



IP REVIEW

Spring 2008

WELCOME...

Welcome to the latest Review, which has been produced by our Electronics, Computing & Physics (ECP) Group. In this issue we have articles concerning software inventions as well as wider Intellectual Property issues. We hope that these will be of interest to Intellectual Property practitioners and managers alike. The ECP Group is the largest practice group within Withers & Rogers and boasts an unrivalled mix of hands-on knowledge and experience including ex-industry patent managers and patent examiners and patent attorney litigators. Our in-depth industry knowledge spans a variety of sectors including telecoms, avionics, defence, medical and healthcare, power and energy and other environmentally sensitive matter.

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Essential Reading for Cell Phone Players



In December, the English High Court issued a ruling that is likely to have significant repercussions for the telecommunications community.

In the telecommunications sector, cell phones are built to common designs to ensure interoperability and to bring momentum to the market. These designs are defined in technical standards and the technology contained within those standards is, typically, contributed by many different corporations. A patent that covers technology contained in a standard must be infringed by making a cell phone that complies with the standard and such patents are called "essential". Over time, many parties have asserted that they hold essential patents relevant to various cell phone standards such that nowadays assessing the level of risk involved with participation in cell phone markets is a highly complex matter.

In 2005, however, the English courts made an interesting move. In an episode of a long-running a dispute between Nokia Corporation and Interdigital Technology Corporation, it was ruled that the English courts could offer a new form of declaratory relief: a declaration as to whether a patent is essential as regards a particular standard. Therefore, for those with the necessary financial resources, a way now exists to

openly and thoroughly explore the essentiality of standards-related patents. Indeed, in October of last year, the English High Court undertook, at the request of Nokia Corporation, an assessment of the essentiality to 3G cell phone standards of four Interdigital Technology Corporation patents. The High Court ruled in December that three of the four patents were not essential to these standards.

Navigating a path through the essentiality minefield requires, in particular, plenty of experience of communications patent issues, a close familiarity with the strategies used by the key players and thorough understanding of the applicable technical standards. These things are combined in N & M Consultancy Ltd, a part of Withers & Rogers that advises clients on questions of essentiality and licensing strategy within the cell phone field.

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Are Software Inventions Patentable in Europe?

Different approaches by different patent offices, ever changing case law, failed European directives and inaccurate reports in the popular media. All these factors mean potential confusion for applicants. So, to what extent are software inventions patentable in Europe?

Today, it is almost impossible to escape the influence of software, from cars, to household appliances, to mobile phones, to production lines. Many of the products which have been in our lives for decades, now use software where once electronic circuits did the job.

It was, and is, quite normal and uncontroversial to obtain patent protection for devices which are controlled by electronic circuits. Today, the options for protecting inventions which are implemented with software, rather than electronic circuits, are sometimes unclear to manufacturers.

All of this uncertainty stems from the fact the European Patent Convention (which the UK's patent law is consistent with) excludes inventions which are computer programs "as such" from protection. It has always been accepted that the use of the wording "as such" means that some inventions which use software, for example new devices controlled by new software, should not be excluded from protection. Inventions such as this are commonly referred to as "computer implemented inventions". However, where the line is drawn, and what the current approach taken by the European Patent Office and the UK Intellectual Property Office is, remains unclear.

European Patent Office (EPO)

The EPO places a great deal of importance on whether or not an invention is "technical". They ask whether the invention solves a technical problem and whether it provides a technical solution. In some ways this approach raises as many questions as it answers. When is a computer program technical, and when is it not? We will consider this point in relation to some examples.

A new computer program, for example a new word processor, which runs on a computer in the same way any other program would run, and does not provide performance improvements, would generally not be considered to be technical. Pure software is, in patent law, inherently non technical.

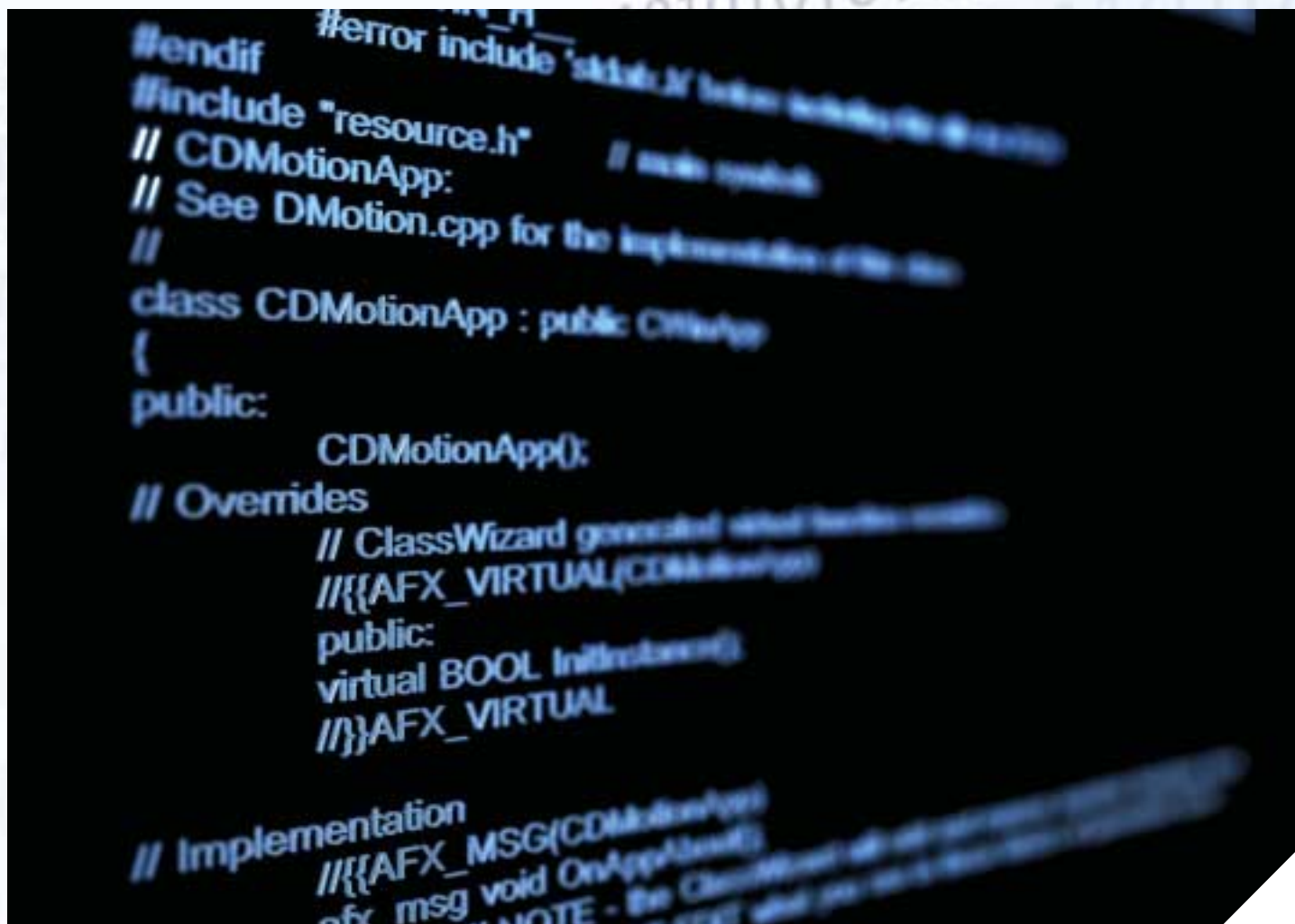
However, a new computer program which does alter the way in which the underlying computer works would generally be considered to be technical. For example, new code which has been designed to improve the way in which processor instructions are handled in order to improve processing speed, is likely to be considered technical. Although such inventions may be considered to be pure software, their operation produces technical effects, which the EPO believe takes such inventions away from the "as such" computer program exclusion.

Another example in this category would be a television, comprising known hardware, but operated by new software to produce a better picture than had previously been possible. As with the previous example, the production of technical effect is likely to put such inventions in good stead. Such inventions would then need to be assessed according to the usual novelty and inventive step requirements.

Of course, in some circumstances, an invention may involve software which does not contribute to the inventive character of the invention at all. It is worth noting that such inventions are not at a disadvantage simply because they utilise software.

As can be seen, the EPO consider various types of "computer implemented inventions" to be technical, and hence not excluded. This situation has been improved further due to recent case law developments, in particular, the Board of Appeal decision in Hitachi (T258/03). They now consider that any invention which uses physical apparatus, e.g. a computer, however mundane, should not be excluded for being a computer program "as such". Any invention which passes this test does of course have to comply with the requirements of novelty and inventive step.

One of the main benefits of this approach is that the EPO rarely refuse to search applications. Not so long ago, when the EPO received a patent application which appeared to be mainly software, they would refuse to search the application.



All of these factors combine to mean that the EPO is a particularly favourable forum for obtaining protection for computer implemented inventions. Applicant's are almost certain to have the invention searched, and assuming the invention includes some physical means, it will be given a full novelty and inventive step assessment.

UK Intellectual Property Office

In the UK, the law reflects the EPC. Inventions which are computer programs, as such, are excluded from patent protection. The UKIPO's approach to this exclusion is different to the EPO, however the UKIPO maintains that the outcome of their assessment should be the same as the EPO's, in most cases.

The current approach was proposed in the recent, and well publicised, Aerotel/Macrossan Court of Appeal decision. Rather than looking at whether a software invention is technical, the UKIPO looks at the contribution the invention makes to the stock of human knowledge. They then consider whether this contribution is purely a computer program.

The word processor, mentioned above, would almost certainly be excluded from protection. The contribution would be considered by the UKIPO to be purely a computer program. The new code designed to improve processor speed is more difficult to assess. If the contribution is a new computer with improved processing speed, then surely the contribution is not

just a computer program. It is difficult to predict how the UKIPO will decide to interpret such inventions. The television example is a little easier. Where a device, such as a television, is caused to operate in a new way, the contribution is a new television, which should be patentable. The UKIPO have indicated that these sorts of inventions should be interpreted in this way.

Conclusion

Software is patentable in Europe to a certain extent. At the EPO at least, the present system is particularly favourable to computer implemented inventions. For the time being, this approach isn't set to change. However, any new case law which appears in this area, either at the EPO, or in the UK courts, could change the picture. For now, it doesn't appear as if the European Commission will be attempting to produce anymore directives in the area; however, talk of harmonisation is likely to raise its head at some point. Applicant's should keep an eye on such changes and seek advice when necessary.



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Patent Prosecution



Accelerating Down the Patent Prosecution Highway

The UK Intellectual Property Office (UKIPO) is extending its Patent Prosecution Highway initiatives to cover International patent applications which have been examined by the US Patent and Trade Mark Office (USPTO) or the Japanese Patent Office (JPO).

The original Patent Prosecution Highway initiatives were aimed at increasing cooperation with the Japanese Patent Office (JPO) and the US Patent and Trade Mark Office (USPTO) to accelerate the grant of patents by those offices.

The scheme between the UKIPO and the JPO has been running since July 2007, whilst the agreement between the UKIPO and the USPTO commenced in September 2007. Both initiatives, known as Patent Prosecution Highways, will initially run for a year.

Under these initiatives, if the claims of a patent application have been found to be acceptable by one of the cooperating Intellectual Property Offices, the applicant may request accelerated examination of a corresponding application which is pending, before the other offices.

For example, if an applicant has a UK patent application and a corresponding US case pending, and the UKIPO has found the claims of the UK application to be acceptable, a request for accelerated examination of the US case can be made. The USPTO is then able to make use of the work carried out by UK patent examiners in examining the UK case, which should significantly reduce the amount of time taken for a US patent to be granted, whilst also leading to closer harmonisation between granted patents in the two countries.

The agreement with the JPO works in a similar way, and the reciprocal nature of the Patent Prosecution Highways means that when a Japanese or US case has been found acceptable by the relevant Intellectual Property Office, the applicant may request accelerated examination of a corresponding UK case.

The extension of the schemes to cover International patent applications means that if a favourable examination report is issued in relation to a US or Japanese national patent application resulting from an International patent application (known as a “national

phase application”), that examination report can be used by the UKIPO in its own procedure relating to a corresponding UK national phase application, which should reduce the workload of the UKIPO and lead to quicker grant of a UK patent.

In a separate initiative, the European Patent Office (EPO) launched a pilot project on 1st April 2007 intended to improve efficiency in the European Patent application process by reducing duplication of work carried out by individual national Intellectual Property Offices.

Under the Utilisation Pilot Project, which the EPO is operating in conjunction with the UKIPO and the Patent Offices of Germany, Austria and Denmark, an applicant seeking a European Patent may submit the results of searches carried out by any of the participating national Intellectual Property Offices in relation to a corresponding national patent application, to the EPO. The EPO will use these results in its own search procedures. It is claimed that this re-use of work already carried out by the national Intellectual Property Offices could allow the EPO to issue its Extended European Search Report within 3-6 months of request.

In theory these projects should function to the benefit of both the patent applicant and the patent offices involved, since the net effect should be to avoid duplication of examiner’s work and thus speed up the examination process. It will also introduce a unanimity of the scope of granted claims across different territories. We look forward to seeing how the projects work out in practice.



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Going Global - Where Best to File?

The trend towards globalisation of products and services makes it ever more important for our clients to ensure they adopt a patent filing strategy that suits their business needs. Growing markets in China and India, and the emergence of both new suppliers and competitors in other territories represents an opportunity and a competitive threat.

This is especially the case in the information communications technology (ICT) sector, where standardisation further underpins the globalisation process by ensuring compatibility of products from suppliers worldwide. Telecommunications and cellular/mobile telephony is a particularly notable example of the success of standardisation in developing global markets and stimulating global alliances.

The challenge for our clients is to manage their international patent filing strategies within prescribed corporate budgets which means paying close attention to the cost and benefits of patent filings in traditional markets such as Europe, the USA and Japan, and the new and emerging markets including China and India.

If we consider the European patent application procedure, it offers other significant benefits for example the simplification of the process of obtaining patent protection in any of the thirty-one contracting states and the nine extension states. The London

Agreement will also improve the situation by reducing post-grant costs by ending the need to file national translations.

Europe remains a major global market and supplier for ICT goods. Europe produces 25% of all ICT goods worldwide and is the world's largest computer and office equipment market and the second largest telecommunications and consumer electronics market after the USA.

The importance of this market is reflected again in the increased numbers of European patent applications filed and granted.

As reported in the 2006 annual report of the European Patent Office, new applications were up by 5%. In the ICT sector, 23% of applications came from USA, 22% from Japan and 41% from Europe, with the Republic of Korea now emerging as a significant source of European applications.

Withers & Rogers LLP is always willing to discuss these issues with their clients to assist them in developing patent filing strategies and to optimise the benefit of their IP investment.



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Patent Office Opinions More Useful Than They

Background

One of the less arcane changes introduced in the UK by the Patents Act 2004 was the introduction of an opinions service provided by the Intellectual Property Office. For a relatively small fee an experienced Intellectual Property Office Examiner can issue a non-binding opinion on the validity or infringement of a granted UK patent, or European Patent (UK). However, many practitioners have questioned the usefulness of such a non-binding opinion - what is the point of going to the expense of obtaining such an opinion? Experience is beginning to show, however, that such opinions are highly regarded by patentees and possible infringers alike, and can be keenly fought over.

The Opinions Procedure

The procedure for obtaining an opinion is relatively simple and, importantly, quick. In this latter respect the Intellectual Property Office undertake to provide the opinion within 12 weeks of the opinion request being filed. To obtain an opinion, the party requesting the opinion (known as the Requestor) must file an opinion request, and pay the official fee (presently set at £200). The opinion request must be accompanied by detailed grounds setting out the Requestor's case on validity and/or infringement of the patent, as appropriate. It should be noted that the Requestor may be the patentee itself, or any third party. There is no locus standi requirement. Moreover, with respect to validity, an opinion will only be issued dealing with the novelty and inventive step aspect of the patent. Validity grounds such as sufficiency of the patent and inherent patentability are not covered in such a request. Similarly, opinion requests do not deal with a question answered in previous proceedings, either in the UKIPO, the EPO, or in the UK courts. More on this later.

Once the request has been filed, it is advertised on the UKIPO website, and copies of the opinion request are sent to the patentee and any other interested third parties identified in the request, or known to the Office. For example, if there is a registered exclusive licensee, then copies of the opinion request would also be sent to the exclusive licensee. If the requestor was a patentee and the request identified an alleged infringer, then a copy of the request would be sent to the alleged infringer.

The recipient of an opinion request then has just four weeks to respond to issues identified. Responses received after this time can be ignored by the Office in issuing an opinion. The response may include arguments as to why the request for an opinion

should be refused and should also address the substantive validity and infringement issues raised. Responses are sent to the requestor who then has just two weeks to file any further observations in reply.

Issuing the Opinion

Once the parties' observations have been received, the Office examiner will then consider the matter, and in particular whether an opinion should be issued at all. As mentioned previously, the Office will not issue an opinion where the question raised in the opinion request has been addressed in previous proceedings before the Office, the EPO or the courts. However, interestingly, in two recent Office decisions dealing with the opinions procedure, the hearing officer interpreted the term "proceedings" to exclude the pre-grant application process in front of either the EPO or the Office itself. Thus, just because prior art had been cited and considered, pre-grant did not preclude an opinion being based thereon, and the pre-grant process was not a "proceeding" within the meaning of the relevant rule.

In addition to the specific provision outlined above, there is also a catch-all provision which confers on the office, absolute discretion to refuse an opinion request. The boundaries of this discretion are not well defined, but in the two recent decisions noted above, the hearing officer stated that the question must raise a new issue which had not previously been considered even in pre-grant proceedings. Other tests may also be used in the future.

If the Examiner decides to issue an opinion, then he studies the case, and in due course issues his written opinion on the matter. The standard of the opinion is high, and very thorough reasons are given; examples of previous opinions can be seen on the UKIPO website. If parties feel that the outcome is unsatisfactory, they can request a review of the opinion through the High Court; to date this provision has not been used.

Why Bother Obtaining an Opinion?

Issued opinions are non-binding. If the opinion is one of infringement or an invalid patent which means nothing happens as a result, the infringer can continue to infringe, or the patent stays on the register. Further action, for example court action, must be taken to obtain a binding result. This begs the question - why bother?

Opinions: More Why First Appear?



The answer, it increasingly appears, is one of sentiment and risk management. Patent disputes are notoriously unpredictable in most cases with professional advisors commonly giving only 50:50 estimates of success. Furthermore, the cost of patent disputes is typically high, with, at least in the UK, further risk of having to pay the other side's costs as well as one's own in the event of defeat, a reality. Many business people shy away from such risks when the outcome is uncertain.

In contrast, the opinions service is low cost compared to litigation and is relatively quick. Moreover, the standard of the opinion is high and is issued by a patent granting authority, the UKIPO, which is respected world-wide. Although non-binding, the opinion is persuasive in helping to settle disputes.

For example, the parties to a dispute might agree via mediation to submit to an opinion, and be bound by the result. This can avoid expensive litigation. Even where litigation has commenced, a party may consider it advantageous to obtain an opinion which supports their position, to help influence the judge. For example, it may be helpful in support of an application for summary judgment or for interim relief if an IPO opinion on the substantive issues has been obtained in advance. In these circumstances it can be easier for a judge to grant such applications if it has been shown that the other party has had a

chance to air their case to the IPO during the opinions procedure. Such an opinion may also be helpful in other jurisdictions. The New York Convention on Mediation and Arbitration allows for mediation agreements made in one jurisdiction to be enforceable in other jurisdictions. For example, if a UK patent or EP(UK) had the same claims as a US patent, it could be conceived that the parties might agree to submit to a UK Office opinion, and be bound by the outcome. At the very least, for US litigation purposes, such an opinion may be of persuasive value.

Conclusion

There are several reasons why an opinion is of more use than first appears, and many patent holders and their advisors are beginning to see the potential in them. Without doubt, over the next few years they will become another tool in the armoury of the sophisticated patent holder.



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Building BRICs support Worldwide patent system?



The perceived wisdom among some financial commentators is that the fastest emerging markets are those of Brazil, Russia, India & China, for which the collective noun BRIC has been coined. Here, we look at global patent filing statistics to see if this is being mirrored in the patent world.

The most recent data available shows that the patent offices of Japan and the United States of America (USA) are the largest recipients of patent filings with approximately 400,000 applications per annum each. This is followed by China, the Republic of Korea and the European Patent Office and ranges from 125,000 to 175,000 applications each. Perhaps more interestingly, the percentage growth over the previous year for China is 33% compared with Korea at 15%, the USA at 9%, the European Patent Office at 4% and Japan at 1%, thus indicating a large increase in the number of applications being filed in China. Of the other 'BRIC-ettes', Russia, India & Brazil each had less than 40,000 applications filed, with respective growth rates of 7%, 1% and -14%.

Splitting these figures between filings made by residents and non-residents reveals the USA, China and the European Patent Office to have a fairly even split, whereas in both Japan and Korea there is about a 3:1 split in favour of applicants being resident in those countries. When it comes to growth, China is way ahead with a growth of 42% for resident filers and 24% for non-resident filers, compared with next best figures of 16% and 19% for Korea. Russia showed a modest increase of 3% in resident filers, whilst both Brazil & India contracted. For non-resident filers Russia showed a growth of 19%, albeit based on small absolute numbers, India growth of 6% and Brazil again contracting by 17%.

So it would seem that at least China has a thriving local culture of innovation that in turn is attracting significant foreign involvement. Well, whilst the latter is probably true, given the large growth in foreign applicants in China, the former may not. If we look beyond the absolute numbers of applications and look at the number of resident filings per million inhabitants then a different picture emerges. Japan & Korea top the list with between 2,500 and 2,800 applications per million population. The USA is third with about 800 applications per million population. Sweden ranks 10th and Singapore comes in at 20th spot. To find China we need to continue

down to 24th place, with about 70 applications per million population. Curiously Russia comes in at 17th place, perhaps a reflection of the science base of the old USSR, whilst India and Brazil are completely off the radar.

It is also interesting to look at what happens to applications first filed in each office and particularly what percentage go on to have corresponding applications filed in other countries. The worldwide average is 29%. Above this, 42% of applications filed in the USA give rise to other applications, with France and Germany beating this with 55% and 54% respectively. Top of the chart is Sweden with 92%. In Japan, a below average 19% of applications progress further, whilst China scores just 7%, one percent less than Brazil. In contrast, 62% of Indian applications give rise to further applications.

It would therefore appear that in terms of sheer numbers, China is already perceived as a major market in which non-Chinese companies are keen to protect their innovations and a market that is growing rapidly. The same can't currently be said for India, Brazil or Russia. However, it would also appear that whilst Chinese patent users seem keen to seek protection at home, they have yet to feel the need to do so abroad. This may be indicative that the Chinese high tech community is still focused on a nascent home market. In contrast, the admittedly much smaller Indian patent community seems to be more mature in the sense of seeking protection for their innovations abroad and as a consequence it could be that it is Indian companies that the rest of the World will have to engage with first as they expand in to markets beyond their home land, rather than Chinese companies.

In the next edition of IP Review we will consider the implications of China's new National IP Strategy.



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China's National IP strategy - how far will it go?

The National People's Congress (NPC) of China is expected to publish details of its new National IP Strategy later this year and some experts believe this could position the thriving communist nation as the best place to innovate.

While it is not yet clear what the new IP strategy will include, the NPC has already indicated that it aims to raise IP awareness throughout the whole country. In doing so, the Congress hopes to reduce the number of patent and trademark infringements and at the same time, encourage more Chinese companies to protect their own inventions.

Historically, the Chinese have been known as 'masters of copying' and therefore, China has a long way to go to build its global reputation as the best place to innovate. The NPC however appears committed to making these changes and instead of telling workers to 'go ahead, copy and make' they will be telling them to 'go ahead, innovate and protect'.

Among the most likely changes, the strategy may include stronger penalties for infringements and new and further tax incentives for companies seeking patent protection in China and possibly also overseas. While some of these measures already apply under the existing IP system, the new IP strategy is expected to seek to improve their enforcement.

The full impact of these expected changes is still being assessed: however, one possibility is that we could start to see more global research and development activity locating in China rather than in more traditional territories such as the UK, US and Europe. For companies already innovating in China, it will be too late to seek patent protection for

advances that have already been made public. However, they may choose to seek trademark or design right protection instead.

China's coming of age as a new hub for innovation could pose real risks for the UK economy. A stricter IP regime, combined with lower labour costs, could encourage some multi-national businesses to relocate their research and development activity in China and this could be the start of a knowledge exodus to the Far East.

The flip side is more positive. Innovative UK businesses will benefit from better global IP protection, enabling them to bring their products to market in China, with a reduced risk of features being copied.

China's new National IP Strategy is expected to be introduced later this year following the first plenary session of the 11th National People's Congress.



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Rip Off Britain Rife in

Some industries are more prone to design rip-offs than others. Rather than sitting back and waiting for the next haute couture seller, the world's leading fashion houses could be doing a

Recently, the Annual round of national fashion weeks were held in such splendid cultural centres as London, Paris, Milan and Rome. As per normal, such events heralded the introduction of some truly innovative, chic, much sought after designs, representing the very best in haute couture. Commenting in the national press Withers & Rogers were at pains to remind designers of the need to take steps to protect their innovation but as ever many fail to listen and suffer the consequences.

In today's fast moving world of commerce, the fashion designers latest creation is more vulnerable than ever to the rip-off industry which is getting much quicker and better at what it does. No sooner has a garment appeared at the end of the catwalk, than a copy-cat design has been sketched and samples produced and it is ready to go into production, all within a matter of weeks.

Surprisingly, to date, there have been relatively few high profile complaints from designers about high street rip-offs. It's almost as if the industry is resigned to the fact that copy-cat designs are inevitable and for some, such imitations may even be regarded as flattery. The glut of fashion magazines that seem happy to print features advising consumers where to buy versions of designer classics on the cheap is not helping the situation.

Fashion houses need to start to think differently about their work and take steps to protect their innovations. After all, which other

industries would happily invest in the design, creation and launch of a new product, only to allow competitors to produce low cost copies unchallenged? In the world of intellectual property protection, we have a saying, that 'what's worth copying, is worth protecting'.

On a more positive note, there are at last some signs that fashion designers are starting to wise up and intellectual property matters are being afforded much greater consideration. Last year, TopShop was forced to withdraw its yellow dungaree-dress from sale after a complaint from the French fashion house, Chloe and an undisclosed sum was paid by the high street retailer in damages.

Jimmy Choo is another high profile brand, which rigorously pursues high street stores that they believe have copied their designs. Recent examples include forcing Marks and Spencer to withdraw a £9 handbag which was considered too similar to its Cosmo bag, which retails at around £495. They also took action against New Look for infringement of a shoe design, which resulted in the high street retailer paying about £80,000 in damages.

It is not just companies that create designer, luxury goods that are seeking to prevent budget imitations of their garments and accessories. In recent years, high street retailer, Monsoon, has secured damages from Primark for selling replicas of skirts,



the World of Fashion

ers and the fashion industry is definitely one of them. But
 ure design to be transformed into another high street best
 lot more to protect their new collections.

trousers, scarves and bikinis, proving that the protection of designs is not solely the interest of fashion brands with large budgets.

At the end of 2007, a decision issued in the case between Irish retailer, Dunnes and Mosaic Fashions, a company which represents well-known stores like Karen Millen, Coast and Whistles, found the former guilty of infringing intellectual property rights. The decision led to a shirt, based on a Karen Millen creation, being withdrawn from sale.

Whilst it is still rare for such matters to reach court, as most companies would prefer to settle without an admission of liability, it seems that designers and retailers are becoming more vigilant. They are starting to appreciate that high street rip-offs can have a significant impact on the value and reputation of their business and may result in customers choosing to spend their hard-earned money elsewhere.

It is relatively simple for fashion houses to protect their designs before they appear on the catwalk. Most designers are aware that 'unregistered' rights, such as copyright and unregistered design rights, already exist in their initial drawings and articles and they may believe that these rights provide sufficient protection against copiers. However, such unregistered rights are unlikely to be sufficient to stop imitations appearing on the high street. To ensure sufficient protection for the designers' creations,

registered design protection should be sought. The process is simple and cost effective and is available for a variety of design attributes, like shape and pattern, as well as for accessories like jewellery, bags, shoes and belts.

For those who fear they have missed the boat when it comes to registering a design, all is not necessarily lost as in principle, there is a 12 month grace period to do so once such designs have been disclosed to the public.

But be warned as proving the design was yours if someone else decides to do so can prove challenging. Fashion designers should therefore seek protection well before designs hit the catwalk.

This year's fashion Weeks may have come and gone but it is vital that leading fashion houses and retailers start to think carefully about how they can prevent others from taking unfair advantage of their investment in the future.



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And Finally...

Patent translation costs to fall...

A major part of the costs of obtaining European patents incurred when translating the full patent specification into local languages at the time of grant is to be removed. This follows the introduction of the "London Agreement" which allows the various European states to designate either French, German or English as the language of translation, thereby reducing the overall number of translations required. The agreement enters into force on the 1st May 2008.

...But other fees set to rise

The European Patent Office is set to significantly increase some fees. Most notably the official fee for each 'excess claim' for new applications rises from April 1, 2008 from €45 to €200, although the number of 'free' claims increases from the 1st 10 to the first 15. From April 1, 2009 each claim after the first 50 will attract a fee of €500. Brevity and succinctness will be the order of the day!

The European Patent Organisation expands

Croatia and Norway acceded to the European Patent Convention (EPC) on 1 January 2008, taking the total number of EPO member states to 34. The European Patent Organisation's members now include all 27 members of the European Union, plus Croatia, Iceland, Liechtenstein, Monaco, Norway, Switzerland and Turkey.

New Fast-Track UK Trade Mark service

The UK Intellectual Property Office (UKIPO) recently announced a new fast track service for trade mark applications. The new service will be launched in April 2008 and cost users an additional £300. The new service will be launched on 6 April 2008 following a comprehensive period of consultation with stakeholders.

UK Copyright consultation launched

Ensuring the UK's copyright laws are fit for the digital age is the focus of a consultation launched recently by the UKIPO. The recommendations considered in this consultation paper include changes to copyright law that will:

- enable schools and universities to make the most of digital technologies and facilitate distance learning;
- allow libraries and archives to use technology to preserve valuable material before it deteriorates or the format it is stored on becomes obsolete;
- introduce a format shifting exception to allow consumers to copy legitimately purchased content to another format, for example CD to MP3, in a manner that does not damage the interests of copyright owners; and
- provide a new exception to infringement for parody.

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