



Q&A UK businesses must adapt to catch up with IP

UK companies accounted for just 3 per cent of patent applications in Europe last year. According to the European Patent Office, the UK files fewer patent applications per capita than Puerto Rico. A new approach is needed as Britain exits the EU, says **Ilya Kazi**, partner at intellectual property law firm Mathys & Squire

Why is the UK so far behind on IP?

To some extent, people have historically associated patents with the development of physical products. The UK is now less of a manufacturing economy and with many developments arising around data, software and other intangibles, intellectual property (IP) often gets overlooked.

In addition, businesses often have a financially biased leadership team and, while there is often a keen awareness of the cost of acquiring and protecting IP, there is less understanding of how it can contribute positively as an asset. The process can be lengthy and complicated, but approached properly IP can be an asset of enormous value.

Where does this attitude leave British businesses as we exit the EU?

Government and industry recognise that we have to perform well in numerous fields post-Brexit, especially given that our financial sector and supply chains are likely to be negatively affected. Well-managed IP has the potential to make a major difference. The beauty of IP is that it, and licensing revenues, can be transferred electronically; they won't be sitting at Dover waiting to cross the Channel. The more innovation we capture and maximise, the more we can derive profit. It will, however, require a concerted effort.

How should industry improve its management of IP?

Chief executives and other managers need to realise that IP is fundamental for growth and adds competitive advantage; IP has independent value and can serve as an asset in itself. For example, a small manufacturing company in the UK that has a strong IP portfolio but is only able to serve a particular segment of the market, could license its IP to build a market in other sectors and countries, and derive greater profit with minimal extra investment.

What else can be supported by understanding IP?

When businesses understand the value of their IP, they can use it like any asset. For example, loans may be based on it as collateral and we see banks increasingly lending on this basis. Having proper appreciation of IP and its value is also important for establishing effective joint ventures; when businesses use well-tested and robust methods for valuation, they can

engage in a successful negotiation process with a partner. Universities and research organisations can also use IP to spin out brilliant ideas to be developed by others, but with a return.

What moment usually makes businesses appreciate the importance of IP management?

It depends on the company. With startups, they need investment and investors almost always ask about the IP first, so that this means many startups become quite well clued up. Startups, not unreasonably, question their resources to enforce IP against a larger competitor. However, the reality is that nobody relishes a patent battle; the bigger company is more likely to offer to acquire the startup and provide a welcome exit. With bigger businesses there's a lot of inertia; they often have established products and don't always look to capture IP as they evolve slowly. But those established firms can sometimes have a big wake-up call when they are caught on the wrong side of someone else's patent with nothing useful to trade.

How can businesses ensure they put an accurate value on their IP?

Valuations can seem a bit of a black art. There are many ways in which companies try to establish the value of their IP, even including questionable online valuations that spit out a number. What companies need is a robust process. We recently acquired strategy and valuations firm Coller IP to broaden our approach, including and helping businesses build efficient data-capture processes. We look at the whole picture of the numbers, the technology, the people, the ideas, defensibility of the IP and the business models. As the company's valuation director Fernando Da Cruz Vasconcellos says, valuation is forward looking and there is not a single answer; it is a negotiation tool. The key is to be able to justify your sums. If you

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can show proper methodology and the rationale for your assumptions, then your valuation holds up.

What is the culture like in businesses that really understand IP?

When companies truly harness IP and spread awareness, rewarding staff for inventions, everybody starts thinking: “How can I innovate?” When people at all levels realise it is valuable, they try to create more. Even if this does not always result in protectable patents, it can foster a more creative culture. This is essential as our economy evolves towards relying on more intangibles. Those companies that generate a lot of ideas are often associated with high financial performance, excellent strategies and broader economic growth.

Mathys & Squire is a full-service IP firm with offices throughout the UK and Europe, and a dedicated team in China. To find out how to identify, capture and maximise your IP value please visit mathys-squire.com



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