IP Protection: Targeting Export Markets

By Jonathan Lucas

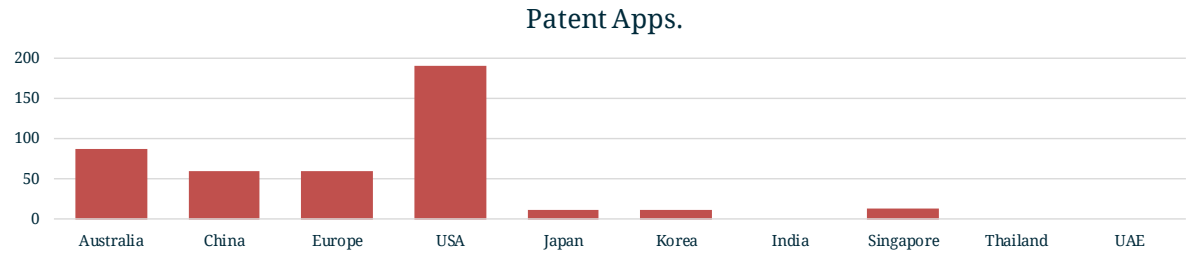
It's a no-brainer. If you are an exporter you want to ensure your intellectual property (IP) protection is robust in the export markets that are most important to you. Right?

But delve into the data for New Zealand exports to our most important trade partners and compare it to the level of patents and trade marks filed in those markets - and there's a real discrepancy.

Our four biggest trading partners in terms of export destinations are Australia, China, the European Union and the United States. Australia and China are roughly level pegging at nearly $13 billion in exports annually, while the EU and US come in at around $8 billion each per year.

Source: Ministry of Foreign Affairs & Trade

But line that up against patent applications in those markets and the US tops the list with almost 200 per year, while the figures for Australia and China are under 100 and just over 50, respectively.



Source: World Intellectual Property Office

The challenges of protecting IP in China have been well documented, and an air of resignation persists among some marketers that your products *will* be copied so what's the point? But things have improved markedly; the Chinese Government has heeded the criticism and is placing more emphasis on IP protection. The discrepancy in the China statistics may simply indicate that the message has been slow in getting through to exporters.

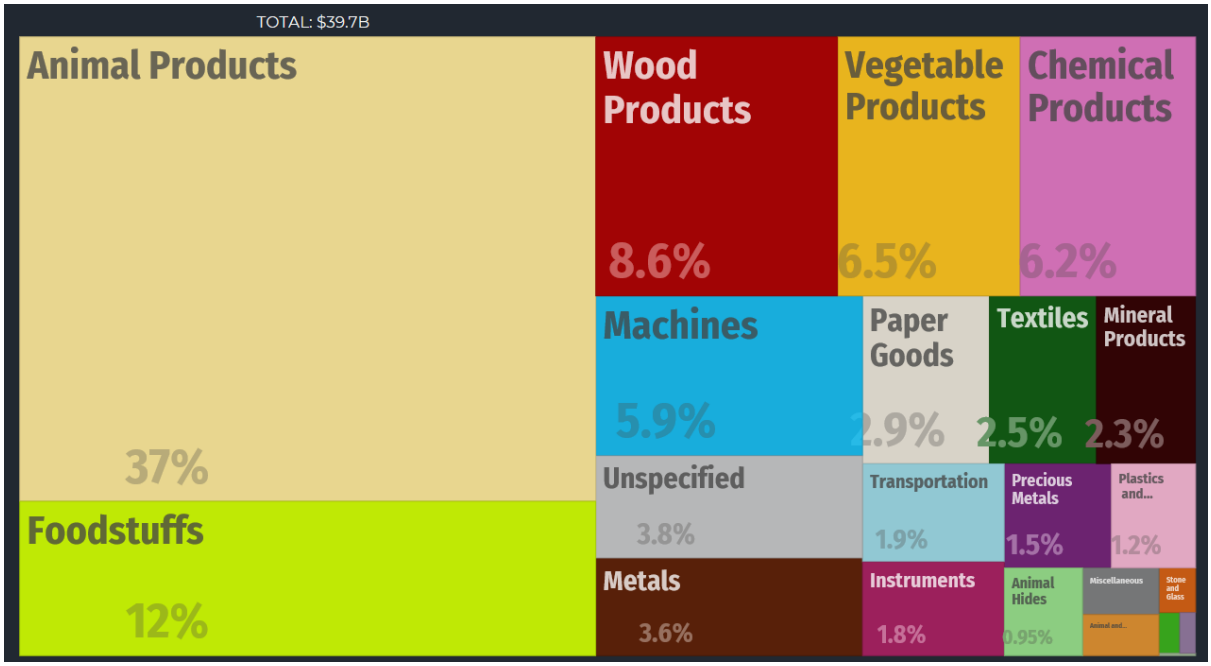
In theory, there should be a close correlation between markets of value and IP protection levels. The weighting of US patents suggests NZ exporters are either placing too much importance on that market – or not enough on the others.

Interestingly, there is a much closer correlation between the export levels to the big four – and the numbers of trade marks filed. Australia tops the list there with well over 900 a year, while Europe

and the US come in just under 500 annually. China is the anomaly again with under 200 – 700 below Australia - indicating NZ exporters aren't obtaining the trade mark cover they need in that market.

Delving into more detail around this data, however, does start to illuminate the situation. If you map this information over time, the absolute numbers of patents filed changes but the relativity between the countries stays the same. That tells us the discrepancy isn't because of delays in patents or trade marks being filed.

Looking at the sorts of products being exported, it is noticeable that there is a heavy focus in NZ exporting on commodity products – animal products, wood products and foodstuffs make up 57.6% of the total across all countries. That figure jumps to 68% in China. The figure for the US is around 57%, but the US buys a lot more machinery – 11% of the total. Machinery by contrast accounts for around 1% of exports to China.



Source: Observatory of Economic Complexity

Since patents are filed to protect technology and not commodity products it might be tempting to wave away discrepancies in patent filings compared to export market value as the result of the type of products we export to each of these markets. It must be a factor, but the difference is not significant enough to account for the level of discrepancy we see.

Compare the technology exports with patent levels and there's a better correlation, except for one thing – Australia. It's our biggest destination for technology exports but has less than half the NZ-filed patents the US has. The data clearly suggests not enough patents are being filed in Australia, which ought to ring a few alarm bells.

The overall lesson from the export and IP data is that exporters should carefully and thoroughly review their IP strategies and protection in particular markets, and compare the figures with the level of focus and value of each market.

Such a comparison should highlight where their strategic IP focus needs to be.

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