
IP for all: why monetisation needs a whole-business strategy

The business of intellectual property is no longer about finding ‘Rembrandts in the attic’. Instead, IP decision makers must devise strategies that aim at broader business goals

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Today, most CEOs recognise that their company’s IP portfolio can be a strategic asset. IP monetisation has become a vital endeavour for many companies, whether their goal is income or value. Intellectual assets must be deployed to support product or service strategies at every level, whether or not such efforts are orchestrated by a centralised corporate IP department. However, the business of intellectual property is becoming increasingly complex; it is no longer a question of finding ‘Rembrandts in the attic’ and engaging in opportunistic monetisation activities. Nor is IP monetisation the goal in itself – it is all about devising an IP strategy to address core business issues.

Let us assume that you are in a company that relies on technology for its products, services and revenue. It has a research team and a development organisation, partners, customers and competitors. For years you have been protecting your intellectual property by all of the traditional methods, creating a diverse portfolio in the process. The company has recently created a new position – vice president of intellectual property – and given you the job. Your first task is to devise an IP strategy for the company.

The main question to ask is: what are the biggest challenges and business strategies where IP assets must be deployed through monetisation or other means? The task is then

to identify strategic business issues at any level – whether they affect the company as a whole, a business group, a product or even an individual team – and devise a strategy to address each one:

- Your company’s R&D teams need freedom to operate and your products and offerings must not be barred from shipment to customers. Your strategy should begin with an assessment of your risk mitigation profile, and then the putting in place of a patent cross-licensing plan with key competitors where this is necessary or desirable. You may discover gaps in your IP portfolio that must be filled through acquisition, rather than by organic portfolio growth.
- Your company’s competitors are ‘fast followers’ – they copy some of the innovations in your products and replicate certain core features. Your R&D investment is effectively subsidising their aggressive product pricing. Your company should consider two strategic choices: either license the underlying intellectual property to prevent price erosion from affecting your product or litigate to stop such behaviour.
- Your company is embarking on a major development project, but lacks the funds to implement it. The best IP strategy may be to find a partner and structure a joint development deal that will help to defray development risks and costs by maximising the value of your company’s pre-existing intellectual property.
- Your company is periodically approached by non-practising entities with propositions or demands for patent licensing or sale. In addition to the typical conflict strategy devised with the legal department, your IP strategy may include a broader risk

mitigation approach, involving business arrangements to help with defensive plays. You may also be able to bolster your IP assets with targeted purchases, whether these are opportunistic or planned.

- As in most companies, much of your research technology does not find its way into one of your products. As a result, you are experiencing a brain drain. Some of your researchers are more attached to their projects than to the company, and replacing them is a costly proposition in many ways. Your IP strategy can help: bring in a technology licensing professional to help in the commercialisation of such technology through third parties, thereby bolstering retention.
- Some of your company's offerings include standards-based technologies that are patented by third parties. The best strategy may be to identify standards and patent pools, review your licensing options and perhaps plan to acquire some IP assets to offset potential licensing costs to your company's products.
- Some of your company's offerings may benefit from the adoption of common technology by your partners. Your strategy should be to create an IP licensing programme designed for partners, within your product ecosystem, in a simple, scaleable and programmatic fashion.
- Your IP portfolio costs are increasing and you need to find ways to offset them. Your strategy may include an asset sale plan that allows you to refocus your portfolio while taking advantage of a maturing secondary IP market.

Many of these scenarios will be familiar to most companies with substantial intellectual property. The IP strategies for dealing with them address some of the core business issues. You will be licensing your intellectual property for a fee or leveraging it to lower your company's IP costs. You may also need to spend money to acquire rights or value for a particular product or organisation or to put yourself in a stronger position to address both IP monetisation and broader business goals. Some of these activities may generate revenue from the intellectual property. While

generating revenue from the intellectual property in some of these activities may be the result and the goal, it is a by-product, albeit often well planned and executed, and not the driver of the particular strategy.

Membership of the Licensing Executives Society USA-Canada and International provides access to an amazingly rich pool of IP expertise around the world. A belief that IP monetisation is a by-product of a good IP strategy has been consistently bolstered through the sharing of best practices with other executives from a diverse set of industries. It is increasingly clear that today's IP departments must be strategic to their companies in order to survive; making money with underused assets no longer justifies one's existence.

Managing and monetising an IP portfolio has become a matter of diversification, not unlike managing a financial portfolio. Both IP professionals and business executives must achieve ever-higher and more complex levels of knowledge, expertise and sophistication in order to deploy an appropriate and cohesive set of strategies. It takes a sophisticated team first to devise and then to execute the appropriate strategies, particularly given their international dimension, and to build the necessary network of third-party relationships in the process. The good news is that many resources are available to help companies to close the gap.

This issue of *IP Monetisation 2012* can provide you with tools in pursuit of your company's strategy, whether the focus is on IP valuation, international considerations, a decision to license or buy and sell, or the impact of the latest court cases which may have a profound effect on your licensing practice. It will help you to deal with the fact that IP laws, deal structures, engagement models and the overall IP ecosystem have changed more in the past few years than they have in decades. The popularity of intellectual property – as a topic and an asset class – is accelerating the process. Although these unique circumstances present many challenges, they also provide many opportunities. As in nature, when the environment changes, the players must evolve – and monetisation in support of business strategy is at the core of IP evolution. **iam**

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