

# How to keep in shape and beat the competition

*As companies strive for new sources of value creation, with many turning to their patent portfolios as an asset base for exploitation, CPA's John Pryor looks at ways to stay ahead of the competition*

Companies that own patents know that they are sitting on a valuable resource. To reap the full benefits of a rights portfolio, however, the following five points should be at the top of the list of issues to consider.

## 1. The health check

Auditing your patent portfolio helps to ascertain which of your patent rights are the most valuable. Examining the rights that you own and how they are used can help identify core assets and develop a strategy to better enforce them.

Companies should be assessing their portfolios in terms of the number of patents they have registered and the technologies and jurisdictions they refer to. A company can save considerable time and expense by opting to lapse an unused patent right or by licensing or selling it to other industries or companies to create a potentially lucrative revenue stream.

Studying your patent portfolio management will also highlight key strengths and weaknesses. You need to identify any gaps in the rights that you own early, or you could potentially affect your future presence in the marketplace.

## 2. Get into shape

After a thorough audit, the next step is to verify that all of your rights are in order and to update those that aren't. Data verification will uncover any problems with the management of your patent rights and provide you with time to organise title update activities before any problems arise.

As businesses constantly change and expand, many patent portfolios contain rights that haven't been kept up-to-date or properly organised and if your paperwork isn't in order, the value of your rights may become compromised.

You need to develop a data verification programme to make sure your patents are

recorded with the correct proprietor and address of the owner at the relevant patent registries. These also need to be updated every time your business changes. Only then can you fully exploit your IP rights for profit – and ensure that you're not losing money by paying an incorrect case. 'Clean' portfolios can also make all the difference when it comes to cases of litigation. Restructuring, spin-offs, divestments and reorganisations for tax purposes, in particular, require thorough data management and assignment work.

## 3. Keep on track

If administered correctly and with the placement of sensible strategies, data management can help ease the implementation of licensing activities and ensure that you keep on top of ownership rights. These will offer you enviable rights for negotiation in cases of M&A transactions.

Companies often broker large acquisitions without attention to the IP portfolio. It is only after the deal has been signed that they discover that the patent rights they had believed they were purchasing were either not enforceable or as clear-cut as previously thought. Brokering a deal without ensuring the validity of an IP portfolio that protects the company and its revenue streams can be a costly mistake.

There are third-party services out there to help companies verify and manage title updates, helping to take the burden off the IP department or external law firm. Once your patent housekeeping is back in order and a strategy put in place to constantly maintain it, the administrative costs of data management are also reduced. It pays to update your patent portfolio little and often, helping to save money, time and effort in the process.

## 4. Protect your strengths

Many companies do not have an unlimited budget; so selecting those patents that are most valuable will help you to prioritise your approach. You will also need to make sure you protect them, by keeping them up-to-date and renewing them on time.

Developing an ongoing renewal maintenance programme will help to make sure that you renew your rights on time in all of the jurisdictions they are relevant to.

Renewals, highly detailed applications for new patents and the rise of patent litigation can consume a great deal of valuable time and money, which is why many law firms and businesses are opting to outsource patent functions to a third party.

Off-shoring patent maintenance to a trusted supplier will enable you to concentrate on the value-adding aspects of IP, while ensuring that your rights are kept up-to-date and properly maintained.

## 5. Know your competitors

Finally, how does your patent portfolio compare to that of the industry as a whole? If you do not compare your patent portfolio against your competitors and the latest trends in innovation, you could risk being left behind as the industry evolves.

Statistical analysis of registered patents can provide fast and easy access to competitive information, clarifying, for example, whether your goal should be to focus corporate efforts on R&D investments or to track the manufacturers of associated goods. Studying the patent landscape provides valuable insight into industry trends and patent intelligence is crucial for forecasting and overcoming competitive pressures.

Strategic patent portfolio management and patent intelligence will enable you to benchmark yourself with respect to the competition. By identifying your place in the competitive landscape will you be able to make informed business decisions and align your IP practice with strategic goals.

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