



Are UK companies making best use of the patent system?

Rachel Taylor reports on recent research published by the UK Intellectual Property Office

UK companies are lagging behind their counterparts in Europe, the US, Japan and South Korea when it comes to filing both domestic and foreign patent applications, according to recent research published by the UK Intellectual Property Office (UKIPO).

[“Building the Evidence Base on the Performance of the UK Patent System”](#) provides a review of the UK patent system, looking at how companies patent in the UK, who patents in the UK and how the UK system compares to other countries.

In 2014, the UK was the sixth largest national jurisdiction in terms of number of patent applications filed, in a world ranking led by China and the US. Adjusting these figures for GDP and population puts the UK fourth and second in the world respectively. However, the vast majority of UK patent applications are being filed by foreign applicants. In 2012, only 7% of patent applications covering the UK¹ were filed by domestic applicants, compared to 34% in Germany, 48% in the US and 76% in South Korea. It seems that UK companies are not making up for this shortfall abroad either, with UK applicants accounting for negligible percentages of the total number of patent applications filed in the US, Germany and France.

The report offers the following explanations for these statistics:

- Foreign applicants for UK patent applications are many because companies patent where a consumer market for their product is found. The UK's large population, high GDP and high consumer spending make it an attractive consumer market.
- Domestic applicants for UK patents are few because the UK economy is heavily weighted towards Knowledge-Intensive Business Services (KIBS). Developments in this sector are often perceived not to be suited to patenting due to limits on patenting of software and business methods in Europe and the UK.
- UK manufacturing companies often operate a service-based model where they differentiate from their competitors on the service offered rather than the technical product itself.
- Cultural attitudes to patenting may also play a part, with UK companies being less likely to patent around an idea, preferring instead to be more selective in their patenting strategies.

¹National UK patent applications and European patent applications

Lower levels of patenting amongst UK companies does not necessarily indicate lower levels of innovation. The sector makeup of the UK economy and the propensity to innovate in areas not suited to patenting are facts of life. With this in mind, is there anything that can be done to address the apparent lack of interest shown by UK companies in filing patent applications to cover their innovations?

Unquestionably, the reasons for not patenting provided by the companies participating in the study, particularly SMEs, should be addressed. The majority of these reasons stemmed from a lack of understanding of the patent system and included an inability to predict costs upfront and a lack of understanding of the benefits of patenting.

The following are just a few ways in which this situation could be improved:

- A better understanding of what constitutes patentable subject-matter, especially in the KIBS sector, would help companies identify areas of their business where patents could be valuable.
- Engineers and inventors could be educated in intellectual property, a practice perceived as normal in Germany.
- Improved awareness of CSE (combined search and examination) and the [Green Channel](#) as methods of reducing processing times at the UKIPO and enhancing the predictability of timeframes for patent prosecution could facilitate business decisions about whether or not to patent an innovation.
- Presenting the use of patents in terms of a business plan may help companies appreciate their value in the sphere of their organisation.
- A wider awareness of the benefits of [Patent Box](#) (a reduction in corporation tax available on the profits from patented inventions in the UK) may help to boost the number of patent applications filed.

The study also highlights many more initiatives such as [IP Equip](#), the [IP Health Check](#) and the IP finance [toolkit](#) which can help companies, particularly SMEs, towards a better understanding of how patenting their innovations can enhance their business.

In summary, some of the factors behind UK companies' reluctance to file patent applications are inalterable, such as the UK economy's sector makeup and the areas in which UK companies tend to innovate. However, thought should be given to enhancing companies' understanding of the patent system and of what constitutes patentable subject-matter. This can be achieved through improved dialogue with patent attorneys at all stages of the innovative process to determine where patent applications may be filed and what benefit can be derived from them. Improving understanding in this way can only benefit business decisions, even if the ultimate conclusion is not to file a patent application.

Author: [Rachel Taylor](#)

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email@carpmaels.com.

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