

Establishing High-Worth Patent Portfolios

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Establishing high worth patent portfolios

Historically, economic considerations associated with filing patents have been given insufficient consideration. Portfolios have been created without a thorough investigation of where markets are heading, how competition is performing and how the IP a firm generates relates to its business strategy. It comes thus at no surprise that significant portfolios sit gathering dust. According to recent survey data by the E.U.'s 'PatVal', 36% of European patents are not used for industrial or commercial purposes. In specific sectors, such as chemical- and electronic- based industries the number of unused patents can be as high as 75-90%.¹ Data from Japan is not much more encouraging either, where apparently 50% of patents are not used. The world is not that gloomy, however. At the same time, as dormant patents are observed all over the world, a range of high visibility patent sales & IP driven M&A transactions can be documented in the market as well.²

Date	Seller	Buyer	Technology	No of Patents	Price
Mar 2014	Unwired Planet	Lenovo	Mobile Devices	21 families +	100 Mio US
Jan 2014	Rockstar	Spehrix	Networking	101	600 Mio (stock)
Feb. 2013	Philips	Funai	Home Ent.		205 Mio (M&A)
Jan 2013	Kodak	IV/RPX	Digital Imaging	1100	535 Mio US

¹ Commission Working Staff Document. Towards enhanced patent valorisation for growth and jobs. http://ec.europa.eu/enterprise/policies/innovation/files/swd-2012-458_en.pdf

² Data draws from an LES International presentation held in 2014

What drives patent value?

The question thus arises: Why are some patents worth a fortune, while others are just a waste of time? Patents provide an entry ticket into the market-based economy. They offer an opportunity, but by no means a guarantee to generate income. Borrowing from management theory helps understand some of the criteria that need to be given consideration when establishing patent portfolios.

The ‘resource-based view of the firm’ is one string of management theory that argues that a firm secures its competitive advantage through a bundle of resources that are unique to the firm. Thus, so the argument in simplified terms, competitive advantage is secured because the firm disposes of certain capabilities that other firms don’t have. Patents can be seen as such resources. They bear the potential to generate royalties, while making it difficult for other firms to invent around them. A temporary protection against imitation is thus offered through patent ownership. According to the resource-based view, a patent is only valuable if the owner uses it to develop and implement a strategy that helps the firm to either lower costs or increase revenues. The patent in and by itself is thus not of value, only a strategic approach to a patent makes it valuable.

Practical Example of a Filing Strategy

Ambature, a start-up focused on high temperature superconductivity, is a good example of a reflected patent filing strategy. While the role of patents for start-ups is usually associated with reputational gains, an analysis of the patent filing strategy of Ambature shows that it is its patent portfolio that will make or break its business success.

Before it established its patent portfolio, Oxfirst was invited to collaborate with senior management and investigate how it would put its patents to work and how its patent strategy related to its R&D and business goals. Ambature’s management decided that for the firm to succeed it needed to license its patents on amiable terms to large corporations that dispose of the necessary infrastructure to bring the technology to market. By entering strategic partnerships, it can significantly reduce its cost structure and rely on its patents as a medium of exchange. Field of use restrictions of licensing agreements furthermore assure avoidance of target market-share dilution. In order to establish ‘patent bargaining chips’ that allowed it to run this business strategy it thus undertook an investigation of the patent intensity rate in its field, a patent claims analysis, an assessment of its target markets and typical royalty rates in its field.

Up to now, Ambature has received over 15 Million USD in funding and disposes of a portfolio of 171 issued and pending patents with over 3000 patent claims across 21 industry verticals. Its estimated patent worth is 120 Million USD. The value proposition of its patents extends thus way beyond reputational gains.

Take Away

The creation of a reflected IP portfolio is driven by IP strategy and it is this strategic element that seems to have gone missing in those ‘dormant’ portfolios the European Commission or the Japanese Patent Office report. It is time companies start changing their perspective on IP. IP emerges as a valuable economic asset. Grasping it for what it is will help firms understand why some IP portfolios are just more valuable than others.

