

EIP

World IP Day: How to take your idea to market as an SME

With SMEs accounting for the majority of businesses worldwide, it is no surprise that we are seeing more and more innovation coming from SME businesses. Effectively understanding how to take that innovation to market, and then to optimise profit generation resulting from the innovation, is critical for a business's financial success.

Understanding your market

As a business owner, knowledge of your market is crucial to run an effective research and development function. What customers want and how much they are prepared to pay for it are important factors in determining where to focus research and development and how much to budget for research and development. It is also important to keep an eye on what competitors are doing. If they are investing heavily in research and development, then you can expect improved products to be launched which may adversely affect your market share. For SMEs in competition with large corporates, this can be a particular concern.

Technical innovation arising from effective research and development should result in improved products that may allow premium pricing or a larger market share or both. But once you launch your improved products on the open market, serious competitors will take an interest and there is a risk that they will adopt your innovation without having to incur the same level of investment in research and development. Patents can eliminate, or at least mitigate, that risk for up to twenty years.

The corollary of this is that if a competitor has made the same innovation as you but has

filed for patent protection, then you may be blocked from introducing the innovation in new products.

Utilising patents

Patents are of course an investment in themselves, and market intelligence will therefore also come into play when deciding how much to budget for patent protection. Factors to be considered when making that decision include:

1. What is the market size for the product? What level of profit could be attributed to commercialising the technical innovation?
2. How long will it be before the technical innovation is likely to become redundant? If it is only a couple of years, does it make sense to apply for patent protection?
3. Will patent filings help secure needed investment?
4. Will patent filings improve your position in any required collaboration to bring a new product to market?
5. Can you take advantage of tax incentives, such as the [Patent Box scheme](#) that can reduce the rate of corporation tax in the UK to 10% on profits from qualifying patents?
6. Do you really understand the cost of patenting? Budget too little, and you may unnecessarily end up with no or inadequate protection.

Importantly, the decision on commencing patent protection is almost always made when there is no certainty regarding the commercial success of the associated innovative technology. But in the same way as research and development is typically carried out in the expectation of eventual commercial success, so should the patenting process.

Developing a patent strategy

We recommend that any SME involved in technical innovation develop a patent strategy, which should address both how the SME aims to benefit from seeking patent protection for its own technical innovation and how the SME aims to avoid infringing the patents owned by others. Once a patent strategy has been created, things to consider when implementing that patent strategy include:

1. Ensure that you have a procedure in place to capture and record inventions as they are made.

2. Also ensure that you have a procedure in place to assess whether to proceed with patent protection for the recorded inventions.
3. Seek advice from a patent attorney engaged with your technology to understand the prospects for successfully getting patent protection, how those prospects may be improved, and the costs involved.
4. Be aware that publicly disclosing your invention could significantly limit the protection available.

A well thought out and implemented patent strategy complements research and development to the benefit of the SME. It should not be underestimated that getting patent protection for a technical innovation can deter competitors for investing in research and development in that technical area, making it easier for you to make and patent improvements to that original technical innovation. Indeed, it may be an improvement that realises the most commercial success, backed up by the patenting of both the original technical innovation and the improvement.

How EIP can support you

Our in-house experts at EIP work with businesses of all sizes to provide practical commercial advice. We are a specialist patent firm with practising offices in the US and Europe, and capable of coordinating the filing and prosecution of patent applications worldwide.

If you run or work for an SME investing in research and development and need advice regarding patents, [contact us today](#).

We are posting a range of content on our [Twitter](#) to help SMEs understand patents further. Follow us there to make sure you don't miss a post.