# IP P&L

Is becoming a profit centre and measuring success something that all IP departments should aim for? The answer is not as straightforward as it might perhaps appear at first glance

By **Sara-Jayne Clover**

Over the four years that the IP Business Congress (IPBC) has been held, a recurring theme in both formal sessions and private conversations has been how the success of IP departments can and should be measured. The perception is often that the goal of every chief IP officer (CIPO), or equivalent, is to be able to use financial data to demonstrate clearly and unequivocally to their boards the value of their team and the assets that they manage. However, it seems that in fact, this may not always be the case. Clearly, not all companies are run like Philips or Ericsson – organisations in which the IP departments effectively operate as separate businesses, with the inevitable responsibility for profit and loss that ensues. And neither, it seems, would every IP professional want them to be.

During this year's IPBC, *IAM* spoke with several heads of IP about the move towards IP departments being considered profit – rather than cost – centres. We asked whether intellectual property is considered a profit centre and measured as such within their organisation; whether they considered it necessary, or even beneficial, for an IP team to be judged by the revenue it creates; and whether it matters how an IP department is measured, provided that it has the necessary support and infrastructure to succeed in achieving the company's goals.

The responses were surprisingly diverse. While there are clearly those individuals who aspire to having their departments judged by – and, crucially, recognised for – the value that they are creating for the business, there are others who do not believe that any benefit would be gained from having more space on the balance sheet. It can certainly be argued that without these hard facts and figures, the assertions of the IP community that intangible assets are of immense value to a company could fall on deaf ears. However, it is well worth remembering that there are many ways to demonstrate value other than through a profit and loss statement.

**Charles Clark, global head of IP, Edwards Ltd, United Kingdom**

I joined Edwards – a global technology company based in the United Kingdom – shortly after its divestiture from BOC. My boss at the time challenged me to prepare an IP strategy that got exposure across the company. The present executives support my function – they realise that IP creates value and allows them to maximise revenue and profits; but the need for an IP strategy is not seen as providing any real overall benefit. The business has a five-year growth plan and strategy to achieve its goals. I have interpreted that plan with respect to IP and how I can help Edwards to reach its goals as quickly as possible through strategic use of our IP, thereby adding value to the business.

I currently report to the general counsel. However, this reporting structure is changing slightly, as I now also have a dotted line to the chief technology officer. He is one of the company's most prolific inventors and understands intellectual property and how it impacts on our particular business needs. Together we are working on how we might make better use

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**Global head of IP, Edwards Ltd, United Kingdom**
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**Senior vice president of IP strategy, Rambus, United States**
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of IP; and working from our different perspectives is helping to add real value to our IP that underpins the business strategy.

A personal challenge that I face – and it is one shared by my equivalents in most companies – is that intellectual property is not afforded much significance on the balance sheet: it tends to gets bundled into goodwill in the accountancy processes. I think that this should change and that proper accounting processes should be in place to show the value of IP, and patents in particular. There might be good reason for not breaking IP out of the goodwill line (and I'm no accountant); but I feel that the cash and non-cash value of IP should be accounted for (at least for internal purposes), so that a measure of the portfolio's worth can be understood and action taken to improve that if needs be. Others might disagree, asking, "Why would you want to value something unless you want to sell it?"

As with most other companies, I think it depends on who you talk to whether the IP team is seen as a cost or profit centre. I have the full support of the executives to continue with what I'm doing and to maximise the value of intellectual property for the business and our shareholders. However, some in the organisation do see IP as a cost centre – especially from the financial perspective, because not everyone fully appreciates how IP can create value, in part due to insufficient accounting processes. It is a challenge for me to demonstrate the non-cash value of patents to the doubters, especially as we do not have large revenues generated by IP licensing or litigation. If I can demonstrate how IP can help them do their job more quickly and easily, and help them to exceed their monthly targets, then the process of helping them to understand the value that IP can bring is usually well under way.

The CEO of Edwards is very encouraging about protecting our IP and innovation, and the value that this can create. My personal challenge now is quantifying that value in a way that allows me and the business to maximise it. I am steadily working away behind the scenes to identify where our intellectual property has enabled us to enter a new market or prevented a competitor from encroaching on our business; and slowly but surely, I am hoping that the value of our IP assets will become more apparent throughout the business.

**Kevin Donnelly, senior vice president of IP strategy, and Stefan Tamme, senior director of IP strategy and licensing, Rambus, United States**

There is much discussion about how you measure the success of an IP department and many individuals are adamant that it comes down to profit generation. However, not every company has an IP strategy or chief IP officer to drive this. Rambus is pretty unique. We have a different set-up from most other companies, as our product is intellectual property. As a company of inventors, we create new technologies and then develop and license solutions that implement the resulting innovations. As such, our IP group and patent development team are integral elements of our product development. We have a separate IP strategy function that is chartered with steering the direction of our innovation, as well as driving the monetisation efforts for our existing IP. We do this by looking at markets and technology trends that intersect with our areas of expertise and help guide our research teams to finding solutions for problems in technological areas of interest.

**Stefan Tamme**
**Senior director of IP strategy and licensing, Rambus, United States**
"Not everyone has a business model based on intellectual property. And not everyone should"

**Edith Hermans**
**Intellectual asset manager, DSM Dyneema, the Netherlands**
"DSM has no plans for its IP department to become a profit centre, but there is a clear shift towards using intellectual property as leverage"

Since our founding, research and working with customers to implement our solutions have been critical success factors for our business. Ten years ago, we were primarily focused on promoting and licensing complete technology solutions. We came to realise that more flexibility in our licensing model was needed, because while many of our licensees wanted to work with us to implement our solutions in their entirety, others wanted the freedom to implement our technology in different ways. We came up with a bi-modal model of technology solutions licensing and patent licensing to address these different needs.

Those companies that have IP strategy as a key component of their business strategy measure the IP department's success by whether it is profitable. In our case this is an obvious metric, as intellectual property is the key driver for all our revenues; but of course, monetisation is not the only metric that we use. Other considerations include patent quality and quantity, along with how well we provide our licensing team with everything they need in order to engage customers successfully.

It is important to remember that not everyone has a business model based on intellectual property. And not everyone should. If IP licensing is not at the heart of what a company does, and the success of the IP team therefore cannot be directly measured by revenues, there are other possible metrics to use. Examples include how IP improves gross margins and profitability, lowers the costs of inbound licensing or helps to secure freedom to operate. There are always ways to measure the value generated by a successful IP team in terms that a chief financial officer will understand, and successful IP strategy is about defining the right metrics and driving the organisation towards achieving them.

**Edith Hermans, intellectual asset manager, DSM Dyneema, the Netherlands**

DSM has no plans for its IP department to become a profit centre, but there is a clear shift towards using intellectual property as leverage. As a large multinational corporation active in health, nutrition and materials, DSM connects its unique competences in life sciences and materials, where innovation is a key growth driver. The company is organised by different business groups around several strong product brands organised under a newly launched corporate brand, as well as having a number of corporate departments. DSM IP is one of these corporate departments, with more than 50 IP professionals on three continents, and as such plays an advisory role for the various business groups.

In 2007 it was decided that additional roles were needed to supplement the services of the IP group and intellectual asset managers were introduced into some of the more speciality businesses. The idea was to place these individuals within the business groups to define an integrated intellectual asset business strategy. The focus is on guiding the business groups and ensuring that they are creating the right kind of IP; that these rights are defended in the best way; and that they are leveraged to create the maximum business value and profit. The business groups invest in IP in order to see a return on it for themselves and their customers, whether through leveraging into market growth and profit on their product, creating brand value or opening up for partnerships with others.

DSM has deliberately chosen IP to be a service department whose services the

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**Assistant general counsel of IP, Samsung Electronics Co, Ltd, Korea**
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business groups must pay for. In a yearly cycle, the business groups align their IP (patents, trademarks and licensing) budgets with their strategic intellectual asset intent and take this into their profit and loss accounting to ensure that they profit from the IP investments. However, the IP department itself is not accountable for profit and loss.

Business groups have targets for launching new innovations and intellectual property is clearly a key aspect of that. The IP department plays a crucial role in delivering cutting-edge IP services supporting this goal. The added value of having intellectual asset management dedicated to individual business groups is that it is clearly positioned as a business function, responsible for connecting multiple IP disciplines (eg, including patent and trademark expertise, licensing, legal) within the business strategy. The positioning of these roles within the business groups has helped to create a culture change within DSM to make businesspeople aware that intellectual property is not just a legal asset, but a clear business asset which the company can utilise.

**John Kim, assistant general counsel of IP, Samsung Electronics Co, Ltd, Korea**
At Samsung, we have experimented quite a bit with the structure of our IP department in the last 10 years. At various times, we have moved it towards the business units, placed it under the legal function, under the chief technology officer and also under particular executive finance functions. We are still trying to work out where it best fits for a diverse global conglomerate such as ours. At present, we have what we call the IP Centre to centralise the IP work for all business units and to ensure that we take a broader view of our IP strategy.

Samsung has had a chief IP officer for approximately one year and it is through him that I report to the rest of the c-suite. He is a lawyer, but also a PhD in areas of technology that are close to Samsung's heart. The motivation for having a CIPO and the IP Centre is to ensure that there is full debate and opportunity for consensus building before making difficult decisions concerning IP that will affect the bottom line.

Despite having a CIPO, our IP department is not currently a profit centre and there are no immediate plans for it to become one. Frankly, over the last 20 years Samsung has been almost exclusively defensive in terms of managing its intellectual property. My hope – and it's shared by many others at Samsung – is that we can ultimately move to a more visionary approach. The practical reality is that you cannot make this move overnight and the intermediate step is to become selectively offensive. That is where we are right now and probably will be for the next few years. It takes quite a bit of evangelism and persuasion, as well as explaining in very simple terms what the value proposition is, and what the bottom line would be, for such a campaign.

I think it is feasible that Samsung's IP department could become a profit centre at some point in the future and it will evolve in a way that makes sense for Samsung over the next 10 years. But it is difficult for us to say what the future will bring in terms of new businesses and new technologies that will drive the decision-making process for purposes of return on IP investment. However, there are lots of lessons to learn from the mobile telecommunications space: lessons about the interface between IP, business and technology, and about anticipating what the future needs may be to achieve all of Samsung's multi-faceted goals.

The obstacles slowing down the transition of Samsung's IP department into a profit centre are both internal and external. Internally, there is the obstacle of thinking of IP as a zero-sum game; externally, there are obstacles such as finding the right partners and collaboration opportunities. The IP marketplace is very young and the reality is that it is still difficult to find clarity in terms of the bottom-line numbers that executives would want in order to make a straight green-light/red-light business decision. This is a period of dynamic change at Samsung and it is an extraordinary time to be a part of the company as an IP professional.

**Roger Shang, chief patent and technology counsel, Alibaba, China**

Alibaba is a young company that was founded only 12 years ago and our patent portfolio is even younger still; so at this stage, profit making from our patents is just not a priority for us. In my role as chief patent and technology counsel, I report to the general counsel. Alibaba is a wonderful place to be as an IP professional. Not only is the work very exciting, but the senior management really understand the importance of intellectual property – they give me all the support and resources that I need to fulfil my role.

In my opinion, profit making is just one of the parameters on which an IP department should be evaluated. And I do not think it should necessarily be the primary parameter. There are several reasons for this. I see the role of IP, and specifically my department, as primarily to help Alibaba achieve its mission of creating an open and transparent e-commerce platform. This involves sharing our success with others: sellers, developers, vendors etc. Alibaba's business goal is not solely about maximising profit; sometimes we give up profit to make the ecosystem better. That is good for our long-term success, as well as being the right thing to do for advancement in China and globally.

Of course, the attraction of using profit to measure the success of our IP department is that it is quantifiable. It is something that you can run projections and other financial reporting from. Profit making could become a factor that we consider when measuring the success of our IP team, but I think it will be a long time before it ever becomes our primary objective.

As a company, we are very aggressive and long-term looking. We are constantly expanding into new areas to serve our customers better. For example, we noticed that at holiday times, a lot of consumers could not get their parcels in time because China does not have a great logistics system. This is not our website's fault, because sellers choose their own delivery service. However, we wanted to help them and so made a massive investment into building warehouses that logistics companies can use in order to deliver faster. You cannot just do a quick calculation to determine the return on this investment. And this is in the company's DNA: we look long term, we are willing to take risks and we make bold moves to better serve our customers, and this helps to explain why we are not too concerned with the short-term profits.

I think that as long as a company recognises the importance of intellectual property and listens to the senior IP people, then how the reporting structure works and how the IP department is measured do not particularly matter. What is important is that IP is a factor in the company's decision making. *iam*

**Sara-Jayne Clover** Reporter, *IAM* magazine

## Action plan

There are many ways in which the success of an IP department can be measured. Before seeking to persuade the chief executive that profit and loss is the best metric to use, CIPOs and their equivalents should consider the following:

- What internal and external obstacles would need to be overcome in order for your department to become a profit centre?
- Does your company have a clear accounting process in place that can accurately demonstrate the value of intellectual property? If not, can you calculate that value and break it down in such a way that it will be understood and appreciated by the company's financial department?
- Do you have successful methods in place for demonstrating the non-monetary value of your IP to your chief executive? This can include highlighting where the IP has provided the company with freedom to operate or the ability to defend its market share, as well as the quality of the patents your team is producing or the additional value you can provide to clients.
- Do you have the support of your colleagues and line managers? Is there anyone with whom you can build a strategic alliance to better promote the tangible and intangible value of the company's IP to the board members?
- Does a profit and loss measurement of IP make sense for your portfolio, your company and the industry you are in? For example, is revenue generated from licensing or litigation a significant part of your IP strategy or is your IP used primarily for defensive purposes? If it is the latter, perhaps it would not be feasible – or desirable – to measure your department on direct value creation.
- If the move from cost to profit centre is right for your department, how will you begin to implement this change and effectively manage the transition?
- If you are happy with the way in which your IP team is currently supported and resourced, do you want to bring it under increased scrutiny from the board?