

STRATEGIC PLAN 2017-2020 on
Intellectual Property MAY 2017 VERSION

INTRODUCTION

The Spanish Patent and Trademark Office (SPTO) is an autonomous public state body that promotes and supports technological and economic development, affording legal protection to different types of Industrial Property (IP) by granting patents and utility models (inventions); industrial designs (ornamental or aesthetic aspect of an article); trade marks and names (distinctive signs) and titles of protection of topographies of semiconductor products. It also disseminates information about the different methods available for protecting Industrial Property.

Internationally speaking, the SPTO is responsible for representing Spain in international Intellectual Property forums and organisations.

The SPTO's main **objectives** are:

- Protect and encourage technological creation, innovation, and business corporate identity in our country, by granting Industrial Property titles
- Disseminate information to guide research activity by maintaining documentary funds and databases that offer quick, simple access to the status of global technology in any sector
- Stimulate flow and exchanges of goods and services by disseminating information about registered distinctive signs.

In recent years, the STPO has carried out numerous actions included in the **2012-2014 Strategy for SMEs and entrepreneurs**. The plan contained five main strategic lines, and an **81% level of compliance with the strategic objectives has been achieved**:

- L1. Help companies to obtain IP rights: 82% compliance
- L2. Raise awareness of IP among the business sector: 79% compliance
- L3. Promote observance of IP rights: 93% compliance
- L4. Reduce the administrative burden of obtaining IP rights: 78% compliance
- L5. Support entrepreneurs to obtain IP rights: 75% compliance

Given the results and level of compliance with the above Strategy, the SPTO prepared a **Strategic Plan 2015-2017** based on four key areas:

1. Promotion of Intellectual Property in Spain
2. Internationalisation
3. Observance of IP rights
4. Quality and Excellence

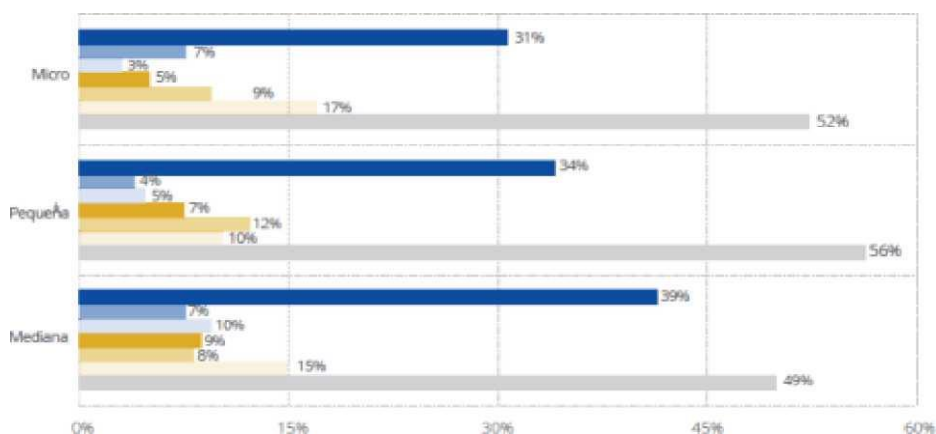
In the last three years (2015-2017), activities framed in those strategic lines have been implemented, focusing on areas where the level of compliance achieved was lower than that of the 2012-2014 Strategy, such as

"Help companies to obtain IP rights ". To strengthen this measure, the SPTO has used a large quantity of material and human resources for development of telematics tools, by means of which it facilitates registration and consultation of information about IP for users.

On the same line, several programmes for promoting IP have been carried out to raise society's awareness. In addition to this, some important, systematic action has been taken to simplify registration procedures with a view to **reducing the administrative burden of obtaining IP rights** to strengthen SPTO's position as an office that strives for excellence: closer, more agile and flexible and, above all, efficient customer service.

According to a report published by the [European Observatory on Infringements of Intellectual Property Rights: Intellectual Property: Eurobarometer of indicators for SMEs 2016](https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/sme_scoreboard_study_2016/Executive-summary.es.pdf)" a mere 9% of European SMEs registered their IP rights (IPR). After surveying almost 9,000 SMEs in the EU to evaluate how they use their IPR, and the effect of this on economic results, the report indicates that SMEs prefer to register **their internet domain names and use of trade secrets** over any type of protective measures. **They mention that the main reason for registering IP rights is prevention of copies**, although 35% of SMEs that have not protected any of their rights, confess doing so since they see no benefit in protecting their IPR. Among the reasons mentioned for not taking protective measures, are **lack of knowledge** of IPR procedures, as well as **complexity and high costs**:

https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/sme_scoreboard_study_2016/Executive-summary.es.pdf



- I see no benefit in protecting innovations
- Avoid the risk of possible litigation
- Avoid potential difficulties protecting these rights
- Procedures are too time consuming and burdensome

- Procedures are too costly
- Lack of sufficient knowledge
- Others

The time has come to take stock and look to the future, with continuity, but with the ambition to continue to encourage **competitiveness and innovation in Spain** through Industrial Property rights. That is why Spain is a key country in the world of innovation, a country of talent and opportunities, which are boosted when IP rights are used strategically in global markets.

Spaniards see **innovation** and **scientific investigation** as an inarguable part of our social progress. Therefore, **Spain ranks 28th** in the global list of the 128 economies analysed, according to the **World Innovation Index (IMI) 2016** that ranks the results of innovation of countries and economies in different regions of the world based on 80 indicators; showing Spain has been in a stable situation since 2014. <https://www.globalinnovationindex.org/gii-2016-report>

The IMI index is published jointly by the WIPO, Cornell University and INSEAD, and analyses the function of people and teams in the innovation process. It also sheds light on different aspects of the human resources necessary for innovation, including qualified manpower, the intersection with capital, human, finance and technology, retention of skilled workers and mobilisation of people with advanced training.

Switzerland, Sweden and the United Kingdom lead the ranking. Spain performs well in aspects such as **robust implementation of ICTS**, particularly in government (ranked fourth among the countries analysed), **ecological sustainability and environmental behaviour** (fourth and sixth positions, respectively), **market** (thirteenth position), **creative activity** in terms of **Industrial Designs** presented by Spanish residents, ranked ninth. However, the number of patents registered by Spanish residents is still low, which has a negative impact on the country's innovative efficiency.

Global Innovation Index 2016 ranking;

Global Innovation Index 2016 rankings

Country/Economy	Score (0–100)	Rank	Income	Rank	Region	Rank	Efficiency Ratio	Rank	Median: 0.65
Switzerland	66.28	1	HI	1	EUR	1	0.94	5	
Sweden	63.57	2	HI	2	EUR	2	0.86	10	
United Kingdom	61.93	3	HI	3	EUR	3	0.83	14	
United States of America	61.40	4	HI	4	NAC	1	0.79	25	
Finland	59.90	5	HI	5	EUR	4	0.75	32	
Singapore	59.16	6	HI	6	SEAO	1	0.62	78	
Ireland	59.03	7	HI	7	EUR	5	0.89	8	
Denmark	58.45	8	HI	8	EUR	6	0.74	34	
Netherlands	58.29	9	HI	9	EUR	7	0.82	20	
Germany	57.94	10	HI	10	EUR	8	0.87	9	
Korea, Rep.	57.15	11	HI	11	SEAO	2	0.80	24	
Luxembourg	57.11	12	HI	12	EUR	9	1.02	1	
Iceland	55.99	13	HI	13	EUR	10	0.98	3	
Hong Kong (China)	55.69	14	HI	14	SEAO	3	0.61	83	
Canada	54.71	15	HI	15	NAC	2	0.67	57	
Japan	54.52	16	HI	16	SEAO	4	0.65	65	
New Zealand	54.23	17	HI	17	SEAO	5	0.73	40	
France	54.04	18	HI	18	EUR	11	0.73	44	
Australia	53.07	19	HI	19	SEAO	6	0.64	73	
Austria	52.65	20	HI	20	EUR	12	0.73	43	
Israel	52.28	21	HI	21	NAWA	1	0.81	23	
Norway	52.01	22	HI	22	EUR	13	0.68	55	
Belgium	51.97	23	HI	23	EUR	14	0.78	27	
Estonia	51.73	24	HI	24	EUR	15	0.91	6	
China	50.57	25	UM	1	SEAO	7	0.90	7	
Malta	50.44	26	HI	25	EUR	16	0.98	2	
Czech Republic	49.40	27	HI	26	EUR	17	0.82	21	
Spain	49.19	28	HI	27	EUR	18	0.72	48	
Italy	47.17	29	HI	28	EUR	19	0.74	33	
Portugal	46.45	30	HI	29	EUR	20	0.75	31	
Cyprus	46.34	31	HI	30	NAWA	2	0.79	26	
Slovenia	45.97	32	HI	31	EUR	21	0.74	39	

In October 2016, the European Union Intellectual Property Office - EUIPO - published a second study on the impact of intellectual Property rights (IPR) on the European economy in terms of GNP, jobs, salaries and trade <https://euipo.europa.eu/ohimportal/en/web/observatory/ip-contribution>

The study reveals that more than **42 % of all economic activity in the EU** (around €5.7 billion/year) **are generated by sectors with intensive IPR**, and that approximately 38% of all jobs in the EU (82 million) are in these sectors, which make higher-than-average use of IP rights. It should also be mentioned that salaries in IPR-intensive sectors are 46% higher.

These sectors have also proven **more resilient to the economic crisis**. When comparing the results of this study (which covers the 2011-2013 period) with those of the previous edition (from 2008-2010), the contribution made by these sectors to the economy of the EU has increased slightly.

Industrial Property data and figures published every year by the SPTO [http://www.oepm.es/es/sobre_oepm/actividades_estadisticas/estadisticas/La OEPM en Cifras/index.html](http://www.oepm.es/es/sobre_oepm/actividades_estadisticas/estadisticas/La_OEPM_en_Cifras/index.html) give an **overview** that complements measurement of innovative activity in our country. In **2016**, a total of **52,109** applications were made to the SPTO for national trademarks and **52,109** and **7,388** tradenames, totalling **59,497 distinctive signs**.

In addition, **2,849 patents** and **2,427 utility models** were filed, making a total of **5,276 technological inventions** and **2,096 industrial designs**.

Because of the great efforts and resources used by the SPTO, around 80% of national applications for distinctive signs are made by electronic means, and 84% and 63% in the case of applications for industrial designs and inventions, respectively.

European patent applications of Spanish origin (i.e. Title-holders resident in Spain) have increased significantly in recent years from 1,471 in 2014 to 1,558 applications in 2016, however, the most surprising figures were: **European patents of Spanish origin granted** increased from **467** in 2014 to **752** in 2016. Most companies take the European route when registering patents in Spain, accounting for **94.8%, with growth in validations in Spain of 20% in the last year**.

There was an important, 21% increase in applications for **community designs** by Spaniards and a 4% increase of applications for **European trade marks** to the EUIPO, having filed almost 10,000 EU trademarks. Internationally speaking, Spain is **ranked fourth in the European Union** in the number of applications for EU trademarks, and is **the 5th country** in the world and **the 6th EU country** in applications for **community designs** and **8th in the world**.

There has been a slight fall in the number of **international trademark applications** of Spanish origin, with 590 of these filed in 2016.

The inflow of **PCT applications** to the SPTO remained constant, with 1,504 applications. In this regard, Spain ranks 9th in the EU and 17th in the world.

It is of note that SPTO was the international **ISA/IPEA** from 1993/2003 respectively, becoming **one of the 22 National Intellectual Property Offices** thus classified: http://www.wipo.int/pct/en/access/isa_ipea_agreements.html

When it comes to applications for European patents, the situation is no better, with Spain ranked **12th in the EU** in applications and **17th in the world**. Because of this, the SPTO has worked hard to encourage a culture of registration of technological innovation by means of patents.

These efforts were rewarded in April 2017, with the coming into force of **Law 24/2015, of 24 July, on Patents**, which has been a milestone in modern IP law in our country. This law brings the Spanish law on Patents in line with its international counterparts and strengthens the national Patent system, establishing a legal framework dominated by **genuinely inventive and innovative activity, implementing a single procedure for granting protection** that will improve legal certainty of applicants and improve the image of the national Patent.

Another important milestone for our country, which we are in the process of addressing, will be the transposition to Spanish law of the regulations contained in **Directive (EU) No. 2015/2436 of the European Parliament and of the Council of 16 December 2015**, to adapt the laws of the Member States relating to trade marks. This means transposing the new rules to the laws of Member States. As well as harmonising the national trademark registration system with the European Union trademark registration system (EUIPO), the new reform of the Trademark Law is designed to incorporate certain regulations imposed by practical experience obtained from case law and scientific doctrine.

Among the most significant **changes** are the formal requirement in the trade mark concept regarding “graphic representation”, which is replaced by simple **"representation"**; systematisation and reclassification of the **absolute grounds for refusal against registration**, specifically, those relating to protected designations of origin (**DO**) and geographical indications (**IGP**); the removal of the distinction between well-known marks and renowned trademarks by creating a single, better protected category: the **renowned trademark**; and the possibility of demanding **proof of use** of the trade mark on which the owner-opponent bases the opposition. It also grants **powers to the SPTO to directly issue decisions on nullity or revocation** and to the Courts to hear counterclaims, thus creating a **new fee** for filing an application for nullity or revocation before the SPTO.

All the changes will take effect after approval of the bill on **14 January 2019**, except for the powers of the SPTO to rule **directly on nullity or revocation of trademarks, which will not take effect until 14 January 2023**.

Bearing in mind our spirit of continuous improvement, and our quest to provide citizens with increasingly agile, flexible and accessible public services, and considering the new regulatory framework and the near future, the new **Strategic Plan 2017-2020** has been drafted, which intends to drive innovation and economic growth in Spain, by making Intellectual Property a part of Spanish business culture and society.

This ambitious **four-year plan** is designed to raise awareness of the benefits available to Spanish companies and entrepreneurs that make strategic use of protection of intangible assets by registering Intellectual Property rights and increasing the number of IP registrations; for which it must facilitate access and the way of registering those rights and access to free databases. They will also continue to implement new programmes and to create tools that will drive analysis and incorporation of IP in an easy, integrated way in overall business strategies, new actions to encourage observance of owners’ rights and to significantly increase the profile of the SPTO in international forums.

To do all this, **four strategic lines of action** have been established with a set of **27 measures** which are going to be regularly controlled, measured and revised to ensure 100% compliance.

STRATEGIC PLAN 2017-2020 on IP:

1. PROMOTION OF INTELLECTUAL PROPERTY IN SPAIN

This line of action is intended to achieve **nine objectives** of importance that must be considered when raising awareness of Intellectual Property among the public, to create a real culture of IP knowledge that generates value for the business community and wellbeing for society.

a) IP promotion among SMEs and entrepreneurs

For the duration of the plan, the SPTO intends to carry out numerous initiatives for customised promotion of IP among SMEs and entrepreneurs, organising seminars, workshops, courses and seminars, which will be advertised at sector trade fairs. Specific efforts will be made to disseminate information about IP to SMEs and entrepreneurs.

b) Promotion of IP in universities and secondary schools

To achieve this objective, which is to provide training in IP to future Spanish entrepreneurs and businesspeople, the idea is to carry out a series of training actions for students, such as seminars, workshops and trade fairs. Closer relationships will be established with other public bodies to promote the creation of an IP-based culture and educational materials will be created to support students and teachers.

c) IP promotion among Public Administrations

The SPTO will hold regular meetings with other government bodies to raise awareness of the importance of IP and the services that the SPTO offers to its users.

d) Drive means of communication: increase the visibility of the SPTO

Work will be done to increase the visibility of the SPTO on social networks through institutional profiles on Twitter and Facebook and through the monthly electronic magazine INFOPI, the YouTube channel of the SPTO and the institutional blog of "Patents and Trademarks" located in Madrid. This will be strengthened by media liaisons by producing articles, interviews and reports for the specialised press and sending information about IP and SPTO activities to interest groups by email.

8

e) New SPTO studies, articles and publications

By carrying out new studies, creating new articles and publications, the SPTO works to disseminate knowledge of IP among a specialised audience in specific technological sectors.

f) Analysis of statistical behaviour of IP modalities by means of SPTO indicators

To facilitate access to public data on IP, the SPTO offers information about statistics of the different IP modalities and variations in specific time periods through the SPTOESTAD database, and responds to requests made through the department email account estadisticas@oepm.es

g) Fostering relationships with strategic partners and cooperation agreements

To create a real IP based culture, the SPTO cooperates with strategic partners, that support and nourish the change of industrial model to the knowledge economy.

h) Encouraging technology transfer

Investing in innovation without generating value is a pointless exercise. That is why it is essential to market this innovation according to a competitive, overall, efficient strategy that will generate wealth and social wellbeing. Because of this, the SPTO invests in public-private collaboration to help make this technology transfer a reality.

i) Grants and subsidies to encourage national patent and utility models.

Annual calls for grants and subsidies are organised to encourage patent and utility model applications, provided this is authorised by the Budget Law, both for SMEs and for individuals.

2. INTERNATIONALISATION

The second line of action consists of **five objectives** of great importance for positioning Spain, through the SPTO, in a relevant international position, to enable our companies and entrepreneurs to improve their ranking in global markets.

a) Nurture relationships with other National IP Offices and Supranational IP Bodies.

Spain, through the SPTO, has bilateral and multilateral relationships with national and supranational offices, by means of Memoranda of Understanding (MoU), work meeting and collaboration agreements, which are of benefit to our business community and wellbeing.

b) Fostering relationships with the Iberoamerican region

a. In the framework of the FIT/ES

b. In the framework of the IBEPI Iberoamerican Programme

Iberoamerica is one of the main markets for Spanish companies and entrepreneurs. That is why, as part of this Plan, and using the Spain's fund in the World Intellectual Property Organization (WIPO) and the *Programa Iberoamericano de Propiedad Industrial* (IBEPI), action will be taken to encourage strategic use of IP as a tool for the development and integration of Iberoamerican states, encouraging sharing of good practices in the use of IP systems.

c) Foster Spanish presence in international IP forums. Spain strategic interlocutor in terms of IP in Europe and Internationally

a. Advocating for Spanish interests in IP matters in European and International Forums

b. Promotion of Spanish as a technology language

c. European and community projects and programmes

With the objective of achieving an appropriate positioning for Spain according to its investment in innovation, it is necessary to promote and present SPTO in European and International forums and programmes.

d) Promotion of the "Patent Prosecution Highway (PPH)" system

To promote internationalisation of our companies, the SPTO has signed a series of agreements known as PPH at an international level, which enable SPTO applicants to fast-track applications to other offices that participate in the PPH programme, if they comply with some requirements. These agreements facilitate information exchange between offices, avoiding duplication of efforts and speeding up the procedures, which ultimately make for a better service to patent applicants. Use of this Plan will boost dissemination to promote use and knowledge.

e) Support for companies, entrepreneurs and SMEs in internationalisation. Aid and subsidies to encourage patent applications and utility models abroad

Through this action, the SPTO will stimulate international protection of technologies through patents and utility models and, more specifically, it will improve competitiveness of companies in search of markets outside Spain.

3. OBSERVANCE OF IP RIGHTS

This third line of action includes **four key initiatives** to monitor and enforce IP rights acquired by means of registration of IP and respect for the rights of third parties. The credibility of an industrial property system depends largely on the implementation of the rights conferred.

a) Activities and participation in committees involved in the fight against infringements of Intellectual Property rights: CAPRI, EUIPO Observatory

- a. Establishing activities and work groups to oversee the enforcement of intellectual property rights that work properly at the national, regional and international levels is the best instrument for restricting and, if necessary, resolving IP infringements, thus ensuring that right-holders and society can benefit from an efficient IP system.
- b. Awareness raising actions in the field of counterfeiting

To have an effective IP system, a priority concern is training and awareness of the importance of IP protection and respect for the rights of third parties. To do this, the Plan foresees introducing a series of activities to raise awareness of the extent of this problem in society.

- c. Training for specialised participants: FCSE, judges and prosecutors, customs etc
- d. Information and training for companies whose rights are infringed

The only way to combat the scourge of counterfeiting and all the problems associated with its proliferation is coordinated action by the FCSE, tax agency (AEAT), judges, prosecutors, associations of IP rights holders, consumer associations, confederations, and so on. The Plan aims to train all groups involved in IP matters, providing them with relevant information and data on counterfeiting through its microsite: [stopfalsificaciones](http://stopfalsificaciones@oepm.es) and department mailbox stopfalsificaciones@oepm.es.

4. QUALITY AND EXCELLENCE

With a spirit of constant improvement and effort, this fourth line of action includes **nine objectives** which aim to achieve excellence in management, by improving public services that are offered to users.

a) Improvements to SPTO services to users

The Plan provides organising different activities to give users access to information about IP such as the development of new Technology Alerts, new BVT and mobility of IT applications. It also includes new services for SMEs and improvements to existing companies, as well as general information services.

b) Improvements to processing procedures

It is essential to have an agile, effective IP system to improve the SPTO's processing procedures. To do this, the SPTO has published service charters <http://oepm-calidad.es/atencionAlUsuario/cartasDeServicio.html> with deadlines that are agreeing to comply with and in addition, it will conduct a series of actions aimed at shortening deadlines and simplification of procedures.

c) Encourage internal communication and objective-based work

The SPTO's most powerful asset is its workers. That is why the Strategic Plan expressly prioritises transparency within the organisation and cross-cutting and internal communication within each department. Regular meetings are scheduled to share all relevant information with the workforce.

d) Update of quality certifications and implementation of new certificates

With the conviction that certifications are evidence of conformity with standards by an independent entity, which can definitely affirm that the SPTO meets the requirements, we have opted to upgrade our existing quality certifications and to implement new certificates.

e) Staff training

Internal staff training is constant, and new training activities are carried out every year.

f) Trademark Law Reform (transposition of EU Directive 2015/2436). Amendment of the Trademark Act and its implementing regulations Effects of Implementation

The transposition of the rules contained in the Directive (EU) 2015/2436 of the European Parliament and of the Council, of 16 December 2015, to Spanish Law demanded a reform of the Trademark Act. The Plan includes all actions necessary for introduction and implementation.

g) Corporate social responsibility (CSR) and socially responsible investment, which purports to be an [active and voluntary contribution to the social, economic and environmental improvement](#) on the part of the SPTO by means of these actions:

- a. Work-life balance**
- b. Energy saving**
- c. Charitable campaigns**
- d. Promoting a safe and efficient digital environment** is the basis of the digital transformation of the SPTO. To do this, initiatives are taken in different areas:
 - i. Improved electronic processing of applications for inventions**
 - ii. Improved electronic processing of trademark applications, adaptation of IT tools to reform the Trademark Act and further improvements in electronic trademark processing**
 - iii. Incorporate security in IT systems and periodic checks on these as a process**
 - iv. Simplification of IT systems**
 - v. Establishing action protocols for recurring activities.** With the aim of reducing the risks to which the SPTO is exposed, and to transform weaknesses into strengths, internal protocols will be established for routine activities and extraordinary situations.