
Changes at the top

There has never been a better opportunity for IP executives to claim their rightful place as leaders of corporate growth and value creation

By **Robert C Shearer**

The international economic condition has spotlighted the actual and potential effects of IP on corporate performance. Deals have been delayed and those that have been done face the possibility of unravelling because of the scarcity of cash. Litigation is increasingly used as a business strategy, more so in offensive cash-generation objectives than defence. But the defensive mode is more critical than ever as product differentiation, profit margins and market share have an increasing impact on the income statement. The economy is still reeling from the cash and credit crunch in the financial sector triggered a year ago. The private sector has made some dramatic adjustments and proven some significant measure of agility in the worst of times.

The extensive economic stresses on the company continue to require that senior executives deal with the need for finding cash, credit and customers to avoid serious decline or even extinction. The IP executive is faced with the challenge to take his/her department to the next level of corporate performance and competitiveness, or face the erosion of professional credibility and corporate capability. This situation can get personal very quickly as the challenge of developing increased IP performance is found in the complex and professional relationships among other senior executives and business unit managers. The IP executive must now function as a strategic leader in the enterprise to make

the adjustments necessary for competitiveness.

The IP executive is now a coach, tutor and initiator in chief in an intense and unforgiving environment where the ability to analyse and influence business decisions is of paramount importance. The IP function continues to grow in complexity and effect even if it is not fully or formally recognised by those who occupy the executive suite. The IP executive has reached the C-level in influential or functional terms, and some attention to leadership skills at this level deserves attention.

What our colleagues say

A recently released report by the National Knowledge and Intellectual Property Management Taskforce documents the critical issues in America's corporate IP community. The report, *Critical IP Issues Facing America: Issues Looking for Answers*, revealed that senior management is looking for more contribution from IP operations. The report is based on 34 influence leader interviews, roundtables, conferences and work sessions conducted during the period from December 2008 to June 2009. The participants were promised anonymity and confided their concerns about the role of IP in their companies.

The data suggests that the IP executive enjoys the opportunity to refine or redefine the role of IP in the company.

"Management is still more curious than expectant, so it is a good time to take some initiatives that can help shape the way we do things around here," commented one participant. Every executive interviewed has placed the development of the IP function at the very top of his priority list, followed closely by CEO support and funding. These business leaders know they

must step up to meet the opportunities and expectations of top management.

“The company is not going to rise or fall based on what IP does, but we definitely are looking for ways to make a greater contribution from our IP function,” was the way one very successful Fortune 100 company executive phrased the current situation. “My boss needs to know what we can do for him... but I need to push up my own business capabilities to reach peak performance,” said another IP executive.

“The real challenge is to be able to show value to your colleagues and members of the executive team that can realise more value by including IP in their plans. If you are willing to address their concerns and coach them through the process of using IP, most people will take your lead,” said Tracey Thomas, vice-president and chief IP strategist at American Express.

The focus of this article is on organisation development. The objective is to provoke some new thinking about some things that may at first seem intuitive, but are in fact far more complicated – ways to improve your organisation and your own leadership efforts so that you can better meet the demands and opportunities of this economy.

Organisation development in the business of IP

Organisation development is a discipline like engineering and law. It is closely aligned with organisational psychology that identifies obstacles to performance in behavioural terms and integrates solutions to effect behavioural changes. It can take many forms, but is always anchored in terms that are unique to each company’s performance. To put it another way, organisation development (OD) is not a one size, one solution panacea. Instead, it is the result of careful analysis of needs and the strategies to effect specific performance improvement objectives. OD can be corporate, business unit or project team oriented.

The IP community is rich with intellectual leadership, with many law firms moving attorneys into and out of corporations so that the body of knowledge and business practice innovations spread rapidly. This custom and level of professional excellence has been a boon to America’s competitiveness and helped to create new assets, even bringing IP into an asset class of its own. But the unique role of IP is the focal point wherein knowledge is transformed to earnings – net worth. Intellectual property plays a unique and

enviable role in the global economy because of its flexibility, innovative core and commercial impact. It is the vehicle that empowers entrepreneurs and inventors to enjoy unimaginable success in free market economies.

The IP community is not short of expert opinion and is replete with a dizzying array of analytical choices to measure the immeasurable. The success of Intellectual Ventures’ acquisitions programme and Ocean Tomo’s introduction of the live IP auction have worked to bring greater relevance and reliability to the business of IP. The opportunities for competitive advantage now lie in the ability to track IP value to its source. That source is found in the knowledge and competencies of talent employed and the organisational structures and processes that enable resources to be employed to best serve a market need. The measures of effectiveness have traditionally been corporate revenues and earnings. But the challenge at the top is to be able to make the linkages that integrate intellectual capital, intellectual property, technological innovation and business processes... then to define those linkages in terms that can be understood by C-level contemporaries, bosses and the board of directors.

What we see in this current corporate condition is a need and desire to seize the opportunities that are increasingly prolific, but also inaccessible because of cash/credit/talent limitations. We also see the continuing and growing demands on the IP function – whether it is the need for more attorneys or more licensing executives, or a more effective interface with the product development teams and finance department. The ability to map clearly the relationships among IP and value contributions to corporate financial performance is fundamental to corporate success.

Returning to Tracey Thomas’s first rule of IP influence (showing value), he minimises his own highly developed interpersonal and persuasive leadership skills. Many of us frequently minimise the value of skills that are easy for us, but it would be a mistake to assume that every IP executive has the skills to handle objections, tutor and coach others to adjust the way they do things. In fact, we all know that knowing what to do is easy relative to getting someone else to act on that knowledge.

Leading from the front

But the persuasion and influence skills are ineffective without a strong and

Figure 1. Integrated IP inputs and outputs

Inputs	Outputs (results)
1) Technological and market definition, value measurement and tracking	1a) Identify competitive technological advantages 1b) Identify and define relevant market value 1c) Identify stakeholders and enablers (internal and external) 1d) Develop strategic information to influence corporate behaviour 1e) Develop measures and metrics related to IP and financial influence
2) Showing value	2a) Define business case relevance to stakeholders 2b) Develop decision process and criteria clarity for each stakeholder 2c) Develop motivation strategies for collaborative IP support 2d) Develop the sustainable practices, protocols, systems and tools to simplify work and communicate value
3) Internal IP integration	3a) Develop plans to meet the motivational needs of the C-level team 3b) Define the internal and external linkages required for execution 3c) Promote greater technical knowledge throughout the enterprise 3d) Promote greater understanding of the effects of innovation 3e) Realise greater respect for the influence of IP through the enterprise 3f) Realise faster invention, patent prosecution and innovation 3g) Realise competitive advantage 3h) Realise more recognition in capital markets – a bragging point 3i) Develop aggressive strategies to generate new revenues and market position

convincing logical case for developing the organisation’s capabilities. Consequently, we need to begin the development process using the strengths that someone such as Damon C Matteo, VP and chief IP officer at the Palo Alto Research Center (PARC), shows us. Matteo has developed an extraordinary ability to anticipate the intersection of a technology position with future market value. But perhaps more important is the ability to develop the IP assets necessary to secure that market and realise full value. This analytical and futuristic mapping of IP value is unique and is the enabling force behind Matteo’s success in developing PARC’s organisational capabilities to realise future competitiveness through IP strategy. He continues to develop his department’s strategic and operational proficiencies to create and extract optimal value for the research centre. This attention to the development of sustainable, managed processes has led to Matteo’s emergence as one of the industry’s prescient leaders. Such performance is the result of focus, resource mix and detailed collaborative integration of the IP operations to seize the opportunity for competitive advantage in the economy now and increasingly in the future.

As our collective maturity in corporate IP management grows, we will realise that the IP elements of each function might

best become formal goals. Formal goals get funded and find their way onto the CEO’s agenda. Invariably, every effective OD intervention requires this level of commitment – money, time and CEO leadership.

The operational contributions (outputs) from IP include increased market share, revenues, price premiums (higher margin), better cash flows and earnings. But perhaps most importantly, according to Donald Mondul, is the stimulative effect on creativity and invention throughout the company. Mondul was formerly chief IP counsel at Ericsson, NA, and is now practising privately. The focus on an organisational approach to IP performance is one of the most robust, powerful and productive actions any IP executive might take. The organisational approach would feature three inputs into a proposed development programme. Figure 1 presents the organisational effect in summary form.

If we think about how IP might affect decisions by the employee, how knowledge and initiative affect the inventor, how inventions are the fuel of the company’s economic engine and how the IP function influences these behaviours towards specific corporate performance objectives, we have a framework for a company-specific playbook to take the enterprise to a sustainable competitive advantage. The IP executive might consider this an advanced definition of his/her potential influence on corporate success. Such an endeavour is explicitly a part of the development of the IP function.

This is the new threshold for IP excellence and corporate performance.

Leading past the obstacles

Given the successes of three of your colleagues and the rhetorical guidance cited above, you can get a sense of where to apply your focus, as well as the scope and sophistication of the contemporary management skills required to meet this challenge. Most IAM readers already know where their needs and opportunities lie. But the interviews showed that during the course of at least one career, the obstacles are in the people – not because they do not want to support you, but because they have insufficient motive; and yes, there are some who want you off their turf.

Consequently, here you are: a polished executive with good support who knows what needs to be done. Now you learn that the hard part lies ahead. Just how hard depends on your existing corporate culture. Every organisation – corporation,

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department or team – has a culture that reacts to ideas and innovations in ways that affect individual initiative and team performance. The most successful organisations recognise the power of their cultures. Cisco Systems is one company where performance priorities and collaborative innovation are “just the way we go about doing things around here”. So says Ed Paradise, vice president, CDO software quality and US connected site executive. “We don’t think too much about it. We do not worry about turf – nobody is threatened by another person who is really here to help. This sort of approach builds teamwork and a highly productive workplace where we all prosper. Nobody has all the answers to any problem, so listening and collaborative efforts are inherent parts of our organisational culture.” Paradise’s comments sound simple, but they are more uncommon than most of us would like to acknowledge.

If we stop to consider the difference in functions and disciplines that are first set in college, and are subsequently nurtured through professional education and job performance, the task of developing an organisational culture comes into focus. The IP executive, long the protector of corporate assets, must adjust to the urgency of becoming a proactive force for new revenue generation – not just alone in the IP department, but the lead guy to help other executives realise how value will be recognised throughout the company because of the growing IP intensity in the knowledge economy.

Two clear examples of the new behaviours are captured below. These examples are based on the leadership of one innovative executive who developed and challenged his IP team to shape their company’s strategic business behaviour (unfortunately, we cannot provide attribution to this leader or his company):

- This IP executive energised his team to seek new ways to leverage IP in deals across the globe. But company-wide developmental leadership is extraordinarily difficult to accomplish in a large enterprise. The corporate IP team, however, developed a principled, multi-disciplined approach to licensing, built the case for change and then effectively went on the road within the company to sell it. With a lot of perseverance, exceptional leadership skills and a lot of consensus building, the merits of their business case finally prevailed to lead this company into new revenue streams. Their task was not education, but re-education; and that is far more difficult, because it requires respect for old ways while learning new ways.
- An infringer was selling products that were costing the company millions in sales annually. This same IP team went through the normal assertion process and licensed the infringer for a royalty-based settlement. Then they went one step further. They licensed the former infringer to enforce the IP rights for the licensor. In doing so, they created a highly leveraged enforcement function that developed sizeable revenue streams from companies around the globe which had previously operated without concern for their infringement or IP owner enforcement. The results: globally leveraged enforcement action, new sources and new revenues, and a much stronger international market position.

These business practice innovations are critical to the integration of IP because they instil confidence and enthusiasm for the discipline and usefully demonstrate the economic effects of IP on everyone’s commitment to corporate success.

Significantly, none of these organisational development activities started out with the intent to improve the

Figure 2. **Critical leadership capabilities**

- 1) Ability to identify IP cause and effect throughout the company.
- 2) Ability to recognise the current condition of the company to see needs and opportunities.
- 3) Ability to develop goals and strategies to gain peer and senior executive support for an integrated IP impact in corporate financial performance.
- 4) Ability to coach and not correct, assert or intrude by building a vision and speaking clearly of roles, expectations, contingencies and outcomes.
- 5) Ability to isolate obstacles task by task, person by person and creatively get around them.
- 6) Ability to lead by example and support the other guy's interests.
- 7) Ability to reinforce demonstrably new, desirable behaviours.
- 8) Willingness to take the responsibility to speak the other guy's language and apply his/her processes to the total corporate solution.

organisation, but rather to solve problems. Consequently, no OD programme or any knowledge management programme should be initiated without specific performance goals that are anchored in observable performance lest they lapse into abstract and meaningless pursuits. What made these problem-solving efforts organisational in nature was the effect on the enterprise as a direct result of the executive's action to create a long-term solution and the introduction of incentives and support systems that reward the new (desired) behaviours.

A brief summary of some of the more obvious capabilities demonstrated in these anecdotes can be found in Figure 2.

Influencing others – getting critical support

The IP community abounds in talented and eloquent speakers and thinkers. Innovation supported by the force of law and economics are the tools of our profession, but organisationally we have just four ways to influence our colleagues and supervisors. They are:

- The power to force change in behaviour (hire, fire, fund, promote and otherwise recognise or withhold recognition are the tools of power).
- The effects of reason and logic (speaking to others in terms of their needs is the best summary of this approach, but logic strategy must be supported quantitatively).
- The slow but sure efforts of education or re-education (both of these strategies require a mix of knowledge, skill and incentives to bring about a new way of thinking, understanding and motivating others to adopt new procedures).
- Passion – what you can say and do to elicit an urgent, action-oriented response (speak to others in terms of their wants and dreams ... this is the

place for the vision of what can be. No presentation should end without this element).

The most powerful arguments include all four methods, but we need to add trust to the list because no one will pay attention to a fool or a foolish message. That is why the tracking of IP value and the demonstration of IP value are the base upon which you build your efforts to develop your leadership position in the company.

Situations involving external resources pose a special problem and are easily exacerbated by the lack of a working and reliable relationship with the new people involved, whether they are consultants, attorneys or merged colleagues. Many individuals take trust for granted, when there is trust. The appropriate use of the non-disclosure agreement (NDA) is good business practice, but the excessive reliance on the NDA is a symptom of mistrust and can ignite negative expectations that find only comfort in legal recourse. Would your ability as a leader not be more welcomed with an expression of positive expectations of high integrity while reserving the option to resort to the NDA if this is subsequently judged appropriate? We might pause to consider the effect of the indiscriminate use of the NDA as a factor for or against the trust needed to grow the confidence inherent in the company's culture of performance.

Like it or not, we are judged by the company and staff we keep. As the lead IP innovator, a strong staff that can interface effectively with senior management is a new imperative. Staff work and representations contribute or detract from the building task to bring the IP function to the top level of executive proficiency.

Working as the IP innovator carries more risk than a staff-level job. We would do well to assess our own capabilities and

willingness to handle the risk inherent at the top. Risk takers are quickly isolated in organisations that do not support risk, so the assessment must include your supervisors as well. There is no redemption in professional suicide and that applies personally if one performs best without such risk.

The pronoun we is another imperative to a successful effort to eliminate obstacles and build a better organisation. We (the initiators) must think and talk in inclusive terms. We will need to see the world as best we can through the eyes of our colleagues and speak in terms of their needs – while not ignoring their fears. People seek out those who can contribute to their success, help them solve problems and consider their position with earnest interest. It is that trust factor again and that trust creates the alignment for the solution that can always be improved if we learn to listen.

In times of trouble, we would do well to remember that the CEO is looking for people who can bring solutions instead of problems. One old definition of a problem is that there is no problem until it is defined and you have at least two solutions you can compare to support a decision. Until you get to that point of development, you only have anxieties because that is what happens when problems go unaddressed.

Leaders know they are always under the gun. They thrive on the pressure because where there is pressure, performance matters. Consequently, our staff, even more than our superiors, naturally observe how we handle pressure. If you ever wonder how you are doing, just look at the demeanour of your team. If they are confident, that is what you have given them. If they are reserved and tentative, that too is a reflection of your own demeanour. But lest we think that all leaders are fearless swashbucklers to be emulated, this is best said openly: your company does not need you for that. Instead, it needs you to build an organisation that fits with its own unique culture of creativity, innovation, competitiveness and risk management.

The IP executive should be having fun in this environment. It is an invitation to creativity and leadership. The future is ours to define and exploit, but corporate cultures are as different as personalities. They are, in fact, personalities that have become institutionalised as the organisation learns and matures. This is as succinct a definition of organisation development as you will find anywhere. Now the role you play is to

grab the concurrent and inseparable opportunities to become a key leader in the company and to build an IP organisation that can be an industry leader.

Why should I care?

The pervasive nature of IP and its increasing strategic and financial value in the knowledge economy – this economy – vault IP into the centre of corporate strategic competitiveness. Remember, Japan, China and Brazil have formally made IP a cornerstone of their industrial policies for this generation. At a point when governments are assuming greater responsibility for trade and economic policies, the corporation must embrace its unique role as the economic engine for prosperity to create new wealth, shore up the tentative approaches of governments with performance and subtly restore confidence in the capital investment and free (and highly regulated) market system.

This is probably the worst economic period since the Great Depression. It is also a time when the search for new wealth creation is probably most pronounced. New wealth is going only to be realised through strategies that can create new assets as soon as possible – and we all know that such assets could and should be based on IP. We also recognise the new proclivity for governments' close relationship with multinational corporations to support the best and most obvious solution in today's economy, but summarily dismiss the entrepreneurial start-up which might even have a better idea. As this government and big business model runs its course, the IP executives in those businesses are the new innovators. The new development model must focus on collaborative relationships in and out of the company. This condition places the IP executive in a unique, once-in-a-lifetime position to lead the creation of new wealth and a renewed period of prosperity. **iam**

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