

## A tale of two surveys

October saw the publication of two reports looking at industry's relationship with intellectual property, one based on Europe, the other from the United States. Both provided a powerful set of statistics.

In Europe, law firm DLA published the results of a survey of 300 European companies, each with an annual turnover in excess of £125 million (US\$200 million, approx), to discover the extent to which IP played a role in strategic planning. Those questioned were predominantly in-house counsel or directors of IP. The main findings are reproduced in the box below but some of the highlights included the fact that 52% of the respondents had a documented intellectual property strategy, 53% had board-level representation for IP matters, while 38% had conducted a valuation of the IP they owned.

The report projected an £8 billion black hole of lost income because European companies were failing to maximise IP value and a dismayed Jeremy Dickerson, who is head of DLA's IP practice, concluded: "European businesses are failing to recognise how valuable an asset their intellectual property is and are not thinking about how they can use it effectively to generate additional revenue."

Meanwhile, over in the United States, the International Intellectual Property Alliance (IIPA) presented the findings of its annual survey into the contribution copyright-based industries make to the US economy. The IIPA is a coalition of six copyright trade associations and aims to ensure that the interests of the copyright industries are considered at the highest levels in both the legislature and executive in the US. This year, as in previous years, the IIPA has used the results of its survey to drive home an uncompromising message. "This report highlights the good

news that growth of the core copyright industries – those that produce copyrighted materials – continues. For example, employment in the total copyright industries in 2002 rose to almost 11.5 million people, or 8.41% of all US employment. The contribution to our economy's GDP rose to \$1.25 trillion, or 12% of GDP," said the IIPA's President Eric Smith. And his conclusion? "Robust copyright protection and enforcement, in traditional markets and in the world of the internet, have become even more indispensable to strong economic growth, both here and abroad."

The IIPA survey is an excellent example of the kind of approach that has enabled rights owners in the United States to develop such a close and profitable relationship with policy makers in the country. How could any politician or civil servant choose to ignore findings that show just how important copyright is to the US economy? How could they even begin to consider measures that might have an adverse effect on copyright owners' abilities to secure and enforce rights, both at home and overseas? It is no small thanks to organisations such as the IIPA that the US government has made IP such a key issue in international trade negotiations and bilateral free trade agreements. Rights owners in the US have spent the money, and taken the time, to educate those that shape the environment within which they have to operate.

Compare and contrast with Europe, where rights owners have never invested serious resources in making their case. If any detailed study of IP's importance to the future of Europe's economy has been undertaken, the findings have been kept a closely guarded secret. The result is that IP is nowhere near as well understood by governments or politicians as it is in the US. And how Europe suffers as a result.

The Americans appreciated a long time ago what the Europeans continue to ignore – not everyone gets intellectual property immediately. They have to be educated, and they have to be educated in a language that they understand. Politicians understand jobs, tax revenues and economic growth. Give them something that makes its point in those terms and you may find you suddenly get people taking your case very seriously, so that they do not leave it to those with a vested interest in the system as it is to decide the future.

Not that it's all bad news in Europe. Although the DLA survey was presented as a damning indictment of European industry, for many who have worked in IP the findings will probably come as something of a pleasant surprise. While it is not acceptable that nearly 50% of companies do not have someone responsible for IP matters at board level, it is actually quite stunning that over 50% do. If asked, many would have put the figure much lower. In the same way, it is quite a turn-up

to find that more than one in three of those companies responding to the survey have taken the trouble to value their IP rights.

Far from revealing a lamentable lack of interest in IP among European companies, therefore, the DLA survey actually reveals that a sizeable proportion have begun to realise just how valuable an asset the rights they own can be. Of course, there is still much work to be done but this research shows that there is a good base from which to build. It would be very instructive if DLA could now go back to the same companies on an annual basis to see if there is any further movement towards IP literacy among them. Such a survey may not win many headlines but it would certainly be an instructive snapshot of the ongoing trend towards growing IP sophistication among Europe's companies. A process that will be complete when rights owners on the continent develop the means to put across their case in a way that top-level political decision makers cannot ignore.

### DLA IP survey of European companies, key findings:

- 52% have a documented intellectual property strategy
- 53% have board-level representation for matters relating to brands, intellectual property or research and development
- 57% have a formal system in place for identifying infringements of their intellectual property
- 56% deploy their intellectual property commercially
- 38% have conducted a valuation of their intellectual property
- 19% have done this within the last year

[www.dla.com/ourservices/ipsurvey/ip\\_survey.pdf](http://www.dla.com/ourservices/ipsurvey/ip_survey.pdf)

### IIPA Copyright Industries in the US Economy 2004 Report, key findings:

- In 2002, the US core copyright industries accounted for an estimated 6% of the country's gross domestic product (US\$626.6 billion).
- In 2002, the US total copyright industries accounted for an estimated 12% of the US gross domestic product (US\$1.25 trillion).
- The core copyright industries employed 4% of US workers in 2002 (5.48 million workers).
- The total copyright industries employed 8.41% of US workers in 2002 (11.47 million workers).
- Between 1997-2002, the core copyright industries added workers at an annual rate of 1.33%, exceeding that of the US economy as a whole (1.05%) by 27%.
- In 2002, the US copyright industries achieved foreign sales and exports estimated at US\$89.26 billion.

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