Berkeley Center for Law & Technology BerkeleyHaas

Berkeley Fellowship Program
on
The Impact of IP Policy on Innovation, Economic Growth, and National Competitiveness

Call for Research 2024

Purpose
Continued innovation in both the tech and life-sciences sectors is critical to the stability and growth of the U.S. economy. Whether the issue is national security, job growth, or health-care improvements, continued innovation requires nurturing through effective, long-term IP policies. To assist policymakers in this endeavor, the Berkeley Fellowship Program (BFP) has been created with the purpose to generate objective, nuanced, empirical research through a broad, collaboration research approach supported by companies from telecommunications, biopharma, semiconductors, and information technology with diverse business strategies but a common interest in facilitating innovation, economic growth, and national competitiveness.

Research Governance
The program is administered jointly by the Berkeley Center for Law & Technology (BCLT) and the Tusher Strategic Initiative for Technology Leadership (TSI) at the Haas School of Business at UC Berkeley. Wayne Stacy, BCLT, Executive Director and Bowman Heiden, Executive Director, TSI jointly oversee the program.

An initial Industry Research Council of diverse firms and an Advisory Board of experts representing diverse interests has been established to ensure that a broad set of relevant, multi-stakeholder feedback informs the research to enhance the validity of the results.

Researchers will also have access to our Academic Council for guidance on their research models, data models, and work product. This Academic Council will include representatives from Haas School of Business (David Teece, Bowman Heiden), Berkeley Law (Robert Merges, Colleen Chien, Wayne Stacy), and USC Gould School of Law (Jonathan Barnett).

Research Program
The key goal of the Berkeley Fellowship Program is to produce research with factual descriptions, objective analysis, and nuanced interpretations that take into account the different uses and impact of IP across diverse industries and actors. The initial research program for 2024 will focus on the patent system as defined below:

- **Research Topics** (see Appendix 1 for example research question)
  - Patents & Artificial Intelligence
  - Patents, Innovation, and Economic Indicators
  - Patenting Practice and the Impact on Innovation
  - The Nature and Economics of Patent Enforcement
  - The Nature and Economics of Patent Quality

- **Research Application Process**
  - Interested researcher should submit a one-page Research Summary that briefly describes the following:
    - Research Purpose
    - Potential Policy Impact
    - Main Research Question(s)
    - Proposed Method and sources of data
    - Timeframe
  - Research summaries will be selected, and the researcher(s) asked to put together a more detailed Research Plan based on feedback from the Research/Academic Councils
  - Final approval of the Research Plan will be determined by the Academic Council.

The key goal of this process is to lower the initial barrier for research proposals to facilitate submissions, and ultimately, to ensure a high validity of the results and impact on policy. Virtual and in-person seminars will be organized to present interim and final results.

Research position and compensation

- The chosen researchers will receive a Research Fellowship position at UC-Berkeley for the term of the project. The work can be carried out at Berkeley or from an off-site location.
- The funding for the first cohort of projects starting in 2024 is $250,000. Each Research Fellow will receive an honorarium of $15,000 and potential research assistance of up to a maximum of $35,000 per project. Travels expenses to research events will also be covered.

Publication

The goal of BFP is provide research results and datasets as open access. Researchers will be free to publish their work in the journal of their choice. Initial pre-publication paper versions of the research will be collected and made available online as a BFP Working Paper Series to facilitate dissemination and discussion.

Deadline

The deadline for the one-page Research Summary submissions is **November 15, 2024**. Submissions should be emailed to Wayne Stacy (stacywo@berkeley.edu) and Bowman Heiden (bowman.heiden@berkeley.edu).

Appendix 1 – Example Research Topics (not exhaustive)

1. **Patents & Artificial Intelligence**
    a. AI, Innovation, and IPR protection: what are the rights policies to foster innovation, economic growth, and national competitiveness?
    b. Patents and AI-assisted Inventions: to what extent should AI tools affect the ability to protect an invention?
    c. Patent-eligible subject matter and AI: how does the increasing use of AI inform the ongoing discussion on subject matter eligibility?
    d. Protection of AI-generated outputs: an overview of the approaches adopted across jurisdictions

2. **Patents, Innovation, and Economic Indicators**
    a. What is the impact of specific patent policies or judicial rulings (e.g. PTAB, eBay, Alice, Bayh-Dole Act, etc.) on innovation/economic growth in specific sectors?
    b. What is the economic impact of underrepresented inventors?
    c. What is the impact of patent-intensive firms/industries on employment/GDP?
    d. What is the relationship between drug prices and patent protection?
    e. What is the relationship between R&D/joint ventures/financing and patents?

3. **Patenting Practice and the Impact on Innovation**
    a. How are "patent thickets"/continuation practice/terminal disclaimers, etc. impacting innovation and competition in specific industries?
    b. What is the nature and market impact of incremental innovation patents on biopharmaceuticals?

4. **The Nature and Economics of Patent Enforcement**
    a. What is the nature and impact of patent damage awards by courts on the efficacy of the patent system?
    b. How does the current patent system impact the market for technology (e.g. patent licensing) across different industries and stakeholder groups (e.g. inventors, SMEs, MNCs, etc.)?
    c. What are the characteristics of third-party litigation financing and its impact on different stakeholders?
    d. Are large companies really stealing the inventions of small inventors?
    e. How effective is the patent system at supporting the development of technology startups?
    f. What is the number and impact of different forms of non-consensual patent use or "compulsory licensing" in the US?
    g. What is the nature and market impact of enforcement of biosimilar patents?
    h. What is the impact of the assertion of multiple patents in litigation on generic/biosimilar competition?

5. **The Nature and Economics of Patent Quality**
    a. Exploring the incentive structure for patent examination at the USPTO, and whether it is conducive to the issuance of reliable patent rights by the agency?
    b. What is the quality of PTAB decisions? Are they overturning valid patents? (e.g. In the

case of patents that had claims invalidated, what went wrong? Did the examiner simply not find the relevant art? Was the examiner worn down after rejections were entered but the applicant pursued trivial amendments? What portion of invalidated patents are continuing applications?)

c. Do PTAB proceedings allow generics or biosimilars to come to market faster?