

# Brand new ways to increase your assets

■ Exploiting your most prized possession

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IN today's image conscious world your brand is everything. And not only should you take steps to protect your brand, it is also worth looking at ways to exploit it.

Intellectual property is big business and is a commercial commodity that can become a company's most valuable asset.

Jonathan Moakes, head of intellectual property, commerce and technology at Halliwells, says what most people don't realise is that intellectual property, particularly registered IP and brand names, can be valued and appear as an asset on a company's balance sheet.

He said: "By ascribing monetary value to intellectual property and listing it as an asset alongside more traditional business assets such as plant and machinery, a company automatically becomes more attractive to potential investors and purchasers, particularly since intellectual property can provide security for finance in the same way as land."

"It is not uncommon for intellectual property and goodwill

to make up very significant percentages of the purchase prices of companies being sold and we fully expect this trend to continue."

Bruce Marsh, partner at Manchester-based patent and trade mark attorneys Wilson Gunn, agrees that a company's intellectual property is ripe for exploitation.

He said: "Consider a brand to be your corporate image. Think of an invention as an advantage. Look at a design as a means of standing apart from the competition."

"Also look at registering brand names as trade marks, and seek to register novel inventions and techniques as patents. Patterns and configurations of products may also be registered as designs."

Susan Hall, ICT and media partner at Cobbetts, says the key to effective use of intellectual property in business is thinking around the topic, not just going for the obvious means of protection, but wondering how that protection can

be broadened and how spin-off intellectual property can be effectively exploited.

She said: "One classic example of thinking outside the box with regard to intellectual property rights came from Ron Hickman, the inventor of the workmate carpentry bench. He licensed the patent for his workmate invention to Black and Decker and reaped significant patent royalties - five to eight per cent of the net selling price is a typical patent royalty - for 20 years until the patent expired."

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"However, by thinking around the issue of protection and using what was suitable to the product, rather than just what was most obvious, he will continue to get a much smaller but still significant

percentage royalty from each sale under the workmate brand, potentially forever, because he also licensed the trade mark to them."

"Trade marks are hugely important and have a very real and lasting impact on products and

inventors. Indeed, Bass Brewers' 'Red Triangle' became UK trade mark number one back in 1876 when the UK trade marks register began and it is still in use today."

Tim Dennis, intellectual property consultant at Gorvins Solicitors, says the lack of awareness regarding the importance of intellectual property is often a problem at director level. All too often, directors will say that their business has no intellectual property which in turn means that nothing is done to safeguard key business assets.

He said: "If a company commissions specialist software, or a website, attention is normally focussed on developing the specifications to get the application up and running. However, contracts to secure the authoring rights to the commissioner often get overlooked, which can leave a rather large gap for losing out on your initial investment, or future royalties."

"Directors need to recognise the circumstances for putting intellectual contracts in place, and implementing practical measures to do this should be at the top of any business agenda. Although this need not be a complex process, the issue has to be addressed because, if un-



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protected, your company's investment could easily become the defining mark for someone else."

Bruce advises companies to set aside a budget for investing in securing the protection of their intellectual property.

He said: "The legal system

provides remedies to assist intellectual property owners in preventing infringement, but the ease and affordability is in direct correlation to any investment in registering intellectual rights. Trying to enforce unregistered intellectual rights is a thankless and expensive task."

## Stringent new guidelines for China will have a significant effect on UK companies

IT is the workhouse of the world and few companies can afford to ignore the might of China. But this fast growing nation has also become the global capital for fake goods and copying of everything from handbags to medicines is rife.

While China presents an abundance of opportunities, it is vital that UK companies protect their intellectual property when entering this new and exciting market.

Believe it or not the protection of intellectual property in China can be traced back to the Tang Dynasty, and more cynical observers may say that there has been little progress in the 1,600 years since.

Samantha Livesey, IP partner at Pannone, says that historically a blind eye has been turned to IP infringers but the tide is turning.

She said: "China has received some vitriolic attacks recently from America which has invoked its rights under the TRIPs agreement to require China to give information about its judicial and administrative rulings on IP infringement."

"As a result, China's State Council recently unveiled an ac-



Paul Tomlinson of Berg Legal

tion plan to combat IP violations. Among the key points is a requirement for municipal and provincial government bodies to assume a greater sense of responsibility and hand down severe punishments.

"So, with China tidying up its protection of intellectual property, finally your intangible assets may be worth more than the paper they are recorded on."

Paul Tomlinson, head of intellectual property at Berg Legal, says the most important thing for companies is to secure IP registrations and, in the case of trademarks, Chinese equiva-

lents, translations and transliterations should be registered alongside their English counterparts.

He said: "Business must however be prepared to take legal action to enforce these rights and part and parcel of that is to ensure that effective monitoring systems are put in place. In addition, businesses need to adopt an effective IP strategy to ensure that its local manufacturers are fully integrated and can implement this strategy."

Paul says for those businesses wanting to take advantage of lower manufacturing costs it is necessary to control the production process and great care should be taken when selecting suppliers, manufacturers and distributors.

He said: "The benefits of controlling production are illustrated by the example of a UK designer who was able to prevent grey imports entering the UK distribution chain from an unauthorised source because the manufacture could readily be identified as one particular factory, which had been contracted to produce other garments and samples to order for the designer."

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Business

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