

To Invent The Future

In the last few years Israel reached the 14th spot in the rankings for patent filings and 8th in PCTs out of a total of 150 signatory countries.

Contributing to this is the unique Israeli character that enables it to present ingenious solutions to salient industrial problems, from seed stage development to working prototypes. As of today upwards of 7,000 patent filings are registered each year, of which roughly half deal with inventions in the field of chemistry and biotechnology.

Liat Enai.

Of the 7000 patent filings registered each year in Israel, only 1000 represent domestic firms, while the majority are registered in Israel on behalf of foreign companies with economic interests here. By and large, patent filings in Israel (over 75%) are related to inventions in the field of chemistry, biotechnology (the academic expertise of Dr. Bressler) mechanics and medical devices. One can somewhat compare a patent lawyer to an obstetrician, stewarding the 'baby' invention at the most joyous and optimistic moment for the 'father' inventor.

Dr. Eyal Bressler, head of an Israeli patent law and attorney's office whose principal activities as a boutique IP are actually abroad, mainly in the US and Europe, explains a bit about the field and current trends in the market.

Are your clients private individuals or companies of different sizes? Please explain the different types of activities you are involved in with clients.

We are defined as a boutique patent law and attorney's office, focused on a particularly selective clientele. The office specializes in a number of focused technology areas and is supported by a number of first-rate attorneys and patent lawyers. As such, most of the clients of the office are well known Israeli companies, part of them publicly traded and part of them privately held concerns with dozens of patents, trademarks and designs in their portfolio. We are also working with them to provide a range of legal services in the area of intellectual property, including royalty agreements, technology licensing, joint ventures and related needs. Parts of our client base are start-up companies holding one or more patents, where we participate in the development of their business strategy (primarily from a research & development perspective). Occasionally, I am invited to join a company's Board of Directors to give my input on the intellectual property value as a natural extension of my involvement in the company's patent development.

Given my prior experience as a manager of a venture capital fund, I am also asked on occasion to represent companies in Israel and abroad on behalf of potential investors – a sort of connection between Israeli capital or capital from the US, and Israeli entrepreneurs, principally in the field of medical devices, materials and custom software. Serving as a bridge between start-up technology companies and executives who bring complementary skills to the table is a rewarding task and helps provide the necessary ingredients to the success of these companies.

Part of our clients are risk capital investors, Israeli and foreign venture capital funds, investment banks, angels (private risk capital investors) and other individuals who request assistance from our office in the identification of appropriate technologies,

companies or entrepreneurs in the interest of bringing their investments to successful fruition. Additional clients include multinationals from abroad that see us as an anchor to their activities in the country, in general research & development related work. For example we are working as the delegate of a European corporation, whose center in France is engaged in the writing and registration of worldwide patents in the area of electro-optics, to assess new and competitive technologies for them. Another example is my experience as a brigade commander in the army reserves, which has made it easier to anchor my sense of intellectual property in a number of different security related technologies, principally the diagnostics of chemical and biological weapons, protective systems against terror and similar technologies.

Likewise, we are representing the larger law offices and foreign patent lawyers, principally in the US and Europe (e.g. Switzerland, Turkey), Japan and Africa (principally Kenya) in their patent and trademark activities in the country.

The last piece, smaller but particularly enjoyable are the private clients of the office, top notch serial inventors who we are proud to work with for many years as representatives in the search for investors, registration of patents, legal advice, etc. First-rate investigators who work closely with us and enrich our work with their entrepreneurial spirit and enthusiasm.

Dr. Eyal Bressler takes measured steps to ensure the privacy of its clients both in Israel and abroad. In his view, client protection starts at the first stages, avoiding any publication of his clients on the firm's website or any other publication. There are companies that don't want to have their development activity known, and as such he makes sure his connection with them is absolutely confidential.

In addition to Dr. Eyal Bressler, whose educational background is in biotechnology, a number of professionals work in the office, including patent attorneys and lawyers like Jeremy Rutman, a Harvard alumni and PhD in material science; Michael Morris (Cambridge University), focusing on NMR and MRI systems; Myriam Schnur, formerly of Hebrew University and an electro-optician; Na'ama Brosh, focusing on biochemistry and a graduate of the prestigious Weizmann Institute, Yoni Erez, communication systems engineer; Dr. Smadar Bressler, formerly of Hebrew University and specialist in lasers; Izhari Halahmi, specialist in polymers; Dr. Lior Ashdat, formerly of Hebrew University and a specialist in organic chemistry; and Jessica Bressler, Esq., graduate of Oxford University with many years experience in patent law, along with others.

How do you deal with the copying of patents and how many of them out there are really worthy?

In formulating our patent litigation strategy we essentially protect the technology and its owners via an aggressive legal position, more robust than that required by the market. For example, it is said that the issue is similar to the preserving of gold in a vault, where we not only protect the gold itself, but the room in which the vault rests and the entire bank which protects the room in which the vault is housed. Companies in Israel and abroad in general do not breach protections of patent law and certainly do not do so intentionally. Despite this, there is an unfortunate tendency in Israel to nullify the creative rights and trademarks of others and in these cases we are compelled to move to litigation. There are those in Israel who are inclined towards disregarding the creative rights of others and this only harms the public interest, particularly artists, composers, designers, etc.

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“The office principally focuses on patent prosecution in medical devices, bio-tech and chem-tech, knowledge intensive mechanics and computing systems. All together the firm holds roughly 5% of the total market share for patents originating in Israel. Our vision is to remain a family run boutique IP serving the elite segments of the market even as we expand our activity.”

Five out of 100 patents can be considered in my opinion truly exceptional, modern and unique, while the balance are slight improvements on a process or existing product which do nonetheless offer clear economic advantages to the owner. The process of bringing a patent to confirmation takes in general approximately four years. In the first month the patent is written. In the first year it is held in abeyance, practically speaking. Generally the next phase is the PCT phase, then first examination, national phase, and third-fourth year assessment and acceptance. Up until today, we have always succeeded in court due to the fact that we take an aggressive approach and generally always compromise on a narrower defense than that requested by the client, ensuring success.

How does Israel stand in this field and to what extent is the State involved in the process?

International tables indicate that Israel arrived in the last few years to the 14th spot in the rankings for patent filings and 8th in PCT, out of a total of 150 signatory countries. Contributing to this is the unique Israeli character that offers exceptional solutions to difficult industrial problems, and supports the invention process at least until development of a prototype. Unfortunately, in many cases, if not the case in all technology areas, the sales and production stages are carried out outside of Israel for a number of reasons, including high manufacturing costs, regulatory and infrastructure problems, or similar obstacles. In general, an invention is registered as a patent between the conceptual design stage and prototype development stage, and as an advanced R&D country, Israel holds a respectable position in the process. The government allocates resources to projects housed within state funded technology incubators. The Israeli technology incubator model has become very successful and has been reproduced around the world. We're talking about a significant share of industry. Every technology start-up employs, directly or indirectly, many professionals and greatly contributes to the local and broader global economy. In addition, start-ups have tremendous export potential. It is common to say that for a project housed within a technology incubator, for example, there is a 20% chance of success, a respectable figure to be sure.

At what stage does the client arrive to you?

Clients turn to us as an IP boutique specializing in a number of specific technologies, in general, at the stage of initially defining long-term market needs, or at the stage of invention. In many cases we assist the company throughout its R&D lifecycle, which allows us to keep a pulse on which types of legal defense the client will be entitled to and when. In other cases, we represent potential buyers of technology, and here we are dealing with more mature products with proven track records of success in the market (and in court).

Are there cases where clients come to you with a patent and you defer the matter? If so what are the reasons?

We do our due diligence with potential clients, though choose to work for or, more accurately, with the larger clients, those with larger resources who are better known in the market. We engage in a thorough due diligence process in regards to the technology in which we might engage our clients in and in many cases we are forced to tell the client that their development is in fact not applicable or novel or useful in its conception as a technology candidate for development in the next few years. We conduct patent searches in the professional directories and

in many cases we decline further activity due to our finding that the technology is lacking in innovation or inventiveness. Another issue is that as a boutique IP serving select clients, we find ourselves in more than a few cases declining to work with an entrepreneur who may lack professional standing or reputation in his or her field. We enjoy every moment of our work and when we do not find synergy or personal chemistry, we prefer to refer the client to another office for continued counsel.

What areas of activity do you focus in and which would you consider the largest in terms of patent law?

The office specializes in the preparation of patents and trademarks in medical devices, materials, biotechnology, pharmaceuticals, chemistry, and deriving from this, biotech and chem-tech, knowledge based mechanics, and computing systems, along with related commercial law. Although we are an Israeli patent law and attorney's office, in principal our activities as an IP boutique are abroad, in the US and EU. A relatively small portion of inventions are registered by us as patent filings in Israel; the majority is actually registered in the US. One must keep in mind that of 7000 patent filings received each year by the Israel Patent Registrar, roughly half originate from the US, where only 15% are originating from Israel. The majority of filings submitted in Israel are on behalf of foreign companies with economic interests here. While only a minority portion of our patent filings are in Israel, still about 5% (depending on the year) out of the total number of original filings in Israel are handled by our office.

As a rule of thumb, 50% of the patent filings in Israel are within the fields of biotechnology or chemistry, another 30% in mechanics, areas in which our office is prominent. We are uniquely active in a number of specific areas. For example, in the medical field we are engaged in surgery, orthopedics, urology, dentistry and similar fields, and in this area we recently arrived to just over 10% of the market—not a bad market position to be in for a boutique IP, and we are still growing.

Another field in which we are active is trademarks, commercial law related to intellectual property, including litigation—in general via cooperation with the esteemed and veteran offices of Yaacob and Hana Calderon—and in corporate law. While we see ourselves somewhat as obstetricians, stewarding the 'baby' invention at the most joyous and optimistic moment for the 'father' inventor, we are also active with the leading mergers & acquisitions offices in the country, principally the offices of Eitan Araz, attorney-at-law.

How do you envision the firm growing over the next few years?

Today the firm holds a market position of roughly 5% of filings originating in Israel, and we are in an upward growth trend. Our objective is to remain a family owned boutique even as we expand our operations, working closely with the elite companies and staying in contact with top R&D, marketing, financial and legal consultants who lead in their fields. Our objective is to grow our operations abroad and to strengthen our position in trademarks. We are filing each year many foreign trademarks in the country, the majority from major companies in consumer products, and we expect to strengthen our position in the local market as well. The company is absorbing at this time a number of additional professionals who are leading in the field of trademark and corporate law in order to respond to the demands of our clients in this field. ■