

INTELLECTUAL PROPERTY RIGHTS

Estonia needs a strategic approach towards the awareness, efficiency and enforcement of intellectual property rights; and protection of valuable assets like personal data

Enhancing innovation and economic development depends on the awareness, efficiency and compliance to the fundamentals of intellectual property rights protection as well as the adherence to privacy and personal data protection principles.

Intellectual property (IP), be it a patent, trademark, brand, copyright or any other form of created valuable know-how and data, makes up a constantly increasing share of today's business value. Estonia has become known around the world as an innovative country. Innovation requires an enabling business climate for a constant creation of new and better solutions, techniques, technologies, networking communications, etc. It also means that the State has to put efforts in creating an IP rights framework and financial support measures that motivate innovators to reside in Estonia and to not transfer their IP abroad. Only in this way, we secure the growth of Estonia's economy in the long term.

It is our belief that a firmly established and transparent system of IP's value protection ensures innovation, development and sustainable economic prosperity in Estonia

Referring to recent developments in the European privacy and data protection arena, the AmCham sees equal importance in establishing firm foundation for long-term compliance to the EU General Data Protection Regulation adhering to the principles of protection of individuals' rights and freedoms as one of the most important human rights.

AmCham Estonia raises the following issues for maintained attention:

I. Estonia needs a long-term strategy to support the creation and value-maximization of intellectual property

Short term objectives

- 1) Prioritize intellectual property issues, starting with reviewing all new business environment-related legal acts from the point of view of whether they support Estonian innovators to create, register and monetize their IP through a local company.
- 2) Increase investments into R&D so that Estonia's research institutions have the possibility to stop the "brain drain" and develop technologies that are valuable to businesses locally and abroad.
- 3) Educate personnel at research institutions on how to monetize the IP that they create. In this way an efficient technology transfer between public sector and private sector can be achieved and more investments into R&D are secured.

- 4) Review the strategies and legal regulations directed at the creation, development and protection of IP, taking thorough account of the Estonia's accumulated practice in the field.

Long term vision

- 1) Estonia creates an efficient and consolidated state funded supporting network for companies and research institutions in Estonia to get guidance and assistance in questions such as the creation and protection of intellectual property and how intellectual property protection increases its importance while companies mature. Other countries are contributing more and more financial resources to exactly that cause by establishing special foundations that invest in IP creation and acquisition by local companies.
- 2) Estonia offers a specific easy tax model for starting businesses and value creation to enable them to focus on innovation and growth first.

II. Estonia should increase IP-related awareness starting from education institutions, investing in communication campaigns, but also supporting networks that train entrepreneurs on both general and more specific IP-related issues.

Short term objectives

There is a gap in Estonian educational system, which results in the low level of IP awareness among high school and university students, manifesting in a low level of IP awareness among local entrepreneurs and researchers.

- 1) Intellectual property issues be added as compulsory part of civic and economic lessons in high schools with training schedules set for teachers.
- 2) "Introduction to the Intellectual Property" be added as a compulsory subject of any curriculum chosen in the university.

Long term vision

- 1) Systematic education to the public about the value of intellectual property

III. Estonia needs to establish legal clarity to enforce intellectual property rights in both criminal and civil proceedings

Short term objectives

1. Move the protection of IP up the state's priorities list, which requires improvements in administrative capacity in detecting and combating IP offences. Ensure effective IP protection (both in legislative and executive level).
2. The public sector is in the best position to lead in implementing effective control procedures. Ensure that companies abusing intellectual property rights would not be able to sell goods or services to the public sector and/or be unable to participate in public procurements. We note with concern that the new Public Procurement Act excludes the previously explicit demand to check the IP rights are protected in public procurements.

Long term vision

1. The focus of the legal framework is on protecting the creator (IP right-holder) versus the end-user. Legal norms for claiming compensation for IP infringements are to be made clear, simple, and fast. Default compensation for damage could be established at least in the sum of the two- or threefold standard price of the infringed right unless higher damages can be proven.
2. Legal environment and (court) practice that supports shaping private person`s as well as legal persons ethics that respects IP rights. Compared to the recent court practice, the objective is to avoid the situation where the infringer can escape from any liability by transferring its illegal activities to another entity or by closing and deleting the entity from the business register without any legal consequences.
3. Restrictions to IP rights are avoided within any sector – the intellectual property rights (be it international trademarks, patents, brands or copyright) are protected for the long term with no exceptions providing certainty for the creators and right-holders.

The AmCham Estonia IP Committee is committed to working with Estonian institutions and policy-makers to further develop a strong, cost effective and strategically shaped IP system for obtaining, licensing and enforcing intellectual property rights for all parties involved.