

PROTECTING YOUR INTELLECTUAL PROPERTY - GARRIGUES

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Companies across all sectors and of all sizes need to understand the issues that can affect their intellectual property portfolios and strategies, which means that their advisers must make an additional effort to anticipate the issues before they arise, says the recently appointed Head of International IP at Garrigues, João Paulo Miranda de Sousa.

Los abogados deben mantenerse más próximos a sus clientes y esforzarse más en proteger y demostrar el valor potencial de los activos de que disponen en cuanto a propiedad intelectual, dice João Paulo Miranda de Sousa, nuevo director de IP Internacional en Garrigues, y ex director en la Oficina de Patentes y Marcas en Alicante. Esto conlleva apoyar aquellos procesos que permiten asistir a las empresas en cualquier área de su negocio.

'The communications, media, and life sciences sectors are key players in the knowledge economy' Says Miranda de Sousa. ' In these sectors, the value of the companies will be linked to what may often be deemed as intangible assets but which are underpinned by their intellectual property (IP)

portfolios. Moreover, IP issues can have an impact on businesses in many other sectors and on companies of all sizes.'

It is vital therefore that regardless of their business sector companies have an appreciation of the importance of the patents, designs or trademarks that they use and own, he believes, and that the necessary strategies are put in place to protect what can prove to be very valuable assets.

'Statistics show that companies in the major Iberian commercial centres – among them Lisbon, Porto, Madrid, Barcelona, Valencia and Bilbao – are engaging in the patent and trademark protection systems. Nonetheless, beyond these there appears to be a notable gap in their use,' he says. The result, he suggests, is that greater efforts need to be made to raise the awareness of IP issues among regional businesses and of the benefits in ensuring that the correct measures are in place to commercialise and protect them.

'I am not sure whether it is because these may be more sophisticated business centres, or just because they are where there are more IP and legal professionals,' he says, 'But it is not enough to suggest that companies in the regions do not have the same level and types of IP issues as companies within the major cities.'

What is required is that advisers need to get closer to companies both physically and strategically, he suggests. But also that they are able to advise their clients on a range of issues from prosecution and registration to commercialisation and enforcement, and that they are able to take a joined up approach to matters.

'It is important that legal firms not only offer the best advice to clients when specific legal issues arise, but also that they anticipate them so that companies are fully aware of potential issues and can therefore assess their relevance and likely impact on their operations.'

Cross-border approach

By extension companies likewise need to be able to ensure that barriers are not presented to their domestic or international growth or expansion strategies, says Miranda de Sousa.

'We see an increasing number of Iberian companies expanding internationally, and it is vital that they consider how the expansion can affect their IP rights. We are also seeing more Asian and Latin American companies, coming to Europe that have considered the same issues, although from a different perspective.'

As the former Director of General Affairs and External Relations at the European Trademarks Office in Alicante, he is clearly in favour of procedures that facilitate the cross-border protection and enforcement of IP rights, such as the European Community Trademark.

But he supports also the development of further processes, including the proposed Community patent – which would enable patent holders to submit a single application for consistent protection across all 27 European Union member states.

'Such processes clearly present significant benefits to clients who wish to take a pan-European approach, and any law firm that supports its clients internationally should support such a trend. We need after all to understand what systems our clients want and that can facilitate and solve their problems, and go with them.'

The starting point remains however, emphasises Miranda de Sousa, that companies are aware of the potential of the IP rights they own and that the protections they need are in place, regardless of their business sector, size or location.