



How Was 2022 for Israel in Intellectual Property?

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At the end of each year, we look back with satisfaction at what we managed to accomplish in the past 12 months, and often with trepidation at the challenges that potentially await us. This is true today too.

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but as far as IP in Israel is concerned, it also created opportunities. Israel was not unprepared; its extensive experience in dealing with crises, coupled with its top technological abilities, have proven themselves equal to coping with the pandemic.

All the services of the Israeli Patent Office were provided almost as usual, thanks to the significant investment made in the past to develop online services, with the exception of certain legal proceedings which could not be conducted online.

In general, COVID-19 did not significantly affect the submission of applications for registration of intellectual property rights in Israel; it may strangely even have had a positive effect since instead of slowing down, the IP activity level increased.

Working from home apparently opened unexpected possibilities for inventors, creators, and entrepreneurs, who found more time to pursue projects previously set aside or delayed because of time and work constraints. So much so that we see now a reluctance to go back to work in the office as before the pandemic, although the general sentiment in Israel (true or not) is that COVID-19 is behind us.

This is undoubtedly also due to the swift action of the Israeli government that secured COVID vaccines for the whole population at a very early stage.

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DR. KFIR LUZZATTO
PRESIDENT AND SENIOR PATENT ATTORNEY,
THE LUZZATTO GROUP



LILACH LUZZATTO SHUKRUN
PARTNER AND SENIOR PATENT ATTORNEY,
THE LUZZATTO GROUP

and proceedings, improving regulations, and providing online services, there have been some interesting developments in various areas of intellectual property that are reviewed below.

CONTINUOUS DEVELOPMENT OF INTERNATIONAL COOPERATION

Israel is a member of the most important multilateral international treaties, such as the Patent Cooperation Treaty, The Paris Convention for the Protection of Industrial Property, the Madrid Protocol, The Berne Convention for the Protection of Literary and Artistic Works, and more. In 2020, Israel also joined The Hague Agreement Concerning the International Deposit of Industrial Designs. As expected, the number of design applications filed by Israeli applicants via the Hague Agreement continues to grow.

“The Abraham Accords,” the peace agreement signed initially between Israel and the United Arab Emirates, is one of the most significant developments in this area in recent times. Briefly known as “the Accord,” it resulted in further peace and cooperation agreements with Bahrain, Sudan, and Morocco.

Recently, they also brought about a small step forward with Saudi Arabia, which now allow Israeli airplanes to fly over its territory, which significantly shortens flying times to some destinations. These agreements have far-reaching positive implications for the region’s economic development, both for Israel and the Gulf states.

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This formal peace agreement is a natural evolution of the relationships that Israelis have maintained with Arab states “under the radar” for many years.

As is natural because of their international orientation, IP firms were among the first to openly reach out to each other, and they found professional, warm, and eager business partners at the other end. It may seem incredible that strong relationships could develop spontaneously in a

matter of days after years of disconnect between the Arab world and Israel, but in truth the divide between people and businesses has never run as deep as the political situation would suggest.

ALIGNING WITH INTERNATIONAL LEGISLATION

The Ministry of Justice published a new draft bill to amend the Israeli Patents Law regarding Patent Term Extension (PTE). The purpose of this amendment is to allow drug manufacturing and stockpiling during the extension term, and to adapt the situation of Israeli companies to that of foreign companies in international markets.

This new draft bill is motivated by the will to adjust the Israeli law in respect of the patent protection period to address changing market conditions, as these actions have been allowed in European law (Regulation (EU) 2019/933 of The European Parliament and of the Council of May 20, 2019).

WHY ISRAEL'S IP IS DIFFERENT

When looking at Israel from the point of view of intellectual property and the legal activity associated with it, one may note an anomaly. The

population of Israel at the beginning of 2023 is a little less than 9 million, which is not different from countries like Switzerland, Austria, and Serbia. However, the level of legal activity in the IP field is disproportionately greater. Taking the number of patent applications filed in the United States, we can see that Israel and Switzerland are approximately the same (2,500 – 3,000 Applications) although Switzerland has a very strong pharmaceutical and chemical industry, which is very prolific in terms of patent protection, and as such, it would be expected to generate way more patents than Israel. Austria, on the other hand, only filed approximately 1,200 patent applications in the same period, and Serbia only 14.

Israel, also known as the “start-up nation,” does not owe its activity in the IP field principally to large, multinational corporations, but rather to a myriad of companies, large and tiny, which operate in virtually every field of research. Some areas are those in which Israel leads, such as in Cybertech, medical devices, security, irrigation, and Desertech, but other flourishing fields include Foodtech, Biotech, and Agrotech, to mention but a few. This great variety presents challenges not only for the IP practitioner but also for the legal profession in general, which needs to assist those industries, specifically because of the country's size.

In a big country in which a large number of IP firms operate it is possible for a firm that wishes to specialize in a particular area to do so while maintaining a size that allows it to provide high-level services to its clients throughout the whole range of activities they need. However, in a small country like Israel, a boutique firm that wishes to specialize in a given field cannot efficiently provide the whole spectrum of services that the industry needs. As a result, Israel only has a tiny number of large IP firms that can provide a full service. The upside of this situation is that the firms that were successful in developing a high-level IP practice for decades have the ability to assist their clients in the most challenging situations, pretty much throughout the globe. The downside, of course, is that the choice of firms at that level is extremely limited and, because of

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conflicts of interest, industries and individuals seeking legal assistance often have to make do with firms only capable of providing more limited services.

This situation is inherent to a market that, on the one hand, is small, and on the other hand has a frenetic activity where the development of intellectual property is concerned. It also played a role in molding how Israeli enterprises think and operate. A small company with big ideas and a small market has no choice but to look at the rest of the world to develop its market, and hundreds of such enterprises are created every year.

BECOMING FAMILY

An interesting result of the environment in which IP practitioners operate in Israel is that often what develops is much more than an attorney-client relationship. It starts with one or two entrepreneurs seeking legal advice to establish a company and safeguard their intellectual property; soon the project takes off, the number of employees skyrockets, and so does the need for legal assistance. Sometimes a patent attorney must spend a significant part of his time assisting this one company, which is not large enough to hire an inside counsel, but nevertheless needs continued assistance, particularly when its activity expands to other countries. This often leads to the development of a relationship that feels more like family than a business.

Israel has also invested in the development of incubators from which interesting and often groundbreaking projects are born. There are several ways in which these incubators are fostered, both via government investments and by private enterprises.

This review would not be complete, however, without a somber view of the current situation. The dramatic problems that plague the rest of the world, such as the supply chain and the various related and unrelated problems, reached Israel too. The slowing down of the R&D activity is already felt and is expected to worsen. Israel is affected by what happens abroad, particularly in the US and Europe, and therefore cannot be expected to remain immune from the damaging effects of in-

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ternational events. However, there are two sides to the fact that Israel is a small country: on the one hand, it cannot influence major economic developments that affect Europe or America; on the flip side, however, because of its small size, and because of the entrepreneurial character of its people, Israel is much more agile in making changes needed to confront adverse situations than bigger countries. Therefore, when looking at the future, particularly in the IP field that derives much of its activity from the imaginative nature of the Israeli entrepreneur, it is not improper to maintain a level of optimism; after all, Israel has done it all before, more than once.

AND THEN EVERYTHING CHANGES

The expression “never a dull moment” applies very well to Israel. Just as you have learned to operate in a new (and often less comfortable) environment, things change and you need to rethink pretty much everything. Take, for instance, the work environment. If asked just a few months ago, you would have said with certainty that the days of desk work were over and everything was now done efficiently by videoconference from the comfort of your home (and often stranger places where the meeting time caught you). In spite of

the many advantages of remote work, we have come to the realization that an efficient and cohesive work environment cannot exist forever without constant, direct human contact. Therefore, companies and firms started to back away from remote work and demand the physical presence of their employees at work. This requires a readjustment of a system that felt smug in the remote version, and has repercussions on the availability of the workforce in some cases.

Then we killed the “sacred cow,” i.e., the high-tech industry. In the last quarter of 2022, it became amply clear that the level of investment to which the high-tech industry was accustomed will not repeat itself. Start-ups, in particular, started to move away from the model idealized by companies such as Facebook, where the young programmer is king and has happy hours at work every day, with endless perks. First, some perks started to disappear, and then people started to be let go. The industry is downsizing and some start-ups will fold their tents, but in the end, it is

expected that we will have a saner and stronger high-tech industry.

Then we had general elections. It is no secret that in a country as small as Israel, the government has a critical impact on the economy. It has also not escaped anybody’s attention that the previous government, which lasted a measly year and a half, did virtually nothing to help the situation (and some would say did a lot to make it worse). The present government includes persons in key positions, who have a record of taking positive steps where the high-tech industry is concerned, and therefore we can be mildly optimistic that, inasmuch as possible, the expected challenges and those already here in respect of the economic situation, will be addressed.

As far as the legislative situation is concerned, we believe that there will be very little if any attention given to IP issues in 2023, as the government is intent on dealing with much more immediate and complex issues surrounding the broad legal system. Although a few issues are on the table, such as the creation of an “Israeli provisional patent application,” there is no pressing agenda that has to be addressed for the system to go on working properly, if other matters of a more momentous nature take precedence.

In conclusion, we look forward to 2023 with expectation and readiness to meet all its challenges, but with the faith that we will continue to grow, improve, and develop. ■

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ABOUT THE LUZZATTO GROUP

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The Group includes the patent law firm Luzzatto and Luzzatto and the Luzzatto Law Firm, which specializes in IP and commercial law, along with other business companies. Entrepreneurs, inventors, start-up companies, scientists, artists, and developers seek out The Group’s services to enjoy a personalized approach with a global outlook that helps clients protect their intellectual property and commercialize research, inventions, and products.



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