



PP 2/22

Public Bill Committee
House of Commons
LONDON SW1A 0AA

by e-mail to
scrutiny@parliament.uk

18 November 2022

Dear Public Bill Committee

The IP Federation welcomes the opportunity to submit its views on the Retained EU Law (Revocation and Reform) Bill (“the Bill”).

The IP Federation represents intellectual property (IP) intensive companies in the UK - a list of members is attached. Our members are extensively involved with IP in the UK, Europe and internationally, including IP aspects of innovation policy and trade issues. Not only do our members own considerable amounts of IP in the UK, Europe and elsewhere, but they are affected by the activities and IP rights of competitors operating in all those territories. The IP Federation’s members may be either claimants or defendants in IP-related court actions, both in the UK and elsewhere. In short, our cross-sectoral membership of 42 influential IP-intensive companies has wide experience of how IP works in practice to support the growth of technology-driven industry and generate economic benefit.

In this submission, the IP Federation’s evidence will reflect our core expertise and focus primarily on IP implications of the Bill, although some of the issues we raise have more general application. In summary, we are extremely concerned by the degree of uncertainty the Bill is giving rise to, the effect it is having on business innovation and investment, and the dangers that will arise if the complex process of IP law reform is rushed, incomplete or flawed.

Innovation, particularly in developed economies, is key to economic growth and lies at the heart of modern life and businesses. It increases productivity and creates and supports high-value jobs. It is sustained by a robust and balanced framework of IP rights which provides incentives to engage in innovation and diffusion of knowledge, products and services.

Innovation involves cost and risk. Having certainty as to whether the investment in innovations will be protected is crucial to balancing the cost-risk-benefit of innovation. Furthermore, having certainty as to whether activities will benefit from existing exceptions is also crucial in establishing that balance. IP law creates the framework to provide this certainty for investment, for collaboration and for knowledge transfer which facilitates and drives innovation.

A robust IP system will not guarantee innovation, but it is almost guaranteed that without a world-class IP system innovation will not thrive and the UK economy will not grow.

The UK is amongst the world’s leading innovation economies. It was ranked 4th in the Global Innovation Index 2022 published by the World Intellectual Property

Organization (WIPO)¹. It has for decades enjoyed a robust, balanced and stable IP system which has been internationally recognised as one of the most advanced in the world.²

A large part of the UK's IP system (for example, trade marks, some inventions, designs, software and artistic, musical, literary and audio-visual products) is derived directly from EU legislation. The UK was closely involved in shaping that legislation and it has afforded UK companies operating here (and abroad) the reassurance and certainty business needs to engage in innovation and contribute to the growth of the UK economy.

The Bill may have the effect that UK law in many areas of IP will be revoked or allowed to lapse or be amended without full consideration and appropriate debate. It has been widely reported and acknowledged that the dashboard of relevant laws is "not comprehensive" and more work needs to be done to identify related EU law. Moreover, it is not simply a question of listing the laws: the myriad dependencies between them and the implications, not always obvious, of removal need to be considered and allowed for. The speed with which the Bill envisages this massively complex legislative process will be completed may well not allow this to be done with appropriate care. The concomitant removal or downgrading of existing forms of Parliamentary scrutiny increases that concern.

In other words, the extent of the changes envisaged in the Bill is uncertain as it is entirely unclear what legislation may be affected (i.e. what will be revoked or amended) and what will be retained, and how such decisions will be made. If retained in the short term, there is uncertainty as to what law may ultimately be revoked, restated, replaced or updated, as part of the wide-ranging and broad delegated powers the Bill affords to UK ministers and devolved authorities (see section 19). A review which leads to significant amounts of EU-derived IP law being revoked would be highly damaging to UK innovation and the economy: the Government's own ambitions to make the UK a science superpower and global innovation hub would be less, not more, achievable. It would also impact the negotiation of trade agreements where IP is an important issue.

The IP Federation believes that it is vital to the UK's innovation-based economy and future growth and competitiveness that the existing high quality, stable and balanced system of IP law remains generally unaffected by the Bill (i.e. that it should become assimilated law). Precisely targeted changes to some laws may be shown to be desirable, but any significant changes to UK IP law should be effected through the usual legislative process, involving proper consultation, formulation, and scrutiny.

Innovation takes time, and medium-term investment decisions (including decisions whether to invest in the UK or elsewhere) are already being made based on the assumption that the existing UK IP framework will be largely in place in the medium term. The Bill is already generating uncertainty as to what the IP system may look like in just over a year's time (partly due to the broad powers contemplated for UK ministers to amend laws subsequently) and this uncertainty will likely impact investment. The IP Federation urges that clarity is provided as to what the

¹ Global Innovation Index 2022 published by the World Intellectual Property Organization (WIPO) – see <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2000-2022-section1-en-gii-2022-at-a-glance-global-innovation-index-2022-15th-edition.pdf>

² See e.g. the US International Trade Administration's entry on the UK's IP system [currently offline] at <https://www.trade.gov/country-commercial-guides/united-kingdom-protecting-intellectual-property>

process will be for deciding what EU law is to be retained (and in what form), and how stakeholders will be able to input their views before such decisions are taken. The IP Federation also urges that action is urgently taken to provide reassurance to business and other investors that the UK's IP framework in the short, medium and longer term will remain the world-class exemplar it is now, for the strongest business reasons, and that any significant changes will be made in a manner which involves appropriate consultation and scrutiny, and to a realistic timetable.

The IP Federation and its members are considering whether revocation or amendment to specific pieces of EU-derived law are necessary and will stand ready to make any further submissions at an appropriate juncture.

We hope this submission is of assistance to the Committee. If there are any questions or we can assist further in any way, please do let us know.

Yours faithfully

Matthew Hitching
President, IP Federation



IP Federation members 2022

The IP Federation represents the views of UK industry in both IPR policy and practice matters within the UK, Europe and internationally. Its membership comprises the innovative and influential companies listed below. The CBI, although not a member, is represented on the Federation Council, and the Council is supported by a number of leading law firms which attend its meetings as observers. It is listed on the joint Transparency Register of the European Parliament and the Commission with identity No. 83549331760-12.

AGCO Ltd
Airbus
Arm Ltd
AstraZeneca plc
BAE Systems plc
BP p.l.c.
British Telecommunications plc
British-American Tobacco Co Ltd
Canon Europe Ltd.
Caterpillar U.K. Ltd
Cummins Ltd.
Cytiva
Dyson Technology Ltd
Eisai Europe Limited
Eli Lilly & Co Ltd
Ericsson Limited
GE Healthcare
GlaxoSmithKline plc
Hitachi Europe Ltd
HP Inc UK Limited
IBM UK Ltd
Johnson Matthey PLC
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