

Startups: How to Protect Your Innovations

How can technology startups protect their IP? An INTA panel explored how companies just starting out can make the most of their IP.

Pete Pollard (Fireball Patents, the Netherlands), who moderated yesterday's session **CSA51 Cost-Effective Use of Patents: Protecting Inventions with Smaller Budgets**, discussed why some startup companies were shunning patents.

Some startup companies only use open source and don't file any patents, while others want their technology to be copied. Cost is also a major factor.

Marieke Westgeest (Markenizer BV, the Netherlands) added that when the average client comes into a firm, they know that trademarks and designs cost hundreds of euros.

But patents cost thousands of euros, so Ms. Westgeest ensures she discusses with clients the high costs. "Many times, that's the end of the game," she said.

One alternative to patents is trade secrets.

Within two years, all E.U. member states will have harmonized trade secrets legislation, but protection will be granted only if the information has commercial value because it's secret

and because reasonable efforts have been made to keep it secret.

Reasonable efforts include using non-disclosure agreements for external business discussions, secrecy clauses in employment contracts, and having a proper system to handle the documents.

A recent example of trade secrets litigation comes from the *Waymo v. Uber* dispute in the United States.

In May, Uber was ordered to return files to Waymo, formerly Google's self-driving car division, by a judge who said Uber knew, or should have known, that an executive it hired had taken information from Waymo.

Descriptions of the inventions (trade secrets) had been blacked out in the lawsuit, explained Mr. Pollard.

To protect a trade secret, owners can file at the Benelux Intellectual Property Office.

Ms. Westgeest added that this filing is accepted by judges in all E.U. countries as evidence.

Another avenue for startups is design patents, panelists said.



“One alternative to patents is trade secrets.”

In China, Japan, and Korea, design patents are faster and cheaper to obtain than patents, said Hui Wang (Chofn Intellectual Property, China).

According to Mr. Wang, there's no novelty search or substantive examination and design patents can usually be registered within six months.

China leads the way for the number of design patent registrations, contributing 60 percent of the worldwide total in 2015.

High government subsidies drove the filing of design patents, said Mr. Wang, with clothing and shoe manufacturers topping the board.

Although most of the top filers in

China are clothing companies, Citic Dicastal, which is in the automotive industry, received 1,122 design patents last year.

In the United States, Samsung placed first on the recipients list with 1,426 design patents received in 2015, explained Eric D. Morehouse (Kenealy Vaidya, USA).

"U.S. design patents are very inexpensive compared to utility patents," he said, adding that prosecution of design patents is also comparatively cheap. ●