

THE UNIVERSITY OF WARWICK

Minutes of the meeting of the Intellectual Property Committee
held on 8 May 2013

Present: Professor T Jones (Chair), Dr P Hedges, Mr T Skelhon, Professor H Spencer-Oatey, Mrs M Wenham.

In Attendance: Dr S Gallagher (Warwick Ventures Advisor), Mr S Gilling (University Legal Advisor), Dr S Mak (Secretary), Mrs J Prewett (Research Support Services Advisor).

Ms A Chambers (Strategy and Change Team) in attendance for item 15/12-13, Dr M Barnett in attendance for item 16/12-13, and Mr B Spillane (Warwick Ventures Adviser – attending at Mr Q Compton-Bishop's request).

Apologies: Mr Q Compton-Bishop, Professor R Dashwood, Professor C Dowson, Professor Sir John Temple.

09/12-13 Conflicts of Interest

REPORTED: (by the Chair)

That, if any members or attendees of the Intellectual Property (IP) Committee had any conflicts of interest relating to agenda items for the meeting, they were required to be declared in accordance with the CUC Guide for Members of Higher Education Governing Bodies in the UK.

NOTE: No declarations were made.

10/12-13 Minutes of the Previous Meeting

RESOLVED:

That the minutes of the meeting of the Intellectual Property Committee held on 4 February 2013 be approved.

11/12-13 Update on Research Data Management Group (minute 03/12-13 refers)

RECEIVED:

A paper (IPC.04/12-13) presenting an update on current developments.

12/12-13 Student Laboratory Notebooks (minute 04/12-13 refers)

CONSIDERED:

A paper (IPC.05/12-13) presenting results of a survey of Academic Departments' use of research/laboratory notebooks when conducting research activity.

REPORTED: (by Professor H Spencer-Oatey)

- (a) That regarding responses from Arts and Social Sciences Departments there appeared to be minimal use of notebooks among academic staff, with an apparent general perception of notebook use being of little relevance to Arts and Social Science disciplines.
- (b) That the survey had been understood by Arts and Social Sciences Departments more in terms of data and records storage, and that there appeared to be a low level of awareness amongst academic staff of the intellectual property implications of not recording research activity, methods and results.
- (c) That some formal recording of research activity did take place among Arts and Social Sciences postgraduate research students who were required to submit research progress reports for evaluation by PhD supervisors, though these were recorded in forms and not in notebooks.
- (d) That notebook use in the Arts and Social Sciences might be encouraged by using an electronic format, as this may be better suited to recording 'continuous' qualitative research as opposed to more discrete data-centric scientific experiments.
- (e) That it might be of use to consider placing formal recording of research student activity within a suitable research notebook design, to encourage day to day recording of research activity from an early career stage.

(by the Secretary)

- (f) That Science and Engineering Departments' feedback had been that in terms of design, notebook users became used over time to whatever format they were given to use.
- (g) That a page design and notebook cover, as illustrated in IPC.05/12-13 Annexes A and B, had been suggested for a single notebook design format for use at Warwick.

(by Mr B Spillane)

- (h) That in order to patent outcomes or outputs, a research recording system would need to be able to be validated and prevent unethical alterations, be able to prove who had done what tasks, and show that the research activity was repeatable.

(by Mr T Skelhon)

- (i) That from a research student perspective, a consistent procedure for notebook use was desirable, and that it would be challenging in practical terms for research students to use an electronic-based notebook in a laboratory setting.

(by Ms M Wenham)

- (j) That the need for increased use of research notebooks could be better linked to the Research Data Management (RDM) agenda and to the options appraisal for electronic notebooks, which was mentioned in the RDM roadmap (IPC.04/12-13).

(by the Chair)

- (k) That an electronic notebook format had been considered previously, but that should an electronic version be produced, it would be important to finalise required suitable specifications before development ended to avoid subsequent revisions.
- (l) That it would be helpful to survey the Mathematics and Statistics Departments as to their use of notebooks, as these were non-laboratory science disciplines that faced similar challenges to notebook use as in the Arts and Social Sciences.
- (m) That it might be helpful if Warwick Ventures were to contact Academic Departments in order to raise the profile of IP generally and notebook use within this.

RESOLVED:

- (a) That the use and design of notebooks in the Departments of Mathematics and Statistics Departments be surveyed. **Action: Dr S Mak**
- (b) That the specification and use of electronic notebooks be considered at the next meeting of the Information Policy and Security Committee. **Action: Dr S Mak**
- (c) That a summary of discussions on research notebooks at the IP Committee be shared with the Research Committee. **Action: Dr S Mak**
- (d) That Warwick Ventures consider further an approach to Academic Departments to raise the profile of IP rights and ownership and associated research notebook use. **Action: Mr B Spillane**

13/12-13 E-learning materials (minute 05/12-13 refers)

CONSIDERED:

Proposed amendments to Regulation 28 (IPC.06/12-13 Parts 1 and 2) incorporating further considerations on ownership of e-learning materials.

REPORTED: (by the University Legal Adviser)

- (a) That the proposed amendments followed discussion at the last meeting of the Committee, where it was felt that Regulation 28 could be clarified further regarding ownership of materials produced for a virtual learning environment.
- (b) That the proposed amendments were minor and were consistent with the position of Russell Group universities.
- (c) That it was advisable that academics' teaching materials be altered to 'specifically commissioned' materials before use on e-learning platforms, which would enable clearer IP ownership arrangements, and that it was advisable to discourage direct use of teaching materials on these.

- (d) That it was possible that further clarification might be needed in due course should Regulation 28 be tested in a case that involved Moodle (the University's e-learning platform) or a massively open on-line course (MOOC).
- (e) That given recent wider debate on IP ownership arrangements that had stemmed from e-learning discussions, the University might wish to clarify its broader approach to Regulation 28 and IP ownership in the longer-term.

RESOLVED:

- (a) That the revised version of Regulation 28 as set out in IPC.06/12-13 Part 2 be recommended to the Senate and to the Council for approval. **Action: Dr S Mak**
- (b) That the wider aspects of future direction on IP ownership arrangements be raised with the Deputy Registrar in the first instance. **Action: Dr S Mak**

14/12-13 User guide for producing materials in a Virtual Learning Environment
(minute 05/12-13 refers)

RECEIVED:

A paper (IPC.07/12-13) presenting a user guide for staff and students who will be producing materials for use in a Virtual Learning Environment.

15/12-13 IP Operating Agreement with Monash University

CONSIDERED:

An oral report from Ms Ailsa Chambers (Strategy and Change Team) on the current position on IP aspects of the Operating Agreement with Monash.

REPORTED: (by Ms A Chambers)

- (a) That joint academic appointments and PhD studentships were due to commence from August 2013.
- (b) That joint academic appointments were required to sign an employment contract with each university, in the absence of single appointment terms, and that academic appointments were currently being contracted on an 80/20 split basis, with each contract and IP policy subject to the specific laws of the country of each employing University; an agreement would still be required to address how this IP was owned and managed between the two universities.
- (c) That joint PhD students would be registered with both universities throughout their degree and be required to assign their IP resulting from research to the Alliance on enrolment, and that an agreement was required to address how this IP was owned and managed between the two universities.
- (d) That the appropriate proportion of remuneration for PhD students was still to be clarified, but that a key issue was that the Alliance was currently not a legal entity and therefore could not legally own any IP rights, and that a solution was being sought before joint studentships began.

- (e) That following the Registrar and Chief Operating Officer's recent visit to Monash in April, the interim guidance was to follow each University's individual policies relating to IP (depending on where an appointment was based) until an Operating Agreement could be finalised.
- (f) That given the outstanding issues presented in relation to joint positions it was important to achieve consensus regarding a common IP arrangement as soon as possible.
- (g) That it was suggested that a Working Group be formed to examine the issues in detail and recommend solutions to the above issues, and report back to the Committee in due course.

(by the University Legal Adviser)

- (h) That possible gaps in assuring beneficial IP terms for the University in the draft IP Operating Agreement might still exist and if so, that these would be need to be clarified ahead of any formal agreement.

(by Dr P Hedges)

- (i) That there might also be a need to review or clarify IP arrangements in relation to various other partnerships, including with the Liverpool School of Tropical Medicine (LSTM) and the Centre for Urban Science and Progress (CUSP), and if so, that they might need to be prioritised accordingly.

(by the Chair)

- (j) That he had previously opened discussions with Monash regarding joint IP remuneration arrangements but that the departure of his counterpart at Monash had unfortunately led to a delay in progressing these.
- (k) That the University would need to move quickly to resolve these issues, as the current interim position might cause confusion for commercial companies wishing to work with a joint appointment (given that these staff would have two employers and two sets of IP policies applying to them).
- (l) That a single procedure for registering of patents was needed to avoid jurisdiction issues and that for Warwick, patents should ideally be registered in the UK wherever possible.

RESOLVED:

That the membership and work programme for the proposed Monash IP Working Group be resolved by the Chair and Ms A Chambers as a matter of urgency.

Action: Professor T Jones and Ms A Chambers

CONSIDERED:

A paper (IPC.08/12-13) on proposed ownership of Foreground IP resulting from consultancy work.

REPORTED: (by Dr M Barnett)

- (a) That the intention of the WAMS initiative was to set up and facilitate rapid business consultancy interaction with potential clients, and that having the ability to generate contracts on a same-day basis would assist with securing a greater volume of consultancy business for the University.
- (b) That the University Legal Adviser had been providing guidance on suitable contractual wording, and that further refinement might be needed around the setting of maximum transaction values.
- (c) That an electronic tool to generate contracts on demand had been produced, but that the approach to IP ownership of outputs resulting from consultancy work needed clarification.

(by Dr P Hedges)

- (d) That it would be important to ensure that no warranty was provided on the application of WAMS' results to any consultancy services provided, to ensure that the University was not liable for others use of those outputs.

(by the Research Support Services Adviser)

- (e) That it would be beneficial for WAMS to consider using contractual wording similar to that used in Science City projects as this work was similar to WAMS services in many respects.
- (f) That for Science City projects, the University retained ownership of Foreground IP but that clients received rights to results and reports stemming from this regarding their contracted work.
- (g) That of the two sets of suggested terms and conditions covering consultancy work presented in the paper IPC.08/12-13, the first was preferable but that it was important to protect Foreground IP and that the wording should be amended to reflect this.
- (h) That most companies were comfortable with such contractual and IP arrangements and that protection of Background IP was not an issue as this was not required to generate results derived from consultancy work.
- (i) That it would be important to be clear as to what WAMS outputs might be classified as research or as consultancy, as this could potentially affect research income levels, and that any WAMS agreements must assure that required levels of University research income would not be affected.

RESOLVED:

- (a) That the proposed IP arrangements pertaining to the WAMS initiative be approved, subject to these being amended to reflect terms and conditions and Foreground IP protection used in Science City contracts.

- (b) That relevant information on Science City contracts be provided to Dr M Barnett to allow amendments to be implemented. **Action: Mrs J Prewett**
- (c) That a summary of the approach to be used when launching WAMS be provided to the IP Committee at the appropriate time. **Action: Dr M Barnett**

Note: following the meeting it was advised that WAMS would subsequently be known as 'Warwick Scientific Services' (WSS).

17/12-13 Awareness of IP Policies in Post-Graduate Research

CONSIDERED:

An oral report from the Chair on increasing awareness and communication of IP ownership amongst new University post-graduate research students.

REPORTED: (by the Chair)

- (a) That a recent student case had raised the issue of lack of awareness of the IP Policy and Regulation 28 amongst post-graduate researchers and that views were welcomed as to the best way to address this.
- (b) That a suitable approach regarding next steps might be to request the Graduate School to take overall responsibility for promoting awareness of IP ownership policy amongst post-graduate research students, with Academic Departments to raise awareness locally.

(by Professor H Spencer-Oatey)

- (c) That induction was arranged for new research students but that IP was not currently included within this.

(by Mr T Skelhon)

- (d) That consideration could be given to ensuring IP policies were presented in a similar way to other mandatory student induction courses, for example in Health and Safety.

(by the Research Support Services Adviser)

- (e) That any awareness raising will likely to require both in face to face meetings and via online facilities, and that an electronic method of providing suitable induction and also recorded acceptance of understanding around University IP policies could be discussed with the Learning and Development Centre.

(by the Warwick Ventures Adviser)

- (f) That awareness amongst academics and researchers of what the exact definition of an 'inventor' was, was also an issue.

RESOLVED:

That the Graduate School be requested to take forward awareness raising of IP policies amongst post-graduate research students. **Action: Dr S Mak**