

GLOBAL PATENT REGISTRATION

AS ONE OF MECHANISMS OF MANAGING INTELLECTUAL PROPERTY RIGHTS



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This article covers different aspects of the UK patent system, international patent registration process and issues of legal defense of patent. Patents are seen as the most reliable and effective tool of intellectual property (IP) protection, and supported by exhaustive legislation. This article however, using theoretical approaches, applicable laws, historical and current data, as well as practical examples, shows that despite all the advantages of patents, they cannot genuinely protect rights of authors and patent holders. By the results of conducted research the author proposes potential solutions to the recent problems of managing of rights, protected by patents.

Keywords: UK patent system, international patent registration, patent, intellectual property, exclusive right, invention, result of intellectual activity, authors, patent holders, managing patent rights.

BACKGROUND

The competition in world markets today is tough and companies have to differentiate themselves from others in order to be viable and successful. In order to do so, companies spend increasingly more money and time on research and development (hereinafter R&D). As the latest studies show, the more money companies spend on R&D, the more successful they are likely to be.¹ Major technological companies spend around 10 billion dollars per year on researching new technologies and innovation. Therefore, they want to be sure that this money and their achieved results are somehow protected. Individuals either working for these companies or researching on their own seek acknowledgment and compensation as well.

The result of the R&D process is Intellectual Property (hereinafter IP), which in broad terms means a creation of mind² or new knowledge. Inventors of these creations and knowledge are entitled to get certain

IP rights and protect them by different legal means. Modern IP laws provide for different types of IP, including but not limited to, copyrights, trademarks, know-hows, and the most prominent – patents.

Both national and international laws have extensive lists of the rights and protection mechanisms vested in patents thus making them the most reliable type of IP.³ As a matter of fact, there are a lot of discussions if patents genuinely protect IP rights. It does provide certain benefits, including some level of protection, but to a limited extent only.

A patent is a type of IP that is protected by laws and is subject to a registration process ensuring relevant rights. As defined by Oxford Dictionaries, patent is 'a government authority or license conferring a right or title for a set period, especially the sole right to exclude others from making, using, or selling an invention'.⁴ This definition highlights the major features of patents as a mechanism that protects a creator of a technical invention. It is a legal territorial right which enables the owner to stop or prevent someone else making use of an invention without permission.⁵

HISTORY

Since ancient times, people have tried to protect inventions. In certain forms, patents were known in ancient Greece, the Roman Empire and other ancient civilisations.⁶ Early European patents date back to the first half of the 15th century.⁷ Britain is said to be the first country to introduce and continue the tradition of patenting by giving certain privileges to manufacturers and traders.⁸ According to one of the

³Intellectual Property Office. (2014) History of patents. IPO. [Online] Available from: <http://www.ipo.gov.uk/p-history.htm> [Accessed 4th August 2014].

⁴Oxford Dictionaries. (2014) Patent. [Online] Available from: <http://www.oxforddictionaries.com/definition/english/patent> [Accessed 5th August 2014].

⁵Great Britain. The Patents Act 1977: Elizabeth II. Chapter 37. As amended. (2011) London, The Stationery Office. [Online] Available from: <http://www.legislation.gov.uk/ukpga/1977/37> [Accessed 13th August 2014].

⁶Craig A. N. (25 October 2013) The Law of Patents, Third Edition. ISBN: 9781454831501. Aspen Publishers. History and Architecture of the Patent System. pp. 5-7. [Online PDF extract of Chapter 1] Available from: <http://www.aspenpublishers.com/%5CAspenUI%5CSampleChaptersPDF%5C660.pdf> [Accessed 8th August 2014].

⁷Frumkin, M. (March, 1945) The origin of Patents. Journal of the Patent Office Society 27 (3). Compilier Press. Intellectual & cultural property in the Global Village. p. 143. [Online extract, pp 143-149] Available from: <http://www.compilerpress.ca/Library/Frumkin%20Origin%20of%20Patents%20JPOS%201945.htm> [Accessed 9th August 2014].

⁸Intellectual Property Office. (July 2014a) Part I: New domestic law. Patentability.

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¹Jaruzelski, B., Loehr, J. & Holman, R. (22 October 2013) The Global Innovation 1000: Navigating the Digital Future. Booz & Company's annual study of R&D spending. pp. 34, 36, 42. [Online: PDF document] Available from: http://www.strategyand.pwc.com/media/file/Strategyand_2013-Global-Innovation-1000-Study-Navigating-the-Digital-Future.pdf [Accessed 4th August 2014].

²World Intellectual Property Organization (2009) What is Intellectual Property? pp. 2-3. Geneva: World Intellectual Property Organization (WIPO). Publication No. 450(E). ISBN 978-92-805-1555-0 [Online: PDF document] Available from: http://www.wipo.int/export/sites/www/freepublications/en/intproperty/450/wipo_pub_450.pdf [Accessed 4th August 2014].

sources, the first patent comes from the time of King Henry VI, who granted a 20-year patent to John of Shiedame in 1440 for his method of manufacturing salt on a scale, which had not been known before in the kingdom.⁹

One of the most notable advocates for the development of patent law fundamentals was the third president of the USA and the well-known inventor, Thomas Jefferson (1743-1826). He supported the idea of the limitation of patents to a certain period of time and also introduced an examination procedure, i.e. the employment of relevant industry experts in the early stages of the registration process.¹⁰

Today, the legislation in the IP sphere is quite unified across the globe. Current UK and international laws still use the traditional approaches to patents. After the creation of The United Nations agency World Intellectual Property Organisation (WIPO) in 1967,¹¹ 187 member states accepted an international application process. This was set forth in the Patent Cooperation Treaty (PCT) that was concluded by member states in 1970.¹² According to the PCT, patent registration process is administered by relevant national agencies such as the Intellectual Property Office (IPO) in the UK.

ADVANTAGES

Modern legislation defines patents as the strongest tool in protecting rights of an inventor. It regulates all the aspects of their application, maintenance, protection, enforcement and termination.

Firstly, by definition, IP is a form of property that appears on the balance sheet of a company along with the other assets. It increases the value of the company, but it also boosts the bargaining power of the patent owner. Some major companies purchase smaller ones only for the sake of their patents, giving significant profits to the owners and inventors. For example Apple, in a later purchase, paid \$750,000 for each Nortel patent, setting the new record and informal market price of the patents.¹³

Patents give a monopoly to the holder of the patented technology. It allows gaining exclusivity in the market over the new product or process, allowing for a strong market position and additional profits. For instance, Pfizer's profits from Lipitor sales in 2011 exceeded \$10 billion making up \$130 billion in total sales during its patent life.¹⁴

In addition, Patents may generate additional profit though licensing, i.e. one company pays fees to another for using a technology, ensures that the holder of the patent enjoys long-lasting and stable income. Normally these fees may be paid in royalties, which vary between 2-10 percent of the profits associated with using the patented technology, or

in an agreed lump sum.¹⁵ Both options may make considerable money to the owners, such as to Nokia, which gets around \$600 million in royalties for licensing out its IP every year.¹⁶

Most recently, patents are used as blocking mechanisms to protect the firm's market position or to intervene in new markets. The latest statistics show that big companies have enormous portfolios of patents. It may seem to be the result of successful R&D investments, but the true reason is to either capture the existing market, or enter a new one. Samsung is the most active in enlarging its patent portfolio with 450 applications in 2013.¹⁷ The reasonable assumption of these measures being taken by Samsung is its patent wars with Apple, which are not yet active in the UK. This is because there was only one dispute concerning registered design between the two of them and that was won by Samsung.¹⁸

PRACTICAL PROBLEMS

The most common issues that prevent patents from being a truly effective tool can be divided into five major categories. These include global registration process, costs, timing, legal requirements and disclosure as a separate requisite. There are a number of problems associated with each of these categories as described below.

Global Patent Registration Process

A patent is a territorial right, which is granted by national authority. Despite the possibility of international registration, global patents, as such, simply do not exist.

International registration process is similar in different countries, because they apply the same principles set forth in PCT. In order to get patents, one needs to comply with the registration procedure in every country of interest. Even though it can be done via one national authority, it is significant that every country takes a decision independently. Alternatively, in Europe the application can be filed with the European Patent Office (EPO). European patents have the same force as national patents in all European countries.

Sometimes, this territorial division allows using patents as a mechanism to limit the competition.¹⁹ For example, rich companies can block the development of smaller ones by extending their patent portfolios. Such is the case with IBM. As their former vice president Marshall Phelps admitted, they use their patents not only to generate direct profit, but also to create obstacles for competitors, and 'delve into new territory'.²⁰

pp. 13, 16. [Online PDF document] Available from: <http://www.ipo.gov.uk/practice-sec-001.pdf> [Accessed 9th August 2014].

⁹Hulme, W. E. (1896) The History of the Patent System under the Prerogative and at Common Law. pp. 141-154. [Online: Extract from The Law Quarterly Review] Available from: <http://www.myoutbox.net/pohulme.htm> [Accessed 6th August 2014].

¹⁰TerWal, A. (2014) Capturing value from innovation. [Lecture] Imperial College London, 27 January.

¹¹Stockholm. Convention Establishing the World Intellectual Property Organisation. (14 July 1967) As amended 28 September 1979. [Online] Available from: http://www.wipo.int/treaties/en/text.jsp?file_id=283854 [Accessed 5th August 2014].

¹²Washington. Patent Cooperation Treaty. (19 June 1970) As in force from 1 April 2002. [Online] Available from: <http://www.wipo.int/pct/en/texts/articles/atoc.htm> [Accessed 5th August 2014].

¹³Auvinen, S. T. (Winter 2012) 750K\$ / Patent. Patent points. p. 1. [Online: PDF document] Available from: <http://gpatent.nfshost.com/Winter12.pdf> [Accessed 6th August 2014].

¹⁴Stone, K. (2011) Top Branded Drug Sales for 2011. About.com. Pharma. [Online] Available from: http://pharma.about.com/od/Sales_and_Marketing/tp/Top-Branded-Drug-Sales-For-2011.htm [Accessed 6th August 2014].

¹⁵Bellis, M. (2014) Should I License or Should I Assign My Patent? The differences between the licensing and the assignment of a patent. About.com Inventors. [Online] Available from: <http://inventors.about.com/od/fundinglicensingmarketing/a/Licensing-Vs-Assignment.htm> [Accessed 6th August 2014].

¹⁶Forbes Contribution Team (9 May 2013) Nokia Unlocks Significant Value With Microsoft Deal. Forbes. [Online] Available from: <http://www.forbes.com/sites/greatspeculations/2013/09/05/nokia-unlocks-significant-value-with-microsoft-deal/> [Accessed 11th August 2014].

¹⁷Intellectual Property Office. (March 2013) Graphene. The worldwide patent landscape in 2013. p. 1. [Online: PDF document] Available from: <http://www.ipo.gov.uk/informatics-graphene-2013.pdf> [Accessed 4th August 2014].

¹⁸Chellel, K. (9 July 2013) Samsung Wins U.K. Apple Ruling Over 'Not As Cool' Galaxy Tab. Bloomberg. [Online] Available from: <http://www.bloomberg.com/news/2012-07-09/samsung-wins-u-k-apple-ruling-over-not-as-cool-galaxy-tablet.html> [Accessed 4th August 2014].

¹⁹Distefano, L. (2014) Software, Patents. [Seminar] Keltie LLP, 16 June.

²⁰Bolipata, K. (12 May 2011) Investing in the future of IP. Managing Intellectual Property. [Online] Available from: [http://www.managingip.com/Article/2823940/Search/Investing-in-the-future-of-IP.html?Home=true&OrderType=1&Keywords=IBM+patents&PartialFields=\(CATEGORYIDS%3a11400\)&Brand=Patents&PageMove=3](http://www.managingip.com/Article/2823940/Search/Investing-in-the-future-of-IP.html?Home=true&OrderType=1&Keywords=IBM+patents&PartialFields=(CATEGORYIDS%3a11400)&Brand=Patents&PageMove=3) [Accessed 4th August 2014].



The registration rules are unified, but the process is still highly subjective as it is performed by people. Patent attorneys in the UK have informal statistics that the UK IPO is one of the toughest agencies to get a patent from, so they advise to file application with EPO instead. The US patent and trademark office is regarded as the easiest one.²¹

Inequality arises not only in registration, but also during protection and enforcement stages. The same IP laws work differently in different countries.²² National governments may be favourable to the domestic companies in controversial situations, which is the case that happened in 2008 in Italy, where the Torino court ruled that there was no infringement of the BMW X5 design patent by Chinese car manufacturer Shuanghuan with its CEO, even though similarities in the design of the two cars were obvious.²³

COSTS

Before applying for the patent registration, one should consider all the related costs. Patents are very expensive at all the stages of registration, maintenance and enforcement. Normally, this comprehensive process is done with the help of patent attorneys, whose fees in London vary dramatically and form a noticeable part of the total costs. Typical registration expenses include drafting an application, filing costs, translations, and other costs associated with prosecuting. Patents are further associated with post filing costs, such as search, examination and renewal fees, as well as hidden costs.²⁴

It is impossible to calculate an exact figure, but the practice shows that a PCT international application normally costs about £7,000 – 9,000 for the first 5 years. Renewal fees will then depend on a number of countries where the patent is granted and will amount up to £4,500 per year in every country.²⁵

In the pharmaceutical industry for example, bringing a new product to the market costs \$800-900 million and takes 8-12 years.²⁶ Nevertheless, it is justified,

considering that in 2009 Pfizer made \$1.89 billion from Viagra sales only.²⁷

TIME FRAMES

There are two major factors determining the limitations of patents: time required to get the patent and the term of the patent itself.

UK patent applications normally take between 2-5 years. Particularly complicated cases could take longer.²⁸ In many countries a mechanism exists for speeding up the process, but it also brings forward costs. In these situations, an inventor may wish to focus on other protection tools, such as brand value. For example, WimObouter the creator of micro-scooters wanted to take his invention public but did not have enough time and money to apply for a patent. Instead, he decided to build a strong brand using marketing tools and thereby get his market share.²⁹

In theory, one can use a device or invention after the patent application form is filed, but before the patent is granted. This is less secure for a number of reasons. However, even professionals can make "mere small or technical mistakes".³⁰ Moreover, sometimes registration process requires additional time-consuming approvals from different commissions and/or authorities before an invention can be used.

Patents are granted for a maximum of 20 years from the moment of application. However, initially it is valid for 5 years. After this period, renewal fees must be paid on a regular basis. When the patent expires, anyone can use the technology without any limitations. In business practice, this is not a long period, considering the lengthy application process.

Moreover, it takes time before an inventor (e.g. a manufacturer) can sell considerable volumes. If it is a new company or product, it requires establishment of a strong brand name, recognition and consumers' loyalty to maintain sales levels. It often takes years to create the right image of the company or product.³¹

Therefore, as the practices of Coca-Cola, Saran wrap or Listerine show, sometimes keeping essential knowledge secret can generate more profit over a longer period.

²¹Distefano, L. (2014) Software, Patents. [Seminar] Keltie LLP, 16 June.

²²Tao, A. F. (1 September 2011) China: Patents: Tips on litigation. Managing Intellectual Property. [Online] Available from: <http://www.managingip.com/Article/2895642/Search/China-Patents-Tips-on-litigation.html?Home=true&OrderType=1&Keyword=combination+of+patent%2c+copyright&Brand=Site&tabSelected=True&PageMove=4> [Accessed 6th August 2014].

²³Gain, B. (20 February 2008) European Carmakers Use Home Courts To Block Alleged Chinese Copies. Intellectual property watch. [Online] Available from: <http://www.ip-watch.org/2008/02/20/european-carmakers-use-home-courts-to-fight-alleged-chinese-counterfeits/> [Accessed 11th August 2014].

²⁴Richardson, M. (2014) R&D tax credits, Patent Box. [Seminar] Keltie LLP, 16 June.

²⁵Sadique, A. (2014) Intellectual Property. London Technology Week. Brand Management. [Seminar] Keltie LLP, 16 June.

²⁶Mishra, R. & Kumar, S. (1 October 2008) How pharma companies can leverage their IP rights. Managing Intellectual Property. [Online] Available from: <http://www.managingip.com/Article/2020358/Search/How-pharma-companies-can-leverage->

[their-ip-rights.html?Home=true&OrderType=1&Keywords=combination+of+patent%2c+copyright&Brand=Site&tabSelected=True&PageMove=10](http://www.managingip.com/Article/2020358/Search/How-pharma-companies-can-leverage-their-ip-rights.html?Home=true&OrderType=1&Keywords=combination+of+patent%2c+copyright&Brand=Site&tabSelected=True&PageMove=10) [Accessed 7th August 2014].

²⁷Morran, C. (28 July 2010) Kiddle Viagra Could Earn Patent Extension For Pfizer. Consumerist. [Online] Available from: <http://consumerist.com/2010/07/28/pfizers-kiddle-viagra-could-earn-company-patent-extension/> [Accessed 7th August 2014].

²⁸Sadique, A. (2014) Intellectual Property. London Technology Week. Brand Management. [Seminar] Keltie LLP, 16 June.

²⁹TerWal, A. (2014) Managing creativity. [Lecture] Imperial College London, 03 February.

³⁰Richardson, M. (2014) R&D tax credits, Patent Box. [Seminar] Keltie LLP, 16 June.

³¹Aquino, J. (10 February 2011) The 10 Most Successful Rebranding Campaigns Ever. Business Insider. [Online] Available from: <http://www.businessinsider.com/10-most-successful-rebranding-campaigns-2011-2?op=1> [Accessed 7th August 2014].

Secrets could be kept forever, thus guaranteeing stronger and longer IP protection than patents.³² Similar to patents, trade secrets can be licenced out using different types of confidentiality agreements to generate profits.

REQUIREMENTS

In order to get a patent, the invention must be patentable, i.e. meet all the legally established criteria. Modern IP laws set three requirements, which must be complied with: it needs to be novel, inventive and have industrial applicability.³³ The first two steps are judged with respect to prior known systems, products or methods – the ‘prior art’.³⁴ Each of these criteria has hidden obstacles and uncertainties, which prevent an inventor from getting genuine protection through patents.

NOVELTY

Experts therefore, must determine if an invention has achieved a certain level of novelty to be patentable. National patent offices cannot get rid of the so-called human factor, where a human employee may mistakenly decide on novelty or overlook a relevant prior art or a similar invention that was long ago.

To establish their market positions and get access to the IP protection, many modern companies use an “invention around” method. They take an existing patented device and try to figure out how this device can be changed. Then they introduce relevant changes that are sufficient to be patented as a new invention.

Common practice indicates that an expert uses only his or her personal judgments to decide whether it has met the criterion of novelty.

Therefore, an inventor can never be sure if his or her invention can in fact be stolen with minor changes. Such problems frequently occur with design patents.³⁵ To be declared as an infringement, the copy must be “substantially identical in the eyes of an ordinary observer”.³⁶ Courts are not very straightforward in determining the line where an infringement starts.

INVENTION

The inventive step means that the technology claimed to be patented should not be obvious to a skilled person and should not be based on any disclosures that are already known in the technical field in question.³⁷ For instance, in 2010 the Korean Supreme court made requirements for drugs tougher, thus taking the first steps towards explaining innovation criterion. Now a new drug cannot be patented if it is based on a combination of two or more different drugs known

before.³⁸ It was definitely a progressive step towards unifying these terms, however, these restrictions are found only in the pharmaceutical sphere.

Sometimes situations surrounding inventions lead to rather awkward circumstances. One of them is the simultaneous existence of original and improved patents. RAID memory storage system is a good example of original and improved patents. There are many variations of this system patented in the USA.³⁹ Almost all of them are based on one another. Original and improved patents are often owned by different companies. As they cannot benefit without each other, these companies tend to resort to cross licensing to use each other’s patents, forming a so-called patent pool,⁴⁰ for example, cross licensing was a part of agreement to settle IP dispute between them and Sun Microsystems.

INDUSTRIAL APPLICABILITY

An invention must be capable of use in industry. In essence, it means that any invention may be patented based on this criterion, including rather trivial ones.^{41,42} Does the ball in Guinness beer can genuinely improve the serving of the beer? Alternatively, it may just take some space in the can to save money for the manufacturer. These types of questions do not have a single answer and depend on personal judgments as with many other issues in the patent registration system.

In conclusion, the total number of applications has surged over the last years.⁴³ This makes it harder for experts to examine all of them thoroughly and does not exclude the so-called human factor where a person can miss something important.⁴⁴

DISCLOSURE

Patents grant a monopoly for using an invention in return for the disclosure of information about the technology. The disclosure must be sufficient for a specialist in the field to understand how it works.⁴⁵ Even though one must describe the technology in the application, it should be kept secret before filing. This is to comply with the innovation

³²Leung, P. (24 May 2013) Show it in a patent, or lock it in a safe? Managing Intellectual Property. [Online] Available from: <http://www.managingip.com/Article/3210308/Search/Show-it-in-a-patent-or-lock-it-in-a-safe.html?Keywords=coca+cola+secret&Brand=Site> [Accessed 10th August 2014].

³³Great Britain. The Patents Act 1977: Elizabeth II. Chapter 37. As amended. (2011) London, The Stationery Office. [Online] Available from: <http://www.legislation.gov.uk/ukpga/1977/37> [Accessed 13th August 2014].

³⁴Kounoupias, N. (2014) Licensing Intellectual Property [Seminar] DMH Stallard LLP, 16 June.

³⁵Kolsun, B., Fowler, C., Auslander, R. & Sisun, S. (26 September 2011) How do I protect my fashion designs? Managing Intellectual Property. [Online] Available from: <http://www.managingip.com/Article/2906968/Search/How-do-I-protect-my-fashion-designs.html?Home=true&OrderType=1&Keywords=combination+of+patent%2c+copyright&Brand=Site&tabSelected=True&PageMove=4> [Accessed 8th August 2014].

³⁶Kounoupias, N. (2014) Licensing Intellectual Property [Seminar] DMH Stallard LLP, 16 June.

³⁷Sadique, A. (2014) Intellectual Property. London Technology Week. Brand Management. [Seminar] Keltie LLP, 16 June.

³⁸Kim, U. H. & Jung, Y. S. (01 December 2010) Stricter standards for pharmaceuticals. Managing Intellectual Property. [Online] Available from: <http://www.managingip.com/Article/2740032/Search/Stricter-standards-for-pharmaceuticals.html?Home=true&OrderType=1&Keywords=combination+of+patent%2c+copyright&Brand=Site&tabSelected=True&PageMove=6> [Accessed 6th August 2014].

³⁹Lary, R. F. (1994) System and method for calculating RAID 6 check codes. United States Patent and Trademark Office. US 5499253 A (Patent); Bonwick, J. S. (2012) Method and system for multi-dimensional raid. United States Patent and Trademark Office. US 8316260 B1 (Patent); Bonwick, J. S. & More, W. H. (2012) Storage system with incremental multi-dimensional RAID. United States Patent and Trademark Office. US 8341342 B1 (Patent).

⁴⁰U.S. Department of Justice & the Federal Trade Commission (6 April 1995) Antitrust Guidelines for the Licensing of Intellectual Property. Sec. 5.5. [Online] Available from: <http://www.justice.gov/atr/public/guidelines/0558.htm#t55> [Accessed 6th August 2014].

⁴¹Forage, A. J. & Byrne, W. J. (1989) A beverage package and a method of packaging a beverage containing gas in solution. UK Intellectual Property Office. GB2183592 (Patent).

⁴²Duk. (20 October 2014) Guinness floating widget picture uploaded by Wikipedia user. [Online] Available from: [http://en.wikipedia.org/wiki/File:Widget_\(beer\)#mediaviewer/File:Widget_Guinness.jpg](http://en.wikipedia.org/wiki/File:Widget_(beer)#mediaviewer/File:Widget_Guinness.jpg) [Accessed 9th August 2014].

⁴³Intellectual Property Office. (March 2013) Graphene. The worldwide patent landscape in 2013. p. 1. [Online: PDF document] Available from: <http://www.ipo.gov.uk/informatics-graphene-2013.pdf> [Accessed 4th August 2014].

⁴⁴Vigrass, L. (6 September, 2007) A patent improvement. The Economist. [Online] Available from: <http://www.economist.com/node/9719020> [Accessed 28th July 2014].

⁴⁵Sadique, A. (2014) Intellectual Property. London Technology Week. Brand Management. [Seminar] Keltie LLP, 16 June.

requirement, which forbids any publications prior to application.

Moreover, patenting is a business decision. It depends on the trade-off between getting strong protection, and keeping your know-how secret.⁴⁶

The problem of disclosure has two major issues. Firstly, the question is where the level of sufficiency for an expert in the field is or, in other words, how much does a person or a company need to explain to get a patent?

The second question is whether a company is willing to disclose any information, or if it is better to keep it a trade secret as Coca-Cola does with its syrup formula.⁴⁷ Research shows that 24 percent of companies which conduct R&D claim product innovations, but only 4 percent of them patent.^{48,49} However, sometimes it is not a good solution because a reasonable and skilled man can understand how a certain device works merely by using it. This method of IP espionage is called "reverse engineering".

In conclusion, managing IP is an essential part of business strategy which requires deep understanding of the company's aims, values and priorities.⁵⁰ It is not an easy decision to patent a certain invention. Such a decision is a complex one as it requires detailed estimation of costs, including time and money to be spent.

⁴⁶Helmets, C. (2013) The Economics of Trade Secrecy. pp. 8, 17, 18. [Online lecture slides of 11 June] Available from: http://ec.europa.eu/internal_market/economic_analysis/docs/presentations/130611_christian-helmets_en.pdf [Accessed 9th August 2014].

⁴⁷Moser, P. (15 April 2011) Innovation Without Patents - Evidence from the World Fairs. pp. 1, 2, 19. [Online: PDF document] Available from: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=930241 [Accessed 11th August 2014].

⁴⁸Hall, B., Helmers, C., Rogers, M. & Sena, V. (February 2012) The importance (or not) of patents to UK firms. pp. 2, 3, 10. [Online: PDF document] Available from: http://funginstitute.berkeley.edu/sites/default/files/HHRS12_UK_patenting.pdf [Accessed 9th August 2014].

⁴⁹Moser, P. (August 2007) Why don't inventors Patent. pp. 1-6. [Online: PDF document] Available from: <http://www.tradesecretsblog.info/w13294.pdf> [Accessed 11th August 2014].

⁵⁰Bodoni, S. (1 March 2005) How an IP policy can help your company grow. Managing Intellectual Property. [Online] Available from: <http://www.managingip.com/Article/1255156/Search/How-an-IP-policy-can-help-your-company-grow.html?Home=true&OrderType=1&Keywords=combination+of+patent%2c+copyright&Brand=Site&tabSelected=True&PageMove=17> [Accessed 9th August 2014].

О.Е. Будяков: Халықаралық патенттеу зияткерлік меншік құқықтарын кәдеге жарату механизмдерінің бірі ретінде.

Мақалада Біріккен Королдіктің патенттік жүйесінің әр түрлі аспектілері, халықаралық патенттеудің және патенттерді құқықтық қорғаудың мәселелері ашып көрсетілген. Патенттер зияткерлік меншікті (ЗМ) қорғаудың ең сенімді және тиімді құралы ретінде қарастырылған. Сонымен қатар, теориялық тәсілдерді пайдалану, қолданылатын құқық, тарихи ақпараттар, сондай-ақ тәжірибедегі мысалдар сияқты барлық артықшылықтарға қарамастан, патенттер авторлар мен патент иелерінің құқықтарын лайықты дәрежеде қорғай алмайды. Жүргізілген зерттеулердің қорытындысы бойынша, автор патенттермен қорғалған құқықтарды кәдеге асырудың соңғы кезде анықталған проблемаларын шешудің тәсілдерін ұсынады.

Ключевые слова: Біріккен Королдіктің патенттік жүйесі, халықаралық патенттеу, патент, зияткерлік меншік, айрықша құқық, өнертабыс, зияткерлік қызметтің нәтижесі, авторлар, патент иелері, патенттік құқықтарды кәдеге жарату.

О.Е. Будяков: Международное патентование как один из механизмов распоряжения правами интеллектуальной собственности.

В статье раскрываются различные аспекты патентной системы Соединенного Королевства, международного патентования и вопросы правовой защиты патентов. Патенты рассматриваются как наиболее надежный и эффективный инструмент защиты интеллектуальной собственности (ИС). Вместе с тем, используя теоретический подход, применимое законодательство, исторические сведения, а также примеры из практики, доказывається, что несмотря на все преимущества, патенты не могут в должной степени защитить права авторов и патентовладельцев. По результатам проведенного исследования автор предлагает возможные способы решения выявившихся в последнее время проблем распоряжения правами, защищенных патентами.

Ключевые слова: Патентная система Соединенного Королевства, международное патентование, патент, интеллектуальная собственность, исключительное право, изобретение, результат интеллектуальной деятельности, авторы, патентовладельцы, распоряжение патентными правами.

НОВЫЕ КНИГИ



Библиотека земельного права. Международно-правовые аспекты использования и аренды земли в Республике Казахстан / под ред. Б.Ж. Әбдірайым. Выпуск № 10. Караганды: РИО «Болашак-Баспа», 2016 г. – 78 с. ISBN 978-601-301-804-1

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Данное периодическое издание посвящено анализу международно-правовых аспектов использования и аренды земли в Республике Казахстан.

В работе представлен анализ зарубежной практики, нормы международного права и стандарты ООН и ФАО в области землепользования и содействия устойчивому аграрному развитию. Проанализировано международное экологическое право в сфере использования земель, в частности международно-правовое регулирование борьбы с опустыниванием земель, устойчивое развитие и сельское хозяйство, законодательство стран СНГ по экологическим вопросам сельского хозяйства. Рассмотрен порядок и условия аренды Российской Федерацией комплекса «Байконур», изучены вопросы обеспечения экологической безопасности и вопросы возмещения вреда на комплексе «Байконур».