

The comeback of "Made in Britain" goods - cost effective solutions for IP protection

A new report from HSBC indicates that SMEs and entrepreneurs will play a fundamental role in the resurgence of manufacturing in Britain, boosting the economies of many areas and creating new business supercities. With the resurgence of manufacturing comes R&D and innovation, and the question of identifying the most cost effective way to protect intellectual property (IP). Without doubt, protection of any IP present in "Made in Britain" goods will be paramount to the revival of manufacturing in the UK and to securing a global market place for SMEs.

Although traditionally obtaining IP protection is considered to be expensive, particularly for SMEs or individual entrepreneurs, there are several ways to keep costs down. Even valuable patent protection can be obtained without incurring excessive costs, if sensible decisions are made during the patenting process. For example, carrying out a careful analysis of where protection should be sought will ensure that filings are only carried out in relevant countries. Thus, if a Made in Britain product will only ever be used, produced or sold in the UK, then obtaining a UK patent may provide sufficient protection. Additionally, requesting accelerated prosecution of a patent application may be beneficial in situations where a third party may already be carrying out potentially infringing acts. Other potential cost saving measures include making use of the patent prosecution highway and making sure that in applicable national offices, small entity status is requested if the conditions are met. SMEs/entrepreneurs can further save on patenting costs by providing early input into the drafting and examination processes.

Even defending a granted patent need not be so costly in view of the Patents County Court and the tendency for most parties to undergo mediation prior to any proceedings taking place.

Importantly, it should be considered whether patent protection is the right path to take for some new inventions. Thus, in particular circumstances, the best protection may be provided by keeping the invention secret, rather than by filing a patent application which will provide a maximum of 20 years protection but which discloses the invention. It will of course only be possible to keep the invention secret if it cannot be determined from the product itself e.g. if the invention cannot be reversed engineered from the product. Such a strategy is of course cheaper than obtaining patent protection, but comes with a risk that either a third party may discover the invention from the product in question or independently.

Further, in the UK, IP rights may exist in a product without the need for formal registration or application to the UKIPO. Such forms of protection are therefore effectively free. Particularly, copyright is available for artistic works, including technical drawings, logos, diagrams and maps and unregistered design right is available which protects the shape or configuration of the whole or part of an article for five years.

A second type of protection can be sought for new designs in the UK, namely a registered design, which although requires application to the UKIPO, is generally inexpensive. A registered design can be obtained for three dimensional products, patterns, logos, computer icons and fictional characters, lasts for up to 25 years and thus can provide a valuable form of IP protection for manufacturers who may invest a large amount of time and money in the appearance of their products.



In summary there are a variety of cost effective ways to protect IP generated through the resurgence of manufacturing in the UK and careful consideration should be given to the most appropriate form of protection for any particular product.

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