Maximum Protection

Guarding trade secrets is essential for maintaining the value of a company, says Neil Coulson at law firm, Baker Botts. Here, he advises on intellectual property, telling *EPC* about the most recent hurdles and trends within the sector

Neil Coulson is a partner in the IP group of international law firm Baker Botts, and is based in its London office. Neil has broad experience in IP practice covering all aspects of dispute resolution and the exploitation of rights. He advises on protection strategies and the full range of commercial agreements. Email: neil.coulson@bakerbotts.com

EPC: Where did your interest in intellectual property derive from?

Neil Coulson: I first came across intellectual property (IP) in a short series of lectures at law school. At the time, it was by no means mainstream, and its application across industries and technical sectors piqued my interest.

Which part of your current role do you most enjoy?

Working with companies to address and resolve the challenges they face in furthering their businesses, both in terms of their own product development and in looking at competitor activities. Product development never stands still, and neither does IP law.

How would you best advise pharmaceutical companies on a protection strategy?

The best advice I can give is to look closely at your budget and achieve maximum protection within that constraint. Patents are expensive to obtain and maintain, but they remain the keystone upon which the pharma industry operates.

Having said that, start-ups should look closely at minimising protection spending by establishing formal procedures to protect their trade secrets. For CROs too, trade secrets are the key element in safeguarding the value each organisation can offer to its customers.

What are the biggest challenges currently facing your sector?

At present, it is the continued uncertainty about how the European patent system will operate once – and if – the unitary patent and Unified Patent Court (UPC) come into being. There remains an element of crystal ball gazing, but companies and their advisers need to be assessing the potential revisions and impact to patenting strategy that this proposed new regime will bring.

Professionally, what has been your proudest moment?

Wins – especially in the Court of Appeal – rank high. Having a court of that standing affirm the validity of your arguments is always a very proud moment.

Which stage of the patent application process do you think pharma should focus on most?

The key for any patent application process is the framing of it. This defines the scope of protection and, looking down the line, the ability to enforce effectively, and generate licensing revenues or commercial value.

How have recent legislative amendments affected protection in the industry?

Currently, and specifically to the pharma industry in the EU, the main issue is that of supplementary protection certificates (SPCs) and their coverage. Given the sums invested, they are critical to protection in pharma, and the evolving body of case law is determining their full scope and effectiveness.

What do you think the big trends will be in the next few years?

In addition to the unitary patent and UPC, and the evolving case law on SPCs, the main trend will be the increased importance of trade secret protection. This will largely be influenced by the growing use of data analytics to drive development strategies.

Protection of core underlying data and technical processes is likely to assume an important role in providing companies with a competitive advantage – as well as the more traditional patent protection for key product development.