Feature

By Trevor Little

When the sums don't add up

While some trademark teams have finally seen budgets improve over the last year, for many the situation remains straitened. The challenge for them is clear: ensuring that reduced spend and new enforcement approaches do not lead to significantly increased risk

According to the Cat Stevens song, "The first cut is the deepest". For in-house trademark teams, however, which for several years have had to cope with a relentless pruning of resources, each round of cuts has significantly impacted on their ability to protect their brands. While things may now be slowly improving at some companies, the overall picture for most remains one of a precarious balancing act between costs and risk.

World Trademark Review carried out its first Global Benchmarking Survey in 2009, soon after the global financial crash saw costs slashed across the corporate world. The results revealed that 35% of corporate counsel had endured trademark budget cuts that year. Since then, the number of respondents reporting cuts (except in 2012) has consistently remained above the 20% mark – with one-quarter of respondents experiencing a drop in budgets over the past 12 months.

This is not to say that some teams have not benefited from increased budgets – in fact, this year a larger percentage of respondents enjoyed a rise than suffered cuts, with brand expansion into new jurisdictions and increased online enforcement cited as key reasons for greater spend. But in many instances, these rises are merely making up on lost ground; and for a significant number, the budgetary trend is still headed downwards.

To compound the problem, 41% of respondents anticipate changes over the next 12 months, with half of those predicting further cuts. That one-fifth of respondents expect their budgets to fall over the next year suggests that doing more with less will remain a key challenge for many.

Given this continued fiscal gloom, at first glance it may seem surprising that one-quarter of corporate trademark teams hired more staff over the last 12 months. However, as one respondent explained: "More internal employees equates to less use of consultants."

The move to bolster headcount makes perfect sense if the same results can be achieved internally at a lower cost than by engaging external advisers. However, this is not always the reality. In many instances the decision is purely cost based – even if that also means sacrificing a degree of protection. For instance, one respondent

In-house counsel. **What percentage of your time is spent on the following activities?**

	2014
Prosecution (including opposition and cancellation)	25%
Trademark clearance	17%
Trademark watching	5%
Social media monitoring	3%
Due diligence	3%
Administrative enforcement (eg, cease and desist letters)	9%
Complex anti-counterfeiting (eg, customs operations, investigations	5%
Providing opinions	10%
Litigation	8%
Alternative dispute resolution	2%
Domain names	5%
Licensing (and other non-contentious IP issues)	8%
Transactions	4%
Policy development/involvement with associations?	4%
Portfolio maintenance/management	11%
Other	6%

In-house counsel. **Over the past year, was your budget:**

	2014	2013	2012	2011
Cut?	24%	26.6%	15.3%	22.5%
Increased?	39%	36.2%	33.9%	35.2%
Frozen?	37%	37.2%	50.8%	42.3%

In-house counsel. **Over the past year, how has your team changed?**

	2014	2013	2012
No change	25%	46.8%	43.4%
Hired more team members	24%	25.5%	31.7%
Cut back on staff to reduce costs	11%	7.4%	6.9%
Cut back on staff due to less work	2%	0.0%	1.6%
Changed our team structure	19%	10.6%	12.2%
Outsourced more work	19%	5.3%	4.2%

noted that his company is now opting for restrictive filing policies combined with "decreased enforcement". Another reported that his company has accepted that it is now focusing on saving costs even where this blunts enforcement efforts or results in reduced coverage.

When it comes to securing budget, it is no surprise that policy development and involvement with associations present the greatest challenges. While such activities are beneficial to the wider trademark ecosystem – and thus long term to companies themselves – in terms of immediate return on investment it can be almost impossible to quantify the impact of spend in these areas. These were followed by two big-ticket expenses – complex anti-counterfeiting activities and litigation (no surprise that those holding the purse strings find alternative dispute resolution a more persuasive option).

And for those who are reading this edition of *World Trademark Review* during the INTA annual meeting in Hong Kong, consider yourself in a privileged position compared to some of your peers. When asked about other activities that it was difficult to obtain budget for, travel was frequently cited.

Valued, but not always understood

This struggle for funding could well be due to a continued disconnect with the executive level: over one-quarter of respondents identified "senior management not taking the time to engage" as an obstacle to promoting cross-company understanding of trademarks. And if senior managers are not participating in the trademark dialogue, how then can they make a qualified decision on appropriate budget levels?

That said, in some instances trademark teams are not helping themselves – one Singapore-based corporate counsel suggested: "Legal IP teams should also be briefing management, and they are just not." But wherever that disconnect is occurring, the onus is very much on trademark counsel to fight their corner – a proactive and persistent effort to engage senior internal stakeholders is likely the only route to success.

What is not in doubt, however, is an appreciation that trademarks themselves remain important assets. Two-thirds of in-house respondents confirmed that the trademark function plays an ongoing strategic role in corporate branding activities, with activities ranging from participating in the development of flanker brands to advising on phase-outs and setting policies on all aspects of trademark use.

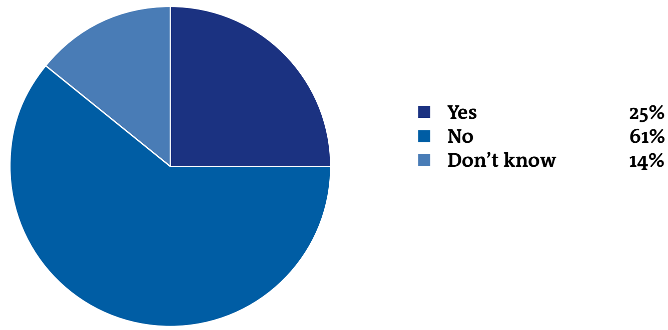
To embed this message across all strata of the company, two-thirds of in-house respondents stated that their company has an internal, cross-organisation policy on trademark use in place. As a result, overall awareness of the importance and value of company trademarks was positive, with 82% of in-house respondents rating it as either medium or high.

A further 58% identified enhanced cross-departmental understanding of trademarks, and 56% a reduction in trademark misuse, as additional tangible benefits of such policies. Almost half also observed that levels of internal monitoring and/or reporting of trademark misuse have increased, confirming that such policies can encourage staff to act as the eyes and ears of the trademark department in their everyday activities.

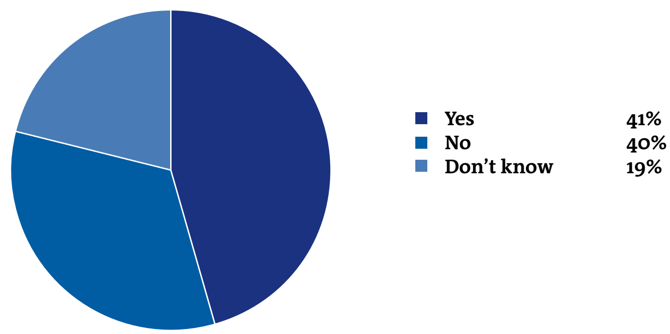
Nevertheless, promoting and reinforcing the trademark agenda remains very much an ongoing task. Compliance with trademark policies is not automatic, and factors such as staff churn in other departments can present difficulties in keeping everyone up to date and on message. Ensuring that licensees and external business partners similarly follow the rules is likewise a considerable challenge.

One department which traditionally sees a lot of personnel

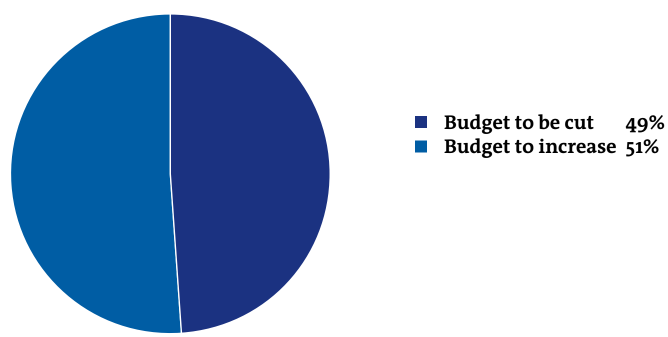
In-house counsel. **Do you anticipate any structural changes to your team during the next 12 months?**



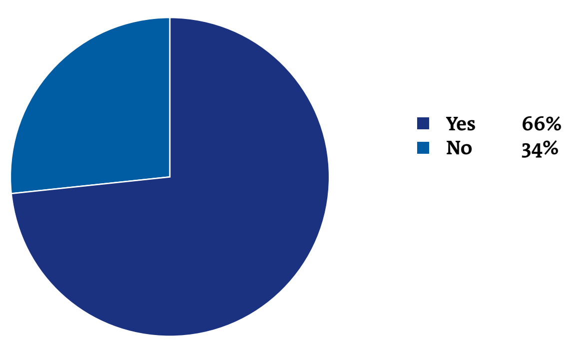
In-house counsel. **Do you anticipate further changes to your budget during the next 12 months?**



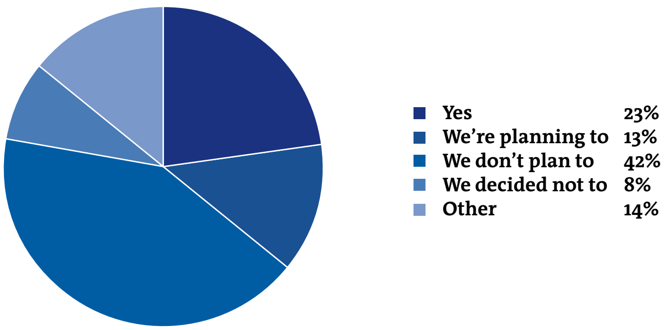
In-house counsel. **What changes do you expect?**



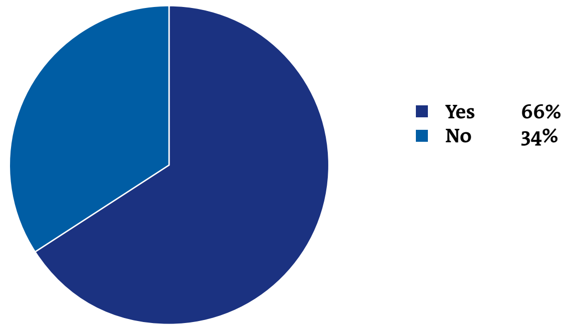
In-house counsel. **Beyond enforcement, does the trademark function play an ongoing strategic role for your company's established brands?**



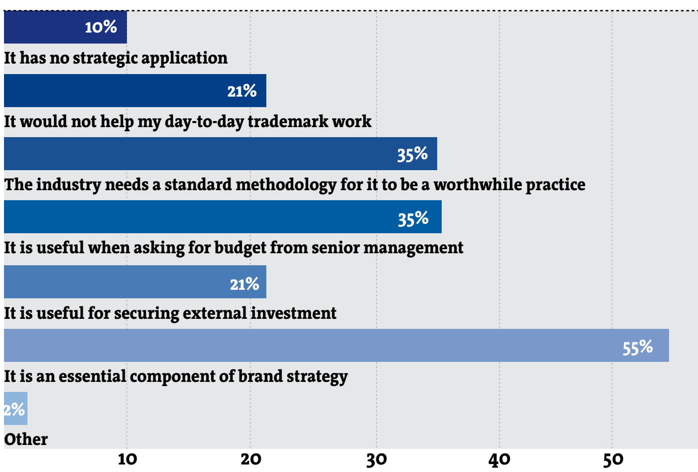
In-house counsel. **Have you valued your trademark portfolio?**



In-house counsel. **Does your company have an internal, cross-organisation policy on trademark use?**



In-house counsel. **What is your opinion on trademark portfolio valuation? (Respondents can select more than one answer so the total adds up to more than 100%.)**



In-house counsel. **What impact has the policy had? (Respondents can choose more than one answer.)**

	2014
Better cross-department trademark understanding	58%
Reduction in trademark misuse	56%
Increased internal monitoring and/or reporting of trademark misuse	47%
No discernible impact	7%
Don't know	9%
Other	1%

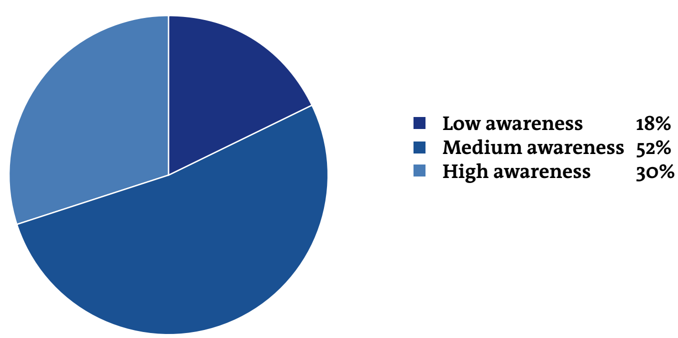
In-house counsel. **Which activities are most difficult to obtain budget for (in order of difficulty)?**

2014	
1	Policy development/involvement with associations
2	Complex anti-counterfeiting (eg, customs operations, investigations)
3	Litigation
4	Social media monitoring
5	Prosecution (including oppositions and cancellations)
6	Trademark clearance
7	Domain names
8	Administrative enforcement (eg, cease and desist letters)
9	Trademark watching
10	Alternative dispute resolution
11	Due diligence
12	Transactions
13	Providing opinions
14	Other
15	Licensing (and other non-contentious IP issues)

In-house counsel. **In your company, what challenges do you face in fostering cross-company understanding for trademarks?**

	2014	2013
Senior management not taking the time to engage	27%	38,3%
Colleagues being deterred by what they see as complicated legal issues	34%	29.8%
Lack of budget, staff or time in the trademark team	44%	51.1%
Hostile culture with regard to trademarks	8%	14.9%
The importance of other IP rights supersedes that of trademarks	29%	36.2%
Other	11%	5.3%

In-house counsel. **Across your entire organisation, how would you rate the level of awareness for the importance and value of the company's trademarks?**



The old and the new: online enforcement

Perhaps the least surprising finding from this year's Global Benchmarking survey is that online enforcement activity is on the up. Next year's survey – which will be conducted one year after the first gTLDs opened for public registration – will provide a clear indication of just how significant an impact the roll-out has had. But even before the first new strings went live, there was a clear upward trend in the level of online enforcement activity being undertaken.

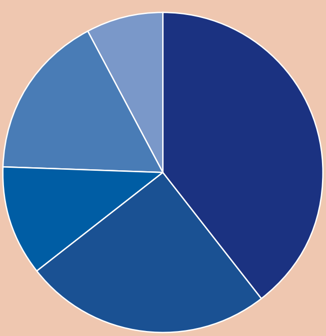
In terms of the social media platforms perceived as posing the greatest threat to brands, in-house respondents clearly regard Facebook as the biggest policing challenge, with Twitter in second place. In some respects, this is understandable, as the two have become internet phenomena which have captured large shares of their markets – and the public imagination. Google+ came in third, with Pinterest not seen as a significant threat by many counsel. Other sites that were frequently mentioned by brand owners as requiring attention were YouTube and LinkedIn.

In last year's research, eBay took first place on the list of online auctions sites and marketplaces that were the primary focuses for enforcement. This year it has been supplanted by Alibaba, with Taobao also polling higher than the California-based site. Aside from the various stores selling mobile apps, most of the other sites that were mentioned tend to be regional in nature, including deremate.com in Latin America and Chinese sites such as paipai.com and Tmall.com.

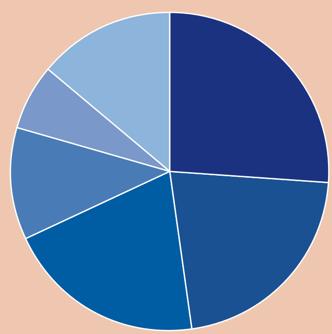
The policing challenge is now set to increase as the new gTLDs usher in an expanded, multi-language cyberworld. However, only one-fifth of private practitioners expect that new gTLDs will trigger a significant shift in the way that clients approach their domain strategies (with 41% unsure). Of the rest, some suggest that the new regime means "simply that another level of monitoring is required"; while for others it will merely involve registering domain names in the strings corresponding to the industries in which the business operates. Additionally, there are those who feel that the jury is still out when it comes to the likely success of gTLDS, and their resulting attractiveness to cybersquatters and infringers.

However, Wendy Larson, member at Pirkey Barber, warns: "If the gTLD programme is successful, there will likely be an exponential increase in cybersquatting, counterfeiting

In-house counsel. **Which social media platforms do you feel present the biggest policing challenge? (Respondents can select as many options as appropriate.)**



In-house counsel. **Which online auctions sites/marketplaces do you see as the biggest focus for enforcement? (Respondents can select as many options as appropriate.)**



movement is marketing, which could perhaps be a contributing factor to its longstanding schism with the trademark team. While marketing is the function with which trademark counsel interact most closely, it is also cited as the one department from which they would welcome increased support.

Whether this is down to "philosophical differences on how to brand products" or a "'how complicated can it be to have a name?' mentality" on the part of marketers, the frustration of trademark counsel is clear. In the face of accusations that legal "is stifling creativity", the trademark team must interact with colleagues who "are rewarded for getting initiatives out the door, and not on long-term goals like preserving intellectual property".

The solution to this situation may lie in a review of the message itself. When asked about the challenges to securing cross-company buy-in for trademarks, one-third of respondents observed that colleagues are deterred by what they see as complicated legal issues. So perhaps it is time to simplify the message and couch it in language that will resonate with the marketing function.

Make that breakthrough and the system can become self-perpetuating – even alleviating some of the load on trademark counsel. Gabrielle Olsson Skalin, general counsel at Inter IKEA Holding Services SA, explains: "It can be a challenge as we have 151,000 co-workers among our franchisees. However, awareness is very high and co-workers are eager to follow the trademark manual. We have also created a 'trademark council' with members from marketing and concept control, which then handles all trademark compliance questions."

This can free up more time for the trademark function to fulfil its prime objective: policing physical markets and the online world, expanding the brand into new jurisdictions, securing the strongest possible protection for the portfolio and safeguarding it from threats.

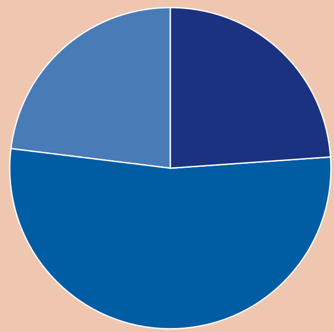
With regard to the latter, online infringement – including work relating to the new generic top-level domains gTLDs – leads the and other consumer confusion, leading to a greater policing burden on brand owners."

Overall, there appears to be a significant degree of cynicism towards the online expansion, with one US-based practitioner opining that "the whole gTLD programme is geared on making 'big money' for registrars". Cheryl Hodgson of Hodgson Legal added: "It is absurd that trademark owners are required to pay even more to protect their names."

Another respondent complained: "It's still early, but it's apparent that too big a portion of the business models of many of the new gTLDs depends on revenues from defensive registrations by trademark owners. I find this a wasteful business model that contributes nothing to the real economic growth of anyone but registries and registrars and their investors. And a few law firms."

In this uncertain scenario, the only thing for sure is that budgets will be strained further still. As Elina Heikkilä, trademark attorney at Boco IP, concludes: "Companies should change their domain name strategies in light of new gTLDs, but many think that they are fighting against windmills. Placing limited resources against ever-expanding threats makes for a difficult equation to solve."

In-house counsel. **Has your enforcement strategy changed in light of the gTLD expansion?**



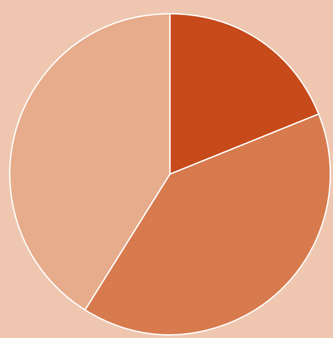
In-house counsel. **Over the past year, has the level of online enforcement activity in which you have engaged:**

	2014	2013
Increased?	50%	51.1%
Decreased?	5%	2.1%
Stayed about the same?	45%	46.8%

External counsel. **Over the past year, has the level of online enforcement activity in which you engaged:**

	2014	2013
Increased?	45%	46.6%
Decreased?	3%	3.2%
Stayed about the same?	52%	50.2%

External counsel. **Will new gTLDs require a significant shift in the way your clients approach their domain strategies?**



way, followed by lookalike products and the inexorable rise of counterfeiting. And as these problems escalate, the economics of infringement are leaving counsel at a significant disadvantage. As one US-based trademark owner noted: "We are constantly fighting cybersquatters who are able to register a domain name for just $35, but which requires us to spend thousands to file a Uniform Domain Name Dispute Resolution Policy proceeding to stop the infringement."

Private practice perspectives

This explosion of infringement appears to be a key factor in the volume of work being outsourced to legal partners – 43% of corporate counsel increased the number of instructions sent to private practice partners in 2013. The bulk of this related to litigation and prosecution, with administrative enforcement actions (eg, cease and desist letters) and complex anti-counterfeiting briefs also frequently parcelled out.

In-house counsel. **Rank the significance of these threats to your trademark portfolio (in order of priority):**

2014	
1	Online infringement (including gTDLs)
2	Lookalike products/passing off
3	Prepondrance of counterfeit goods
4	Competitors' use of trademarks in keyword advertising
5	Emerging markets
6	Brand misuse and abuse in social media
7	Cybersquatting
8	Lack of international harmonisation
9	Problems with customs authorities

Naturally, then, external counsel reported an upswing in their trademark-related workloads, with 66% pointing to an increase (just 4% experienced a drop). Correspondingly, trademark practice income rose for 65% of respondents, and fell for just 6%.

Almost half of all private practitioner respondents reported that clients are also demanding additional levels of service and support. In many instances, this has translated into ways to ease the administrative relationship – whether "adapting our portfolio management systems to those that they use for management and billing" or supplying reports and invoices on the same day that the firm files the requested submissions with the trademark office – something which requires the recruitment of "more administrative staff , as well as investment in a specific software that enables us to fulfil such requirements in time".

In a similar vein, other respondents reported that "clients are looking for more partnering opportunities between business and legal, to alleviate the burden on in-house counsel and make outside counsel more effective and responsive to commercial needs". Such activities can include reviewing internal trademark rules, participating in strategy and planning ("not just when problems have already arisen") and extending advice into such areas as corporate tax planning and anti-corruption.

As a result of this upswing in work, nearly half of external counsel reported an increase in the size of their firm's trademark practice (in terms of personnel), and optimism is at a three-year high with respect to the potential level of trademark client referrals in the coming year.

When it comes to enforcement activities for clients, respondents suggested that where in-house budgets are on the rise, so too are such initiatives. One Norwegian practitioner noted: "Some clients have certainly become more active in enforcing their rights, presumably due to budget increases". But in terms of how these enforcement activities manifest themselves, the trend is increasingly to adopt a 'softly softly' approach.

A Polish trademark lawyer explained: "Before entering into any litigation proceedings, clients will now start by sending a warning letter (often a 'soft' one) to the infringing party, to try to

In-house counsel. **For which activities do you use external counsel? (Respondents can tick all that apply.)**

	2014
Litigation	77%
Prosecution (including oppositions and cancellations)?	76%
Administrative enforcement (eg, cease and desist letters)	53%
Complex anti-counterfeiting (eg, customs operations, investigations)	49%
Trademark clearance	48%
Providing opinions	42%
Trademark watching	41%
Portfolio maintenance	30%
Domain names	22%
Due diligence	20%
Alternative dispute resolution	20%
Transactions	18%
Licensing (and other non-contentious IP issues)	11%
Other	4%

External counsel. **Which areas comprise the main focus of your practice?**

2014	
1	Prosecution (including oppositions and cancellations)
2	Litigation
3	Providing opinions
4	Trademark clearance
5	Alternative dispute resolution
6	Complex anti-counterfeiting (eg, customs operations, investigations)
7	Licensing (and other non-contentious IP issues)
8	Social media monitoring
9	Administrative enforcement (eg, cease and desist letters)
10	Transactions
11	Domain names
12	Trademark watching
13	Policy development/involvement with associations
14	Due diligence

External counsel. **Over the past year, has your trademark-related workload:**

	2014	2013	2012	2011
Increased?	66%	66.5%	69%	58.9%
Decreased?	4%	4.4%	4.8%	8.8%
Stayed about the same?	30%	29.1%	26.2%	32.3%

External counsel. **Over the past year, has your firm's trademark practice income:**

	2014	2013	2012	2011
Increased?	65%	67%	68.1%	54.8%
Decreased?	6%	4.8%	6.1%	9%
Stayed about the same?	29%	28.2%	25.8%	36.2%

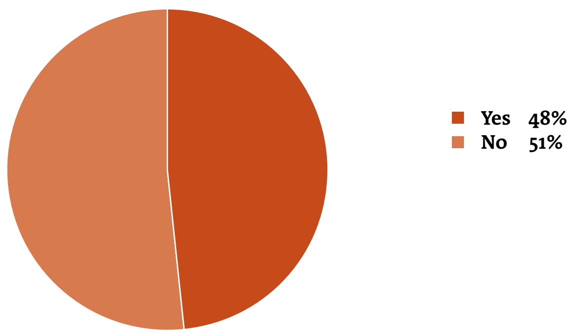
External counsel. **Over the past year, has the size of your firm's trademark practice in terms of personnel:**

	2014	2013	2012
Increased?	46%	44%	45.1%
Decreased?	7%	5.5%	3.9%
Stayed about the same?	48%	50.5%	51%

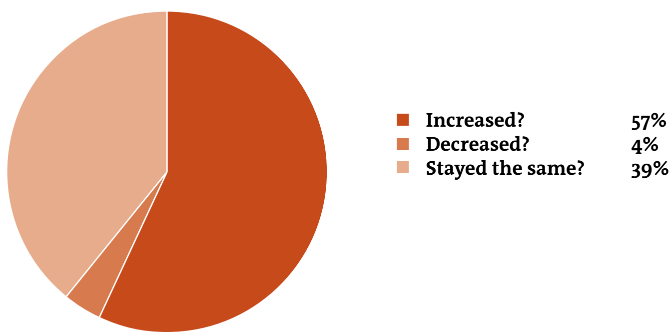
External counsel. **How optimistic are you with respect to the level of trademark client referrals in the coming year?**

	2014	2013	2012
Very optimistic	24%	23.9%	20%
Optimistic	66%	66.1%	68.3%
Not optimistic	9%	8.9%	10.2%
Expecting a decrease in work	1%	1.1%	1.6%

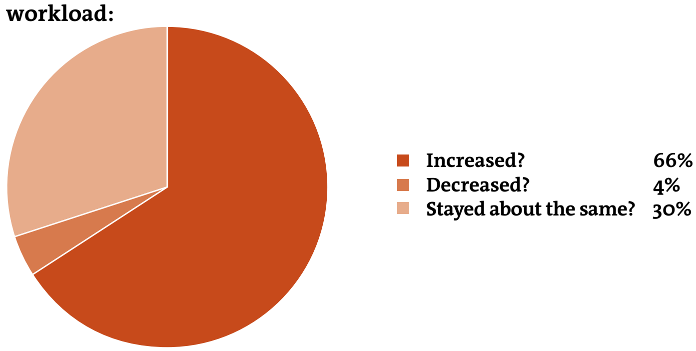
External counsel. **Have clients demanded additional levels of service/support over the past year?**



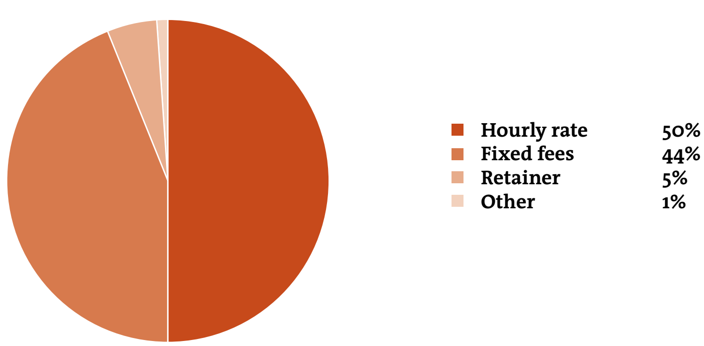
External counsel. **Over the past year, has the international element of your practice:**



External counsel. **Over the past year, has your trademark-related workload:**



External counsel. **Currently, what percentage of your revenue comes from the following fee structures?**



In-house counsel. **Over the past year, has the amount of work you sent to external counsel:**

	2014	2013	2012
Increased?	43%	33.0%	39.6%
Decreased?	18%	21.3%	19.8%
Stayed about the same?	39%	45.7%	40.6%

External counsel. **How optimistic are you with respect to other areas of business growth?**

	2014	2013	2012
Very optimistic	19%	17.7%	16.9%
Optimistic	70%	70.6%	68.8%
Not optimistic	9%	10.8%	13.4%
Expecting a decrease in work	2%	0.9%	0.9%

Global Benchmarking Survey: methodology

World Trademark Review's sixth annual Global Benchmarking Survey was conducted from February to March 2014. Separate questionnaires were developed for in-house trademark professionals and private practitioners respectively. In total, we received just over 1,000 individual responses to the survey. After the survey period closed on March 5, the editorial team collated and analysed the responses, and compared these against the results from previous years.

Respondent profile

The in-house group of respondents comprised senior trademark counsel working in companies across a range of industries. Half came from organisations with over 5,000 employees, with the second-largest proportion (13.6%) coming from those with fewer than 100 employees (14.8%); the remainder came from organisations falling between those two groups in terms of headcount.

In-house counsel were also asked to approximate the size of their organisation's trademark portfolio. Just under one-third of respondents (30.5%) managed a portfolio of more than 5,000 marks; 11.3% managed between 3,000 and 4,999 marks; 11.7% oversaw 1,000 to 2,999 marks; and the remainder managed up to 999 trademarks (including 10.8% of respondents who had responsibility for a portfolio of fewer than 25 marks). The size of the team managing these portfolios varied. Just over half (51.74%) utilised an IP team of five or fewer, while just under one-quarter (23.04%) boasted legal IP teams of 21-plus employees.

Of external counsel respondents, 38.8% worked in law firms of fewer than 25 attorneys, while 6.4% were in firms of more than 1,000 attorneys. In terms of the size of their trademark practice, the majority (77.2%) worked in practices comprising fewer than 25 IP attorneys, with 13.47% boasting 25 to 50 attorneys. Almost one-quarter (23.8%) of private practitioners reported that their firm managed over 1,000 trademark portfolios, with 14% overseeing fewer than 25.

Rights protection mechanisms in the online expansion

World Trademark Review has been covering the planned expansion of the generic top-level domain (gTLD) space, and its potential impact on brand owners, for over five years now. In January 2014, following years of wrangling, the first strings exited sunrise and opened for public availability. One of the most contentious subjects during the development of the programme were the trademark rights protection mechanisms (RPMs) being put in place. But while a number of law firm practitioners have been instrumental in the creation of these RPMs, overall the sector remains somewhat detached from the issue.

When asked whether they were aware of the new RPMs introduced, nearly three-quarters (72%) of law firm respondents answered in the negative. Of those that were aware, the reaction was mixed as to whether these will suffice to protect brands from increased cybersquatting and infringement. Many suggest that it is still too early to tell – the survey was conducted in February 2014, just as public availability was rolling out. But a number maintain that – although improvements could be made – the general principles behind them are fair and, in the words of one respondent, they represent "the best compromise that could be reached". Graham A Hood, barrister and solicitor at Smart & Biggar/Fetherstonhaugh, took a pragmatic stance: "Are they sufficient? No. But the new RPMs are a welcome addition to a trademark owner's enforcement toolbox."

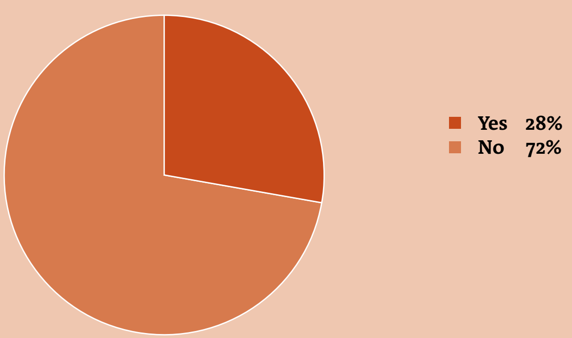
Drilling down into the specific mechanisms made available to brand owners, one law firm respondent noted that there will likely be an explosion in cybersquatting as the Trademark Clearinghouse (TMCH) is limited in its ability to prevent scammers from registering deceptively similar domain names. And on the subject of the legal rights objection, Pirkey Barber's Wendy Larson argued: "While it appeared to be a promising tool for brand owners, in effect it imposed a high burden requiring intentional targeting of the brand owner, not just likelihood of confusion. Moreover, the expense of additional policing – even if ultimately effective – will be burdensome on brand owners, and may lead to additional instability and confusion online if they are unable to find the resources in their budgets or to act in a timely manner." A number of respondents echoed this concern over budgets, arguing that while larger companies can draw on bigger trademark department resources, smaller organisations must be extremely judicious with respect to the money allocated to enforcement – and for these, it will be a struggle to stretch their spend.

Given the low level of familiarity with the available RPMs, and general uncertainty about the new gTLD programme as a whole, it is unsurprising that under one-quarter of law firm respondents had spotted new business opportunities in terms of the expanded gTLD environment.

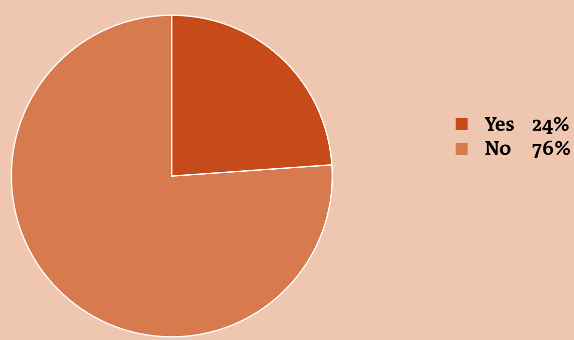
Where new service offerings had been identified, these included counselling on new gTLD issues, registering as an agent at the TMCH to manage clients' interactions with the body, assisting in Uniform Rapid Suspension applications and even working with brands applying for their own '.brand'. Moving forward, expanded watching services may become another important added service.

However, while new opportunities may be available, they are not always welcome. Kathleen Petrich, partner at Miller Nash, concludes that these "are very much at our clients' expense, and I am not happy about new opportunities that seem to come solely at the expense of brand owners".

External counsel. **Are you aware of the new rights protection mechanisms introduced under the new gTLD programme?**



External counsel. **Have you identified any business expansion opportunities in terms of the new gTLD environment?**



resolve disputes through negotiation in the first instance. Another common trend has been to use opposition proceedings before the trademark as a tool in negotiations aimed at forcing the infringing party to the table".

Another private practitioner concluded: "Clients have become more vigilant and aggressive in asserting their trademark rights. However, they are cost conscious, and certainly prefer creative and amicable solutions to resolve their issues."

Of course, such cautious tactics may also be down to a growing awareness of the damage that overly aggressive enforcement initiatives can do to a brand. But whatever the reason, a significant number of respondents observed that clients are becoming increasingly selective about their targets, and cost-benefit analysis will remain a key determinant of in-house enforcement strategies. For counsel, the challenge remains the same: ensuring that decreased spend and new approaches do not lead to greatly increased risk. WTR

For those jurisdictions on the following list that you are familiar with, rate their courts' (and office action) value for money on a scale of 1 to 5, where 1 = very good and 5 = very poor ('not applicable' votes not counted so the below totals do not add up to 100%).

	Very good	Good	Average	Poor	Very poor
United States	**15.79%** 14.98%	**9.21%** 16.3%	**18.42%** 29.96%	**22.37%** 25.99%	**23.68%** 10.13%
United Kingdom	**18.75%** 13.22%	**10.42%** 20.66%	**22.92%** 35.54%	**27.08%** 18.18%	**10.42%** 5.79%
Germany	**23.08%** 41.9%	**35.90%** 31.43%	**12.82%** 11.43%	**7.69%** 3.81%	**5.13%** 2.86%
France	**10%** 12.31%	**26.67%** 23.08%	**30%** 33.85%	**6.67%** 15.38%	**0%** 6.15%
Canada	**12.90%** 14.67%	**9.68%** 42.67%	**32.26%** 17.33%	**16.13%** 8%	**3.23%** 1.33%
China	**21.05%** 8.51%	**5.26%** 21.8%	**23.68%** 17.02%	**23.68%** 24.47%	**13.16%** 19.15%
Japan	**4%** 14.4%	**16%** 31.58%	**36%** 17.54%	**4%** 8.77%	**8%** 10.53%
Australia	**6.67%** 15%	**16.67%** 31.67%	**40%** 23.33%	**6.67%** 8.33%	**0%** 3.33%
India	**13.89%** 8.06%	**11.11%** 16.13%	**25%** 22.58%	**11.11%** 20.97%	**16.67%** 14.52%
Brazil	**5.88%** 8.2%	**8.82%** 9.84%	**20.59%** 27.87%	**23.53%** 19.67%	**14.71%** 18.03%
Russia	**7.41%** 14.00%	**3.70%** 12%	**29.63%** 14%	**14.81%** 18%	**14.81%** 20%

In-house counsel responses
Private practice responses

For those jurisdictions on the following list that you are familiar with, please rate their courts' judicial scrutiny on a scale of 1 to 5, where 1 = very good and 5 = very poor. ('not applicable' votes not counted so the below totals do not add up to 100%).

	Very good	Good	Average	Poor	Very poor
United States	**27.03%** 30.05%	**27.03%** 33.50%	**14.86%** 23.15%	**6.76%** 7.39%	**9.46%** 2.96%
United Kingdom	**34.09%** 33.33%	**31.82%** 32.35%	**15.91%** 19.61%	**2.27%** 5.88%	**4.55%** 1.96%
Germany	**25.64%** 32.99%	**28.21%** 34.02%	**17.95%** 19.61%	**5.13%** 6.19%	**2.56%** 3.09%
France	**12.90%** 5.17%	**12.90%** 32.76%	**32.26%** 31.03%	**12.90%** 15.52%	**0%** 5.17%
Canada	**9.68%** 16.39%	**25.81%** 40.98%	**22.58%** 18.03%	**9.68%** 1.64%	**3.23%** 4.92%
China	**13.16%** 1.19%	**0%** 10.71%	**28.95%** 20.24%	**26.32%** 33.33%	**18.42%** 25%
Japan	**8.33%** 15.22%	**16.67%** 21.74%	**33.33%** 28.26%	**8.33%** 10.87%	**0%** 2.17%
Australia	**13.79%** 15.22%	**24.14%** 30.43%	**17.24%** 23.91%	**6.90%** 6.52%	**3.45%** 0%
India	**2.78%** 2.04%	**16.67%** 18.37%	**22.22%** 26.53%	**22.22%** 14.29%	**13.89%** 12.24%
Brazil	**2.94%** 0%	**11.76%** 12%	**17.65%** 28%	**23.53%** 24%	**17.65%** 20%
Russia	**7.14%** 2.44%	**7.14%** 12.20%	**17.86%** 24.39%	**28.57%** 17.07%	**3.57%** 24.39%

In-house counsel responses
Private practice responses

For those jurisdictions on the following list that you are familiar with, please rate the efficiency of their trademark office on a scale of 1 to 5, where 1 = very good and 5 = very poor ('not applicable' votes not counted so the below totals do not add up to 100%).

	Very good	Good	Average	Poor	Very poor
United States	**29.76%** 25.33%	**30.95%** 43.67%	**21.43%** 16.59%	**7.14%** 10.48%	**7.14%** 2.18%
United Kingdom	**47.06%** 30%	**23.53%** 46.67%	**13.73%** 10%	**7.84%** 3.33%	**1.96%** 3.33%
Germany	**22.50%** 19.39%	**47.50%** 40.82%	**12.50%** 19.39%	**7.50%** 7.14%	**2.50%** 2.04%
European Union (OHIM)	**34.38%** 28.16%	**31.25%** 37.93%	**20.31%** 21,26%	**7.81%** 10.34%	**3.13%** 2.30%
France	**8.57%** 7.02%	**28.57%** 35.09%	**22.86%** 26.32%	**14.29%** 14.04%	**2.86%** 3.51%
Canada	**20.51%** 11.58%	**25.64%** 47.37%	**28.21%** 28.42%	**10.26%** 10.53%	**2.56%** 2.11%
China	**10.20%** 0%	**12.24%** 12.50%	**34.69%** 46.15%	**24.49%** 24.04%	**14.29%** 16.35%
India	**6.98%** 1.35%	**13.95%** 4.05%	**13.89%** 14.29%	**25.58%** 18.92%	**40%** 36.62%
Brazil	**5%** 0%	**17.50%** 9.86%	**2.33%** 24.32%	**17.50%** 30.99%	**8.57%** 13.46%
Russia	**2.86%** 3.85%	**22.86%** 23.08%	**25.71%** 34.62%	**20%** 17.31%	**8.57%** 13.46%
International (WIPO)	**14.63%** 19.19%	**39.02%** 33.33%	**14.63%** 22.22%	**14.63%** 12.12%	**4.88%** 5.05%

In-house counsel responses
Private practice responses

For those jurisdictions that you are familiar with, please rate the efficiency of customs in enforcement matters on a scale of 1 to 5, where 1 = very good and 5 = very poor ('not applicable' votes not counted so the below totals do not add up to 100%).

	Very good	Good	Average	Poor	Very poor
United States	**18.18%** 20.47%	**27.27%** 39.77%	**18.18%** 14.62%	**6.06%** 9.36%	**0%** 1.17%
United Kingdom	**5.41%** 14.46%	**18.92%** 40.96%	**16.22%** 20.48%	**10.81%** 6.02%	**0%** 0%
Germany	**15.63%** 30%	**25%** 33.75%	**12.50%** 7.5%	**3.13%** 8.75%	**0%** 1.25%
France	**10.71%** 17.39%	**17.86%** 21.74%	**14.29%** 21.74%	**10.71%** 10.87%	**3.57%** 8.70%
Canada	**0%** 8.20%	**14.81%** 19.67%	**7.41%** 11.48%	**7.41%** 16.39%	**3.70%** 13.11%
China	**18.92%** 7.5%	**21.62%** 20%	**16.22%** 20%	**13.51%** 21.12%	**13.51%** 18.75%
Japan	**4.35%** 15.56%	**4.35%** 22.22%	**21.74%** 15.56%	**4.35%** 8.89%	**4.35%** 0%
Australia	**11.54%** 6.98%	**11.54%** 34.88%	**15.38%** 13.95	**3.85%** 9.30%	**3.85%** 0%
India	**0%** 2.22%	**12.50%** 8.89%	**9.38%** 22.22%	**21.88%** 13.33%	**21.88%** 8.89%
Brazil	**7.14%** 0%	**14.29%** 6.52%	**10.71%** 23.91%	**14.29%** 23.91%	**7.14%** 13.04%
Russia	**4.17%** 2.50%	**12.50%** 20%	**16.67%** 10%	**20.83%** 22.50%	**8.33%** 12.50%

In-house counsel responses
Private practice responses