

Intellectual Property Services For SMEs In The UK

By Christi Mitchell and Robert Looker

The UK Government recognises the importance of innovation and IP protection to the SME business community. Government has, for many years, offered a variety of schemes that aim to support and enhance the spirit of invention and its protection. These support systems do fluctuate as governments and their priorities and budgets change. Although we find ourselves in a positive climate today, there are many navigational challenges that must be faced by the average SME.

In the UK the Department for Business, Innovation and Skills (BIS) and the Department of Energy and Climate Change (DECC) have merged to form the Department for Business, Energy and Industrial Strategy (BEIS). This department today works with 46 agencies and public bodies and those of relevance to innovation and IP protection for SMEs includes The Intellectual Property Office (IPO) and Innovate UK.¹

BEIS is also responsible for the strategy development, budget, funding and implementation of business support from start-ups through to high growth companies. Given the current government's policies, the structure and level of business support has radically changed in the last decade.

The Regional Development Agencies and the Business Link service in England have been abolished and disbanded in England.

Under the devolved governments and assemblies in Scotland and Wales, provision has been made for the encouragement of IP learning and practice within the SME business community. The IP Wales model of business support serves the needs of the regional economy by providing Welsh SMEs with the knowledge and financial means to commercialise their IP assets. The threefold mission of IP Wales can be viewed on the WIPO website.² Scotland offers a number of IP services for SMEs; these can be viewed at Enterprise Europe Network³ and Scottish Enterprise.⁴

In England, business support is principally delivered through the Local Enterprise Partnerships (LEPs).

There are 39 LEPs. They vary widely in size, capability and level of funding and resources. Levels of support equally vary considerably with each LEP and their determination of the needs in their individual areas.⁵

Equally, universities ("encouraged" by the *Dowling Review*) seek to be more active in business engagement and support. Often they work in partnership with the LEPs but can also have access to independent funding through funding streams from HEFCE⁶ and EU funds/projects.^{7,8}

Other provision is fragmented through some provision from local authorities, some remaining independent enterprise agencies and thereafter the advice and support comes from the private sector providers.

The Enterprise Europe Network continues to operate and is managed by Innovate UK—the intention is to make service provision more joined up.⁹

The provision of education, training and support on IP therefore mirrors the rather fragmented structure and provision above. It is dependent upon the availability of business advisors and their expertise and experience in IP. More often than not businesses will be signposted to the IPO website and the information and support available through the IPO and its staff and services or local commercial providers.

Dependent on funding and bids, there can be programmes and projects that will specifically include IP advice and support. These vary from one region to the next.

The *IPO Corporate Plan 2017-2020*¹⁰ has an introduction by Jo Johnson, Minister of State for Universities, Science, Research and Innovation. The report indicates continued support for UK business with an emphasis on education and providing support to enable business to understand, manage and protect their IP. With reference to SMEs the report says, "Even a modest increase

1. <https://www.gov.uk/government/organisations#department-for-business-energy-and-industrial-strategy>

2. http://www.wipo.int/sme/en/best_practices/ip_wales.htm

3. <http://www.enterprise-europe-scotland.com>

4. <https://www.scottish-enterprise.com>

5. <http://www.lepnetwork.net/the-network-of-leps>

6. <http://www.hefce.ac.uk>

7. <http://www.raeng.org.uk/policy/dowling-review/the-dowling-review-of-business-university-research>

8. <https://www.gov.uk/government/publications/local-enterprise-partnerships-map>

9. <https://www.gov.uk/government/organisations/innovate-uk>

10. <https://www.gov.uk/government/publications/intellectual-property-office-corporate-plan-2017-2020>

in the registration, protection and exploitation of IP would contribute to UK jobs and growth.” This report identifies areas that have been addressed in 2016:

- The IPO launched the updated Lambert Toolkit. This toolkit and model agreements can help users from research and industry to negotiate IP-creating collaborative projects.¹¹
- Business Outreach uses *Facebook Live* broadcasts. The first live broadcast looked at IP’s deadly sins and reached over 8,000 people in seven days.
- IPO approved funding for 250 IP Audits to be delivered through their partners. This includes our company—Highbury Ltd.
- Continued targeting of businesses with IP messages to increase the number who better understand how to manage IP, reaching over 200,000 in 2016.
- Provision of education, advice and specific case support to nearly 5,500 UK businesses during 2016, helping them in their export activity.

Ensuring IP Rights are Respected and Appropriately Enforced:

- Practice sets out agreed targets for reducing the prominence of infringing links in search results, as well as specifying other areas such as autocomplete and domain hopping.
- As part of the IPO Enforcement Outreach program, it held an IP awareness and education workshop with 20 representatives from the IP Crime Group. The workshop identified the awareness and education was being undertaken by members, through messages, guidance and campaigns, as well as areas where members and the IPO can collaborate/support.

Under the plan, the IPO has key targets that reinforce the commitment to innovation and increasing knowledge and maximisation of IP and its growth value. The key targets are:

- Promoting UK growth through IP policy
- Delivering high quality rights
- Ensuring IP rights are respected and appropriately enforced
- Educating and enabling businesses to understand, manage and protect their IP
- The other targets are focused on developing the IPOs people, skills and efficiency and quality of services

The IPO will have ratified the Geneva Act of the Hague Agreement for international registration of designs by March 31, 2018 and be in a position to launch

the service on April 6, 2018 (the common commencement date). The new service will give UK businesses, especially SMEs, a simpler and more cost-effective way to register and manage their rights across multiple jurisdictions.

The UK Patent Box enables companies to apply a lower rate of Corporation Tax to profits earned after 1 April 2013 from their patented inventions and equivalent forms of intellectual property. The lower rate of Corporation Tax under the Patent Box is 10 percent.¹²

- In 2013-14, 700 companies claimed relief under the Patent Box with a total value of £342.9 million.
- Just under one-third of the companies (225 or 32.1 percent of total) were large and together they claimed £327.2 million of relief under the Patent Box (95.4 percent of the total).

Research and Development (R&D) Tax Credits and the Patent Box relief are designed to encourage greater Research and Development spending by companies, greater investment in innovation and exploitation of intellectual property (IP) in the UK.

R&D tax credits reduce a company’s tax bill by an amount equal to a percentage of the company’s allowable R&D expenditure. A company can only claim R&D tax credits if it is liable for Corporation Tax. There are three schemes for claiming relief: The Small or Medium-sized Enterprise (SME) Scheme; The Large Company Scheme; and Research and Development Expenditure Credits. An SME can claim a higher rate of relief than a large company. Also, an SME which has no tax bill to reduce is able to claim a cash payment instead. R&D tax credits were introduced for SMEs in 2000 and extended to large companies from 2002.

R&D Tax Credits; claims may include:

- Subcontractor costs
- R&D employee salaries
- Testing
- Prototype materials
- Software licenses

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11. <https://www.gov.uk/guidance/university-and-business-collaboration-agreements-lambert-toolkit>

12. <https://www.gov.uk/guidance/corporation-tax-the-patent-box>

R&D here includes:

- Advancing the field of science and technology
- Developing a new product or service
- Improving existing product or service
- Improving efficiency of processes

By the end of 2014-15, 39,360 different companies had made claims under SME scheme since it began in 2000-01.

The total amount of R&D support claimed grew to £2.45bn in 2014-15—an increase of £675m (38 per cent) from the previous year. During this period the cost of support for the SME scheme increased by £325m to just over £1bn.¹³

There is a clear commitment and desire from Government to promote, increase awareness and strengthen protection of IP and thereby enable UK businesses to maximise their intellectual capital and assets. There is a clear recognition of the need and value of innovation both for resilience, especially in the light of Brexit, and growth. No system of education, training and support is perfect, and there is undoubtedly room for development, but businesses can gain some initial advice and guidance and in certain areas funding and provision permits more specialist support for businesses. ■

Available at Social Science Research Network (SSRN):
<https://ssrn.com/abstract=3009302>

13. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/577859/160914_R_D_publication_commentary_v1-1.pdf