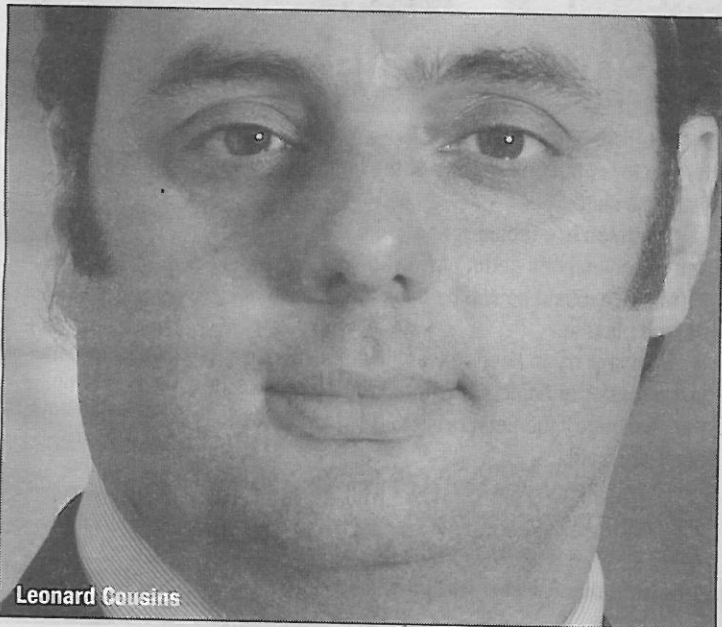


Kiwi companies spend all wrong on IP spending



Leonard Cousins

“A lot of companies are going to spring out of nowhere [during the recovery] – that’s why the need for the IP strategy”

Leonard Cousins

Niko Kloeten

Many New Zealand companies get their intellectual property spending wrong because they lack effective processes to decide what to protect and what not to, according to an IP expert.

Leonard Cousins, principal of new firm Lowndes Associates Patent and Trade Mark Attorneys, told the *National Business Review* too many New Zealand companies use an ad-hoc process when it comes to IP, be it patents or designs.

“Most businesses spend either too much or too little on IP”

This comes in part from a relative lack of experience among New Zealand executives when it comes to dealing with IP issues, partly due to the high number of small-to-medium enterprises in this country, he said.

“In somewhere like the UK in the larger firms about a third [of executives] will have come from an industry background – they’re much more versed in the issues.”

However, a typical small to medi-

um New Zealand business may have only one person who deals with IP decisions, he said.

“It’s a complex area with complex problems – a lot of businesses rely on the IP awareness of a few individuals.

“Business is about making tough decisions. In a situation where you have one IP expert and a financial officer they tend to ‘to and fro’ a little, tend to either swing one way or the other.”

Mr Cousins said these decisions about IP often have a major effect on the future of a company: a patent could bring in big profits or become an expensive mistake if it failed to generate any revenue.

“There’s the monetary cost but there’s also a lot of pressure on executives to make the decision with a patent or brand that might be worth millions.”

Instead of just making arbitrary judgments on what IP is worth protecting and what is not, companies should work out a concrete, objective set of criteria to use when assessing designs, innovations and inventions, he said.

This takes pressure off executives and ensures that a fair process is followed, meaning people who get their IP ideas rejected have a clear idea of why and don’t feel hard done by.

Lowndes Associates managing partner Mark Lowndes said firms should consider appointing a chief intellectual property officer as well as the regular positions such as chief financial officer and chief technology officer.

Mr Cousins said IP policy in companies is often “philosophy-driven,” using the example of Google, which had an “anti-patent” strategy.

“Businesses are either pro-patent or anti-patent and that shapes their approach to IP.”

Having effective IP expenditure management will be particularly

important during the “slow economic recovery” ahead, Mr Cousins said, because companies may be sitting on potentially valuable patents that aren’t generating revenue at the moment.

“It’s very important to be well-positioned in terms of IP. Companies need to watch their IP spend.

“A lot of companies are going to spring out of nowhere [during the recovery] – that’s why the need for the IP strategy.”

However, keeping hold of possibly lucrative IP may require letting go of some “dead wood” patents and design applications in order to keep costs down, Mr Cousins said.

“Companies may need to rationalise their patent portfolio.”

Figures from the Intellectual Property Office of New Zealand show that businesses may already be feeling the pinch when it comes to finding the money to protect IP.

During the economic boom the total number of patent applications increased from just less than 7000 in 2004-05 to more than 8500 in 2006-07 and 2007-08.

However, in 2008-09 this dropped back to 7210, staying flat in 2009-10.

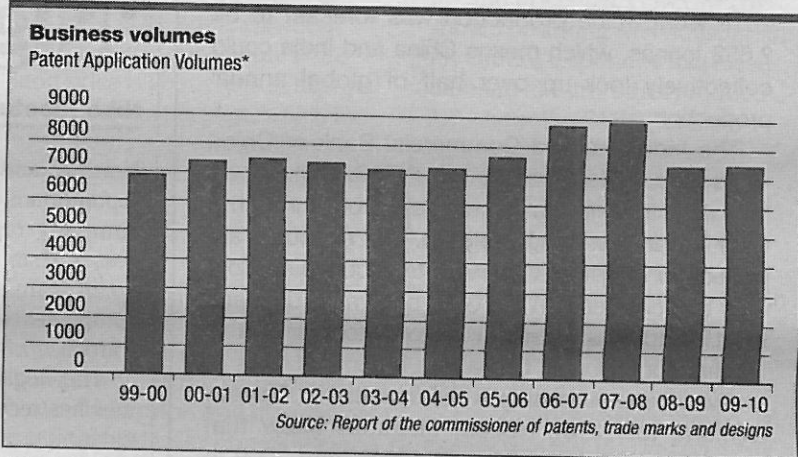
Trade mark applications rose steadily from 25,687 in 2003-04 to 36,509 in 2007-08, before slipping back to 29,720 in 2008-09.

Design applications have had a steady rather than sharp fall, dropping from their peak of 1487 applications in 2006-07 to 1372 in 2007-08, 1273 in 2008-09 and 1208 in 2009-10.

Mr Cousins said businesses have a number of different options for getting their IP spending down without giving up on protection of some of their products: “there’s an enormous range of cost strategies available.”

One option, he said, is to only patent products in certain countries.

“Often it’s regional considera-



* Previous Annual Reports reported “Standard Applications” excluding applications with a complete specification filed following an application with a provisional specification. “Standard Applications” now incorporate all complete standard applications.

According to the 2010 annual report by the Commissioner of patents, trade marks and designs, business IP applications have dropped off considerably since the global financial crisis and New Zealand’s recession in 2008.

tions – the cost in New Zealand or the US or the UK does not need to be very much at all but the cost in some other countries is astronomical.

“You might protect one thing in three key countries.”

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