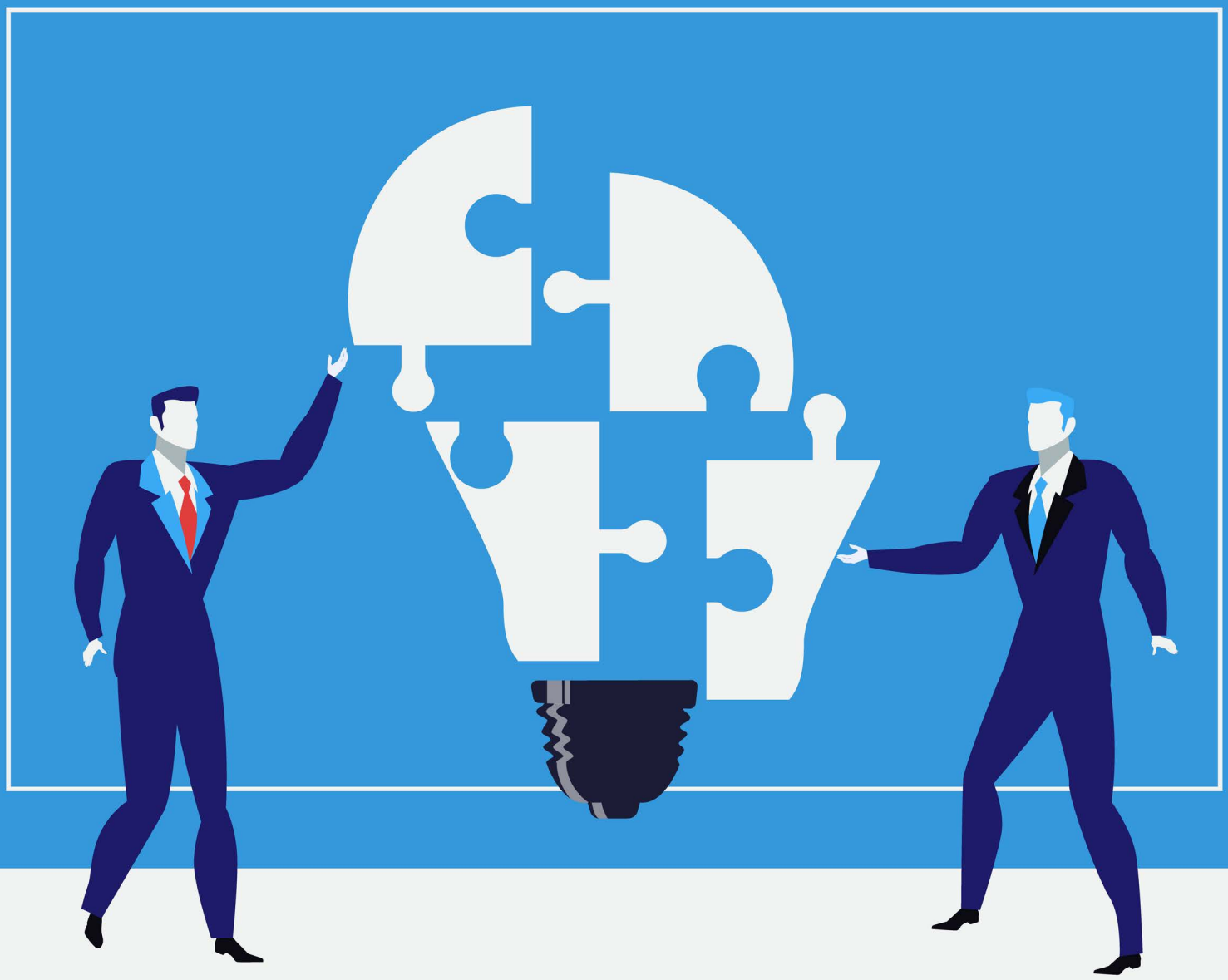

WITH INNOVATION BECOMING INCREASINGLY COLLABORATIVE AND TRANSNATIONAL, WHAT DOES THIS MEAN FOR PATENTS?

ludwig APC

AN INTELLECTUAL PROPERTY FIRM

The *World Intellectual Property Organization* (WIPO), a specialized agency of the United Nations that provides a global forum for intellectual property policy, services, information, and cooperation, recently released a report which concluded "that innovative activity has grown increasingly collaborative and transnational" in recent years. Given the globalization of trade, business, entertainment, and virtually every other aspect of our lives, it should come as no surprise, then, that innovation and the process of inventing should follow suit.

According to the WIPO report, in the early 2000s, "teams of scientists produced 64 percent of all scientific papers and teams of inventors were behind 54 percent of all patents"—numbers that have increased significantly in recent years to 88 percent and 68 percent, respectively. Similarly, the percent of collaborations where two or more scientists or inventors "were located in different countries" has grown to 25 percent.

With research, innovation, and patent filings increasingly representing collaboration between teams of inventors and scientists often working for different companies and across international boundaries, the intellectual property (IP) landscape is bound to grow increasingly complicated, not that it wasn't already.

- When teams work collaboratively, they often must share data and proprietary processes and systems between companies, universities, and even governments. Undoubtedly, this can cross into areas involving trade secrets. For the parties involved, they need to consider whether there are there agreements in place that spell out what can or can't be shared—and what happens when sharing does take place?
- In open and collaborative environments, where teams of inventors often from different companies or countries develop innovations, who ultimately owns the patent? Again, parties must ensure that there are agreements in place from the outset that spell out specifically who/which company or entity owns what.

Changing Times

In the dawning of the industrial age, especially in America, innovation was typically the purview of *early inventors* who had the money, time, and inclination to devote to experimentation (such as Thomas Edison). Thus, patents were often funded, applied for, and granted to the individual inventor.

In modern times, however, most patents tend to be assigned to or owned by a company or entity that employs an inventor or teams of inventors. This holds true even in the United States where the patent filing process requires the names of individual inventors though they have assigned their ownership of said invention to their employer.

Clearly, when you start to include multi-company and multi-country teams of researchers and inventors innovating and then vying for patents, the question of patent ownership grows ever more complex.

Tricky Territory

In a global environment, asserting ownership for intellectual property, applying for patents, and then protecting against infringement can be tricky.

While there has been great progress for standardizing patent processes around the globe, there is still much work to be done. The protections patent holders enjoy in their home countries and regions typically don't extend to the United States, and vice versa.

While the Patent Cooperation Treaty (PCT) offers a level of *patent protection* for inventions in more than 150 nations using just one international application, inventors or companies doing business in the United States who are concerned about their IP should file with the *U.S. Patent and Trademark Office* (USPTO) to protect their invention, creative work, design, or idea here.

"Historically, individuals working alone and for themselves have owned the patent rights to inventions they create," explains Eric Ludwig, ESQ, an experienced, US-based trial lawyer with an extensive background in intellectual property and business litigation. "Nowadays, with most innovations being done by scientists and inventors working for a company, that ownership is governed by the employee assigning his or her rights of patent ownership to the employer, even though the individual's name is on the patent, as required in the United States. Add to this the growing prevalence of multi-company and international collaboration on inventions, and it's no wonder that those seeking patent protection need to do their due diligence to ensure they protect their IP rights sufficiently. One way to do that, of course, is to work from the outset with an experienced IP lawyer."

Protect Your Product. Your Business. Your Dreams.

Contact *Eric Ludwig* today for one-hour consultation to discuss whether you need to apply for copyright, patent, and/or trademark protection in the United States.

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