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# Managing Intellectual Property

The Global IP Resource

## IP CLINIC: SHOULD I SET UP MY OWN IP BOUTIQUE?

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23 January 2015

**What do I need to take into account before I make the move?**

### THE FORMER IN-HOUSE COUNSEL

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I had been in-house with the same company for 18 years and there was a new general counsel and some management changes, so I thought it was time to move on. I had an opportunity to join a law firm but I decided to start a solo practice instead and I'm glad I did: I really enjoy it and I have a lot of terrific clients.

It was February 2009 when I started, and it was a tough economic time. I had a conversation with a friend who was a partner in a large law firm and they were talking about being closer to clients and being more sensitive to clients' needs, but not about reducing rates and I thought: "There's a business opportunity here!"

The most important piece of advice I would give to someone in a similar position is: you must have a business plan, including a budget with capital and expenditures. And you have to be ruthless about overhead. It's very easy to spend lots of money without realising it.

The biggest challenge is conquering the terror. You're used to getting a pay cheque twice a month, as well as benefits and so on, and suddenly you have to eat what you kill. So you have to spend time on marketing, networking and building contacts and stay upbeat even when the phone doesn't ring for a while: it took me four months before I got my first client.

Being a solo practitioner is right for a certain type of person. I enjoy being able to do creative billing with clients, I like my independence and I'm glad I don't have to deal with a lot of HR issues. But if you like the collegiality of the workplace or you need other people to motivate you, or if you don't have a passion for legal practice, it's probably not for you.

I work in trade mark prosecution, counselling and enforcement. I'm lucky that there is a lot of work that is pretty straightforward and does not need an army of expensive lawyers. Of course I don't pitch for the huge cases and I think my clients understand that.

You have to be aware of some of the downsides. I do my own docketing and billing, which takes time; and it can be hard to get away – you have to plan vacations long in advance. And you can't go down the corridor and ask someone else to take care of a matter or give you a second opinion – you sometimes have to be available 24/7. On the other hand, I have a lot of flexibility in my hours and that allows me to spend time on volunteer activities.

Looking back, I suppose I would probably have bought a more powerful computer at the beginning! I also spent a lot of time trying to win business from overseas but in hindsight I under-estimated the power of cross-referrals. On the other hand, I have been doing more litigation than I expected. I don't have any regrets at all.



*Paul Reidl  
Law Office of Paul W Reidl  
Northern California*

## THE FORMER FULL-SERVICE FIRM LAWYER

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For me there was no reason not to start an IP boutique firm. I had been playing with the idea for a while, and knew that one day I was going to do it anyway. When I suddenly had the opportunity to do it together with my former A&O colleague Thierry van Innis, it became an absolute no-brainer. Thierry's grey hair and second-to-none reputation as an IP litigator in Belgium (and beyond) complemented my entrepreneurial spirit, and gave us instant street credibility.

Thierry and I have always shared the opinion that a full service international law firm is not the ideal platform for an IP litigation practice, especially not in the Belgian market. A little less than two years ago, we decided to go for it and start our own firm. Straight from the start, we have been blessed to be involved in some of the most touted IP cases that play in our jurisdiction. We were followed by many of our existing clients at our previous firms, and attracted new instructions from many other creative and innovative clients, almost all pioneers in their respective fields.

More than other areas of law such as mergers and acquisitions or project finance, I believe that intellectual property is an ideal subject matter to be practised in a boutique setting. With a team that is five or six people strong, there is no case, regardless of its complexity, that you cannot handle. Clients seem particularly happy with the personable setting of our boutique, and our personal but very tenacious approach to their disputes. We fight for each case as if it was our own. Our flexibility in terms of pricing and fee arrangements allows us to invest a lot of partner time in the disputes we handle, often together, which is highly appreciated by clients. We don't have to worry about an "inefficient" allocation of the work, a variable that typically influences lawyering at large firms. I have also experienced that it is not as difficult as I expected it would be to attract top quality associates. We can compete with the big firms for the best students in class, who also seem to have embraced the boutique concept, and don't care as much about the big firm name on their CVs as they used to do.

Although we are not part of a large international firm and do not have formal relationships with other offices in other jurisdictions (sometimes seen as a disadvantage of a boutique), this has not prevented us from taking on multi-jurisdictional work. We work together very well with some of the finest best friend firms, both in the EU and the US. Many of the lawyers we work with in other countries are former colleagues or former classmates, who have in the past 10 years launched similar boutiques. We know what they are worth, that they are true specialists, and that they also strive to deliver the highest possible quality of service.

If I had to name one downside of the boutique format, it would have to be the absence of some of the business support services that are available for big firm lawyers. However, we quickly got used to that, and this potential downside is outweighed by far by the advantages of the boutique format, both for our practice and for our clients.



*Dieter Delarue*  
*Antwerp*  
*Van Innis & Delarue*

## THE CONSULTANT

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This is a tricky question. Perhaps I am not the right one to ask because I decided against it for myself, even though some would say that I should have. But that does not mean that it could not be perfect for others. So what would it take? The first thing, I think, would be to have some experience from working in the field of IP. Without hands-on experience it would be too difficult. Having a solid pack of connection would be extremely helpful, but something that could be caught up on.

It was a lot easier to set up a new firm 10-20 years ago. The market has changed significantly in a fairly short amount of time. Of these, perhaps the most significant is fees. With procurement departments ruling many large clients these days I think things are quite hard. However, the advantage of setting up shop today would be that the new rules on pricing and fees would be a known factor, and a new firm would be able to put together an offering of different packages with levels of service and rates to suit different clients. This is harder for established firms, which have difficulty in breaking away from existing price structures. In my experience many older firms, which grew in the golden age of filings and procedural work, can find it hard to adapt in a new business environment.

Another clear advantage of starting from scratch is that you would not be tied down by old systems and routines. A new firm would be able to launch with new technologies from the start and select people who would be excited about joining a new venture and helping it succeed.

On the other hand, it takes time, effort and personal risk to set up in a marketplace that is quite cluttered. There are many good and strong established firms in most countries, and it might be difficult to stand out from the crowd. In Europe the competition is quite fierce, and unfortunately in some countries the competition is all about offering lower prices on procedural work. You would need to have something different to offer, or not do it all. However, there is plenty to do. The importance of IP in society will keep growing and changing, and there are many services related to IP that are actually far more fun to work with than registration of rights (one has to find the positive!). A new firm needs to consider providing services in areas such as unfair competition, advertising and entertainment law.

Some things have not changed. Clients will be won and kept for the same reasons as they did before. As a client, you want an adviser who asks the right questions, who listens and who tells you what they would do if they were you. You don't want someone who lists all the risks but provides no guidance. You want someone you like and trust. You want someone who is passionate about working with you, and who will look to defend your best interest, even when you did not ask them. You want someone who will think ahead and be proactive, someone who will find a solution and not always want to go to war. For many clients, these qualities are more important than the size of the firm.

Setting up a new IP boutique today is not something to be discouraged. If you are good with people, you have the energy, the connections, the vision and the ability to analyse the market, then find your niche and set your strategy and go for it.



*Tove Graulund*  
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