

THE UNIVERSITY OF WARWICK

Minutes of the meeting of the Intellectual Property Committee
held on 4 February 2013

Present: Professor T Jones (Pro-Vice-Chancellor) (Chair), Mr Q Compton-Bishop (Chief Executive Officer of Warwick Ventures Ltd.), Professor R Dashwood (Academic Member), Professor C Dowson (Academic Member), Dr P Hedges (Director of Research Support Services), Professor H Spencer-Oatey (Academic Member), Professor Sir John Temple (Lay Member), Mrs M Wenham (Human Resources Manager).

Apologies: Mr T Skelhon (Student Member)

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

01/12-13 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.

02/12-13 Minutes of the Previous Meeting

RESOLVED:

That the minutes of the meeting of the Intellectual Property Committee held on 19 September 2012 be approved.

03/12-13 Update on Research Data Implementation Group developments (minute 31/11-12 refers)

RECEIVED:

An oral report by the Chair on developments regarding the Research Data Implementation (formerly Management) Group since the last IPC meeting.

REPORTED: (by the Chair)

- (a) That a research data management plan was being piloted in two subject areas (particle physics and a social science field) with an implementation report to follow, which the Chair would inform the Committee about when ready.
- (b) That a challenge would be to deal with rapid growth in volumes of data, and an output of the Group was to prepare a response through a five-year plan,
- (c) That the current focus of activity was on the auditing of current practice and surrounding issues with a view to producing next steps.

RESOLVED:

That the update be noted, with the Chair inform on future developments.

04/12-13

Student Laboratory Notebooks (minute 32/11-12 refers)

RECEIVED:

An oral report from Professor C Dowson on examples of best practice from the private sector and other HEIs, regarding the use of laboratory notebooks and research recording methods.

REPORTED: (by Professor C Dowson)

- (a) That a survey of Warwick, Sheffield, Newcastle, Imperial College and Birmingham Universities had been conducted with a wide variety of comparative examples gathered.
- (b) That all of these permitted the use of laptops in laboratories except for Birmingham which denied their use due to health and safety concerns.
- (c) That best practice could be found in the Pharmacology Department at Imperial College where research data recording was electronic only and security protected, with Birmingham and Newcastle using supplied notebooks, though there was considerable discretion in how these were actually used.
- (d) That Newcastle trained research staff and students in best practice of notebook use and appropriate recording of research data, though different backgrounds often resulted in diverse approaches in actual use.
- (e) That it was likely that undergraduates as well as postgraduates needed training to ensure best practice was learned early on for those progressing to research careers, and that there should be a consistent emphasis in best practice across both the arts and social sciences subjects and the natural sciences.

(by Professor R Dashwood)

- (f) That he had obtained three examples of documents that set out research data recording practice, the first being a concise two-side précis, the second which explained in more detail why proper recording of research was necessary, and the third being a large document setting out full policy and guidance.
- (g) That having a simple and concise but nevertheless formal code was required and should be distributed to Academic Departments, with a policy to address electronic storage also required.
- (h) That clarification was required on specifications of design and content of notebooks, as well as how these were used.

(by Dr S Gallagher)

- (i) That some guidance on notebooks had recently arrived from the attorneys JA Kemp and would be circulated to the Committee for viewing.

(by Mrs J Prewett)

- (j) That she would be drafting a note for the Chair to circulate to Heads of Departments reminding them of the Research Code of Conduct which intended to reference an attached example of a notebook, and in parallel views would be sought on how Departments could implement best practice in their local areas.

RESOLVED:

- (a) That a draft one page (two sides) guide be produced by Dr S Gallagher and brought to the next Committee meeting for consideration.
- (b) That Dr S Gallagher circulate the material received from JA Kemp to members for their awareness before the next meeting.
- (c) That Professor C Dowson contact Science and Engineering Departments to seek feedback on design and use of notebooks, with a view to considering improved notebook design and content, and report back to the Committee.
- (d) That Professor H Spencer-Oatey contact Arts and Social Sciences Departments to seek feedback on design and use of notebooks, with a view to considering improved notebook design and content, and report back to the Committee.
- (e) That Mrs J Prewett provide the Chair with a letter to circulate to Heads of Departments on the Research Code of Conduct and notebook use, to include reference to an example of a lab notebook.

05/12-13 Ownership of materials used in a virtual learning environment (VLE) (minute 28/11-12 refers)

CONSIDERED:

A paper from Warwick Ventures Ltd. (WVL) presenting proposals on the future approach to e-learning materials and their ownership (IPC.01/12-13).

REPORTED: (by Mr Q Compton-Bishop)

- (a) That the paper followed on from debate at the July 2012 meeting, and was a discussion piece for considering how to exploit e-learning materials, obtain and ensure their ownership, and mechanisms needed to achieve this.
- (b) That e-learning materials might start as teaching materials, possibly including third party IP as well, therefore it could be challenging to gauge the correct 'fit' of ownership given the materials being used.

- (c) That it would be helpful to gather any examples of e-learning materials previously developed together with any process detailing how ownership was allocated to them.
- (d) That a new post had been created in WVU to focus on software, digital media and associated e-learning materials IP.

(by Professor H Spencer-Oatey)

- (e) That a distinction could exist between teaching materials versus specially-commissioned e-learning materials, depending on the context in which these were created.
- (f) That use of 'Moodle' (the University's web platform delivering learning and teaching materials) complicated the picture in that an uploaded package could contain content from multiple authors, accessible both in the classroom and external to the University.

(by Mr S Gilling)

- (g) That similar issues had previously arisen regarding emergence of distance learning materials, and that established customary practices often applied to ownership.
- (h) That ownership rights to e-learning materials were clearer than the paper may have indicated, but that who shared in the upside benefits of those was less clear.
- (i) That two proposals were offered as next steps in addressing e-learning materials and their ownership:
 - (i) That he would be working with the legal firm Martineau to draft guidelines covering what academics and other staff will need to consider when creating e-learning material content, to make clear what should be done differently from current practice.
 - (ii) That he would also consult with Martineau as to any further changes that may need to be made to the current version of the Intellectual Property Policy and Regulation 28.

RESOLVED:

- (a) That Mr S Gilling update the next Committee meeting on production of e-learning guidance and proposed changes to the IP Policy.
- (b) That Mr S Gilling, Professor H Spencer-Oatey and Mr Q Compton-Bishop consider for the next meeting any further clarification to Regulation 28 that may be required.

06/12-13 Access to Background IP within Strategic Relationships with Partners

CONSIDERED:

A paper from Research Support Services (RSS) on issues with Background IP agreements and their position within relationships with strategic partners (IPC.02/12-13).

REPORTED: (by Dr P Hedges)

- (a) That 'Background' IP was existing IP used within development of new projects or research outputs, but which had been generated and claimed before a project began, whereas 'Foreground' IP was new IP produced from or during a project and which used existing Background IP in its development.
- (b) That cases had been reported where a major partner of the University was demanding unfettered, open-ended and royalty-free access to 'Background' IP, in contrast to the University's normal terms of requiring royalties and time-bound licencing arrangements for accessing of its Background IP.
- (c) That principles on decision-making were needed to address both these and future cases as the number of such issues was increasing, and that any principles would need to balance potential loss of Background IP ownership (resulting in potential loss of future royalties and ability to undertake research) against the major benefits to the University from strategic partnerships.

(by Mrs J Prewett)

- (d) That the default position on allowing access to Background IP to a third party was to permit royalty-free access for the duration of the research activity, with royalties then required for continued access to Background IP where the exploitation of Foreground IP stemming from it required the use of that Background IP.
- (e) That it was important to set out the terms of access to Background IP at the very start of any activity with partners or collaborators, as terms were difficult to alter subsequently.

(by Mr Q Compton-Bishop)

- (f) That the estimated value of Background IP should be assessed very early on, and that any added value arising from any resulting Foreground IP also needed to be evaluated and exploited quickly.

(by Professor R Dashwood)

- (g) That the reason for many partners wanting to work in the first place with Warwick was for the value of its Background IP.
- (h) That there was a possibility that strategic partners from the business and industry sectors viewed the University as another 'supplier' of goods and services and if so, handling of such approaches might need addressing appropriately.

(by Professor Sir John Temple)

- (i) That it seemed likely such issues would need to be decided upon on a case-by-case basis since each of these were highly contextual.

(by the Chair)

- (j) That greater co-ordination between WVL, RSS and Academic Departments was needed to successfully address individual cases arising, and that the overall picture was too complex to form an overarching set of principles that could apply in all cases.

RESOLVED:

That improved co-ordination of managing third-party access to Background IP was required between WVL and RSS, with Mr P Hedges and Mr Q Compton-Bishop to agree and implement an improved co-ordination and evaluative system to be used when deciding on access terms to Background IP.

07/12-13 2012 Report on Warwick Ventures Ltd. – annual update

CONSIDERED:

A paper from Warwick Ventures Ltd. (WVL) providing an annual update on performance and IP developments with UK and overseas HEIs (IPC.03/12-13).

REPORTED: (by Mr Q Compton-Bishop)

- (a) That the previous two to three years had seen the number of concept stage activities feed through to increased numbers of patents.
- (b) That a key objective was to grow licencing numbers much more quickly, which emphasised the need to value and secure IP very early on in research or partnership activities (rather than continue increasing spin-out numbers, which were averaging two to four per year).
- (c) That while Warwick's Higher Education – Business and Community Interaction (HE-BCI) rankings were not very high in some areas, historically WVL were good at establishing spin-out ventures and at raising investment, though less good at securing value from associated IP.
- (d) That WVL's longer-term plan was to produce positive returns to the University within five years.
- (e) That rankings overall had been slowly increasing with a new emphasis to be made on gaining proceeds from existing spin-outs, and it was hoped that approximately £4m could be extracted from current investments and returned to the University to fund new ventures.

(by Dr P Hedges)

- (f) That Warwick achieving top twenty rankings for many HE-BCI activities was a positive performance given the relative size of the University and its historical leaning towards arts and social sciences provision.

(by the Chair)

- (g) That recruitment in the bio-medical fields should eventually feed through to patents and IP exploitation, which would be a future priority for WVL.

RESOLVED:

That the report from WVL be noted.

08/12-13

e-Publishing

CONSIDERED:

An oral report from the Chair on developments in e-publishing.

REPORTED: (by the Chair)

- (a) That a forum to take forward e-publishing at Warwick had been agreed following a meeting of the Information Policy and Security Sub-Committee (IPSC) in January 2013.
- (b) That this was being led by Professor Mark Knights and the University Librarian with four faculties now being involved, the project having started off in the Humanities faculty.
- (c) That it was important to get e-publishing right, and which may need to include consideration of any IP issues that might arise should e-press capability be shared with Monash University as part of the new e-publishing plan.
- (d) That a further update would be provided to the Committee in due course.

RESOLVED:

That the report be noted with the Chair to provide an update on e-publishing to a future meeting.