The Impact and Effectiveness of Support Measures for Exploiting Intellectual Property

Aims and Scope: The IPR systems of the various countries and regions of the world are designed to facilitate innovative activity. Their origin and development have been directed at this goal, and have been long, complex, and at times, surprising. An account of how these developments have served innovators - firms, individual inventors, and now, more recently university academics - and of course the beneficiaries of innovation - would be a significant undertaking, but not one that could be conducted sensibly within 30 pages. For conceptual clarity and relevance to policy makers, this review has focused on those policies which have been employed to support users and would be users of the intellectual property system and which can be described as policy or programme support measures. The focus of the review is not therefore upon the IPR system itself, or its detailed development over time. Rather, the focus is upon those policies that seek to help inventors and other commercial actors become aware of the IP system, and explicitly to help them know how they might use it. Structure of the Document: This review is in five main sections, a short introduction, a conceptual background to orient the reader, a description of the scope of the review, a description of the main findings from the review, and then conclusions are presented. The findings fall into two main sections to cover two fundamentally different forms of support, on the one hand a) programmes and initiatives focused upon public sector organisations, including universities which are often responsible for the development of their own strategies, information and awareness schemes for their own staff and b) government initiatives directed at private sector organisations, principally firms but also at inventors. In each section we have considered the details of the schemes, the assumptions that they make, their mode of operation, their targets and look at the validity and appropriateness of their models, and the evidence of their effectiveness and efficiency. Literature Reviewed: The review of literature has been world-wide, on account of the fact that, while the UK and the EU IPR systems are different from each other and from those found in other parts of the world, the systems operate with many similar principles. Furthermore, there are a number of international overarching agreements that have sought to ensure that national IPR policy adopts common approaches to certain issues so as to facilitate, for example, global protection of IP rights and international trade in IP rights. The scope of our review has included academic reviews of policies and programmes that support users of the IPR system both public and private, and reviews conducted by a number of other bodies such as organisations that are part of the IPR system itself. The most important of these organisations that are part of the IPR system itself are the national patent offices, commonly referred to as NPOs. Main Findings: Decisions taken by firms, especially SMES, and by public organisations to deal with their knowledge assets of know-how and codified knowledge so as to optimize their innovation activities are normally complicated and difficult decisions to make. Very often immediate patenting of their innovations following discovery is the most inappropriate step of all for some firms and inventors. And yet it is a widely held view that patenting is the only and best way to safeguard and protect a firm or inventor's intellectual property and therefore defend, and extend a competitive advantage. Support on the use of the IPR system and upon the formation of an IPR strategy is mediated support in all economies reviewed in that it is provided by major institutional and legal structures. On one hand we have the TTOs which provide the context for the university / public sector; on the other we have the NPOs and a range of public and private operators serving the firm and inventor sector. Within the TTO sector, the individual inventors are working within an institutional structure which may provide incentives to a small degree that affects their research efforts, and to a large extent directs their invention and innovation practice, including patenting and licensing. Differences between TTOs in terms of the support they give, and their views of strategy therefore have major implications for the way in which knowledge and invention impacts upon the economy. There is an evident tension in the initiatives taken to promote awareness, knowledge and use of the IPR system between public and private provision. This distinction of core and periphery is the difference between a core set of services that are provided free of charge to all that wish to use the IPR system, or which are provided at a subsidized rate by NPOs or government bodies, and a wider set of services that are commercially provided by private organisations. Within this context, excessive public provision is seen as a threat to private services and such provision carries the risk of crowding-out private sector suppliers. This core periphery distinction is subject to change over time however. Over the last two decades, the IT revolution, the

development of databases has led to a large rise in the level of free including on-line services that can be offered by the public authorities. The literature does not address as other literatures with an evaluation aspect to them might do the issue of the effectiveness of support schemes and their economic impact. We believe that the reasons for this are that it is exceedingly difficult to frame a model of impact of information and advice, and to find evidence of such impact taking place as a result of support services by themselves. Where evaluations have been undertaken, they are relatively simplistic and limited, noting the overall cost of action, and the number of times advice has been given. In other words, evaluation in this policy context mostly takes the form of auditing rather than evaluation, with clearly consequences for understanding the actual impact of measures. Attribution of the changes in the use of the IPR system, for example patenting, are difficult to attribute to changes in the way in which firms are advised and supported in their use of the IPR system. No studies we have covered have been able to distinguish between changes at the institutional level and changes in the support provided to explain changes in actual IPR behaviour of firms. There is clear evidence that changes to structure has changed patenting behaviour, for example Bayh-Dole in the US, and similar legislation elsewhere; but attempts to distinguish these causes of change in behaviours relating to IPR from changes arising from support initiatives have not been conclusive. Policy Challenges: The development of an understanding of the impact of support services upon users of the IPR system is desirable but remains a significant challenge for those wishing to establish the appropriateness, effectiveness and efficiency of policy actions. The difficulty identified by MacDougall (2003) that "one size does not fit all" - with the implication that the tailoring of support is essential - remains a significant barrier to the development of support to those wishing to exploit their intellectual property. Frameworks for support for users of the IPR system generally conform to the two-fold system, with TTOs on the one hand and NPOs and related agencies on the other. However, within TTOs are influenced by and assisted by further initiatives. In the UK for example the HEIF support has provided an important further support for patenting activity which has given substantial grants to a number of institutions. The attribution of impact to policy support measures is not an easy task. It is difficult in principle let alone in practice to distinguish for example between changes attributable to the system itself and changes that result from policy support measures. The picture may be further complicated by the use of support measures that have an economic effect upon users of the system. Such measures include subsidies and tax breaks. These forms of policy are beginning to emerge as new forms of support measure, and while there may be some indication of initial impacts on the extent of patenting behaviour, the effect upon innovation and economic growth has yet to be demonstrated.
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