

# Intellectual Property:

Why you should choose the United Kingdom





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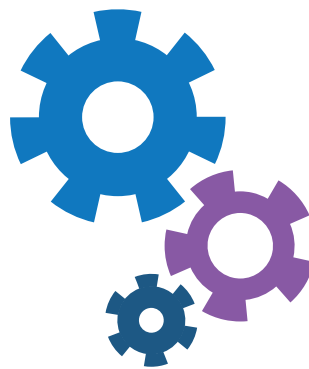
This brochure explains why you should choose the UK for the protection, exploitation and enforcement of IP.



## Great IP Professionals

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- Exceptional quality
- Global perspective
- Client-focused
- Collaborative and comprehensive
- Cost-effective



## Great IP System

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- Mature and sophisticated
- Specialist courts and judges
- Well-developed ADR options (alternative dispute resolution)
- High levels of privilege
- Data safety assurance



## Great IP Hub

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- Gateway for international registrations
- Law of choice for IP transactions
- Preferred venue for dispute resolution



# Great IP Professionals

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## Exceptional quality

IP professionals from the UK are respected throughout the world for their experience, skill and tenacity in dealing with complex and challenging matters. The UK IP profession's reputation for exceptional quality attracts the best talent, from the UK and beyond.

All UK IP professionals receive high levels of training and are required to meet rigorous qualification standards. Their training avoids an academic pursuit of the 'right' answer, and instead encourages them to come up with approaches that are commercially tailored to their clients' needs. Legal regulation in the UK is also strong, which encourages a high level of professional integrity and ethical conduct.

As a whole, UK IP professionals have very strong technical backgrounds which help them to quickly and fully understand complex technical issues.

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*The UK [is] very highly regarded for the depth of expertise of both [its] judges and lawyers*

Taylor Wessing

Global IP Index 4 (November 2013)

## Global perspective

The UK is an international hub for IP work. This reflects the UK's position as a global centre for finance, international business and dispute resolution, as home to many world-class institutions for science and creativity, and as a prolific producer of world-leading technology, engineering and craftsmanship.

There is a high level of international experience amongst IP professionals in the UK, reflecting the breadth of the markets and cultures with which they do business. This gives UK IP professionals global insight and enables them to collaborate successfully with a wide range of clients and partners. This is further enabled by having significant diversity amongst the UK IP profession and having English as the international language of business and science. With English as our mother tongue, our IP professionals are exceptionally well placed to advise on the interpretation of patents and IP agreements.

The legal heritage of the UK is based on its common law and freedom of contract principles, which have influenced the legal systems of the United States and many present and former Commonwealth countries. To these strong foundations have been added newer European and international IP laws which are influenced by the civil law jurisdictions of continental Europe. This means that the UK IP profession has an excellent appreciation of the international aspects of IP and the different approaches that different jurisdictions may adopt, putting it in an enviable position to handle world-wide IP portfolios, co-ordinate global litigation, and advise on transactions and exploitation strategies with an international reach.

## Client-focused

The UK IP profession has a reputation for providing solutions to achieve commercial objectives in a pragmatic

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and cost-effective way. This commercial-outcome-driven approach is complemented by extremely high standards of service and client care. The UK IP system is itself very flexible, allowing IP rights to be obtained, exploited and enforced in a proportionate way. To make the most of this system, service needs to be customised for each individual client or matter. Consequently, UK IP professionals tend to be creative and flexible rather than adopting formulaic, rules-based approaches. Any matter involving IP, whether contentious or non-contentious, requires prompt attention. UK IP professionals are used to giving timely advice as well as an indication of the likely cost involved in the matter.

### **Collaborative and comprehensive**

The UK IP profession includes solicitors, barristers, patent attorneys and trade mark attorneys, who come together in teams to help clients achieve their objectives. Each branch of the profession has complementary areas of expertise and experience; together they provide a comprehensive service for developing and deploying strategies for the protection, exploitation and enforcement of all IP rights in the UK and internationally.

As a result of working closely with other professionals in their daily work, UK IP professionals work collaboratively with clients and are skilled at co-ordinating teams of professionals in different jurisdictions. This cross-disciplinary approach also enables UK IP professionals to handle the largest and most complex IP matters including multi-jurisdictional cases or transactions.

### **Cost-effective**

UK IP professionals offer good value for money and meet the challenges posed by the need for cost-effective solutions by offering flexible service levels and appropriate pricing models. Furthermore, the high quality, commercially-focused advice provided by UK professionals adds value to

a client's business by ensuring that the right approach is adopted from the outset and by avoiding costly mistakes. For example, the UK IP profession is skilled at identifying the benefits and risks associated with IP disputes and will advise whether and when to pursue litigation or other dispute resolution strategies.

Using the speedy procedures in the UK for the grant and registration of rights and the resolution of disputes can also provide significant additional value by achieving early outcomes. For example, recent reforms to the court system mean that the litigation procedure is now much more flexible. It can be adjusted to ensure that a trial takes place within 12 months and that costs are kept to a level that is proportionate to the value of the dispute. Furthermore, given that decisions of the English court in IP matters tend to be given significant weight in foreign courts (especially in Europe and the Commonwealth), litigation in the UK is very effective at stimulating pan-European or global settlements.

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***Most marked has been  
[the UK's] improved cost  
effectiveness ranking  
[in copyright]”***

**Taylor Wessing**  
Global IP Index 5 (June 2016)



# Great IP System

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## Mature and sophisticated

The UK has a rich legal heritage, with one of the longest-established IP systems and mature, established laws across all types of intellectual property rights, as well as contract and commercial law. The legal systems for the protection, exploitation and enforcement of IP in the UK benefit from many years of refinement, which has resulted in them being flexible, predictable and business-focused.

The UK's IP system is consistently ranked by independent research as one of the best in the world. For example, the UK has consistently been ranked in the top tier of each of the five Taylor Wessing Global IP Indices (and ranked No. 1 more times than any other country) and No. 2 in the latest WIPO/INSEAD/Cornell University Global Innovation Index and the latest US Chamber of Commerce International IP Index.



***Key strength: Highly advanced and sophisticated national IP environment***

**Global Intellectual Property Centre**  
IP Index 4th Edition (February 2016)

## Specialist courts and judges

The UK has a well-developed infrastructure for resolving IP disputes, with specialist courts and judges. The IP judges in the UK are held in high regard throughout the world for their impartiality, experience and skill in dealing with complex cases and producing well-reasoned, written judgments. Their decisions are respected and carry weight in other jurisdictions.

Litigation in the UK moves at a fast pace and provides procedures for rigorously testing facts and evidence. IP cases are actively managed by the judges and the parties are encouraged to identify the issues in dispute at an early stage so that trials can take place within 12 months. This means that a decision can usually be expected in the UK earlier than in many countries and for this reason litigation in the UK is often an important driver in international settlements.

The English litigation system also has a number of other important features which sets it apart from litigation in other European countries. Disclosure is generally available which is a very effective evidence gathering tool. Interim injunctions are available very quickly in deserving cases with appropriate safeguards for the enjoined party. Infringement and validity are dealt with together in one action meaning that one decision deals with all issues in dispute. Appeals are available to specialist IP judges, but not as of right, meaning that often the first instance decision is final. The winning party can recover a significant proportion of its legal costs from the loser and this encourages settlement and is a deterrent to weak claims.

The UK also has a specialist national police unit dedicated to protecting physical goods and digital content from intellectual property crime.



*Apart from the availability of competent professional advisors, the factors most cited to support the high scoring [of the UK for patents] were the competence, reputation and specialisation of the judges (including their technical backgrounds), the consistency, reliability and ease of predicting decisions and the influence that such decisions have in other jurisdictions*

**Taylor Wessing**  
Global IP Index 5 (June 2015)

### **Well-developed ADR options**

In the UK, alternative dispute resolution (ADR) methods are well respected and recognised, including by the courts. As a global commercial centre, the UK has a well-developed arbitration system. Many disputes with no connection to the UK are resolved by arbitration in London. The UK also boasts a well-established body of mediators, most of whom are accredited. There are a number of professional bodies which both arbitrators and mediators may belong to, which ensure that high standards are maintained, encourage innovation in the area of alternative dispute resolution and also facilitate knowledge-sharing among members of the profession.

### **High levels of privilege**

All IP professionals in the UK enjoy a high level of legal professional privilege. This protects clients from having to disclose to the adverse party in litigation documents and information which were created in the course of receiving advice from a legal professional. Legal professional privilege arises automatically and only the client can waive it. This level of protection - which allows clients to be completely open and truthful with their legal advisers - is greater than is available in other European countries, such as Germany.

### **Data safety assurance**

The UK is advanced in its thinking on cyber-security and data protection. The UK has had a cyber-security strategy in place since 2011, which is regularly reviewed and updated. Similarly, the UK has had formal data protection measures in place since 1988 and an independent body, the Information Commissioner's Office, upholds the right to protection of personal data in the UK.



# Great IP Hub

## Gateway for international registration

The UK Intellectual Property Office is well respected throughout the world and praised for the high quality of the rights that it grants, its straightforward, cost-effective and quick registration procedures, as well as its transparency. This makes UK national rights an excellent starting point for global protection, for example using the Paris Convention, Madrid System, Patent Co-operation Treaty and/or Patent Prosecution Highway.

Our patent attorneys are extremely experienced at handling European patent applications before the European Patent Office and, as they derive their representation rights from an international convention, will continue to handle European patent applications in future.



***The UKIPO wins praise from respondents for its speed, consistency, online services and helpfulness of staff for small and medium enterprises***

Taylor Wessing

Global IP Index 4 (November 2013)

## Case study – patents

A major US-based company needed to obtain patents quickly in a number of jurisdictions.

Having previously been impressed with the high quality patent drafting of its UK patent attorneys, it instructed them to draft a patent application. The application was then filed at the UKIPO along with a request for accelerated processing.

Within six months of the application having first been filed, all prosecution objections before the UKIPO had been overcome.

This was then used as the basis for Patent Prosecution Highway requests in a number of jurisdictions (including: China, Japan, Korea, and the US) and enabled a corresponding US application to reach grant faster than if the original application had been first filed at the USPTO.



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### **Case study – trade marks**

BP, one of the world's leading energy companies, is active all around the world. The BP brand is one of the world's most valuable and one of the company's key assets.

Numerous aspects of the BP brand are registered as trade marks, ranging from the BP logo, which is registered in over 200 countries, to the colour and appearance of BP's iconic green service stations. BP's worldwide trade mark portfolio, comprising many thousands of trade mark applications and registrations, is owned and managed in the United Kingdom and contains a large proportion of marks claiming priority from UK trade mark applications/registrations under the Paris Convention and International trade mark registrations based on UK registrations.

BP's UK-based trade mark attorneys are responsible for the registration, maintenance and enforcement of BP's trade mark rights around the world, as well as licensing BP's trade mark rights within the BP Group and to third parties under English law.



## Great IP Hub (continued)

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### Law of choice for IP transactions

English law is both predictable and flexible. English legislation and case law provides detailed guidance on most issues that are relevant to the commercialisation of IP. This means that the interpretation of licensing or other IP transaction agreements is more predictable than is the case in many civil law systems, and provides the parties to the agreement with greater certainty about their rights and obligations.

Another important feature of English law is that it is based on the principle of freedom of contract. This provides the parties to an IP transaction with greater flexibility than in many civil law jurisdictions which rely on a more rigid and prescriptive civil code. English law allows the parties to tailor the terms of the agreement to suit their specific situation and avoids the sometimes unwelcome surprises that come where a court implies detailed terms into an IP-related agreement. English law agreements tend to adopt a sensible middle ground between the very detailed approach of the USA and the more concise approach of some civil law jurisdictions such as those of continental Europe.

### Case study

The Medicines Patent Pool Foundation, a United Nations backed public health organisation based in Switzerland, has chosen English law to govern the patent licensing agreements which underpin its innovative business model promoting access to medicines for the treatment of HIV, viral hepatitis C and tuberculosis in low and middle-income countries.

The licensing arrangements are complex and international; currently, seven major pharmaceutical companies (headquartered in the US and Europe) have licensed patents into the pool and 14 generic manufacturers (headquartered in the US, Germany, India and China) have licensed patents out for distribution of medicines in hundreds of countries in Africa, Asia and beyond.

English law was appropriate for this ambitious project because it is well-respected internationally and would be accepted as a reliable and neutral choice of law by the parties to the licensing arrangements. It also allowed the flexibility to accommodate the innovative licensing arrangements and to allow for their evolution as the project develops.

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## Preferred venue for dispute resolution

The UK boasts a unique combination of specialist IP courts and judges, as well as court procedures that are specifically tailored to IP disputes and a mature set of IP laws. The specialisation and flexibility of IP litigation procedure in the UK allows cases to be tried in a way that is appropriate for what is at stake. For example, urgent cases can be dealt with very quickly and lower value cases can be run at reduced cost. This means that the English courts are well placed to resolve all types of IP dispute, including issues of infringement, validity, ownership, licensing and other contractual disputes relating to IP.

## Case study

A major German-based company sought to revoke a UK patent for the active ingredient of a blockbuster pharmaceutical product. Although there was an equivalent patent in Germany (as well as in many other European jurisdictions), the company wanted to obtain a decision from the English court revoking the UK patent because the company believed (a) this could be achieved quickly, (b) the decision would be highly persuasive in courts throughout Europe, and (c) the decision would put the company in a strong position to negotiate a pan-European settlement.

The company also believed that it was more likely to get the correct decision in the UK. This was partly because of the quality of the judges, and partly because of the more rigorous procedures which thoroughly test the facts and expert evidence.



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