

Events prove Europe does not have to be a lost cause

Elsewhere in this issue, we look at how Europe's patent owners have been slow to respond to the numerous challenges that currently face them (Europe's patent crisis, pages 31-33). Certainly, given European industry's need for a strong patent infrastructure that enables it to compete on level terms with companies from other parts of the world, the lack of outrage as successive initiatives designed to simplify the patenting process run onto the rocks is surprising.

When European leaders are happy to spend two days arguing about subsidies to farmers – who generate less than 5% of Europe's GDP – as they did at the most recent summit meeting of EU heads of state held in June, but seem reluctant to spend any time at all discussing the very clear problems facing Europe's patent owners, who undoubtedly contribute far more than 5% to the EU's GDP, something, somewhere has gone very badly wrong.

Yet, while many European companies seem either reluctant or unable to get serious about patents, that does not mean the whole continent should be written off as a hopeless case. Especially as events held in both Sweden and Germany over recent months demonstrate that there are some Europeans at least who are prepared to think seriously about patents and patenting.

CIP Forum 2005

Held in Gothenburg between 22nd and 25th May, the CIP Forum was organised by the Centre for Intellectual Property Studies – an organisation that is jointly run by the University of Gothenburg and Chalmers University of Technology. Taking as its theme the management of intellectual property as core business, the three-day event brought together business leaders from the US, Europe and Asia, as well as lawyers, administrators, IP

strategy consultants, academics and university technology licensing professionals.

Of particular note was the presence of a large US delegation, comprising some of the biggest names in intellectual property management, including the likes of Cisco Systems' vice-president of IP, Robert Barr, Apple's chief patent counsel, Richard Lutton, Harry Gwinell, the chief IP counsel at Cargill, and Kent Richardson, the vice-president of IP at Rambus. In bringing over such a host of key figures from across the Atlantic, the Forum's organisers emphasised what many in Europe are reluctant to acknowledge: that there is much to learn from the way in which American companies have grappled with intellectual property and its potential.

What delegates to the CIP Forum quickly learned was that there is more than one way to organise an IP function within a company. At Rambus, for example, the patent portfolio is at the very heart of overall business strategy. The company does not manufacture products, explained Richardson; instead it gets most of its revenue from the licensing of its rights in various high-speed interface technologies. As a company that relies on royalties, Rambus is quick to jump on anyone it believes is infringing its rights, and has no problems in going to court if the alleged infringer is not willing to play ball. For Barr and Cisco Systems, however, the courthouse is usually the last place they want to be, so collaboration is the name of the game. Cisco is active in a number of standards organisations because inter-operability is something that is of fundamental importance to its customers. At Cisco, the policy is to build a patent portfolio that defends the company's position and gives it a strong hand in standards

negotiations: licensing outside of the standards framework is not a priority, especially as assertion is deemed to be an expensive exercise, not only in terms of money but also in the time it means key engineers have to spend away from the labs.

Perhaps the most striking aspect of the presentations given by both Barr and Richardson was that it was absolutely clear that not only had both been involved in the development of strategy at the very highest level within their companies, but that issues around the management of patents were also considered on a regular basis in the boardroom. This was a point also made by Mark Peterson, director of external business and global licensing at Procter & Gamble, when he talked about the input from the company's CEO in the development of P&G's programme of IP acquisition – whether this be through in-licensing, merger or collaboration.

LES International Conference

The annual gathering of the LES International, held this year in Munich from 12th to 15th June, demonstrated that it was not just American companies that think deeply about their intellectual property assets. Over the course of the week in the Bavarian capital, there were several thought-provoking speeches from senior intellectual property counsel at major German businesses, each of whom had valuable insights into the thinking at their respective companies.

Bertram Huber, senior vice-president of IP at Bosch, spoke in depth about the challenges his company faces in various parts of the world, and identified China as being of major importance. Although piracy and counterfeiting were significant problems in China, he said that he had been amazed at the emphasis being placed on IP education there.

Both the political and industrial leadership in the country understands that a strong IP system is a prerequisite for a successful economy, he concluded – perhaps in pointed contrast to the situation he sees in Europe, though he did not say.

Gerhard Bauer, chief trademark counsel at DaimlerChrysler, and Merck KGaA's head of global ethics – licensing and business development, Vincent Aurentz, both talked in detail about the ways in which their companies create and exploit IP. Aurentz, for example, described Merck's commitment to in-licensing to boost its product portfolio in areas where internal R&D is weak; he also summarised a series of recent deals involving partnerships with other companies that had taken licences to patents in non-core areas where Merck felt they were best placed to exploit the potential in what it had developed. Licensing teams have to be creative, Aurentz said, because if they are not the businesses they work for will be left behind: the decisions they take and the deals they do are not abstract concepts but actions that have a very real impact on company performance, revenue, employment opportunities and, therefore, the economies within which Merck operates.

As with the CIP Forum, the LES International conference showed that there are plenty of Europeans who understand the issues and are able to organise events that demonstrate this understanding, and so serve to provide tremendous insights into the modern world of IP management. Perhaps the next step is for those same Europeans not only to put on events where they talk to themselves and their colleagues from other continents, but also to begin to engage with the world at large.