

Global Agenda Council on the Intellectual Property System

Top 10 Innovative National Policy Measures to Promote Intellectual Property Creation and its Commercialization

Governments have a wide range of tools to promote innovation through IP creation and commercialization. These measures are considered by governments to directly lead to market expansion, new revenue streams for companies, higher employment and growth for the national economy.

Besides providing and enforcing legal rights, the IP system has to function smoothly at many points along a chain, from idea creation and development to commercialization, manufacturing, licensing and uptake. Traditional IP support measures used by governments primarily focus on improving the laws and regulations defining IP rights; improving the efficiency of the IP office; improving enforcement of IP rights; and training IP officials, professionals and others. The measures outlined below reinforce the effectiveness of those traditional measures through the provision of direct monetary incentives and much-needed professional skill-sets.

This list is not designed to be comprehensive, but is based on a poll of the Members of the Global Agenda Council on the Intellectual Property System, and should be taken as helpful suggestions only.

1. Increase understanding of the economic impact of IP on commercial transactions

Governments could consider, as Hong Kong reportedly plans to do, soliciting information from publicly listed companies about how IP is used in commercial transactions such as mergers and acquisitions. This information not only provides useful information relating to the transfer of IP titles/assets and their monetary value, but also helps to spread knowledge on IP accounting, as well as valuation models and methods.

2. Encourage public-private partnerships

Intensify public-private partnerships (PPPs) where the government supports business in developing infant or new technology. PPPs as a policy tool are often discussed, but insufficiently put into practice. More deserves to be done, especially when they have clear economic and social outcomes. The government in Singapore has been working with banks to extend loans to entrepreneurs who use IP as collateral. To encourage such loans, the government recently introduced a scheme to guarantee a portion of such loans. Some government agencies have also provided test-bed and related facilities to start-up companies, in addition to occasional equity stakes.

3. Provide smart financial incentives to generate IP

A number of countries already provide financial incentives for companies to generate new IP that meets or creates market demand. The financial support is generally focused on the prototype and commercialization stages up to pre-IPO, and can be in the form of subsidies, seed money, outright grants, loans or equity participation.

Examples include various equity participation funds provided by a number of Singapore government agencies. SPRING, the agency supporting SMEs, has two funds called the Start-up Enterprise Development Scheme (SEEDS) and the Business Angel Funds (BAF). The former matches dollar-for-dollar to third-party investors'

investments, up to S\$ 1 million, while the latter matches up to S\$ 1.5 million from two business angel funds called BAF Spectrum and Accel-X¹.

Separately, Singapore's National Research Foundation has an Early-Stage Venture Scheme, which invests in early-stage venture capital funds. Selected venture capital firms that raise at least S\$ 10 million from third-party investors will receive dollar-for-dollar matching up to a maximum of S\$ 10 million to invest in early-stage technology start-ups in Singapore. Qualifying technology start-ups can approach the venture capital firms directly to seek funding of up to S\$ 3 million². What is evident is that the government may provide a crucial kick-start but, ultimately, it is the private sector investor who must then take over.

4. Establish best practices for IP valuation

National governments could work with one another or global bodies such as the World Intellectual Property Organization to develop international models, methodologies and best practices for IP valuation³. This clarifies to investors and government administrators alike the value of IP assets, and reduces risks by providing additional certainty. At the national level, accounting firms could be encouraged to nurture specialists in this domain.

5. Commercialize publicly owned IP

National governments are learning to better audit, document and monetize IP generated in the course of carrying out public services. This may be in some surprising areas – for example, there is potential value in the IP behind textbooks, teaching syllabi and pedagogical methodologies, examination papers, lectures, case studies, large data sets and technological improvements linked to building public physical infrastructure and providing healthcare. The IP may be offered free to public-sector users and licenced against payment to business and overseas users.

Some governments have set up national centres to undertake this in a rigorous fashion, such as IP Finland, which accesses national public partners to identify and promote industrial licensing or technology aggregation opportunities⁴. In Ireland, the Central Technology Transfer Office provides services for companies wishing to use IP generated from publicly funded research.

6. Incentivize public universities and research centres for entrepreneurship

Governments can offer better incentives to public universities and research centres to create start-up companies, reward personnel, liberalize rules for IP ownership by inventor-employees, relax university rules on ownership of IP and permit easy creation of spin-off companies run by enterprising academics and researchers. They can also actively push for closer collaboration between universities and small and medium-sized enterprises.

The Singapore government is very active in this regard, through the medium of government agencies that focus on different industrial sectors. Each year, the government allocates about S\$ 3.5 billion for R&D, especially in white-space research to yield new breakthrough technologies. In Finland, successful schemes promote collaboration, such as that between Nokia and the country's technical universities. The Foundation of Finnish Inventions provides funding for start-ups and individuals.

7. Liberalize the labour market for IP professionals

With talent ever more important as a competitive advantage for companies and countries, governments can boost innovation by opening labour markets and relaxing rules to allow the inflow of skilled IP professionals. This talent attraction policy may target patent and trademark agents, licensing specialists, IP portfolio managers, IP valuers, angel investors, venture capital managers, researchers, scientists, engineers and designers as well as information and multimedia technology specialists.

Many governments have foreign labour and immigration policies favouring certain skills. They could easily include IP-supportive

¹<http://www.spring.gov.sg/entrepreneurship/fs/fs/pages>

skills in those policies. For example, Germany is focusing on IT specialists, while Singapore targets, among others, researchers in the biomedical sciences. These approaches serve to strengthen a knowledge-based labour force while importing needed capacity and international connections into the innovation process.

8. Open up investment and financial markets in IP

In supporting IP transactions, governments can create vibrant technology markets. Some of them are now welcoming and encouraging patent auctions and technology exchanges where IP rights, especially patent rights, can be bought and sold or licenced, whether singly or in bundles.

An example of this is the IPXI, the world's first financial exchange focused on intellectual property rights, based in the United States⁵. This exchange enables efficient technology transfer, facilitates reasonable, market-based pricing and assists IP owners in unlocking the value of their IP assets. Shanghai, People's Republic of China, is reported to have begun an IP exchange.

9. Provide fiscal incentives to generate or utilize IP

Similar to financial incentives to promote the generation of IP, there are other fiscal incentives that can promote the better use of that IP. These may include tax holidays or breaks such as tax write-offs (often on a sliding scale), accelerated depreciation of machinery and equipment, waivers of sales tax or lower employment taxes.

For example, the Australian government has created a 45% refundable research and development tax offset, equivalent to a deduction of 150% and available to eligible small companies with an annual aggregate turnover of less than A\$ 20 million. For companies with an annual turnover greater than A\$ 20 million, a 40% non-refundable tax offset – equivalent to a deduction of 133% – applies, and unused offset amounts may be able to be carried forward for use in future income years⁶. In Ireland, tax relief is given for profits earned on commercialized IP, whether from patents, designs, trademarks or copyright. The tax relief ceiling is the law's corporate tax rate of 10%. Similarly, Israel also extends tax benefits.

10. Set the pace of patent examinations based on government priorities and innovator needs

For many applicants, especially SMEs, any delay in a decision by the patent office could have a negative impact on future earnings. At the moment, patent applications are generally processed by patent offices without regard to technology prioritization. Differentiating the pace of patent examinations in patent offices, such as giving higher priority to the patenting of technologies with good prospects for delivering public benefits, e.g. green technology or certain drugs, would help make efficient use of resources for innovators and governments.

Some patent offices are allowing applicants to nominate how and when to speed up a patent application's examination, such as the Green Patent Fast Track programmes in Australia, Brazil, Canada, China, Korea, Japan, the United Kingdom and the United States⁷. Together, these measures provide incentives for innovators to look into areas of national priority, and encourage a deeper partnership between innovators and patent offices on commercial strategy.