An Innovative Approach to IP - Are You Protecting Too Much?

by Alexander Tang

There is a lot of literature about how leading companies successfully maximize the value of their intellectual property (IP) because they have the right processes aligned with the right products aimed at the right markets with the right enabling IP. This requires a company to have three things “right” to maximize the value of their IP. Seems daunting. But at the heart of their success is their ability to align innovation and IP strategies by understanding their core competency.

Think of your core competency as the fundamental differentiator that causes a customer to buy from you today or in the future. It is the customer-perceived value rather than the internal view of value.

Core IP should directly relate to your core competencies and needs to be protected because it:

- Defines your brand through the end user experience
- Sets your company apart in a crowded market place
- Blocks competitors from entry into these markets

The issue is that many companies protect or pursue too much IP that falls outside of the core (in some cases as much as 80%), resulting in wasted time and money. The America Invents Act (AIA) implemented in March 2013 changed the system from “First to Invent” to “First to File” causing further resource losses.

The solution is simple – align IP strategy with core competencies to win in the market. But it’s more easily said than done. Product lifecycles continue to shorten as products and services mature, and the core competencies necessary to go to the next level evolve. This means that just because you have succeeded in introducing breakthrough products in the past, the same approach probably will not work next time. When core competencies evolve, the core IP that enables products must evolve too.

So how do you choose what to protect?

The first step is to identify your core competencies. This will help you maintain your position in the market now and in the future. Here are some of questions that will help you do this:

- What is your company known for or what is it good at?
- If you ask your customers, how will they answer this question?
- How do you really make your money? What is your secret sauce?
- What is your differentiator?

With your core competencies identified, the next step is to plan your IP strategy to enhance your competencies by protecting the right IP. Review your current IP portfolio to understand how the current IP helps maintain differentiation. IP portfolios should include copyrights, trademarks, trade secrets and digital assets along with patents. If you realize that you do not have the IP to maintain differentiation, think of the best way to obtain that IP – licensing it, buying it or filing for it.

It is also valuable to think of the Return on Investment (ROI) of the IP. Does the investment required to file, protect and use the IP make sense based on the return? If not, consider licensing as a way to encourage partners to create alternative development paths.

Innovation is not a linear process. Throughout this IP self-assessment, companies need to pay attention to opportunities presented based on learnings and changing external landscapes.

IP is one of the foundational elements driving and maintaining competitive advantage. Do you understand your core competency? How might that change in the future? Do your IP investments align with your innovation and R&D efforts? Do you know how your markets are marginalized by your competitors or moved to a commodity by low-cost producers? There is no one-size-fits-all method, but these options will definitely provide a starting point for re-evaluating your IP investment and aligning it with innovation strategy.

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