

A green tractor with a blue auger drill attachment is shown in a field. The tractor is on the left, and the auger drill is on the right. The background shows a fence and trees.

# Figure 1



CELEBRATING INNOVATION

ISSUE 03

PATENTING FOR  
VALUE

HOW IP HELPED  
AUGER TORQUE



Albright IP | PROTECTING INVENTIONS, COMPANIES AND BRANDS SINCE 2007

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Albright IP amongst Europe's top Trade Mark Attorneys

 ALSO AVAILABLE ONLINE

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# WELCOME TO FIGURE 1



Welcome to the 3rd edition of Figure 1 from Albright IP. At last the sun is shining and Katie and Julia, our trademark attorneys, have been travelling this month meeting US attorneys at an International Trade Mark conference in Seattle.

Why are we going you may ask? Well, it provides a great opportunity to discuss business with all our global partners. With Brexit around the corner, we are working hard to strengthen our international ties. My first overseas business trip was to Seattle in 2008, and since then we have built up excellent working relationships and friendships with attorneys around the world. It is these attorneys that we know will do an excellent job for our clients overseas.

In this edition we update you on Brexit and touch on the tax benefits of patents. We also bring you the latest news from Duku and an interview from Alistair Brydon, MD of our client Auger Torque. I hope you enjoy the read and have a great summer.

-June 2018

**Robert Games**

MANAGING DIRECTOR

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# BREXIT UPDATE: MAY 2018

FOCUSING UPON THE FIRST DRAFT OF THE WITHDRAWAL AGREEMENT



## **Brexit update**

The United Kingdom is scheduled to leave the European Union on the 29 March 2019. Whilst the precise terms of exit are yet to be agreed, in March 2018, the European Commission and the UK published the first draft of a Withdrawal Agreement. This is the most comprehensive document to date, although each of the proposals are open to further revision.

The Withdrawal Agreement touches on the post-Brexit administration and scope of EU intellectual property rights, including EU Trade Marks (EUTMs) and Registered Community Designs (RCDs).

## **The proposed Transition Period**

The Withdrawal Agreement provides that the transition period will end on 31 December 2020.

It is envisaged that during the transition period i.e. from 29 March 2019 to 31 December 2020, the applicable European Union law will still be effective in the United Kingdom. Consequently, EUTM and RCD rights will continue to be valid and enforceable in the United Kingdom until at least 31 December 2020.

In addition, UK IP practitioners will retain their rights of representation before the European Intellectual Property Office (EUIPO) until at least 31 December 2020.

# BREXIT UPDATE: MAY 2018

FOCUSING UPON THE FIRST DRAFT OF THE WITHDRAWAL AGREEMENT

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## Points of agreement

In terms of existing EU intellectual property rights, both sides have voiced the intention to create equivalent 'cloned' UK rights, with the same filing, and priority dates and with no examination required. The proviso is that the rights in question are granted or registered before the end of the prescribed transition period.

*"The holder of any of the following intellectual property rights [EUTMs/RCDs/Plant Variety rights] which have been registered or granted before the end of the transition period shall, without any re-examination, become the holder of a comparable registered and enforceable intellectual property right in the United Kingdom, as provided for by the law of the United Kingdom."*

## Points of uncertainty

What currently remains unclear, is the administrative procedures that will be put in place to transform and/or extend EU IP rights by the end of the transition period.

For Trade Mark rights that are pending at the end of the transition period, the owners will be allowed nine months to request a transfer and re-examination to the UK IPO, in order to retain the original filing and/or priority dates. This is very likely to incur an additional fee, and an inevitable delay in protection being granted.

A separate issue also to be addressed is the entitlement to representation at the EUIPO

for UK practitioners, in a manner that will give reassurance to UK based rights-holders that they can continue to trust in the professional relationships that have been established. The draft agreement remains silent in respect of unregistered designs. At present, the UKUDR is not a comparable replacement for the European UCD.

## Summary

For IP rights holders, as the months towards Brexit and the end of transition pass, seeking to secure separate UK and EU Trade Mark and design protection from the outset, is recommended. Whilst there are some reassurances that granted rights will be 'cloned', there is currently no parallel comfort being offered for pending applications.

Whatever the outcome of the Brexit negotiations, Albright IP will continue to offer expert advice to our clients, and we will be moving forward and adapting our practice, to ensure that the most comprehensive and cost-efficient IP protection is put in place in the UK and the European Union.

# INNOVATION TAX SAVINGS



It's always difficult to try and find sufficient funds to protect your products and brand but, ultimately, protecting your IP is a very worthwhile investment which will create value in the company and potentially save you thousands in tax.

Since April 2017, businesses have been able to take full advantage of a 10% corporation tax rate on profits derived from patented inventions, thanks to the Patent Box tax incentive. This

means that with a patented product you can receive a 50% reduction in corporation tax – an incentive all organisations based on design and innovation need to be making the most of!

## **Can your company benefit?**

To qualify for the tax incentive, the patented item needs to have been developed in the UK and either owned by your company or exclusively licensed to it. You will also need to show that your company has made a significant contribution to

# INNOVATION TAX SAVINGS



the development of the patent or invention or the product incorporating it.

While patents need to be in place before the tax relief can be claimed, you can backdate it to cover the time the application was pending approval.

The tax break lasts for the lifetime of the patent and in addition to this, if the patented item is deemed to be an integral part of a product, then the tax relief could apply to the product as a whole. So it's important to approach patents from a strategic point of view – if your company has put off applying for patents due to costs in the past, now might be the time to reconsider.

Similarly, if you have not considered that your developments or designs are patentable, it really is worth finding out for sure. There's a good chance that if you're undertaking research and design then you could probably secure a patent, and the Patent Box tax incentive is in addition to the R&D tax credits.

## What should you do first?

If you think you might be missing out on the tax savings, the first step is to undertake an IP audit. Make sure that any and all potentially patentable inventions are protected. This is good advice irrespective of tax relief – but the further benefit of the Patent Box should substantially mitigate the cost of the protection system.

My advice is simple: if in doubt, come and talk to us. We can provide you with advice on how to develop a strategy and set out how you should approach your IP.

Remember, if you've spent money on research, product development, branding and marketing, these are all necessary costs. But if you don't protect your IP then these costs will only ever be expenses, whereas securing a patent for an innovation adds long-term value to your company and can give you access to substantial tax savings.

### Robert Games

MANAGING DIRECTOR



Albright IP









# AUGER TORQUE

## CLIENT INTERVIEW



FIGURE 1 talks to ALISTAIR BRYDON, MD of earth drill attachment manufacturer Auger Torque about IP and the role it played in building the global business...

ALISTAIR BRYDON

MD OF AUGER TORQUE



# AUGER TORQUE - CLIENT INTERVIEW



## **Was there a gap identified in the market that first got the company started?**

The major innovation and the initial differentiator for Auger Torque was our shock-lock system, which stopped teeth from falling out of the auger and reduced any vibration projecting out of the auger to the gearbox.

The founder of the company, Alister Rayner, found that when people were drilling holes the teeth – so the actual cutting part – of the auger would often fall out and sink down the hole. If the tooth is ten metres down a hole, then it's very difficult to get it out! And by their nature, our customers tend to be a fair distance from dealers and places where you can buy replacement teeth so, whilst they are low value items, this was a big frustration for the customers.

## **What has been Auger Torque's approach to IP? Was there a strategy from the beginning?**

Our original approach to IP was just to patent one or two things that we could afford to do to differentiate ourselves. But as we grew and became a much more global company, we took a more structured approach. We quickly recognised we needed to protect our products and our name globally.

## **What role do you think IP played in securing the value for the company?**

When we were selling the business, IP was a key part of our strategy for its valuation. We'd had a strong brand presence for the past twenty years, and a strong product line, so it was important to demonstrate that any new owner would continue with the security of that brand and that our product patents and trademarks were locked



# AUGER TORQUE - CLIENT INTERVIEW

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down around the world. We're now owned by Kinshofer, a German attachment manufacturer, but we run as an independent business within the group.

## **How did Albright IP support the company?**

Albright IP has always acted as a partner to Auger Torque, from when we were a small, family-owned business to the large international business we are today. They've helped highlight the opportunities and the risks that we faced with IP protection as we became a global business with more and more product lines. We're always able to have an open conversation with them. They take a technically complex, confusing subject and make it simple and very clear for us.

## **Do you have any tips for using the Patent Box Tax Incentive?**

For us, Patent Box has been a great financial tool and it enables us to invest more enthusiastically in innovating and patenting products. With Albright, it's become a very simple process to claim back the funds each year. We get the short-term benefit of the Patent Box, but the long-term benefit of the actual patents themselves.

Our products are generally sold as systems which aren't patented, but which contain some patented parts or features. But because of the way the tax incentive works, we can claim Patent Box on the entire system. For example, the tooth of an auger is a pretty low value item, but because it is a key feature of the auger itself, we can apply Patent Box to the auger as a whole. It's actually quite significant for us.

## **Does innovation still play a big part in the business?**

Innovation is key to fulfilling our potential, both from a financial perspective and as employees with aspirations. Most people in the business have a technical background or an enthusiasm for engineering, so innovation is in the blood. As a team, we're very keen to grow the business, and we're only really going to do that by developing new products and staying ahead of our competitors globally.

## **What does the future hold for Auger Torque?**

Our future is one of continued growth through entering new markets. We entered the United States last year – a huge potential market, the largest in the world. So, we're nowhere near fulfilling the potential of Auger Torque just yet.

## **Do you have any advice for a young engineering company?**

To take a long-term view, the patenting process can be very lengthy, but it's a worthwhile investment because as you become more well known, the risk of your product being copied is huge.

Our advice for a young but growing company would be to find a good partner, like Albright IP, who are prepared to have open discussions, understand where you are as a business, and help you along the way.



# WHAT'S GOING ON AT DUKU?

ALL THE LATEST NEWS FROM THE PRODUCT DESIGN TEAM



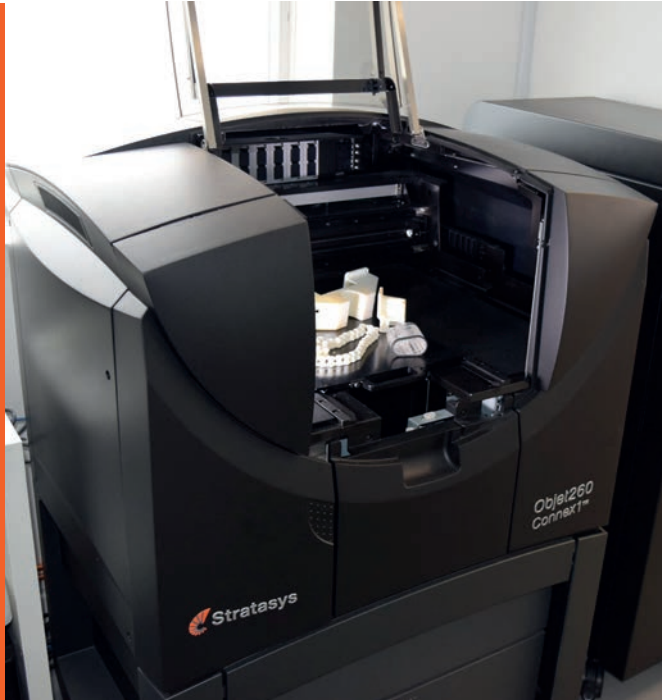
We've been busy at Duku with lots of exciting design projects, but also some much needed office refurbishment. This means that we can fit in more designers and more equipment, which in turn means we can work on more exciting projects!

Duku use the latest in 3D printing technology to print accurate, high quality parts to test prototypes of new designs.

We've invested in an awesome new 3D printer to further increase our prototyping capabilities taking our in house 3D printers to 3.

The Connex 260 allows us to print in a huge range of materials, and also print using 3 materials simultaneously. 16-micron layer resolution ensures that prototypes of the highest quality are produced.

In addition, we can print one material onto another within the build, allowing us to accurately re-create overmoulded designs. such as rubber grips.



We welcome Jamie Lawrence to the design team. Jamie brings a wealth of experience taking complex products to manufacture in short timescales. He likes complex CAD challenges, and loves sliding down mountains!



Theres nothing worse than not being able to find that elusive screwdriver!

Our new workshop tool wall means that everything has its place!



# WHAT'S GOING ON AT DUKU?

ALL THE LATEST NEWS FROM THE PRODUCT DESIGN TEAM



We've installed integrated plywood desks, which give us a continuous work surface around the design studio, allowing plenty of room for the strange things that are accumulated during the product design process.



## Túbereka



Congratulations to our client Tubereka, who have recently funded their project on Kickstarter and Indiegogo!

Duku have been with them from the start of their development journey and have developed a unique portable coffee maker with reusable pods.

We have undertaken concept Development, detailed CAD and prototyping, branding and are now assisting with the final stages of manufacture.

# INNOVATION NEWS

DUKU AND ALBRIGHT IP HELPING TO BRING POP UP E-CHARGING TO A STREET NEAR YOU

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Duku are developing a unique pop-up charge point for electric vehicles (EV). The brainchild of EV charging start up Urban Electric Networks Ltd, the team at Duku has been tasked with developing the prototype UEone pop-up charger so that it retracts underground when

not in use, minimising the impact on the urban environment.

The project is being undertaken in partnership with Oxford City Council, who recently announced a proposal to create the world's first



# INNOVATION NEWS

DUKU AND ALBRIGHT IP HELPING TO BRING POP UP E-CHARGING TO A STREET NEAR YOU

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Zero Emissions Zone in 2020. In a world first, twenty of the UEone pop-up chargers will be trialled in a single residential street in Oxford later this year. Oxford residents are now being encouraged to nominate their street to take part in the project.

**Alex Lee, Director at Duku, commented.**

*"This is an exciting project for us, not only have we been given the opportunity to develop the first prototype, but we were heavily involved in the bid to secure the £474,000 of funding from the UK's innovation agency, Innovate UK."*

*"It's a great concept and while the initial trial will be in Oxford, this innovation has the potential to be a major game changer - facilitating electric vehicle ownership for the 11.6m UK households that park on-street across the UK. Needless to say, it's a complex design and we have a number of issues to overcome in terms of different terrains, its ability to be fully submerged and interaction with an app, but we like a challenge at Duku and we are set to showcase the first prototype in the summer."*

Helping to secure the future of the invention, Duku has been supported on the project by Albright IP, to register the UEone pop-up's patents, protecting its development and securing the value in its design.

**Olivier Freeling-Wilkinson, cofounder of Urban Electric Networks commented:**

*"The most convenient, affordable and climate-friendly way to charge an EV from the grid is at home at night, yet up to 85% of households in some urban residential areas cannot do so because they park on-street. This is a huge barrier to EV adoption."*

*"The beauty of our design is that the UEone pop-up is a charging column that automatically retracts into the ground when not in use and is simply raised using the Urban Electric app. It will be suitable for more than 90% of residential streets and eliminate the need for EV Only charging bays."*

**Ian Meikle, Innovate UK Director Clean Growth and Infrastructure said:**

*"Improving air quality in cities right across the world is a huge challenge but also a huge opportunity for UK businesses, which is why Innovate UK and the Government's Industrial Strategy are supporting projects like this one in Oxford. Making sure we have the right infrastructure to encourage more people to switch to electric vehicles is a key part of meeting the air quality challenge and if successful, this exciting project has the potential to be rolled out across the whole country, so we're very interested to see how it progresses."*

# REAL OR FAKE?

HOW TRADE MARK REGISTRATIONS ARE PROTECTING OUR ONLINE SHOPPING



## **When the online marketplace was born, it happened almost overnight.**

No longer did you have to travel further afield to obtain elusive goods that weren't available at a local shop. The 'click-purchase' phenomenon rapidly became a new way of life. That object of desire could be delivered to your doorstep the next day.

Of course, the online marketplace is not without its issues, and the digital environment is a perfect habitat for criminal behaviour. The internet is massive, confusing and relatively ungoverned. It transcends national borders, and the technology upon which it is based moves faster than any laws that can purport to regulate it.

Most online marketplace sellers are legitimate businesses trying to connect with buyers in a quick, convenient and honest way. However,

'rogue' individuals selling counterfeit goods, often of inferior quality, have a negative effect on consumer confidence, impacting on genuine sellers and the online marketplace as a whole. The consequence is that some consumers are turning away from the convenience of online shopping and heading back to the high street where they feel more assured.

In response to this trend some e-tailers have introduced schemes to curb the spate of online counterfeits, such as the Amazon Brand Registry and eBay's VeRO (Verified Rights Owner) Programme. It is relatively simple for a legitimate brand owner to invoke these initiatives by completing an online form, giving them access to the full range of protective services which can result in the site of an unauthorised seller being taken down.

# REAL OR FAKE?

HOW TRADE MARK REGISTRATIONS ARE PROTECTING OUR ONLINE SHOPPING



However, in order to qualify for either the Amazon or eBay scheme, you must be able to verify that you are the legitimate Intellectual Property Rights holder.

IP practitioners, including Albright IP, are now being inundated with emails from Amazon sellers asking us to put them in touch with our clients, the owners of the registered Trade Marks, in order that they can obtain a verification code. Without this, they are not permitted to sell the Trade Marked products on Amazon.

It is now paramount that you put your shop in order (pardon the pun), so that you can take advantage of the initiatives being launched by these online platforms. Ensuring that you have comprehensive registrations for your Trade Marks will not only put you into the strongest possible position to protect your brand image, but also give the consumer peace of mind when purchasing your products.

*“At last, the online consumer is being protected, and so too is the genuine online retailer.”*

**Julia House**

**DIRECTOR**



Albright IP





# INTELLECTUAL PROPERTY SYMBOLS

WHAT THEY MEAN, AND WHEN TO USE THEM



# BRANDED

Intellectual Property rights symbols are a clear indication that someone is claiming ownership over IP rights and they discourage would-be infringers from copying. As a full service Intellectual Property firm, Albright IP Limited are experienced, knowledgeable, and well placed to advise your business on how to use these tools to make the most of your IP rights. But in the meantime, here is our guide the basics...

## TRADE MARK <sup>TM</sup>

IP rights holders use the <sup>TM</sup> symbol to indicate that they regard their 'badge' as a Trade Mark, i.e. that they wish others to be on notice of their ownership. The <sup>TM</sup> symbol itself does not indicate that a Trade Mark is registered, or that an application has been filed to register it; therefore, it can be used in respect of newly created Trade Marks without any delay.

## SERVICE MARK <sup>SM</sup>

In the USA, Trade Marks relate to products, and Service Marks relate to services. The term Service Mark is not routinely used in the UK or the EU,

but the symbol <sup>SM</sup> may sometimes appear on websites or marketing material that is in circulation here.

## REGISTERED TRADE MARK <sup>®</sup>

The <sup>®</sup> symbol provides notice that the preceding word, logo or other sign is a Trade Mark that has been registered at the UK Intellectual Property Office (UK IPO). The <sup>®</sup> symbol is therefore a clear statement of ownership, and an assertion that a registered right is held. It is against the law to use the <sup>®</sup> symbol in respect of a Mark which is not officially registered.

## COPYRIGHT <sup>©</sup>

The <sup>©</sup> symbol is used as part of a Copyright notice for literary, artistic and musical works other than sound recordings (phonographic works). It is widely recognised internationally, but its use is not a legal requirement to protect your work – in the UK, a Copyright work is automatically protected at the point when the work is created. However, the <sup>©</sup> symbol is still

# INTELLECTUAL PROPERTY SYMBOLS

WHAT THEY MEAN, AND WHEN TO USE THEM



useful for reminding the public that your work is subject to Copyright law, and that you are aware of your rights.

A Copyright notice typically consists of the © symbol, the year of first publication and the name of the owner. For example: © 2018 Albright IP Limited.

## COPYLEFT ©

The © symbol is a relatively new IP symbol, and currently has no legal meaning. Essentially, copyleft is the practice whereby work may be used, modified and distributed by third parties, providing that all derivative works are bound by the same conditions. Therefore, copyleft is an open licensing agreement, of sorts.

## PHONOGRAM COPYRIGHT ℗

The ℗ symbol is often mistaken as a symbol indicating a Patent. It is, in fact, used in a copyright notice to indicate the ownership of a sound recording (or phonogram). A sound recording embodies a separate copyright to the underlying musical work and will often have a different owner, i.e. the producer.

A phonogram copyright notice consists of the ℗ symbol, the year of first publication and the name of the owner. For example: ℗ 2018 Albright IP Limited.

## PATENT MARKING

There is no established typographical symbol which indicates that a product is subject to a patent but it is still of paramount importance to mark your patented products as 'Patented', despite there being no legal requirement to do so. If you don't, someone can copy them and claim they were unaware of the patent – this is a legitimate defence under UK patent law, known as 'innocent infringement'. Interestingly, the law specifies that you must also include the patent number, or an infringer may still claim they didn't know the product was patented.

It is against the law to mark a product as 'Patented' when it isn't. This means that when your patents expire, you are required to remove all 'Patented' marking from your products and packaging. The law allows for a reasonable transition period in this situation, to run down old stock.



**Katie Oliver**

DIRECTOR

 Albright IP



# ALBRIGHT IP OPENS IN CORNWALL

ALBRIGHT IP TARGETS INNOVATION IN THE SOUTH WEST



Albright IP, has journeyed south and invested in a new office! With a growing client base in Devon and Cornwall thanks to the region's continued growth in innovation, technology and engineering, the new office is a natural progression and an ideal opportunity to work more closely with companies in the region.

Located in Cornwall's business acceleration facility – the Pool Innovation Centre – the new office is headed up by IP attorney Freddie Noble. Freddie, who graduated from Oxford University with a master's degree in Engineering and

Computer Science, will be a great asset for the region. Freddie commented:

*"Cornwall is fast becoming one of the UK's best regions for technology-led businesses. There are some truly amazing companies here, who are leading the way in sectors such as aerospace, renewable energy, space and satellite connectivity and healthcare – to name but a few.*

*"We have strong experience in these sectors and our business is built on a desire to help companies of all sizes to commercialise their*



# ALBRIGHT IP OPENS IN CORNWALL

ALBRIGHT IP TARGETS INNOVATION IN THE SOUTH WEST



*ideas. These range from small entrepreneurial start-ups to international companies trading across the world in multiple markets."*

Robert Games, Managing Director, Albright IP, spoke about the new office:

*"We started Albright IP to help companies get the most out of their IP assets. Many of the companies we come across are unaware of the benefits of IP and the value it can add to their company."*

*"We help them to not only protect their competitive advantage, but also reap the financial benefits of IP – from helping young companies to secure funding to showcasing the substantial tax benefits. Cornwall is a region full of innovative companies and we are looking forward to talking to them about their IP assets."*

# ALBRIGHT NEWS

ALBRIGHT IP AMONGST EUROPE'S TOP TRADE MARK ATTORNEYS



Europe's highest-ranking filers of Trade Marks have been listed for the first time, and Cheltenham based Albright IP has been ranked within the top 250 attorney filing firms in Europe. Collated by BIPP, IP data specialists based in Belgium, the figures are based on the total number of active trade marks on the European Union Intellectual Property Office (EUIPO) and the World Intellectual Property Organization (WIPO) registers.



Although Albright IP has been established for 10 years, it was up against many firms who have been filing Trade Marks for more than five decades, and overtaken many of them, proudly not only coming within the top 250, but achieving a ranking of 187.

**Robert Games, Managing Director, Albright IP.** *"This is a fantastic achievement for the Trade Mark team. We have only been around for a fraction of the time of many of the bigger firms and only filed our first trade mark in 2007. Yet in just over 10 years we have filed and secured*

# ALBRIGHT NEWS

ALBRIGHT IP AMONGST EUROPE'S TOP TRADE MARK ATTORNEYS



*significantly more trade marks than many of our peers, demonstrating the quality of our advice and service. What's even more impressive is that this feat has been achieved by just two of our Directors! Julia House and Katie Oliver have between them filed every one of our EUIPO and WIPO trade marks to secure our position in the Top 250 EU Trade Mark Attorney Firms."*

In the relevant period, the Trade Mark team at Albright filed over 1,350 Trade Marks in total and achieved their top 250 ranking through hard work, determination and a solid client base according to **Julia House, Trade Mark Attorney and Director at Albright IP**, who commented:

*"We have a great breadth of experience across all business sectors and our success with securing clients comes from our Director led approach. We stay personally involved with our clients, not only registering their trade marks but continuing to advise and monitor the relevance to their business at every step."*

Headquartered in Cheltenham, Albright IP employs 24 people and has seen significant growth over the past few years. The firm now works with over 2000 companies across the world, including Europe, the US and China.

Julia added *"We have very strong international links with law firms across many countries. This close working approach means that our clients can tap into local commercial advice wherever needed, providing them with the best available Trade Mark advice for moving forward – which ultimately means we have a very high success rate when filing, prosecuting and enforcing Trade Marks."*



For more information on Trade Marks, please contact **Katie Oliver** on **01242 691801** or email her at **[koliver@albright-ip.co.uk](mailto:koliver@albright-ip.co.uk)**





## Figure 1 MAGAZINE



Albright IP

PROTECTING INVENTIONS, COMPANIES AND BRANDS SINCE 2007

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