



NORWEGIAN MINISTRY
OF TRADE AND INDUSTRY

Meld. St. 28 (2012–2013) Report to the Storting (white paper) Summary

Unique ideas, major assets





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Translation from the Norwegian. For information only.

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Introduction

Intellectual property rights have an impact on the overall economy.

There has been a significant global increase in the number of rights registered. International trade and cooperation based on intellectual property rights are on the rise. Companies increasingly use intellectual property rights to establish cooperative relationships and share knowledge and technology. Trade in pirated goods and illegal downloads of software, music and film have also grown significantly over the last decade.

The economic significance of intellectual property rights increases in line with their use. When intellectual property rights become more economically significant, they also become more important from an industry and commerce trade policy perspective.

This is an excerpt from the White Paper *Unique ideas, major assets* – concerning intellectual assets and intellectual property rights (Meld. St. 28 (2012–2013)).

The Norwegian intellectual property system

The Norwegian Industrial Property Office

The Norwegian Industrial Property Office (NIPO) was established in 1911 and currently has approximately 260 employees. It is the national authority for examining patent, trademark, and design protection applications, and is a national centre of competence for industrial property rights.

NIPO has two main objectives:

1. Examine applications for industrial property rights with appropriate quality and processing times.
2. Contribute toward increasing awareness concerning industrial property rights in Norway.

The first main objective is defined by statute and other regulations, and has been significantly harmonised with the rest of Europe.

It is in the interest of society that the awarding of industrial property rights is predictable, which can be achieved by assessing applications according to certain common criteria. It is also important that applications are processed quickly in order to clarify the legal standing of the relevant application.

NIPO's second main objective is to increase awareness of industrial property rights, for example through courses, lectures, preliminary searches and assistance. The duty to provide assistance also covers international regimes and application systems.

NIPO aims to increase awareness concerning the use of industrial property rights in the range of public policy instruments, as well as support efforts in this field.

NIPO is a partner in the Nordic Patent Institute (NPI) along with the Danish Patent and Trademark Office and the Icelandic Patent Office.

NIPO represents Norway at general assemblies, as well as a number of special committees, in the World Intellectual Property Organization (WIPO). NIPO also cooperates with WIPO to provide professional assistance to developing countries aiming to establish functional intellectual property regimes.

NIPO represents Norway in the Administrative Council, as well as in underlying committees in the European Patent Organisation (EPO).

NIPO is also involved in bilateral projects with other countries, which includes its work on prioritised examination in the patent area, as well as collaboration with the EU's design and trademark authority (OHIM) and other European countries on the harmonisation of trademark practices.

NIPO is involved in legislative and regulatory work, and assists the ministries in negotiations in free trade agreements.

Providing assistance to applicants and public institutions, as well as being an information provider, are NIPO's non-profit activities. Such knowledge is a public benefit and is therefore financed over the Government budget.

The policy implementation system

Innovation Norway is a public policy agency that stimulates profitable economic development throughout the country by providing financing, expertise, publicity, networking and advice, for example in connection with intellectual property rights. The efforts are primarily directed toward entrepreneurs and small and medium-sized businesses. Innovation Norway also provides courses in intellectual property rights for its customer service advisers and provides guidance to its regional and field offices staff.

The Research Council of Norway is the Government's most important policy agency for developing the Norwegian research system and implementing research policy priorities. Their work on intellectual property rights is primarily linked to following up businesses and users which receive public funding for research and development.

The Norwegian Design Council works to increase awareness concerning the strategic use of design-driven innovation processes in order to achieve greater competitiveness and profitability in Norwegian industry and commerce. In cooperation with private centres of expertise, the Norwegian Design Council holds topical seminars on design and intellectual property rights.

SIVA (Industrial Development Corporation of Norway) administers incubation programmes to fund the development of new business opportunities at innovative companies. A key part of the incubation work is to assist entrepreneurs secure and develop their intellectual property rights through patents, licences or other relevant schemes.

Commercial service providers

Norway has a well-functioning range of private counselling and services for businesses and inventors. There is no requirement to e.g. use patent experts in connection with preparing applications to the NIPO, but as this can be both complicated and labour-intensive, many applicants choose to engage patent agents.

Larger businesses normally use their own experts to handle many of the services provided by patent experts. The Norwegian patent expert sector therefore plays an important role for individuals and smaller businesses.

Norwegian membership in the European Patent Organisation sets substantial requirements for those who are to represent a patent applicant vis-à-vis the EPO. The rules and patent offices of a number of countries, including the EPO, require authorisation in order to exercise the role of patent agent. To ensure that the industry can compete in Europe, the NIPO has trained and authorised experienced patent agents in Norway.

Dispute resolution agency and courts of law

Anyone who claims that an intellectual property right has been awarded on an incorrect basis, can request an administrative review of the decision from NIPO. A complaint can be lodged with NIPO if a registered business name is confused with or otherwise infringes upon another businesses name, protected personal names or trademarks.

Appeals of NIPO's decisions have so far been considered by NIPO's own appellate body. This has now been revised through a new statute under which an independent appeals board, the Norwegian Board of Appeal for Industrial Property Rights, has been established.

The Board of Appeal's decisions can be brought before the courts, with the exception of when a right is granted or a demand for administrative review is rejected.

Rejected applications for industrial property rights in Norway can be brought before the Oslo District Court though decisions rejecting objections may not be brought before the courts. In such instances, the validity of the actual intellectual property right must be brought before the court and will be a matter between the rights holder and plaintiff.

The Mediation Board for Employee Inventions hears disagreements between employers and employees concerning the Employee Invention Act relating to the right to inventions and potential compensation. The Board is administered by NIPO.

The Cable Television Dispute Board (Kabeltvistnemnda) resolves disputes concerning compensation for rebroadcasting pursuant to the Copyright Act. The Board also provides mediation between licensees, broadcasters and owners of cable television networks.

The Alternative Dispute Resolution Committee handles disputes concerning the right to domain names and appeals of decisions made by Norid (registry for Norwegian domain names). If someone has registered a domain name to which others believe they are entitled, they may bring the case before the Alternative Dispute Resolution Committee. The Committee can then decide that the domain name must be transferred, or that it be deleted.

Commercialisation offices at research institutions

In order to promote commercialisation of research results from universities, university colleges and health institutions, the Employee Invention Act was amended in 2003 to allow universities and university colleges to transfer the rights to commercialise research results from their research employees. The institutions' responsibility to communicate research results was also clarified in the 2002 amendment of the Act relating to universities and university colleges. The objective is to increase value creation by commercialising research results – regardless of whether the rights to the research results are held by researchers, institutions or businesses.

The amendments have increased awareness concerning intellectual property rights in research communities, as well as provide more systematic administration of intellectual property rights at Norwegian universities, university colleges and health institutions. The amendments have resulted in the establishment of Technology Transfer Offices (TTOs), at a number of institutions.

The challenge for the institutions is to strike a balance between publication and transparency, and the need to secure the rights to exploit the results commercially.

International cooperation

The World Intellectual Property Organization (WIPO) was established in 1970 and consists of 182 member countries. That same year a number of countries also adopted a new international Patent Cooperation Treaty (PCT). Today, the PCT has 146 member countries. Norway is a member of both WIPO and PCT.

Norway is a signatory to the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. Both conventions are currently administered by WIPO. Norway acceded to the Paris Convention in 1885 and the Berne Convention in 1886.

In 1996, Norway acceded to the Madrid Agreement Concerning the International Registration of Marks, and acceded to the Geneva

Act of the Hague Agreement Concerning the International Registration of Industrial Designs in 2010.

Through EFTA, Norway, Iceland, Liechtenstein and Switzerland are signatories to numerous free trade agreements. Norway also enters into bilateral free trade agreements, which supplement the obligations of Norway and its partner countries vis-à-vis the WTO. Norway also has bilateral science and technology agreements with e.g. Japan, China, Russia and the US.

Norway and the EU's joint systems

The EEA Agreement provide Norway with access to the EU's internal market.

The EU's Trade Marks Directive, the European Designs Directive and the Directive on the legal protection of biotechnological inventions (the Patents Directive) are included in the EEA Agreement and have been incorporated into Norwegian law.

The EU has established systems that make it possible to register trademarks and designs for all member countries. The registrations are not valid in Norway, but Norwegian businesses can register intellectual property rights in EU countries through these systems, the same way as businesses in member states.

Norway is a signatory of the European Patent Convention (EPC) covering 38 states.

A Community trade mark or Community design is valid in all member states, but the EEA countries are not covered by this system. The patent regimes at the EU level differ from the trademark and design regimes in that Norway is a member of the European Patent Organisation, and in that a patent awarded by EPO for Europe is also valid in Norway.

The Office for Harmonization in the Internal Market (OHIM) examines applications for Community trade marks and Community designs, and is responsible for the EU's Observatory on Infringements of Intellectual Property Rights.

Status of intellectual property rights in Norway

Registration of intellectual property rights

Compared with global developments, Norwegian commerce and industry register far fewer intellectual property rights. One explanation might be that Norwegian businesses carry out fewer research and innovation activities than businesses in e.g. the other Nordic countries. If we compare ourselves with other raw material producing countries such as Canada and New Zealand, the situation more closely resembles Norway.

Use of intellectual property rights

In Statistics Norway's¹ Innovation in the Norwegian Business Enterprise Sector survey for 2008–2010, 39 per cent of the innovative businesses stated that they do not protect their innovations.² Fifteen per cent of the businesses applied for patents, while 8 per cent registered designs. At 21 per cent, trademarks are the most frequently used form of legal protection. These results have been stable since 2004.

¹ Statistics Norway has overall responsibility for official statistics in Norway.

² The following is based on Innovation in the Norwegian Business Enterprise Sector 2006–2008 and 2008–2010, Statistics Norway. The survey covers all Norwegian businesses with 50 or more employees, as well as a representative selection of businesses with 10–49 employees.

Patents at universities and in research communities

Commercialisation and patent registration deriving from research results from Norwegian universities, university colleges, health institutions and research institutes have increased in recent years. The technical-industrial institutes produce the most intellectual property. On average, these institutes were issued 19 patents, and have sold 133 licences each year during the period between 2001 and 2010. An average of eight new businesses were founded annually on the basis of results from the technical-industrial institutes.³

Trade and cooperation on intellectual property rights

In a NIPO survey, six per cent of the businesses stated that they licence their technology, and 13 per cent stated that they purchase licences.⁴ These findings may indicate that Norwegian businesses are somewhat less frequent users of licencing than businesses in certain other countries and that there is very little trade in intellectual property rights. It is unclear to what extent this provides an accurate picture of the situation, as it can be difficult to gain an overview of information concerning trade of intellectual property rights.

Piracy and counterfeiting

In 2010, the Norwegian Customs uncovered about 220 000 items of counterfeit goods in Norway, at an estimated value of NOK 40 million. In 2011, the inspections uncovered about 160 000 items at a value of nearly NOK 50 million.

³ Research barometer 2010 and NIFU: Key figures for research institutes.

⁴ Perduco (2011): "A survey on the use of industrial property rights – NNU Q4 2010".

According to Business Software Alliance's reports⁵ for 2010 and 2011, 63 per cent of all Norwegians report using pirated software. The high level may be explained by easy access and lack of knowledge, either concerning the fact that piracy is actually illegal, or the consequences of piracy activity. According to a 2011 survey, one in four Norwegians believe it is acceptable to purchase pirated goods, and four in ten are indifferent that this violates the rights of brand owners.⁶ Eighteen per cent stated that they had purchased pirated goods in the last 12 months. The percentage was greatest in the under 30 age group.

Imports of counterfeit and illegal drugs to Norway has increased sharply in recent years. Inspections made by the Norwegian Customs show that nearly every third postal shipment contains drugs or food supplements. According to the Norwegian Medicines Agency, 62 per cent of all drugs purchased over the Internet are counterfeit.

In a survey among Norwegian businesses in 2011, one in three stated that their products have been copied, and 74 per cent believe that the problem will increase in the years to come.⁷

Knowledge and awareness about intellectual property rights

Surveys have shown that Norwegian businesses operating internationally have a higher knowledge level and more frequently apply for intellectual property rights than other Norwegian businesses.⁸ The knowledge and use of intellectual property rights has not changed significantly among Norwegian businesses over the last few years. The same applies to their familiarity with NIPO.

⁵ BSA was established in 1988, represents the world's leading software developers and includes members such as Adobe, Apple, Autodesk, Avid, Bentley Systems, Mamut, Microsoft, Monotype, Symantec, Teckla and UGS. www.bsa.org/globalstudy.

⁶ Perduco (2011): "Population survey on pirated goods". Conducted among a sample of 1000 people in February 2011.

⁷ Perduco (2011): "A survey on the use of industrial property rights – NNU 2011".

⁸ Perduco (2010 and 2011): "A survey on the use of industrial property rights – NNU 2010 and 2011."

In 2011, 62 per cent of businesses stated that it was not important for them to register trademarks, design rights or patents. According to the 2012 survey, 42 per cent of the businesses did not know where to inquire if they had questions relating to industrial property rights. Yet another survey confirms this impression, where only eight per cent of businesses believed that it is easy to navigate in the range of services in industrial property rights available.⁹

In a 2013 survey, less than half of businesses state that they have an overview of their own industrial property rights, while at the same time estimating their value as relatively low. Forty-six per cent estimate the value between zero and 25 per cent of the business's total assets, while 41 per cent do not know how to estimate the value of their industrial property rights.¹⁰

⁹ Perduco (2010): "IPR survey carried out for Innovation Norway – spring 2010".

¹⁰ "Copied by competitors", Newswire 11 March 2013.

The Government's policy on intellectual assets and intellectual property rights

The global knowledge economy and new types of innovation provide new opportunities for the Norwegian business sector. This results in considerable challenges associated with administering intellectual property rights. Norwegian businesses are competing on an increasingly international stage, and with knowledge as the primary competitive factor. The scope of applications and registered rights has grown strongly in recent years, particularly in the emerging economies. The scope of piracy and counterfeiting is also increasing. These trends put pressure on both national and international systems for administering intellectual property rights, and require a transition in line with current developments.

In order to promote greater awareness and expertise of, and more strategic use of, intellectual property rights in the business and public sectors, the Government will endeavour to:

- Accede to international agreements and update regulations and systems,
- Improve training in intellectual property rights,
- Continue to develop the Norwegian Industrial Property Office,
- Continue to develop the overall guidance within intellectual property rights,
- Combat piracy and counterfeiting,
- Improve the knowledge base for further policy development.

Accession to international agreements and updating regulations and systems

A well-functioning intellectual property rights system requires thorough regulation of the role of the patent authorities and how the intellectual property rights are protected and enforced. Acceding to international agreements and updated national regulations are important in order to secure a well-functioning legal protection system.

The Norwegian regulations are modern and up-to-date. They also fulfil the requirements of the EEA Agreement. The regulations have largely been harmonised with other countries through multinational agreements and the EEA Agreement.

In 2008, Norway acceded to the European Patent Convention (EPC) and became a member of the European Patent Organisation (EPO).

In cooperation with the governments of Denmark and Iceland, the Government has established the Nordic Patent Institute (NPI). Its objective is to counteract the loss of expertise from NIPO as a result of the reduced number of applications due to Norway's EPO membership.

A new Trademarks Act was adopted in 2010. Among the most important changes was to establish by law the principle of so-called EEA regional consumption. EEA regional consumption currently applies for patents, copyrights, design rights, layout (topographies) circuits and plant breeding rights.

A new statute concerning NIPO and the Norwegian Board of Appeal for Industrial Property Rights entered into force on 1 April 2013. The new statute establishes a separate, independent appellate body, the Norwegian Board of Appeal for Industrial Property Rights. The Board will hear appeals of NIPO decisions, and solidifies the independence between the proceedings in the first and second instance. Businesses will experience this as safer, quicker and more user-friendly.

At the request of the Ministry of Justice and Public Security, a study has been carried out on pledging intellectual property rights as security.¹¹ It recommends introducing a special right to pledge patents and plant breeding rights, though no other type of intellectual property.

The London Agreement

The London Agreement entails reducing the translation requirement from the entire patent to merely the patent claim. For the business sector, this means a considerable reduction in translation costs. The Ministry of Trade and Industry will send a bill to accede to the London Agreement out for hearing in the autumn of 2013. It will also include a proposal for national patent applications to be submitted in English.

Patent litigation insurance

One possible explanation for the relatively low patent activity among Norwegian businesses is that small and medium sized businesses find it difficult to defend themselves against potential litigation with larger businesses. In this connection, it has been pointed out that there are no commercial insurance schemes to alleviate the costs of potential litigation.

On this basis, NIPO will investigate whether it is possible to establish private, commercial litigation insurance for intellectual property rights in the Norwegian market.

Witness exemption and authorisation of patent agents

In several countries, including the US and UK, patent agents are exempt from the obligation of giving evidence in court. This exemption does not apply in Norway. In the event of a lawsuit brought in a country with witness exemption, businesses that use Norwegian patent agents could experience a situation where their agents are required to disclose evidence concerning sensitive matters for the business. This could make Norwegian agents less attractive, com-

¹¹ Astri M. Lund (2011): "Special pledge of intellectual property rights. A study of the question of whether or not to introduce a special right to pledge intellectual property". http://www.regjeringen.no/pages/36948100/Utreddning_saerskilt_pantsettelse_av_immateriellrettigheter.pdf

pared with competitors from countries with witness exemption. The Government will examine the need and opportunities for witness exemption for patent agents.

A number of countries require authorisation in order to exercise the role of patent agent. The establishment of a public authorisation system in Norway was reviewed in 1979. The conclusion was that the introduction of such a system would not serve competition. The Government believes it is time to re-examine this issue.

Better information concerning registration of trademarks, business names and domain names

Businesses must currently apply for trademarks, business names and domain names under three different systems. This is both demanding and confusing.

The Ministry of Trade and Industry will therefore ask NIPO, in collaboration with Norid¹² and the Brønnøysund Register Centre¹³, to assess how information and assistance can make it clearer and simpler for businesses to register business names, trademarks and domain names.

Digitalisation and copyright

The fast-paced adoption of ICT in all areas of society warrants regulations that both facilitate innovation and safeguard intellectual property rights. The EU has initiated major efforts in the copyright area as part of the Digital Agenda for Europe.¹⁴ The Government will closely mon-

¹² Norid runs the registry for Norwegian domain names.

¹³ The Brønnøysund Register Centre develops and operates many of Norway's most important registers and electronic solutions.

¹⁴ Green Paper on the online distribution of audio-visual works in the European Union: opportunities and challenges towards a digital single market (COM(2011) 427 final), Proposal for a directive of the European Parliament and of the Council on certain permitted uses of orphan works (COM(2011) 289 final) and Communication from the Commission: A Single Market for Intellectual Property Rights (COM(2011) 287 final).

itor the ongoing development of copyright regulations in the EU, e.g. in connection with amending the Copyright Act.

Introduction of the Paediatric Regulation

Medicines that have not been tested for use by children may constitute a health risk. In 2006, the EU adopted a regulation concerning medicines for children. The regulations have not yet been incorporated into the EEA Agreement, and have not been introduced in Norwegian law.¹⁵ This is due to the negotiations between EFTA and the EU regarding which adaptations are to be made when incorporating the regulations in the EEA Agreement have not been concluded. The Government is placing high priority to resolving this matter.

Access to the EU's community systems for intellectual property rights

The EU's community systems for intellectual property rights allow an applicant to achieve protection in all EU countries through a single application. There have long been such community systems for trademarks and designs. In December 2012, agreement was reached on such a system for patents as well. The system covers 25 of the 27 EU countries, and is scheduled to enter into force in the spring of 2014. The European Patent Office shall issue such patents, which will cover the 25 countries as a whole. The European patent is not the same as the current EPO patent, which is issued by the European Patent Office, and will not replace this system. Further study is therefore necessary to determine how these two systems will function together.

Norway is not a member of the EU and cannot, e.g. for constitutional reasons, become part of the EU's community systems for trademarks, designs and patents. Nevertheless, it follows from the basic international regulations that all systems must be open to all applicants, and that all applicants must be treated equally, regardless of nationality. Norwegian applicants can therefore use the EU's commu-

¹⁵ Regulations 1901/2006 and 469/2009.

nity systems on par with applicants residing in the EU, as well as applicants from other global locations.

The Government has noted that the EU is working on implementing European community systems in the industrial property rights area in order to provide more cost-effective systems and a well-functioning internal market.

Market for intellectual property rights

Well-functioning markets for trading intellectual property rights may contribute to innovation and technology transfer. There have been developments internationally where marketplaces have been established for trading intellectual property rights, initiated by private or public players. The Government believes that facilitation is required in order to ensure that the Norwegian business sector has adequate knowledge concerning such trading, thus allowing them to participate in such activities. It is up to the business sector itself to establish potential marketplaces for intellectual property rights. The Government will monitor this development.

Summary

So that Norway can accede to international agreements and update regulations and systems, the Government will:

- Submit for consultation a proposal concerning Norway's accession to the London Agreement, e.g. a bill to allow the submission of national patent applications to NIPO in English,
- Assess the establishment of private, commercial patent litigation insurance for intellectual property in the Norwegian market,
- Consider the need and opportunities for witness exemption for patent agents and the introduction of a Norwegian authorisation system,
- Request that NIPO, in consultation with Norid and the Brønnøysund Register Centre, assess how information and assistance can make it clearer and simpler for businesses to register business names, trademarks and domain names.

Improve training in intellectual property rights

The Government believes that currently available education programmes do not reflect the increased significance of intellectual assets and intellectual property rights. Training in intellectual property rights must be improved throughout the course of study, as well as through relevant continuing education programmes.

Primary, lower and upper secondary education

Children and young people are the professionals of tomorrow. At an early age, they are faced with the need to administer both their own and others' intellectual property rights, for example through the use of digital media and entrepreneurship in school. Early education in how to handle intellectual property rights among children and young people will therefore make them more able to handle these requirements. The Government believes it is important that training is tailor-made for children and young people.

Higher education

The business sector, research communities and public sector have an increasing need for candidates skilled within intellectual property rights. Institutions of higher education require expertise in order to teach intellectual property rights, as well as to balance the consideration for disseminating knowledge against the consideration for protecting the intellectual property rights derived from assets based on the research. At the same time, the public policy agencies require expertise in order to provide sound assistance and consider applications from businesses.

The Government is of the opinion that the increased significance of intellectual property rights for business development and value creation should be reflected in improved education programmes at Norwegian universities and university colleges, and the Government wants to facilitate the development of a broad range of education programmes in the field.

A large number of PhD candidates may be involved in innovations where the handling of intellectual property rights is critical. The Government believes it is important for PhD candidates to be trained in intellectual property rights. The Ministry of Trade and Industry will therefore ask the Research Council of Norway to ensure that PhD programmes financed with funds from the Ministry of Trade and Industry include training in intellectual property rights when this is appropriate.

The Government is of the opinion that sound professional and research communities are a precondition for good education programmes, throughout the entire range of legal, technological, economic and administrative fields. This requires a certain number of professorships and research fellowships in the field. The Ministry of Trade and Industry will therefore consider the establishment of endowed professorships and associated fellowship positions in the field of intellectual property rights.

Continuing education

Continuing education programmes within intellectual property rights are scattered. Certain universities offer programmes covering basic issues within the fields of law and science. The Government will consider further development of these programmes in collaboration with the business sector, research communities and other relevant stakeholders.

Summary

In order to improve training in intellectual property rights, the Government will:

- Facilitate to ensure that participants in entrepreneurship programmes gain greater expertise and awareness concerning intellectual property rights,
- Request that NIPO enter into a dialogue with relevant players in the education system with a view toward stimulating interest in intellec-

- tual property rights in primary, lower and upper secondary education,
- Request that the Research Council of Norway endeavour to ensure that certain relevant PhD programmes include training in intellectual property rights,
 - Consider the establishment of endowed professorships and associated fellowship positions in the field of intellectual property rights.

Further development of the Norwegian Industrial Property Office (NIPO)

NIPO is a policy instrument aimed at promoting innovation. Through its administration and dissemination of knowledge, NIPO is part of the Norwegian innovation system. A well-functioning intellectual property regime and a well-functioning authority are important preconditions in order for businesses to base their innovative activities in Norway.

In Norway, small and medium sized businesses account for more than 40 per cent of patent applications to NIPO. Such businesses value linguistic, cultural and geographic proximity to expertise and assistance. NIPO therefore plays a very important role for small and medium-sized businesses, as the instance that examines applications and as a centre of expertise.

Efficient examination of applications

Efficient examination of applications with correct quality is the foundation of NIPO's activities. It also follows from Norway's international obligations. The Office should continue to benchmark itself against best practice in order to learn and develop its own expertise.

Reducing backlogs

In 2010, there were 5.2 million patent applications waiting to be examined at the world's patent offices.¹⁶ The actual examination process has also become more labour intensive in that the applications have become more complex. A total of about 16 500 applications were

received by NIPO in 2012. Of these, about 1 500 were patent applications, 14 000 trademark applications and 1 000 design applications.

Reducing backlogs has gained considerable global attention, and substantial resources have been expended to reduce the scope. This forces the individual patent offices to streamline the processing of applications and cooperate on the re-use of examination results. In 2009, NIPO prepared a backlog reduction plan, the goal of which is for the average examination time for patent applications to be around three years by the end of 2017.

The Government expects NIPO to follow up on its backlog reduction plan.

EPO membership

As a result of Norway's EPO membership, NIPO has become part of the European patent system. The Office works closely with the EPO and has access to a number of resources, such as ICT systems, databases, technical collaboration and education through the European Patent Academy.

The Governments emphasises that NIPO utilises the opportunities provided by the EPO membership, and actively represents Norway in the Administrative Council and subordinate committees.

The Nordic Patent Institute

For NIPO, Norway's EPO membership resulted in a considerable decline in the number of foreign patent applications. This entailed a reduction in both the scope of qualifying work, as well as income.

In order to offset NIPO's reduction in applications and qualifying work, Norway participated in the establishment of the Nordic Patent Institute (NPI) in 2008. NPI is a collaboration between Denmark, Iceland and Norway which aims to help maintain an adequate level of income and qualifying work for patent authorities in the three coun-

¹⁶ World Intellectual Property Organisation (WIPO): "World Intellectual Property report 2011. The changing Face of Innovation"

tries. Membership in the NPI shall contribute toward allowing the NIPO to provide examination of patent applications and professional expertise in all technical areas, and be a fully investigative patent office.

The Nordic Patent Institute is approved as a PCT authority, and primarily provides examination of international applications and preliminary patentability assessments. These services can currently be used by applicants from Iceland, Denmark, Norway and Sweden. NPI also provides patent examination services to businesses outside the member countries, but currently this is primarily limited to the US and certain European countries. The objective is for NPI activities to amount to a greater share of NIPO's future activities in the patent area.

The Government wants NPI to succeed, thus maintaining NIPO's broad expertise in all fields of technology.

Patent examination in a global perspective

In the patent area, the examination of applications must be harmonised with the EPO, within the framework of prevailing Norwegian law. This means that an application must be examined in the same manner by NIPO as by the European Patent Office, which requires active efforts in order to maintain the Office's expertise and ensure that decisions are in line with prevailing regulations and practice. In order for NIPO to operate comfortably inside the EPO system, it requires technological and patent expertise, even within fields of technology where the number of applications are low. This is expertise which, in turn, will benefit the Norwegian business sector.

Some businesses desire the examination of patents in certain important foreign markets to take place as expediently as possible. On a global scale, a number of agreements have been entered into between various patent offices, the so-called Patent Prosecution Highway (PPH). NIPO currently has PPH agreements with the US (USPTO) and Japan (JPO). The Government welcomes these agreements that enables Norwegian businesses to clarify patent rights in foreign markets as quickly as possible.

In order to develop its application examination process, NIPO shall:

- Streamline its examination process through the development of technological tools, improved internal organisation, increased re-use of relevant examination materials and increased cooperation with other patent offices.
- Actively follow and monitor technological developments and analyse consequences for the composition of future patent applications. The Office must be especially attentive to developing its own technological expertise in areas that are under development. This will enable the Office to properly handle new technological areas.
- Consider how to learn from best practice at other patent offices. The Office should further develop its collaboration with among others EPO, OHIM, other European patent offices, USPTO, JPO, other public authorities in Norway and abroad.
- Continue to harmonise regulations and practice, providing users with confidence that they will receive the same treatment regardless of where the applications are examined.

NIPO as a centre of expertise

The Government believes that NIPO must provide expertise for businesses, public authorities, policy instrument players, as well as research and education institutions. NIPO shall also reach out to other stakeholders and user groups that may be expected to benefit from a more awareness concerning industrial property rights.

In order for NIPO to develop its role as a centre of expertise, the Government will ask NIPO to:

- Stimulate the business sector to increase focus on the use of intellectual property rights in their own business and commercialisation strategies.
- Cooperate closely with Innovation Norway in order to develop a better information and assistance service linked to intellectual property rights.

NIPO as a resource in policy development

The policy and regulations concerning intellectual property rights are continuously changing globally, which has vast implications for the development of innovation, research and industrial/commercial policy. The Government expects NIPO, along with the other policy implementation agencies, to advise the authorities in the development of policy in this area. NIPO shall also be a skills resource and sparring partner for public authorities in the preparation of free trade agreements and research agreements.

Businesses interact with various parts of the policy implementation agencies, depending on their needs. NIPO shall be a driving force in ensuring that other policy implementation agencies include intellectual property perspectives in the provision of their services.

The Government will ask NIPO to:

- Be an advisor and support for public authorities in negotiations on international agreements.
- Be a driving force vis-à-vis other policy implementation agencies in order to include intellectual property perspectives in the provision of their services.

Develop the overall range of assistance provided within intellectual property rights

Businesses and research institutions are requesting more advice on strategic administration of intellectual property rights. Parts of the business sector perceive the range of services as fragmented, inaccessible and somewhat lacking. Less than half of businesses know who to contact.

Develop the overall range of assistance provided by the policy implementation instruments

The need for greater expertise in the administration of intellectual property rights raises the bar for the policy implementation agencies.

The policy implementation agencies are intended to complement each other within a total value chain from idea to market, both nationally and internationally. There is currently no single player that can provide information and assistance concerning the entire spectrum of intellectual property rights, from copyright to patents, to all relevant target groups. An easily accessible and centralised information and assistance service can both provide better services to users and contribute toward better utilisation of resources and knowledge communities.

The Government aims to facilitate strengthened and improved assistance and guidance. The Ministry of Trade and Industry will ask NIPO and Innovation Norway to collaborate on establishing an assistance and advisory service for small and medium sized businesses.

The Government wants a modern and harmonised range of policy instruments and will therefore identify the need and potential solutions of a centralised information and assistance service for intellectual property rights.

Norwegian businesses intending to do business in international markets must be aware of the opportunities and challenges inherent in intellectual property rights. Better services aimed at businesses with an international focus may make it necessary to reinforce assistance resources in Innovation Norway with more international expertise.

The Government will contribute toward developing Innovation Norway's assistance role vis-à-vis Norwegian businesses concerning commercial exploitation of intellectual property rights in relevant foreign markets.

Administering intellectual property rights derived from publicly funded research

The Government expects the research and educational institutions to work actively to ensure that research results benefit society at large, either in the form of business development or better public services. Research and development spawns new knowledge and innovation. Greater focus on innovation in the public sector in recent years has

strengthened both the innovation and commercialisation efforts at research institutions and in the business sector.

The amendments to the Act relating to universities and university colleges and the Employee Invention Act have stimulated a greater awareness and more systematic administration of intellectual property rights in the research communities. The number of patents registered by universities and the commercialisation players has increased in recent years and the commercialisation offices have developed into strong expert communities within intellectual property rights, as well as an important resource for the research institutions.

The Government believes that all research that is publicly funded in whole or in part, shall as a matter of principle be openly accessible. The Research Council of Norway established its own policy for intellectual property rights in 2008. The Government expects the Research Council to continue its work toward the best possible utilisation of Norwegian intellectual property rights. The Government also expects that those who receive public funding, have had a conscious approach to and good practice for administering their own intellectual property rights.

The Government will consider the preparation of guidelines for both research institutions and businesses. The guidelines will contribute toward sound administration of intellectual property rights derived from publicly funded research at the research institution, as well as intellectual assets in collaboration projects between research institutions and businesses.

Arenas for shared learning

Large businesses, major research institutions and the patent agent industry possess unique expertise concerning strategic and practical use of intellectual property rights from which smaller players can benefit.

The Government wants to stimulate experienced users of intellectual property rights from the business sector to share their experiences with others by establishing arenas for start-ups and small and medium sized businesses. There is also a need for arenas where uni-

versities, university colleges and commercialisation participants can learn from each other. Such an arena can help streamline the sharing of information and knowledge between the participants and provide an important contribution toward building a shared culture for knowledge transfer and commercialisation in the university and university college sector, as well as in the health institutions.

Intellectual property rights are becoming increasingly important for standardisation work. Norwegian experts participate in global standardisation work and it is important that the national experts have up-to-date expertise concerning the development of and interaction between intellectual property rights and standardisation.

The Government sees the need for Standards Norway¹⁷ to increase its own expertise concerning intellectual property rights. Such knowledge is also relevant for others, for example the agencies responsible for policy instruments. The Norwegian Industrial Property Office should gather the relevant institutions to raise awareness concerning the link between intellectual property rights and standardisation.

Summary

The Government wants to develop better assistance services concerning intellectual property rights by:

- Establishing an assistance and advisory service for small and medium-sized businesses.
- Clarifying needs in more detail and identifying potential solutions for a centralised information and assistance service for intellectual property rights.
- Contribute to the development of Innovation Norway's guidance for Norwegian businesses concerning intellectual property rights in particular relevant foreign markets and request Innovation Norway to assess how to design an improved assistance service.

¹⁷ Standards Norway (SN) is a private and independent member organisation, and is one of three standardisation bodies in Norway. It is responsible for standardisation activities in all areas except the electro-technical and telecommunications fields.

- Considering the development of guidelines for administering intellectual property rights from publicly funded research.
- Establish a range of arenas for shared learning and sharing experiences.

Combat piracy and counterfeiting

Since 2007, the Norwegian Customs has intensified its efforts to stop imports of pirated goods to Norway. In 2010, the Norwegian Customs received earmarked funds to increase staff and to hire a dedicated coordinator for intellectual property rights. The customs authorities follow up both international trends and regulatory developments through the World Customs Organization. The customs authorities also strive to improve their inspections, intelligence and reporting.

The Government sees the need for regulatory reforms and measures to support information and public opinion efforts and to facilitate legal solutions that are attractive. Piracy and counterfeiting are international challenges that requires coordinated efforts through international cooperation.

The Government has submitted a proposal which will strengthen the means of enforcement in industrial property legislation¹⁸ and has proposed amendments to the Copyright Act that strengthen the opportunities of rights holders to enforce copyright infringement that takes place on the Internet.¹⁹

Greater awareness, information and understanding are weapons to combat piracy and counterfeiting. There is currently no single source to access information. Many are still unsure about what is allowed, and what is not. The Government sees the need to establish a website

¹⁸ Norway has adopted several legislative amendments to strengthen the enforcement of industrial property rights. The amendments entered into force 1 July 2013. The adopted amendments significantly strengthen the provisions on damages and criminal sanctions in Norwegian law and introduce a right of information on origin and distribution networks of infringing goods and services.

¹⁹ The amendments in the Copyright Act regarding enforcement of digital copyright include measures against illegal file-sharing and other copyright infringements on the Internet. The amendments entered into force 1 July 2013.

that makes it simple for individuals, businesses, citizens, authorities and the media to locate information on piracy and counterfeiting. NIPO will now establish a website.

The Government will establish a regulatory partnership to strengthen the systematic exchange of information between ministries, subordinate agencies and other stakeholders. This could form the basis for campaigns and other measures against piracy and counterfeiting. The Ministry of Trade and Industry will request NIPO to continue its work on a government network dealing with piracy and counterfeiting.

The European Observatory on Infringements of Intellectual Property Rights aims to collect information on both the scope and most effective means of combatting piracy and counterfeiting. In 2011, Norway joined as an observer. The Government wants Norway to take an active role in the European Commission's work against piracy. The Government will also monitor regulatory developments in the EU.

Summary

The Government aims to reduce the extent of piracy and counterfeiting by:

- Strengthening the regulations for enforcing rights pursuant to the Copyright Act through an amendment of this Act.
- Continuing efforts to establish a website with information on piracy and counterfeiting, and establishing an appropriate government partnership.
- Continuing its support of the EU's anti-piracy efforts.

Improve the knowledge base for policy development

Policy development requires a sound knowledge base. This means having good knowledge of the connection between efforts in one area and their impact on value creation. As regards intellectual property rights, there is sufficient knowledge concerning the number of rights that are applied for, while there is more limited knowledge concerning

the impact the intellectual property rights will have on value creation in the individual business, sector or the country as a whole.

Basic data and intellectual property registers

In a policy perspective, the strategic position of businesses regarding how they can realise the value creation potential of their innovations is just as interesting as the number of registrations. Public authorities will therefore request economic analyses that link data for intellectual property rights with other data sources. This may improve knowledge on the links between intellectual property rights, innovation and value creation.

In Norway the register of rights is only marginally linked to other types of registers. Different methods for mapping industries and technologies across registers also complicates a comparison of various statistics and register links. This makes it difficult to investigate the links between research, innovation and intellectual property rights.

The basic commercialisation statistics and the number of rights derived from publicly financed research are lacking. There is a need for improved data on intellectual property rights at universities, university colleges, institutes and health institutions.

Investigations of existing intellectual property rights within various areas of technology can to a greater degree become part of the knowledge base through the development of research programmes by the Research Council of Norway. The Government will therefore ask NIPO and the Research Council to carry out a pilot project that maps the IPR landscape as part of the knowledge base when new initiatives are established by the Research Council.

There are no regular public surveys of the level of IPR knowledge and awareness in Norway, nor are there surveys of Norway compared to other countries.

Analysis of the link between intellectual property rights and value creation

The Norwegian business sector is successful despite low level of awareness and limited use of intellectual property rights. For policy purposes, it is necessary to get a better understanding of the significance of the intellectual property rights for competitiveness and value creation in Norwegian businesses, and whether the number of rights secured by Norwegian businesses is at a satisfactory level.

The Ministry of Trade and Industry is involved in different research projects that examine innovation and innovation policy, including intellectual property rights. This also includes work under the European Patent Office (EPO), World Intellectual Property Organization (WIPO), the EU and OECD. The Government aims to ensure that all Norwegians benefit from analysis work carried out in these organisations.

Input seminars and conferences are important in order to gather experience and knowledge from the business sector and others involved. As part of following up this White paper, the Minister of Trade and Industry will regularly host conferences to discuss issues concerning intellectual property assets and rights in the Norwegian innovation system.

Summary

The Government believes there is a need for better basic data and a register of intellectual property rights. The Government will ask NIPO to:

- Contribute toward improved basic data and take the initiative for regular surveys of the level of knowledge and awareness concerning intellectual property rights in relevant target groups and coordinate this with other existing statistics.

From a policy development perspective the Government sees the need to gain a better understanding of the role played by intellectual property rights for value creation and growth, and will therefore:

- Follow up and participate in analysis work in international organisations and use this in national policy development.
- Assess how analyses of the link between intellectual property rights and value creation can be included in developing the knowledge base.
- Regularly host conferences to discuss issues concerning intellectual property rights in the Norwegian innovation system.



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