



Using a patent roadmap to lay the ground for an IP strategy

While an IP strategy is the gold standard, it is not always possible due to constraints on time and resources. However, a patent roadmap and partial deployment by IP teams can still make a difference to an organisation's bottom line

It is now widely recognised that in order to maintain a competitive advantage, ventures need to define and implement a formal IP strategy. However, once the leadership decides to generate or re-focus such a strategy, a problem arises: unless purchasing intellectual property is an option, it realistically takes between three and five years to grow a portfolio organically – chiefly due to long prosecution timelines. From the boardroom view, this means that several years will pass before intellectual property can be licensed or used either defensively or for any other planned offensive measures.

Playing catch-up

The increasing trend of monetisation and industry patent wars continues to interest boards in utilising the patents they already own. Larger IP-mature companies – such as GE, Amazon, Philips and Apple – are well positioned to capitalise on this. Yet this leaves enterprises still considering how to use intellectual property as a business tool to play catch-up. Other groups may have an appetite for an IP strategy, but development may not be practical due to resource constraints or simply because of an existing 'patent by volume' programme. IP leaders within start-ups, small entities or *ad hoc* innovation groups inside larger enterprises which are already working on next-generation technologies realise the need to generate strategic patents, but realistically have no resources to conduct a full analysis or to develop strategy. As a result, IP professionals are also having to play catch-up, because they are not fully able to invest in a formal strategy in advance of the corporate direction or resource allocation.

However, IP professionals or chief IP officers in this position can still address this

portfolio gap by implementing at least two key shifts within internal patent processes and by moving to change the cultural norm of how patents are discussed internally.

First, IP leaders must establish the measure of a 'relevant patent' internally, which takes into account both legal quality and technology marketplace value. In parallel, they must add key performance indicators to monitor this definition. Taken from the playbook of a formal IP strategy process, insights are generated from patent analytics and methodologies, industry trends or reviewing technology roadmaps with in-house market and technical staff. Every industry is unique in defining a 'business-relevant patent'. For example, in digital technology industries where hardware commoditisation takes place, there is often an increasing market need for more efficient and secure communications and digital data transfer infrastructures. A measure of strategic relevance may shift from hardware-focused incremental innovations to include support for a novel system implementation infrastructure design. In the sports industry, wearable technologies and smartphone use are converging with home fitness equipment, suggesting that fitness equipment developers now need to consider how their equipment interacts with consumers' personal devices.

Second, IP leaders must create and educate a cross-functional team of legal, business and technical members to validate patent filings with a specific emphasis on the business review measured against the benchmark of a 'relevant patent'. Cross-functional validation will support greater relevance for innovations and patents before a formal IP strategy can be deployed. In practice, a distinction between the disclosure and claim scope must be balanced depending on the IP leader's risk tolerance for adjusting the invention's claim scope. A balance of legal enablement and business use must be considered – hence the collaborative team approach. At a minimum, the claim scope should cover the original invention submission – it is the expanded disclosure support that the

cross-functional team must influence. Functionally, this may keep the top-level metric of number patents filed the same, but enable the future portfolio to be pivoted through divisional and other legal means while maintaining early priority dates. The goal is to ensure that patents moving through the usual process contain enough business-relevant details to allow for portfolio growth or else can be pivoted during prosecution when the approval for a comprehensive IP strategy ultimately happens.

Setting the stage

The practical implementations of the review process are numerous and vary by corporate environment and resources, but the intent is always the same – to prepare a foundational team to generate a business-relevant patent portfolio. Carrying out a market and business review for newly drafted invention disclosures sets the stage for an integrated IP culture within an organisation. This type of culture will thus become a critical component for sustaining any future IP strategy programme.

There is no true replacement for defining and deploying a comprehensive IP strategy. Most boards and executives will ultimately support the process. However, competition for resources against tactical projects often tempers enthusiasm. Such a proactive approach allows IP professionals to undertake practical steps towards building a business-relevant portfolio before a strategy is fully developed in the boardroom. IP leaders can champion this repositioning with a small shift in top-management buy-in. Crucially, it gives them a ready answer when asked in the boardroom: "What intellectual property do we have, and is it useful for our business?"

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