



The Magic of Managing IP Portfolio

Every organization has a reason for being. It might be a unique ability to offer a particular product or service, or it might arise from having been in the right place at the right time with certain set of capabilities. But at its core, your organization probably relies on Intellectual Property (IP) far more than you imagine.

“IP Management is the Cinderella of the modern organization, whose value has long been unrecognized, but is now being swept into prominence”

The knowledge and ability to innovate is frequently the difference between organizations that succeed and those that fail. Physical assets and traditional sources of competitive advantage such as manufacturing or service capability or location have far less relevance. The value of many of the world’s largest companies is increasingly vested in knowledge-based, intangible assets. An economy based on these assets is often known as ‘Innovation Economy’.

Identifying, protecting, managing and exploiting valuable intellectual property is the core element of success of any technology-based / services organizations and this defines as a key differentiator in this economy.

It is critical that corporations assess their Intellectual Property (“IP”) management programs to ensure that they are deriving maximum value from this important asset. There are several ways in which value can be derived from intellectual property, including:

- Protecting important commercial products and processes.
- Blocking competitors from entering the market.
- Lead time for developing, manufacturing and selling products.
- Licensing assets.
- Enforcing assets for exacting royalties and damages.
- Deterring competitors from enforcing their patents against you.
- Adding a negotiating tool to your tool box.

Appropriate Intellectual Property Management is specific to a company’s corporate culture and business objectives. Approaches to management can fall anywhere on a broad spectrum ranging from “defensive” to “aggressive,” depending on what the organisation wants to accomplish.

Create Wealth but Not Risk

A “defensive” Intellectual property management model would lead a organisation to focus on generating a worldwide patent portfolio for the primary purpose of protecting royalty payments or taxes paid by foreign subsidiaries for rights to the parent’s technology. An organisation following a “defensive” Intellectual Property management model might also be generating an extensive patent portfolio to impress investors. For start-ups, this could be critical to raising venture capital money. Public organisations frequently tout their extensive patent portfolios to substantiate their commitment to technology in hopes of boosting or maintaining the value of their stock.

On the other end of the spectrum, organisations following an “aggressive” Intellectual Property Management model might license out their Intellectual Property Rights and technology. Few organisations “mine” their existing portfolios—that is, they look for unused or less important existing Intellectual property assets (such assets that don’t support a company’s businesses) to offer for licensing to others.

In addition, organisations may also develop a patent portfolio to enhance their freedom to operate in a certain field of operation. Such patents act as a deterrent to competitors against suing the owner of this portfolio. As part of a pre-litigation due diligence, organisations commonly study the target their own patent portfolio to identify patents that could be asserted by the target in a counterclaim. The identification of a substantial potential problem often deters a organisations from asserting its own patents against the target. These “freedom-to-operate” patents do not necessarily cover or relate to organisations’ own operations, but are based on its understanding of where its main competitors operate and its identification of areas for patenting within the competitor’s field of operation.

Intellectual Property as a Metric for Innovation

Anyone who is in the field of Intellectual Property recognizes the value that corporations place on aggregate IP numbers - primarily the number of patent filings. However, such filings are an imperfect indicator of actual innovation for a variety of reasons. Raw numbers provide no information about the scope of protection afforded by the patent filing, thus providing the same “score” for an incremental advance in science, as it does for a ground-breaking invention. Raw numbers also fail to take into consideration other valuable information including filing strategy for a particular industry, or for that matter, a broader corporate strategy, such as patent protection versus equally, if not more valuable, trade secret protection. Despite the inherent limitations of using Intellectual Property as a measure of innovation, there is certainly a correlation between patent activity and research and development (R&D). Simply put, patent-based indicators do measure the productivity of research, if one accurately measures patenting activity.

Transform to Compete in Technology Market

To accurately account for the role that Intellectual Property has on innovation, there are many factors that developing countries need to consider beyond the aggregate patent numbers. The result of these factors will be to increase research productivity, which will ultimately result in an increase in patent activity. In addition, there is undeniable link between a country’s Intellectual Property enforcement framework and innovation. Stronger patent rights, such as better enforcement mechanisms, a lower number of restrictions on Intellectual property protection, or more patentable subject matters stimulate inventors to file more patent applications, and seek protection in the developing country.



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