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Singapore's invisible gold

Intellectual property, an area Singapore aims to dominate, should not be limited to law and lawyers, says top practitioner David Llewelyn

IF intellectual property (IP) expert David Llewelyn has one message for businesses, it is this: intellectual property should be taken out of the lawyer's office and into the boardroom.

"Everybody thinks IP is so complicated. It frightens people off. I'd rather call it 'intellectual assets'," said Prof Llewelyn, Deputy Dean of Singapore Management University (SMU) School of Law, who has both practised and taught in the field for over 30 years, and co-authored leading practitioners' and students' textbooks.

He has even written a book for the lay reader: "Invisible Gold in Asia: Creating Wealth Through Intellectual Property". In there, Prof Llewelyn uses Asian examples to discuss the different IP rights out there, deals with myths and misconceptions, and surveys the IP landscape in Asia.

For example, one basic piece of knowledge is how some IP rights, like copyrights, arise automatically once the work is created. Trademarks refer to ways of distinguishing goods and services, and can last indefinitely once acquired.

Meanwhile, patents are for novel inventions with commercial purposes. They are only granted for up to 20 years, and are only enforceable in the particular country or region where an office has granted them.

IP is not just the domain of lawyers but should be central to business, he said.

"If you're spending money on creating IP, the biggest reason why you want to protect it is to give you a competitive advantage, to make people less likely to come into the space you want to carve out for your business," he said.

"As manufacturing costs come down, the added value in products is increasingly in their design, their creativity, their innovation, which

separate them from the rest.

Why is Apple so much more successful than the Taiwanese companies who first marketed the tablet? Because of the design and the trust in the Apple brand. It's not just the technology."

"And sometimes you might want to get an IP right for purely defensive reasons, for example, so that nobody else can get a patent."

IP is not limited to law in other ways. Businesses can hire IP strategists, who are not trained lawyers but people who have been involved in the commercialisation or monetisation of IP rights over the years, Prof Llewelyn said.

The field also crosses many disciplines. "You've got data issues, software issues, you've also got accountancy and tax issues," he said. For instance, the digital age has led to new debates over what types of data can be owned or distributed freely on the Internet. Meanwhile, companies can benefit from tax incentives for creating IP.

"That's why I'm pleased to be at SMU. Within a five-minute walk, we've got the business school, the School of Information Systems, and the School of Accountancy," he said.

"Together, we have generated an increasing amount of cross-disciplinary discourse in the IP field. For example, at a recent public seminar organised by the School of Law, business school faculty gave presentations on patenting trends in China and on the R&D scene in India," he added.

Singapore's potential

As Asia grows, it is creating IP rights at a faster rate.

With a rising number of better-educated middle-class consumers with higher purchasing power, there will be demand for

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— **Professor David Llewelyn, Deputy Dean of Singapore Management University School of Law**

higher-end goods and services that IP can be a key part of, said Law Minister K Shanmugam at a recent event.

The attitude of Asian companies towards IP is also changing, Prof Llewelyn noted.

"If you look at (Taiwanese smartphone maker) HTC, (Chinese telco) Huawei, they are starting to create products that compete aesthetically as well as in every other way. China is filing more patents than anywhere else in the world."

Singapore has been angling to become a centre for IP. Last year, a committee set up by the Government unveiled a blueprint to ensure this comes to pass.

Known as the Intellectual Property Hub Master Plan, the report details a number of strategies Singapore can take.

They include attracting companies to manage their IP property assets from Singapore, ensuring IP filings here are high-quality, and positioning the country as a preferred location for IP dispute resolution.

Singapore's low tax regime and double taxation agreements with other countries are an advantage, Prof Llewelyn said.

One aspect of IP is that it is intangible, and can be easily moved across borders.

Companies can be attracted to set up an IP holding company here to manage the stream of income from franchising or licensing their IP rights around the world or the region, for example.

The strong pro-IP signals Singapore has sent are significant, he said.

"The lower tax position of Singapore is part of the overall offering. The country has clearly decided that it is going to play the IP card when attracting businesses here, in terms of having a state-of-the-art IP and law system, and effective judges: it's all saying, we take IP seriously."

Singapore's smaller market and perceived neutrality can also be an advantage where arbitration is concerned, he added. "So if you're a Korean company entering into a deal with an American company for the Chinese market, you may well choose The Singapore International Arbitration Centre as a forum."

Developing IP talent

But developing Singapore's hub status is a work in progress.

Much training and education is needed. Singapore's size is a challenge because talent has to be built from the ground up, Prof Llewelyn noted.

"This does not happen overnight. You've got to build up the specialist lawyers, the accountants, the valuers, the strategic IP companies, the venture capitalists," he said.

At SMU, law students are taught to consider IP rights not just from a law perspective. In a popular elective – 'International Commercialisation of IP', students learn about IP rights holistically – looking at their protection, commercialisation and enforcement in the context of their role as business assets.

An IP Law component is also incorporated into the curriculum of SMU's Master of Science in Innovation programme. Participants, many of whom are drivers of innovation in their fields, are taught how to leverage on IP to capture value.

Companies in the region, too, should learn not to treat IP in an ad hoc way.

"Sometimes people file for patents without knowing why and for what. You really need to understand why you want these rights, and what you want to do with them," he said.

Ultimately, Prof Llewelyn wants to make IP more accessible to people.

"It is a complicated field, but important to all our futures. If people are creative and innovative, they add a lot to society," he said.