



Column

To trust or not to trust – that is the question

The automotive sector has seen quite unsettled times. Even the largest car manufacturers have run into trouble having to take drastic measures. The most far-reaching ones involved the selling of a number of car makes to companies from countries such as Russia, India and China.

One significant question when it comes to selling a car make is this: what happens to the intellectual property (IP)? Here one should think of the name and logo of the car make and the car design. What is left of the carefully built image should design fall into the hands of a selling party with a quite different reputation?

Intellectual property also involves the technical knowledge that makes car manufacturing possible. Much of this knowledge is protected by patents. But then, what to do if the buyer is a company you do not trust? Indeed the technical knowledge may be protected by patents, but that has not stopped several companies from applying this knowledge nevertheless. In some countries the intellectual property right and especially the enforcement of this right simply does not take priority.

Example: Ford is about to sell Volvo to the Chinese company Geeley. Geeley has only been manufacturing cars since 1997 and it remains to be seen whether the company can be trusted when it comes to IP issues. Now in this scenario, would you provide this company with your technology? The takeover condition now seems to be the following: Geeley may only use this Ford technology for Volvo cars and not for its own car makes.

General Motors is more uncomfortable with this condition. An obstacle in the selling of Opel seems to have been the regulation of the IP rights. With Saab, General Motors handled things differently. The rights to the old Saab models, including the old Saab technology, passed into Chinese hands. The rights to the new models, including related GM technology, were acquired by the Dutch car manufacturer Spyker (this only happened after Spyker's Russian shareholder had been bought out).

Suppliers of car manufacturers too are familiar with this problem. Will they be willing to share their latest technology with a car manufacturer who has become the property of a foreign parent company with a dubious reputation in terms of IP? Or will suppliers in the future only continue to share certain high-quality technology with a select group of western companies? This would mean they would abandon potential sales at large Asian markets and not be able to join in any Eastern success.

Companies will need to make their own choices. But surely we can learn from the past: the Dutch Patent Act came into existence only a century ago when the Dutch manufacturing industry had taken over its technological arrears compared to the rest of Europe. Self-interest made us respect intellectual property there and then. Considering the fast technological developments in China and India, the odds are that these countries too will be taking intellectual property more into consideration, out of self-interest.

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Paul works for small and medium-sized businesses but also for large international firms. He prepares patent applications, supervises these applications until patent is granted, conducts proceedings upon request and advises on other aspects of the protection of the intellectual property.

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