years in the PCC/IPEC". Mike and I were agreeably surprised that we got buy in from the committee and many of our suggestions were adopted."*

No matter how challenging the current fights and how impressive the past successes, Suzanne and the current Vice President and next President of IP Federation from July - Scott Roberts - are focused on the future of creating an inclusive and diverse profession. "Social mobility is essential to creating a more inclusive and innovative profession", Suzanne explained. "Several of our member representatives come from working class backgrounds and had subsidized school meals. It was by chance, and hard work, that we entered this profession and have created successful careers. It shouldn't be up to chance that talented individuals enter this profession." Carol Arnold, a celebrated former President of IP Federation, agreed. "There seems to be easier and more transparent access to opportunities for scientists coming into research departments of IP-rich industries, than for those looking for internships or job opportunities in the professional IP and legal world. For those opportunities, it is more about who you know which impacts on the ultimate diversity in the profession as a whole."

"We need to find ways to address this issue to ensure that a greater diversity of candidates come into the profession, " Suzanne continued. Scott agrees: "There must be a democratization of opportunities in the IP field." It was clear during the celebratory birthday call that IP Federation's members are passionate about tackling these issues. This is no surprise since several of its members helped to establish and support *IP Inclusive* in its early days and the Federation is a member of its Management board. The IP Federation is currently working on plans to promote social mobility in the profession.

So whilst the IP Federation celebrates their past 100 years, they are looking more to their future, than their past. They are envisaging what the next 100 years could look like for their industry and their members. They want to create a more diverse and inclusive industry. An industry that continues to advocate for a balanced and strong IP system. An industry that is even stronger and prepared for whatever uncertainties and opportunities lie around the corner.

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