Is My IP Losing Me Money? Part 1

Leading Practices for an IP Strategy that Improves Innovation Results

by Devin Bedwell and Joe Dury

In 2012, Google purchased Motorola Mobility for $12.5 billion. Just two years later, Google sold Motorola Mobility to Lenovo for $3 billion and deemed the transaction a huge success. Even many leading analysts agreed that Google’s move was a win. How can selling an asset for $9.5 billion less than the purchase price be seen as a winning strategic move? The answer lies in Motorola Mobility’s 20,000 patents in the wireless communications space.

Google understands the importance of intellectual property (IP) and was able to acquire Motorola’s patents through the purchase. This positioned Google by giving them tremendous leverage against both Apple and other handset manufacturers, like Samsung. The patents were worth billions of dollars, and they enabled Google to execute on their strategy to solidify their position in the mobile handset marketplace.

IP is key to business and innovation success of any leading firm. US companies spend over $300 billion dollars on R&D activities every year, and protecting that investment with an IP strategy is a necessary component for business viability. Here are some of the latest figures on IP investments:

- In 2014, the World Intellectual Property Organization reported over 2.6 million patent applications worldwide, and almost 7.5 million trademark applications
- Globally, there are over 10 million patents and 33 million trademarks in force
- IP licensing revenue is nearly $200 billion in the US
- The US Patent and Trademark office reported that output from industries designated as “IP Intensive” account for 35% of the US GDP, and 60% of US merchandise exports

The significant levels of investment indicate that companies understand they should protect their intellectual property. However, the true business value derived from IP is often not well understood or even clearly deployed. Is your IP strategy losing you money or is it delivering business value?

Part 1 of this series on IP will cover leading practices for IP strategy. Part 2 will cover commercialization, tools and metrics, and insight into emerging IP trends.

A Definition - IP Management

To extract the most value from intellectual property investment, IP needs to be actively managed, measured, and tracked. This applies to the following types of IP:

- Patents, including both utility patents for inventions and discoveries, and design patents for industrial designs
- Copyrights for software code, literary works, graphic design, audio, video, and other works
- Trademarks and brand identity
- Trade secrets for protected discoveries, inventions, and processes that are core to the business

Comprehensive IP management captures all of these types of intellectual property across the dimensions of strategy, commercialization, and tools and metrics. Effectively managed IP also enables businesses to assess alignment to the business need with measures of value derived from IP spending. It provides a way to identify and correct deficiencies to maximize the value out of IP spend.

Leading Practices for IP Strategy

Define Your IP Strategy

The first step to effectively managing IP is to develop a formal strategy. You should ask the following questions when defining your IP strategy:

1. What is my IP strategy mission statement? How does it tie to the business imperatives? A mission statement aligns and galvanizes resources around a common cause to promote business value from IP.
2. Is my IP spend aligned with my portfolio strategy and technology roadmap? Does organic IP growth represent the best path for the business? Aligning IP spending to product development and technology roadmaps ensures that IP brings value to the portfolio and
development processes.

3. Is my IP strategy offensive or defensive? Offensive IP is used to generate new revenue by capturing new customers and markets. Defensive IP is used to protect market position by anticipating what the competition may be doing. A mix of offensive and defensive IP creates long-term revenue streams and protects market position.

4. Is my IP strategy driven by industry trends, customer needs, or internal R&D priorities? Accounting for all three of these elements is essential to creating a comprehensive IP portfolio.

5. Do I have competitive visibility into market trends? Insights into competitive actions in the marketplace allows a business to react quickly to market trends and shape IP activities to maximize value.

6. Are patents and trade secrets leveraged together? Trade secrets allow companies to protect valuable knowledge or capabilities and prevent reverse-engineering through the patent disclosure process. A comprehensive IP strategy includes both patents and trade secrets to “black box” key areas of development.

Consider Incentive Structures

Another essential element of IP strategy is developing incentive structures that lead to an abundance of quality IP in an organization. Most companies offer monetary incentives for patent disclosures, filings, and when patents are granted. But a strong incentive structure should promote more than the sheer number of patents filed, it should encourage a comprehensive portfolio of quality IP. As an example, some firms have peer reviews to ensure the alignment of IP strategy and that the development creates quality patents.

Other examples of ways to incentivize the development of quality IP include:

- A “patent of the year” award to recognize IP that has delivered significant value to the business based on metrics like revenue protected, revenue generated, or market share gained
- Company-wide recognition and compensation for IP developed in targeted business or technology areas
- Innovator award banquets, recognition by leadership and peers, and publications in industry journals
- “White space risk taker” recognition for enabling technology activities to incentivize incubation

Think Globally

As more business is conducted across the globe, IP strategy should have a clear geographic IP plan. Each country differs widely on patent costs, prosecution times, and enforcement capabilities. It is not feasible - nor is it necessary - to prosecute every patent violation in every country. An international filing strategy can help determine in what country to file for infringement based on probability of enforcement, prosecution cycle times, and cost.

Recent developments in international IP, including the Patent Prosecution Highway and the Patent Cooperation Treaty can help shape the global part of your IP strategy. The Patent Prosecution Highway can fast track the examination of applications in key countries based on their status in participating countries. Leading companies take advantage of the Patent Prosecution Highway to quickly apply for IP protection in favorable jurisdictions and then fast track the application in countries that would typically take longer to process an application. Similarly, the Patent Cooperation Treaty provides a standardized framework for patent submissions in multiple countries, streamlining the search, patentability, and examination of the IP to be submitted.

Conclusion

The first step to effective IP management is developing an IP strategy that aligns to the business imperatives; something Google clearly demonstrated. The IP strategy should be comprehensive, including incentives that encourage the development of quality IP, and contain a plan for dealing with IP in foreign markets.

More Reading

Is My IP Losing Me Money - Part 2

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What's your view? Add your question or comment
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