

## **Playing with the big boys – using IP strategy to position yourself in international markets**

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It can be difficult to compete on the international stage when you are comparatively small, distant from your markets and have high labour costs – like many New Zealand companies.

Many Kiwi exporters have realised that to be competitive they need to be innovative, not only in their product design, branding and service delivery, but also in their intellectual property (IP) strategy.

Some important lessons can be learned from successful New Zealand companies:

- Do your research, know your markets.
- Have good innovators and train them in IP.
- Link your research and development (R&D) to market niches.
- Position your IP strategy around the market, not the product.
- Present your IP portfolio such a way that others can see its value.
- Meet regularly with an IP strategist so they are aware of upcoming R&D and market feedback.

The following stories of three innovative Kiwi businesses are potent examples of how the correct IP strategy can make a big difference.

### **Bomac Laboratories Limited**

Bomac practises clever thinking and this was a major factor in its attractiveness to global giant Bayer, which recently purchased the Kiwi company.

It is a New Zealand-based export business operating in animal health space, largely concerned with selling veterinary products. Bomac's main competitors are scarily large, including the likes of Pfizer, Merial, Shering Plough, Fort Dodge and Jurox. These competitors are not only large in terms of market domination, but also in terms of R&D and IP budgets.

Bomac has been able to go up against the big boys through a range of smart practices.

The company knows its competitors well, studies the markets and is incredibly strategic in terms of knowing where to position itself.

Bomac also has a group of highly innovative formulation chemists and works with internationally recognised animal health researchers. Consequently, Bomac creates a plethora of new products in a comparatively static market.

Its R&D team has received training in IP law and also consults with James & Wells to determine whether something it is developing is likely to infringe specific IP rights overseas.

Many supporting patent applications are drafted around a “sweet spot”, say consumer preferences, which give Bomac an edge over competitors which may have the same active ingredients, but in a less usable form.



Bomac has kept a close eye on the IP landscape and designed its R&D and commercialisation strategies accordingly.

For example, every month Bomac receives a report on their competitors' IP activities in New Zealand (Bomac's main manufacturing base). The validity of competitors' rights are analysed and a strategy devised as to whether to contest them, leverage a deal, proceed as normal or divert its R&D program.

It is also crucial that Bomac's managing director has monthly meetings with its James & Wells IP strategist. This means its IP law advisors are aware of all the company's goals and international business strategies.

As a consequence of these factors, Bomac has built up a international IP portfolio including more than 40 patent families filed selectively across 10 countries.

Bomac's IP portfolio is represented in a product based file format. Each product listing includes the associated business goal, all the registered IP including status, independent patent claims and minutes concerning IP decisions surrounding that product.

When Bayer came knocking on Bomac's door, a similar document was used to showcase its valuable intangible assets. And, after considerable due diligence into all aspects of Bomac's business and extensive negotiations, Bomac became Bayer's only acquisition in 2010. This will result in a significant ongoing investment in New Zealand business.

### **Sensortec Limited**

Sensortec's innovative thinking attracted the interest of Lely – one of Europe's largest manufacturers of agricultural equipment – which bought the company last year.

Lely's aim is to leverage Sensortec's R&D capability worldwide – which again is a coup for New Zealand innovation.

Sensortec develops animal health sensors, largely for use with milking machines, but with considerable potential elsewhere. It has a small team of talented researchers and has developed a significant IP portfolio.

Sensortec had its IP portfolio in a format which made it easy for Lely to assess Sensortec's R&D capability value.

In its early days, Sensortec insisted that each of its researchers spent two hours a week conducting patent searching. Consequently they gained a wealth of knowledge on their competitors, existing technology and the patent minefield. That guided Sensortec's initial R&D direction and led to it carving a niche.

Since then, Sensortec keeps a 'New Ideas' register and has brainstorming sessions with its researchers and IP strategist so that IP issues can be factored in at the start of an R&D project.

Like many companies, Lely has a formal notification process relating to new inventions requiring input not only as to the nature of the invention, but the market and associated IP issues.



Sensortec's post buy-out IP law meetings focus on capturing the significant amount of intellectual property it is creating and looking at how that aligns with market niches identified by Sensortec and Lely.

## **Gallagher Group Limited**

Finally, Gallagher Group is recognised as a world leader in animal management (particularly electric fence energisers) and security systems.

Like the other companies, its competitors are large and IP savvy. It is a highly competitive international market and has changing regulations requiring considerable R&D in order that Gallagher's products are compliant.

Its products are distributed to about 130 countries, and it has more than 60 different patent families protected selectively across 17 countries. Its trade marks and design portfolios are equally impressive.

Gallagher knows its markets incredibly well and this guides all of its IP decisions. As it has a mature IP portfolio, it is relatively easy for the company to ascertain the value of a product in a particular market before investing further – such as payment of renewal fees.

Again, regular IP law meetings are incredibly important in capturing the new R&D Gallagher is developing and making decisions on the future of a patent family depending on market feedback.

Gallagher also documents its IP portfolio in a similar manner to Sensortec and Bomac. However, this is not for showcasing the IP to potential purchasers – instead, it is used internally as a tool for relevant staff.

Despite its size and complexity, Gallagher's CEO is actively involved in critical IP decisions, working directly with the dedicated IP manager. This high-level recognition of IP as a valuable asset has lead to Gallagher winning an NZTE award for New Zealand's top IP commercialisation in 2009.

Having a strong focus on a IP strategy places New Zealand's most innovative companies in a position to gain incredibly valuable sales or market dominance – and in some cases attract the eye of global giants looking to invest in this country.

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