

## IP Strategy

**“Getting round to it” is often the hardest task in the average business executive’s calendar when it comes to taking time to develop strategies and policies for the optimum use of business assets. Beyond that there is a need to set up operating procedures to implement and deliver strategic aims.**

As with other categories of business assets, IP assets do not “look after themselves” - and the consequences of neglect can range from the mildly inconvenient to the completely disastrous. However, with a modest amount of effort, its not too difficult to put in place a high level framework as the setting within which to identify, evaluate and manage your IP assets in a sensible way.

Here are some general pointers to kick matters off:

### 1 Develop IP Awareness

In previous Briefs we have emphasised the importance of developing a “culture” of IP awareness and confidentiality within your business. One key aspect of this is the use of training programmes and materials to ensure that employees understand the basics of IP - how to identify and protect different categories of IP such as patents (inventions), copyright (creative works including computer software), trade marks (brands and logos), designs (functional industrial articles) and rights in confidence (secret processes and know-how). Conversely, an awareness of how to identify, and avoid infringing, the rights of others is equally important.

Focus in particular on those areas of your business where creative output and innovation is most likely to arise. Make it a priority to identify the output from these areas, relate it to your IP strategy (see below) and then take steps to turn it into intellectual property which others, e.g. competitors or investors, can understand and value.

### 2 IP as part of Business Strategy

A working knowledge of what your IP is and where it sits is not, in isolation, of any real value unless and until you align it with your business development objectives. Exactly how will your business IP help you better achieve and push forward with your key business objectives and overall strategic aims? One or two thoughts:

- Building positive value - use of patents and other IP rights built up into a portfolio can serve to validate your technology particularly where related to a specialised, highly innovative, field - keeping competitors out and, in due course, putting you in a strong position to negotiate rewarding licences, sales or other exit deals.
- Defensive use - in fields where a lot of IP protection already exists it would be foolish to ignore what your business

competitors are doing. So, find out and exercise care to avoid infringing their rights. Be alert to any opportunity to licence your IP to a competitor(s) - this is not as daft as it sounds if the outcome is to deflect your competitor from devoting his resources to designing round your own IP or from poaching key members of your own R&D team.

### 3 Operating Procedures

Delivery and effective operation of your IP strategy will require you to address at least the following:

- Procedures for identifying, “capturing” ownership of, and preventing uncontrolled disclosure of, arising IP. Review contractual arrangements not just with employees but also with external third parties - whether through consultancy, collaboration, R&D or manufacturing agreements and so on.
- Careful evaluation procedures - ensure that employee ideas and inventions are adequately documented and recorded in a work/log book (ownership of which rests with the business) so that you have a sufficient knowledge base from which to objectively evaluate the commercial potential for the product or process. This in turn will inform your decision on what protection should be sought (and in which countries and at what cost) and how strong will that protection be in the sense of providing you with a competitive edge in the marketplace and deterring competitors/infringers?
- Exploitation procedures - IP rights can be put to work in a variety of ways - from outright sale and transfer of the technology which they protect, licensing, joint ventures and other exchanges or collaborations - through to defensive uses as negotiating tools for cross-licensing or defending against challenges to validity or infringement. Developing policies and checklists for exploitation will help ensure that each of these opportunities or situations is approached and negotiated in a consistent way thus adding positive value to the business overall.

With the above points in mind “getting round to” putting in place a workable framework within which to manage your business’ intellectual property may not be as daunting as it seems.

For further information on any aspect of managing your business’ intellectual property please contact Lester Cameron (LFCameron@paul-williamsons.co.uk)