

## **Intellectual Property Office (IPO) Economics, Research & Evidence Programme 2011/12**

### **Outcome of 2010/11 Research Programme**

In August 2010, the IPO announced a programme to build economic research and evidence for IP policy. This brought together work under way in the IPO, and work by the Strategic Advisory Board for Intellectual Property Policy (SABIP).

The results of this work are becoming available to policymakers and the public via the Research page on the IPO web-site <http://www.ipo.gov.uk/pro-ipresearch.htm>. The status of main items – published and yet to be published - is summarised in Annex A. IPO would like to thank the researchers who have helped to deliver this programme, and the Expert Advisory Groups (EAGs) who have played an important role in peer review.

All the published work is available in the Research section of the IPO's website. There are a series of events to present the results to policy audiences. The first of these were hosted by Wellcome Trust in December 2010 to review work in university – industry knowledge transfer, and January 2011 to present work on costs of IP litigation for SMEs. The series will continue through the autumn of 2011, including events at Design Council and Imperial College.

Three planned projects will deliver after 2011. Work to compare international litigation systems is being done in collaboration with ZEW Germany, and will report in 2012. Planned work on patent markets is awaiting results of a study by Swiss and German researchers for the EU, to which the IPO has contributed. We will then judge whether independent UK research is needed. One remaining project proposal – for a data and methods observatory on copyright - we have concluded is best done in collaboration with industry partners. Discussions on this are continuing.

In addition to planned projects, IPO has managed five studies on behalf of the Hargreaves Review of Intellectual Property – all related to IP and competition. These are published on the Review section of IPO's website. IPO's economists have also managed a number of internal and collaborative projects, mainly concerned with operational issues such as patent backlog reduction and demand forecasting

### **Programme for 2011/12**

Work on a new programme has already begun, starting with projects to:

- complete estimates of UK copyright investment needed to update UK national accounts (with industry data providers); and
- assess possible economic effects of congestion in the trade mark register.

Further studies are being specified in the following areas, some of which will complete in the next financial year:

#### *Copyright policy:*

- Study on economic value of public domain works, to develop a stronger, more structured approach to copyright exceptions, and a better economic measure of value added from work not covered by copyright; and

- Developing methods for evaluating criminal and civil IP enforcement policy (covering copyright, designs and trademarks), to give an accepted approach to assess enforcement costs against the effects on rights owners, on consumers and on the wider economy.

*IP and business growth:*

- Completing the data linking work done in 2010/11, relating use of all types of IP rights to business performance. This will be used to understand the use of IPR 'bundles' by business, and relate them to work on potential for business growth being done by NESTA and BIS; and
- Developing this analysis to inform the business outreach services offered to SMEs by the IPO, to identify how to focus effort on firms which are most likely to innovate successfully and grow. This work will look at industries, and at a range of business characteristics.

*Patent policy:*

- Updating work with USPTO on the costs associated with patent backlogs, improving methodology for defining 'backlogs';
- Assessing the cost in terms of economic activity associated with patents (pending or granted) which may not meet the full tests of validity, but which deter other firms from exploiting market opportunities; and exploring the possibility of influencing firm behaviour in the UK and other markets; and
- follow up to Hargreaves recommendation on patent thickets and renewal behaviour by firms.

*Macro impact of single market initiatives involving IP:*

- Integrating macro-economic and firm level analysis to further improve estimates (published in the Hargreaves Impact Assessments) of the effects on productivity and growth from moves to reduce barriers caused by fragmented EU patent and copyright markets.

*International Policy:*

- IP support needed by UK exporters, to help us design activity for IP attaches, using UKTI survey of exporter needs; and
- Analysis of type of IPR technical support to key emerging markets (under TRIPS obligations) most likely to meet local needs in terms of IPR capability.

*Knowledge Transfer:*

- Follow up to 2010 work on university – industry knowledge transfer, focussing business characteristics for successful exploitation of university generated IP.

Following the Government response to the Hargreaves Review, we are in process of specifying additional research to support policy design in key areas.

*Digital Copyright Exchange:*

Design will be developed by the 'champion' to be appointed following Hargreaves' recommendation. IPO is considering evidence needed to assess:

- Transaction cost reduction and impact on competition;
- Opportunities the DCE will give to content originators / rights holders;

- Opportunities for products and service innovation by content users;
- Incentives for existing rights marketing bodies to participate; and
- Impact on industry participants.

#### *Orphan Works:*

Building on earlier work we will need further analysis to assess:

- Volume of content affected, and impact on creators and users; and
- The determinants of, and likely level for, licence charges for orphan works to operate a system which is effective and fair.

#### *Cross border Copyright Licensing:*

The assessment of this in the Hargreaves impact assessment ties it together with the copyright exchange. For policy design it needs to be separated.

#### *Widening of Copyright Exceptions:*

The impact assessments included in the Hargreaves review will need further work to help policy design, and strengthen evidence. Main elements of additional work should include:

- Developing methodology to cover both economic and social impacts of exceptions, linking social impacts to government work on social wellbeing;
- Developing the SABIP work on consumer attitudes and behaviour in digital markets to inform analysis; and
- Quantified analysis with better data on private copying, parody and archiving.

#### *Collecting Society code of conduct:*

The Hargreaves Review provides evidence, but estimates as to the impact of different approaches are needed. To aid policy design it would be worth looking at:

- Legal and economic effects of codes / regulation of collecting societies in other EU markets; and
- Relationship between elements of a code, governance of societies and possible impacts on competition.

#### *Design Follow up:*

Work on design to be published in September 2011 will move our understanding of design rights and their impact. Going forward there are issues that still need to be addressed. For example, the role of design rights in international value chains is not covered in our existing work, and will play a part in deciding the best strategy for IPO to adopt in reforming the UK design right regime.

#### *Impact of IPO opinions:*

Hargreaves recommends that IPO should have the power to issue opinions on IP issues to improve reduce uncertainty caused by changing technology, or by clashes between legal systems. Evidence should be gathered for an impact assessment of this proposal, drawing out the impact of greater certainty on innovative firms.

## Outcome of programme from 2010/11

Project	Status
<b>Commissioned Projects</b>	
Projects commissioned by SABIP <ul style="list-style-type: none"> <li>• IP in University – Industry Knowledge Transfer</li> <li>• IP enforcement costs for SMEs</li> <li>• Role and Rationale for Patents</li> </ul>	Launched December 2010 Launched January 2011 Published by IPO end 2010
Macro Economic projects <ul style="list-style-type: none"> <li>• IPRs in the Knowledge Economy</li> <li>• Copyright Investment and Income</li> </ul>	Published July 2011 Published July 2011; final work by September 2011
Micro Economic Projects <ul style="list-style-type: none"> <li>• Incentives for Trademarks</li> <li>• Patent Incentives for Technology Investment</li> <li>• Alternatives to Patents</li> </ul>	Published July 2011 Nearing final completion Nearing final completion
Copyright Projects <ul style="list-style-type: none"> <li>• Copyright Levy Systems in the EU</li> <li>• Changing Business Models in Creative Industries</li> </ul>	Approaching publication Approaching publication
Trade mark and Design Projects <ul style="list-style-type: none"> <li>• Design Economics</li> <li>• 'Lookalike' products and Brands</li> </ul>	To publish September 2011 Commissioned May 2011
International Projects <ul style="list-style-type: none"> <li>• Comparative study on IP enforcement regimes</li> <li>• Patent Markets</li> </ul>	Under way for five EU countries, US to contribute Input to EU study; reviewing need for independent work
Hargreaves Review studies on IPRs and Competition <ul style="list-style-type: none"> <li>• Competition, Patents and Innovation</li> <li>• VoD Sector; Copyright and Competition</li> <li>• Patent thickets, in medical devices</li> <li>• Fair Use Differences Comparing US and UK</li> <li>• Research on Finance for IPR</li> </ul>	Published with the IP Review in May 2011
Project not yet started <ul style="list-style-type: none"> <li>• Copyright data and methods observatory</li> </ul>	Seeking industry partners
<b>Internal Projects</b>	
Internal projects by IPO staff <ul style="list-style-type: none"> <li>• Patent Backlogs analysis with USPTO</li> <li>• Economics of EU Patent</li> <li>• Demand Forecasting for Patents and Trademarks</li> </ul>	Framework published; joint analysis under way Results shared with EPO First results January – July 2011