



Protect Your Company

And increase its value with a strategic patent portfolio.

An important function of a business is to create value. This can take the form of value for customers, value for clients or value for investors. One form of value that is often overlooked, or delayed in terms of when it is developed into an asset, is the value obtainable from innovations created by employees and consultants. This value can be captured by a properly constructed patent portfolio and used to create new value and to prevent the loss of previously created value.

Because patents are generally associated with innovation, an increase in a company's patent portfolio is typically interpreted as evidence of innovation by the company. For investors (including employees who have equity), patents provide an assurance that a company's innovations are being protected. This enables the value associated with those innovations to be realized in ways that are not limited to the sale of a product. This can provide an "exit strategy" in the event that the business is not successful, in which case some of the capital invested may be recouped via sale or licensing of the patents. Capturing the value of innovations in this way can also assist in raising capital during operation of the business because it suggests that new products and services are being developed, and with that the possibility of increased market share and new sources of revenue.

A strategically focused patent portfolio provides a source of leverage

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to its owner because its value (as perceived by another party) permits the owner to obtain a more favorable result than he or she could obtain in the absence of the portfolio. This might include a reduction of risk by settling or avoiding a possible dispute (e.g., via a cross-license with a reduced payment because of the perceived value of the portfolio), the prevention of a dispute that might otherwise occur (e.g., a patent infringement action that is not brought because of the threat of counter-assertion provided by the portfolio), a delay in the entry of a competitor into the market (because of the perceived threat of an assertion of the portfolio) or enabling a role in a project that might otherwise be unavailable to a company (because it can provide a form of protection for aspects of the technology involved in the

project). As another example, if a patent portfolio prevents one patent infringement lawsuit because it dissuades a party from bringing suit due to fear of a countersuit, it may have provided a return equal to a multiple of its investment cost.

Thus, a strategically focused patent portfolio provides a business asset that has value to those with whom a business competes or wishes to collaborate. It represents a "stack of chips" that a business can bring to a table to enable participation in the "game," as well as a resource with which to invest in a project by placing appropriate "bets." In a sense, a patent portfolio represents potential value that is derived by capturing innovation and converting that innovation into a negotiable form or business asset.

However, obtaining this value from a patent portfolio requires that the portfolio be developed and managed with these potential uses in mind. This requires more than filing patent applications describing specific product features and trying to obtain allowance of broad claims for those features. It requires proactive measures, including formulating a plan to protect the fundamental concepts of a new product feature or new function of a service (where those concepts represent a solution to a technical or business problem), followed by executing on that plan to enable use of the resulting patents in ways that have value to the business. This is a specialized set of skills and requires assistance from an experienced patent attorney with technical, business and legal knowledge pertinent to the client and to the client's operating environment. While development of a strategically focused patent portfolio may entail additional time and cost, the rewards are potentially great and it is a prudent measure for most businesses to consider and act upon.

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