

The state of the IP nation

The annual IP benchmarking survey conducted jointly by *IAM* magazine and the IP Solutions business of Thomson Reuters took place in the early spring of 2012. As ever, the results make for fascinating reading

By **Joff Wild**

IP issues are moving up the corporate agenda as senior managements take more interest in them than ever before. So say respondents to the third annual IP benchmarking survey conducted jointly by *IAM* magazine and the IP Solutions business of Thomson Reuters. Participants were unequivocal: the economic news in general may be grim, but these are exciting times in intellectual property. Fully 68% of private practice respondents expect their practices to grow during 2012; while on the in-house side, over 50% say that market developments over the last year have had an impact on IP awareness at their companies, with more reporting senior business executive involvement in strategic IP decision making than in any previous survey. But it is not all good news. Significant threats remain: the cost of litigation and a general lack of resources are chief among them for both in-house and private practitioners.

Conducted between 9th February and 15th March 2012, the benchmarking survey was split into two parts: one for IP professionals working inside corporations and the other for those inside law and patent attorney firms. The aim was to find out the thoughts of *IAM*'s corporate and private practice readership on a range of subjects, including:

- Overall corporate awareness of IP issues.
- Portfolio management.
- Key geographical areas of interest.
- The impact of the recent America Invents Act on patent owners.
- Performance of leading patent offices.
- Licensing and other forms of IP value creation.
- Leading litigation venues.
- The obstacles to successful IP value creation.

Respondents revealed

In total, 642 responses were received from what was a senior base of participants. On the in-house side, 38% described themselves as a chief IP counsel, a chief IP officer (CIPO) or a president/CEO, with a further 31% stating they were an IP portfolio manager, an IP counsel or an IP strategy officer. Among private practice respondents, 78% self-identified as a partner, owner, principal, shareholder or president. Geographically, the picture was pretty much the same for both parts of the survey: respondents came primarily from North America (45% for both) and the European Union (28% in-house, 17% private practice). In terms of *IAM*'s subscribers, that pretty accurately reflects our US numbers, but is lower than our EU base.

On the corporate side, the sectors in which most respondents operate are technology (electronics/semiconductors, telecommunications, computer hardware/software – 20%) and healthcare (pharma/biotech, medical devices – 19%); while other identified areas include consumer products (7%), manufacturing (6%) and energy (6%). However, 36% of respondents placed themselves in the “Other” category. When it came to company size, 19% of respondents work for

Benchmark that

businesses with 100 employees or fewer, while 43% were part of organisations in which 5,000 or more people are employed. In terms of the number of patents under management, 26% stated that their companies had fewer than 100; 20% put this figure at between 100 and 500; 11% at 500 to 999; 12% at 1,000 to 2,999; 7% at 3,000 to 4,999; and 24% at over 5,000. All in all, then, a reasonable cross-section of industries, company sizes and portfolio ranges.

As for private practice respondents, 47% were based at firms with fewer than 50 attorneys, with the percentage being higher (53%) in Europe and Asia-Pacific than in the United States (37%). At the other end of the scale, 10% work in firms with more than 1,000 practitioners. With regard to focus, litigation and prosecution were the primary areas of specialisation, with 67% of respondents stating that their firms major in one or both; 59% of respondents also identified licensing and other forms of IP commercialisation as areas of expertise. Over 50% stated that they had seen more litigation and prosecution work during the last year; fewer than 10% stated that the amount of work on either front had declined. In terms of growth over the next 12 months, US practitioners are more confident than their European counterparts: 78% of US respondents expect their practices to increase in size, while 60% of those based in Europe anticipate the same.

On the following pages, you will find charts setting out answers to a selection of the questions that survey respondents were asked, as well as a discussion of some of the topics that have emerged as key issues.

A question of priorities

For in-house respondents, priorities are pretty much the same as they were in last year's survey. Unsurprisingly, "Ensuring that the right inventions are prosecuted" and "Managing costs" top the list, while at first sight "Finding ways to make money from the IP you have" coming in at number three also seems fair enough. But on further reflection, should that be the case? For a corporate IP leader, is finding ways to monetise a company's portfolios really more important than, say, "Managing/maintaining all the rights you own" or "Protecting/insulating your portfolio from competition"?

Outside of IP pure-plays, it could be argued that a company which places an excessive focus on monetisation is actually missing a lot of what intellectual property

Private practice: general strategy – top business issues

Firms view finding and retaining clients, and cost management as their top business issues

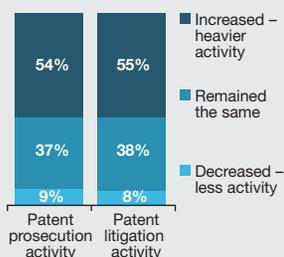
Top three business issues

Finding new clients	81%
Retaining existing clients	53%
Managing costs in the economic environment	49%
Staffing	34%
Clear communication/coordination with clients	27%
Managing all the rights/details of client accounts	18%
Billing clients in a timely and accurate manner	17%
Finding partners to work on a global scale	14% ↓ 20% in 2011
Other	7%

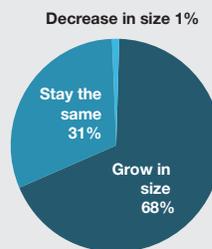
Private practice: general strategy – IP activity and growth

Two-thirds of firms expect their IP practice activity to grow in size in 2012. Most firms plan to grow their IP practice through word of mouth and by attending conferences

Activity in past 12 months



Expected 2012 IP practice activity



Methods for growing IP practice

Word of mouth	93%
Conference attendance	76%
Advertising	33%
Email marketing	28%
Direct mail	17%
Other	20%

Private practice: general strategy – firms' business focus

Most firms are primarily focused on patent and trademark rights. Prosecution and litigation are seen as the most important activities within the firm

Firms' primary focus – IP rights

Patents	96%
Trademarks	73%
Copyrights	42%
Trade secrets	35%
Other	14%

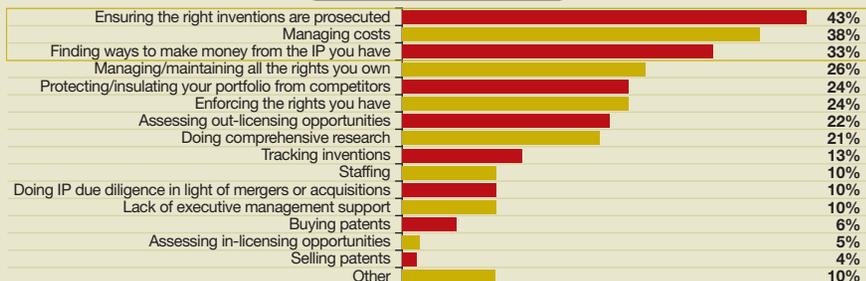
Business model – extremely important activities

Litigation	59%
Prosecution of patent applications	54%
Ongoing strategic consultation	37%
Licensing and other transactional work	22%
Other	6%

In-house counsel: general strategy – top IP issues

In-house counsel view prosecution and cost management as their top IP issues

Top three IP issues*

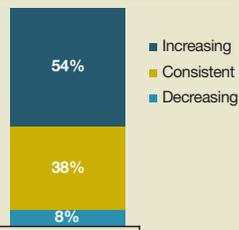


* Numbers reflect percentage of respondents who indicated area is one of the top three issues that they are facing today

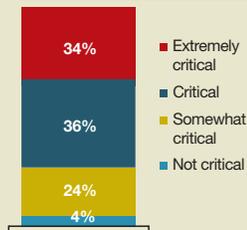
In-house counsel: general strategy – activity and growth

Nearly three-quarters of in-house counsel believe patenting is critical to the success of their organisations. Most believe their IP strategy and business strategy are well aligned

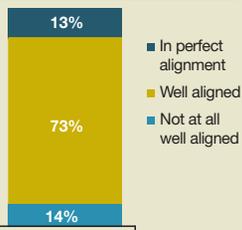
Current state of innovation



Importance of patenting



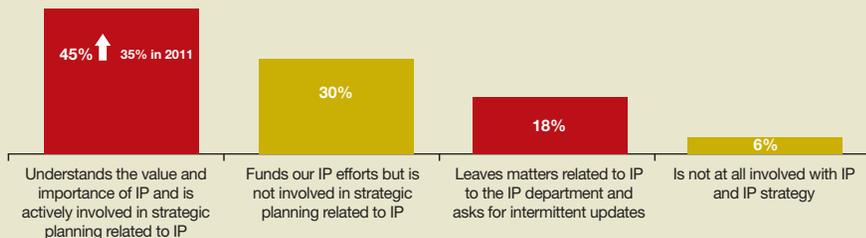
Alignment with business strategy



In-house counsel: general strategy – IP value

Four in 10 report that their senior leadership understands the value and importance of IP, and is involved in its strategic planning. This percentage has increased significantly since 2011

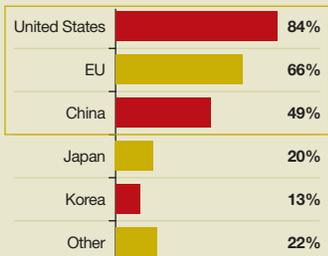
Value senior leadership places on IP



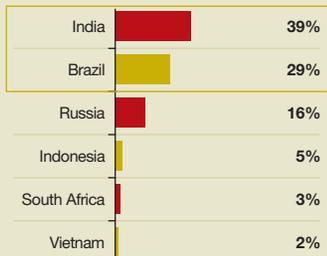
In-house counsel: general strategy – important regions

The United States, the European Union and China are the most important in terms of IP strategies, but IP resources are increasingly being devoted to India and Brazil

Most important regions



Devoting more IP resources



can deliver. After all, properly managed, high-quality intellectual property enhances differentiation and competitiveness, and enables exclusion, freedom to operate, collaboration and a whole lot more that can create significant value, before you even begin to consider licensing or sale. Far from indicating an increased level of IP sophistication, perhaps the high prominence given to this activity is a sign that many corporates still do not fully appreciate all that intellectual property can do for them.

That said, if you go to the end of the survey to look at what both corporate and private practice respondents identify as the biggest threats to IP portfolios, the top two are cost related: the expense of litigation and a lack of resources. It is possible that monetisation is one important way to meet those challenges. After all, an in-house department that can generate money is much more likely to survive a cost-cutting exercise than one that does not. Even as intellectual property moves closer to the heart of the C-suite, perhaps it is the case that pressure remains for in-house specialists to justify their existence by demonstrating that they add directly to the bottom line.

Greater scrutiny

What is clear from this year’s survey responses is that corporate IP professionals believe that senior management at their companies are getting more interested in intellectual property. A full 45% of in-house participants report that corporate leadership “understands the value and importance of IP, and is actively involved in strategic planning related to IP” - a year-on-year rise of 10 percentage points (and also an exceptionally high figure which probably reflects the greater IP literacy that exists among IAM subscribers in comparison to the corporate world generally). On top of this, 31% state that recent market events – such as the Nortel auction, the Motorola acquisition and the proposed sales of portfolios by the likes of Kodak and InterDigital – have had a noticeable impact on IP awareness in their companies. Another 37% agree that recent developments have had an impact, but have no direct experience; while 15% state that IP awareness inside their company was already at a high level.

Getting intellectual property more integrated into overall strategic thinking by making it more of a focus for the boardroom is an exciting proposition for many in-house professionals. However, it

“By and large, the corporate IP community is still made up of lawyers and attorneys. They have a very specific way of seeing and explaining the world: one that is full of legal and technical jargon”

also entails greater scrutiny – something that may not be so welcome. Ruud Peters, chief IP officer at Philips, frequently makes the point that while it can be stimulating and rewarding to be on the C-suite’s radar, this also means that there is no place to hide – you have to deliver. Peters meets with individual board members on a regular basis and gets together with the full board once a year to discuss how Philips’s IP strategy should develop to ensure alignment with overall business strategy. These are discussions that he has described as “very open and very challenging”. Peters also has quarterly strategic meetings with the management teams of each of Philips’s sectors. This is to make sure not only that strategy development plans are regularly addressed, but also that IP and Standards (IP&S), the function he leads, is closely involved in their execution.

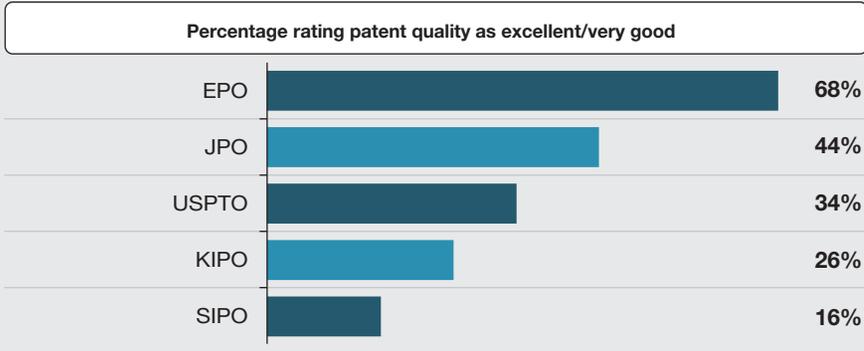
In short, Peters and his IP&S team are there to ensure that intellectual property is at the heart of everything Philips does. And it was Peters who drove this process by persuading the Philips board that it was in the company’s interests to embrace intellectual property. He achieved this by speaking in a language that senior management could understand and explaining what intellectual property could facilitate in business terms.

By and large, the corporate IP community is still made up of lawyers and attorneys. They have a very specific way of seeing and explaining the world: one that is full of legal and technical jargon. But as Peters always makes clear, senior executives do not want to hear that. If they are going to take an interest in intellectual property, it has to be made real in terms they can relate to: top line, bottom line, value creation, risk and reward. There is no room for hedged bets or other ambiguities; such vacillation is “not appreciated,” Peters states.

But it is not just talking a good game; you have to deliver on it as well. You have to demonstrate through accessible metrics (“proof points” is what Peters calls them) and cast-iron results that you are doing what you promised, quarter on quarter, year in and year out. This is exactly what Philips IP&S does. It is run as a business. It works

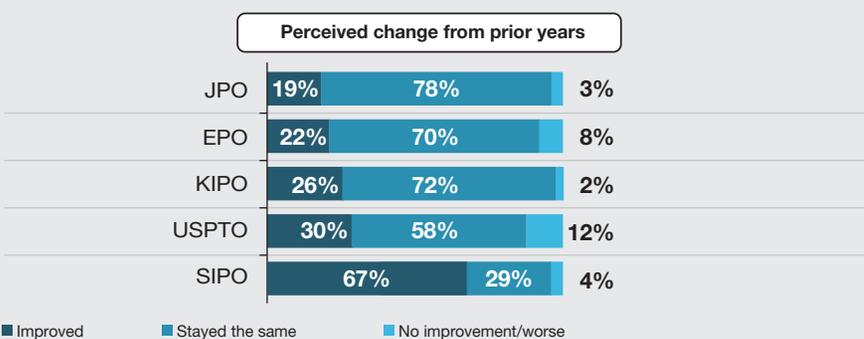
Private practice: patent quality

The EPO has the highest perceived level of patent quality over the past year. China (SIPO) has the lowest quality level



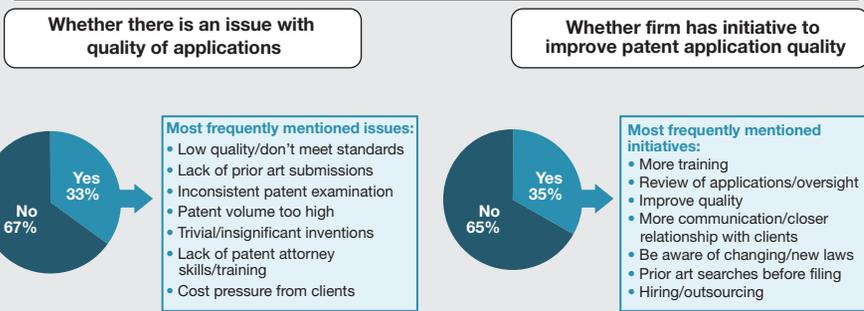
Private practice: patent quality

China (SIPO) has the highest number of respondents who have seen an improvement in the quality of patents over the past year



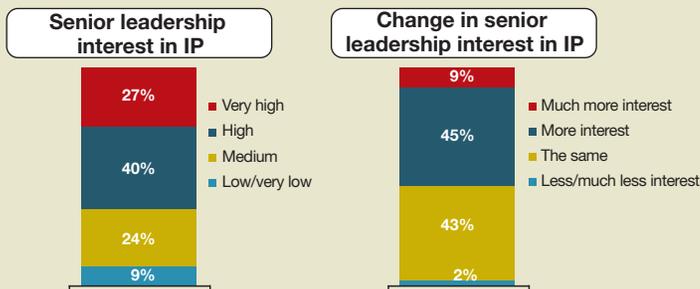
Private practice: patent quality

Most respondents do not feel that there is an issue with the quality of applications, with just over one-third of firms reporting an internal initiative to improve application quality



In-house counsel: general strategy – activity and growth

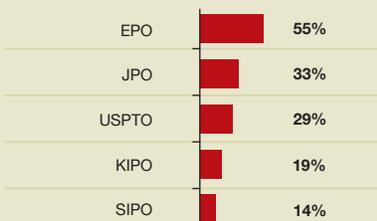
Two-thirds of in-house counsel believe their senior leadership has a high level of interest in IP. Half believe their senior leadership's interest increased 2010 to 2011



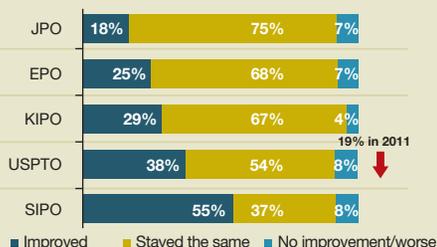
In-house counsel: patent quality

The EPO has the highest perceived level of patent quality over the past year. China has the lowest quality level, but has the highest number of respondents who have seen an improvement in the quality of patents over the past year

Percentage rating patent quality as excellent/very good



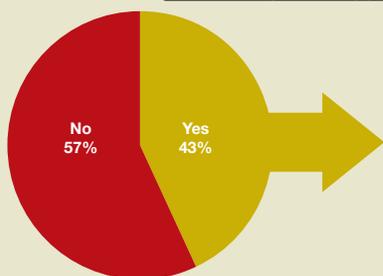
Perceived change from prior years



In-house counsel: patent quality

Four in 10 companies report an internal initiative to improve application quality. Many mentioned the use of internal reviews

Whether company has initiative to improve patent application quality



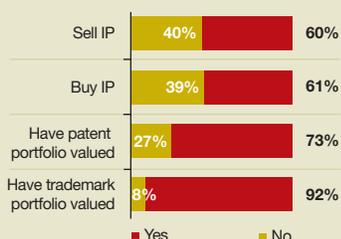
Most frequently mentioned initiatives:

- Peer/quality review of applications
- Higher-quality filings/assess patent strength
- Establish guidelines
- Training/education
- Personnel/hiring
- Better prior art research
- Alignment with business strategy

In-house counsel: activity and awareness

Four in 10 respondents either bought or sold IP in 2011, and one-quarter have had their patent portfolio valued. Two-thirds agree that recent market events such as the Nortel auction have heightened IP awareness among executives and investors at their company

2011 activity



Market events had an impact on IP awareness



to a budget, has financial targets and has to meet them. If it doesn't, there will be a lot of explaining to do. Some may welcome that pressure; others may find it intimidating. But if this year's benchmarking survey is anything to go by, it seems as though more and more corporate IP professionals are going to be given the chance to see how they react under the spotlight.

The year it changed

One of the major developments of the last year was the signing into law of the America Invents Act by President Obama in September 2011. The legislation is the most far-reaching reform of the US patent system in generations and one which took many years to achieve. Among the significant changes that the act brings about are the introduction of a first-to-file system and the creation of a post-grant review procedure. Both were heavily criticised as the legislation made its way through Congress.

However, most private practice and in-house survey respondents do not expect the America Invents Act to have too many negative consequences: 41% and 44% respectively state that first-to-file will make no difference, while another 20% of those in private practice believe that it will make their clients more competitive, with 13% on the in-house side expecting the same. With post-grant review, the picture is more mixed. Among private practitioners, 46% expect that it will either have no effect or make their clients more competitive. However, the clients themselves tend to disagree: just 25% of those on the in-house side expect post-grant review to make no difference, with a further 9% saying that it will make them more competitive. By contrast, 39% agree that they "will have to be diligent in our post-grant tracking process" – which could either be a positive or a negative, depending on how you look at it.

Opponents of the America Invents Act made their voices heard about both first-to-file and post-grant review, but in an interview with IAM that took place in London in April, US Patent and Trademark Office (USPTO) Director David Kappos stated that they were in a minority: "When I went on the road, from rural Vermont to southern California and everywhere in between, and I spoke to real individuals, they could not have cared less about either issue. What mattered to them was having a low-cost entry point into the patent system and getting through it quickly. The America Invents Act delivers these."

Benchmark that

To bid, or not to bid?

Another huge event in 2011 was the Nortel patent auction which took place at the end of June and ended with the Rockstar consortium – Research In Motion, Apple, Sony, EMC, Ericsson and Microsoft – paying US\$4.5 billion to get their hands on a 6,000-strong portfolio owned by the bankrupt Canadian telecoms corporation.

At the annual meeting of the Licensing Executives Society USA and Canada, held in San Diego last October, several of those who had played an active role in the auction discussed how it worked and its implications. They agreed that, up against the definite deadline represented by the auction date, parties interested in the portfolio were able to act quickly – due diligence was completed in weeks rather than over the many months that would usually be the case.

What's more, the auction process itself drove value as it was so transparent. At the end of each round of bidding, everyone knew whose bid was in pole position, how much had been offered and under what terms. In addition, Lazard – the bank which was acting for Nortel – was able to control who partnered with whom, so ensuring that companies could not just get together to kill the bidding process and freeze the price. The priority, said Lazard's David Descoteaux, was to ensure partnerships that created the maximum competitive tension. However, Kasim Alfalahi, Ericsson's CIPO, made clear that it was the portfolio itself that was the most important thing of all. If the patents had not been interesting, he said, they would not have fetched the price they did.

By its very nature, therefore, the Nortel sale was a one-off event whose circumstances would be very difficult to replicate. On the other hand, the more regular open IP auctions organised by ICAP Ocean Tomo have reportedly failed to excite buyers on several occasions, with floor bids being few and far between. Perhaps it was these events that survey respondents had in mind, rather than those in New York last June, when 66% of in-house counsel and 63% of private practitioners opined that IP auctions either have plateaued or are on the verge of extinction.

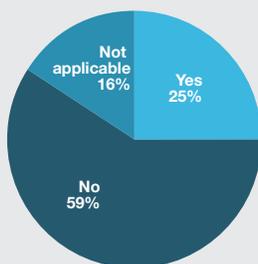
Quality counts

Since the benchmarking survey began in 2009, both private practice and in-house respondents have been asked to give their views on the quality of the patents being issued by the IP5 – the USPTO, the European Patent Office (EPO), the Japan

Private practice: application and prosecution

One-quarter say clients are more willing to pay extra to secure high-quality patents than in the past. Four in 10 firms use outside firms/resources for assistance with patent filings. This is a significant decrease from the previous year

Whether clients are more willing to pay for high-quality patents



Use outside firms/resources for assistance



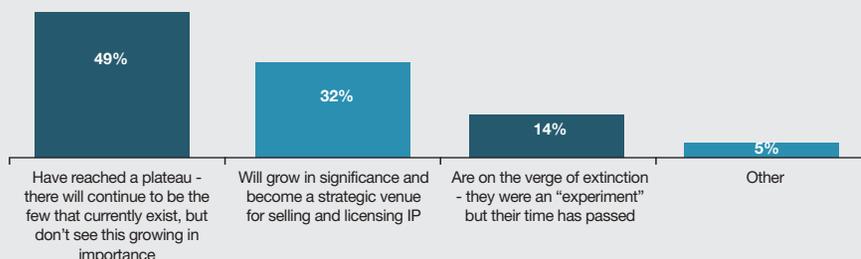
Amount spent annually on managing clients' patent filings



Private practice: future of IP auctions

About half of firms think that IP auctions have reached a plateau – a few will continue to exist, but they will not grow in importance

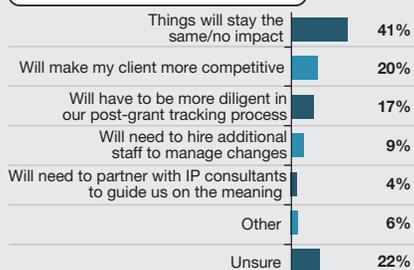
Anticipated future of IP auctions



Private practice: IP strategies and practices

Four in 10 firms think the America Invents Act will have no impact on their IP strategy and practices with regard to first-to-file. Regarding its impact on post-grant reviews, one-quarter believe they will have to be more diligent in their post-grant tracking process

First-to-file



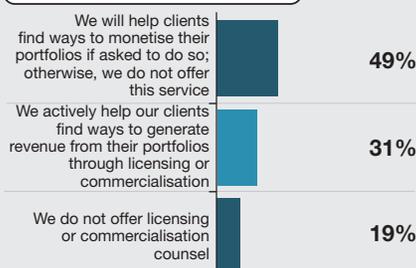
Post-grant reviews



Private practice: licensing and commercialisation

Most firms do offer some help monetising their clients' portfolios; however, half of the firms will offer this service only if asked. Usually, this entails helping clients sell or buy patent rights

Which describes your firm?



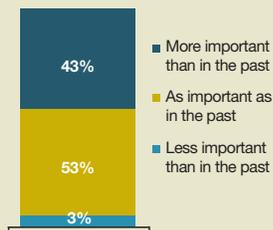
Which services does your firm offer?



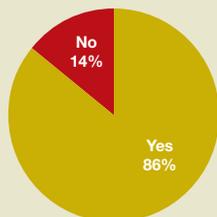
In-house counsel: application and prosecution

Three-quarters believe it is worth spending more money on securing high-quality patents even if the cost of doing so means fewer applications are filed overall

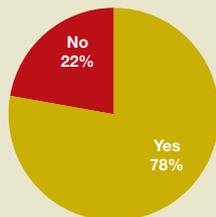
Importance of securing high-quality patents



Whether worth paying more for high-quality patents



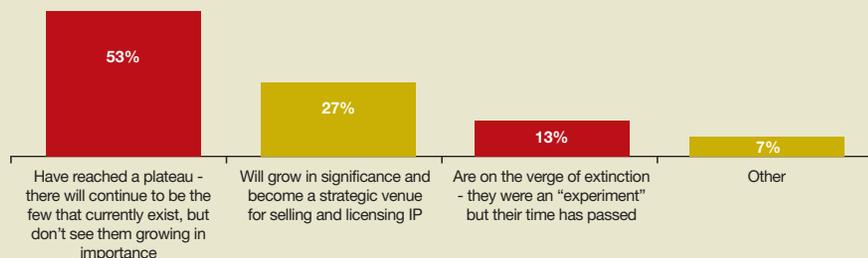
Whether worth paying more if fewer applications are filed



In-house counsel: future of IP auctions

Half of the respondents think that IP auctions have reached a plateau – a few will continue to exist, but they will not grow in importance

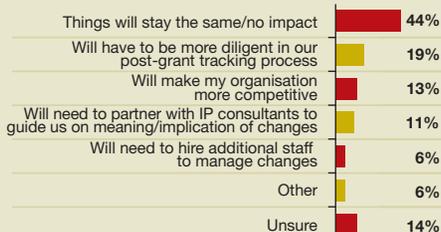
Anticipated future of IP auctions



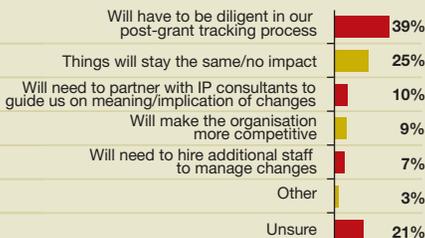
In-house counsel: IP strategies and practices

Four in 10 in-house counsel think the America Invents Act will have no impact on their IP strategy and practices with regard to first-to-file. Regarding its impact on post-grant reviews, four in 10 believe they will have to be more diligent in their post-grant tracking process

First-to-file



Post-grant reviews



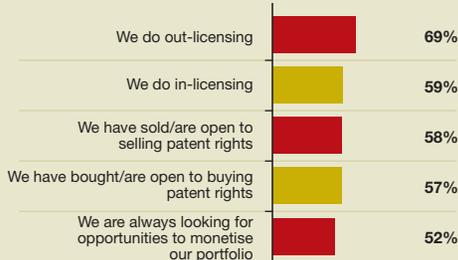
In-house counsel: licensing and commercialisation

Over half of companies are actively looking to generate revenue from their portfolio through licensing or commercialisation. Seven in 10 do out-licensing

Which describes your organisation?



Licensing practices



Patent Office (JPO), the Korean IP Office (KIPO) and China's State IP Office (SIPO).

Breakthrough in the US

This year's results provide good news for the USPTO. Some 30% of private practice respondents and 38% of in-house respondents state that they believe that quality at the office had improved in the last 12 months; this comes after rises of 31% and 30% respectively recorded in the 2011 survey. In 2010, by contrast, just 20% of private practitioners and 26% of those in-house reported that things were getting better. In both 2011 and 2010, dissatisfaction rates were high, with well over 15% of corporate and private practice respondents stating that the quality of USPTO-issued patents had deteriorated. This year, however, those figures have fallen back sharply to 12% (private practice) and 8% (in-house).

Ever since he took over at the USPTO, David Kappos has made improving the quality of its grants an over-riding priority. In his April interview with IAM, he stated: "I am maniacally focused on quality. I am prepared to put my money where my mouth is on this subject and will always put it ahead of everything else." As director, Kappos has focused on recruiting more examiners, enhancing training and increasing oversight of individual examiner decisions; he has also encouraged greater interaction with applicants. In addition, he has sought to expand the Patent Prosecution Highway programme, in which information is shared between patent offices, and has overseen the introduction of a new set of quality metrics.

Perhaps most important, though, was Kappos's decision to allow examiners to spend more time on each application they handle. It was, he recalled in the April interview with IAM, a difficult conversation that he had with the then Commerce Secretary Gary Locke in which he explained that he wanted to give all examiners an additional hour to consider every application, knowing full well that this would send the backlog up in the short term. "The secretary accepted that and it has resulted in a step function increase in our quality," Kappos stated.

In the same interview, Kappos stressed that it is important for people to understand that the USPTO operates within a system where it does not make the laws. "Supreme Court rulings can lead to fundamental changes, while you also need to see things within the context of what the US Constitution says is patentable," he said.

Benchmark that

In other words, what may look to non-Americans to be low-quality software or business method patents have been granted in full accordance with US law. His aim, Kappos concluded, is to ensure that patent owners can have as much confidence as possible in their portfolios, something that will bring them much greater certainty in their decision making. "When we put it all together, what we are after is a 21st century patent system that can produce really good results," he said.

China on the up

Another agency with reason to feel relatively pleased with itself is SIPO, China's granting authority. Although it ranks lowest overall of the IP5 in terms of the perceptions of quality – with just 16% of private practitioners and 14% of in-house counsel stating that it issues excellent or very good patents – the numbers seeing year-on-year improvements are much more encouraging, with well over 50% of both corporate and private practice respondents suggesting that quality standards have risen.

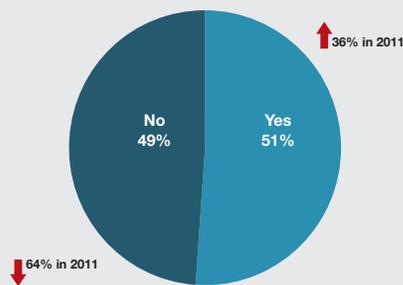
China, of course, receives and grants more patent applications than any other country in the world. Most relate to utility patents, which are not subject to substantive examination and could drag down perceptions of overall quality (though this is something that we did not ask about, so it can only be speculation). However, invention patents – which are given full examinations – are also on the rise; and for the first time last year more of these patents were owned by Chinese entities than foreign ones. Although it may be tempting to see this as an indication of an explosion in innovation, the truth may be a lot more prosaic: subsidies and tax incentives offered to domestic applicants by institutions and governmental organisations make applying for a patent both attractive and inexpensive. This has put SIPO under real pressure as it seeks to cope with the submissions it receives. As a result, an examining corps that already numbers over 5,000 is being added to at the rate of about 250 a year.

However, with a patent culture that dates back only to the mid-1980s, when the country's first patent legislation was introduced, long-term expertise is at a premium, despite very low attrition rates. This makes improved training programmes, examiner oversight and interaction with other patent offices particularly important – especially as SIPO has made improving quality a priority. "It is one of the pillars of

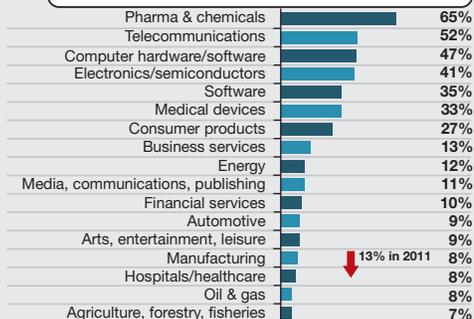
Private practice: protection and assertion

Half of the respondents believe there are specific industries that are becoming more litigious, a significant increase since 2011. Respondents see the most activity in the pharmaceuticals and chemicals industry

Specific industry becoming more litigious



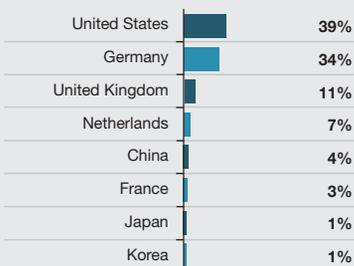
Areas with most litigation activity (5% or more)



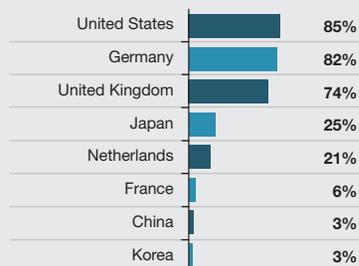
Private practice: protection and assertion

The United States is seen as giving the best value for money in patent litigation. It is also the country with the most thorough scrutiny in its litigation system

Best value for money – patent litigation



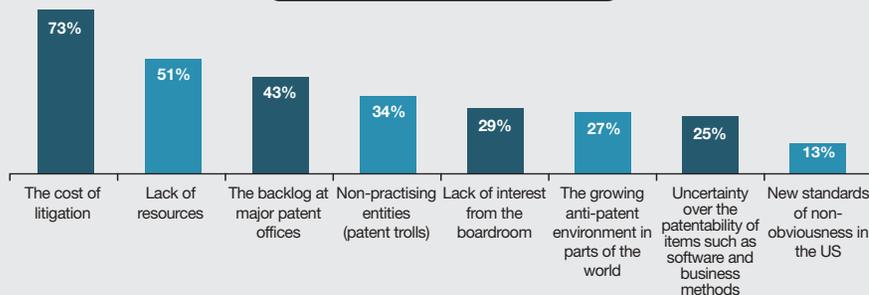
Countries with most thorough litigation scrutiny



Private practice: threats

The cost of litigation is perceived to be the biggest threat to clients' IP portfolios

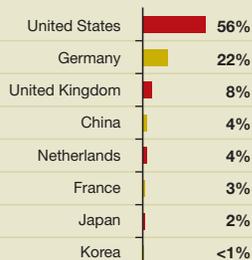
Biggest threats to clients' IP portfolios



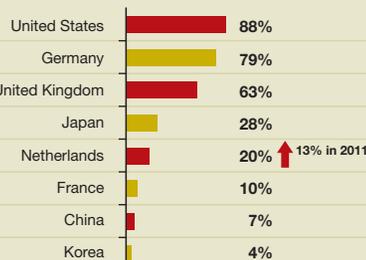
In-house counsel: protection and assertion

The United States is seen as giving the best value for money in patent litigation. It is also the country with the most thorough scrutiny in its litigation system

Best value for money – patent litigation



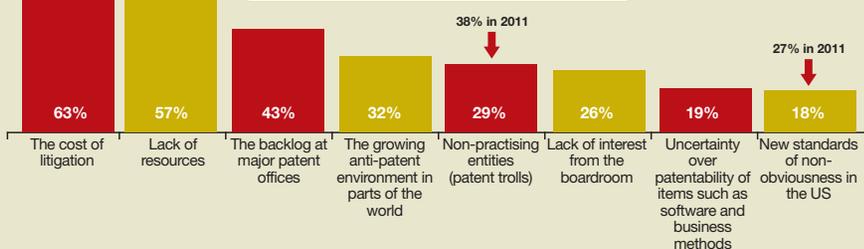
Countries with most thorough litigation scrutiny



In-house counsel: threats

The cost of litigation and lack of resources are perceived to be the biggest threats to IP portfolios

Biggest threats to IP portfolios



the patent system. Without quality, a patent is useless - it is just a number," Zeng Yanni, director of SIPO's international cooperation department, told *IAM* in an interview that took place in January 2011.

Zeng stated that the office had been in talks with local governments to get them to tighten up their subsidy programmes. Now, for example, many will require a grant before paying out the money, whereas previously merely an application would do the job. What's more, quality controls within the office have been heightened. In addition to higher grant thresholds set out in changes to the patent law made in 2010 and revised examination guidelines, examiners themselves are under much greater scrutiny.

"There is very heavy pressure on examiners, but we have to do it," Zeng stated. To this end, a taskforce comprising many of SIPO's most experienced examiners monitors the output of individual examiners, as well as teams and entire departments. This is done through random checks. If work is not up to standard, then "severe punishments" are imposed, Zeng said. In practice, this means potential salary reductions, not just for the individual concerned, but also for the group in which he or she works.

The EPO still rules the roost

But despite the strides made by the USPTO and SIPO, the EPO is still regarded as the pre-eminent granting authority when it comes to quality. As in previous years, the office is the number one choice of both corporate and private practitioners. At first sight, however, things do not look as positive for EPO President Benoît Battistelli and his team as they have been in the previous benchmarking surveys. Although the percentage of respondents in private practice stating that the EPO has very good or excellent quality increased

“ Despite the strides made by the USPTO and SIPO, the EPO is still seen as the pre-eminent granting authority when it comes to quality. As in all previous years, the office is the number one choice of both corporate and private practitioners ”

Action plan



The findings of the 2012 IP benchmarking survey undertaken by *IAM* magazine and the IP Solutions business of Thomson Reuters include the following:

- IP has never been more high profile inside corporations. There has been a steep jump in the number of in-house respondents reporting that senior management plays a full and active part in strategic IP decision-making.
- Despite the vocal opposition that the America Invents Act received, survey respondents were not overly concerned that it will have significant negative effects.
- Most private practitioner and corporate respondents believe that the popularity of IP auctions has plateaued or that such sales are on the verge of extinction.
- The European Patent Office is still regarded as the issuing authority which grants the highest-quality patents, though both the US Patent and Trademark Office and China's State IP Office have made progress.
- While most in-house respondents agreed that it is worth paying more to secure high-quality patents, a majority of private practitioners stated that their clients were not willing to do this.

from 62% in 2011 to 68% this year, it is quite a different story when it comes to those in-house – here the percentage has fallen from 74% to 55%. This actually mirrors in-house ratings declines suffered by all offices of the IP5. But does it indicate a sudden dissatisfaction with office performance? Perhaps not.

Unlike last year, in 2012 we had a “good performance” category, which in-house respondents could choose. It proved a popular option. When it came to the EPO, 37% plumped for it; elsewhere, it was 48% for the JPO; 49% for the USPTO; 42% for KIPO; and 31% for SIPO. Put another way, just 8% of in-house respondents stated that the EPO's quality was fair or poor; while the figures for the JPO, USPTO, KIPO and SIPO were 19%, 23%, 39% and 45% respectively. Battistelli and co can probably sleep safely for another year, at least.

Paying what it's worth

With patent monetisation – through both sale and licensing – becoming more of a

mainstream business issue over the last year, the focus of many in-house respondents is increasingly turning to the need to secure high-quality grants; after all, the chances of successfully making money from a low-quality portfolio are low. To that end, 43% of corporate participants state that getting high-quality patents is more important than it has been in the past; while 86% say that it is worth paying more to secure them and a further 78% say that this is the case even if it means getting fewer patents overall.

Interestingly, however, 59% of private practice respondents state that clients are unwilling to pay more in order to get higher-quality rights, with just one-quarter saying that they are. Then again, 67% of those from private practice do not think there is a problem with the quality of applications in the first place – so maybe the discrepancy here is explained by differing private practice and in-house perceptions of what constitutes quality. This may be something for us to explore in greater depth in next year's survey. *iam*

The full results of both the in-house and private practice benchmarking surveys are available to subscribers of *IAM* on request. Please contact jwild@iam-magazine.com