Many companies today enter new product or technology markets through acquisition. However, this is far from a sure-fire plan for business success. For example, in 2006, Inc.com reported that 60-70 % of acquisitions fail and more than 90 % of acquired businesses lose value. These somewhat dismal results leave no doubt that acquiring companies need better sources of information to properly vet and select acquisition targets.

Of course, companies typically conduct extensive pre-deal research to identify good acquisition targets and use the M & A due diligence process decide whether to consummate the deal. However, such efforts are inherently limited because much about the target will remain unknown until the acquisition is completed. There can nonetheless be no doubt that more sources of relevant information will improve the probability that the acquiring company will make a better decision about completing the deal. Since the degree of competition to be faced in the target product or technology space is key to the ability of the acquiring company's ability to meet its financial targets from the acquisition, new sources of competitive information could improve the outcomes of M & A's.

One source of competitive information that few acquiring companies tap is patent landscaping analytics based upon third party patent filing data. As shown in the below example, such data can provide a window into the competition (or lack thereof) that an acquiring company could face as it enters an unfamiliar market.

In March of this year, Cox Enterprises purchased Adify, a vertical ad network technology company. Cox paid $ 300 million for Adify, even though the company had only $7 million in revenue in 2007, and a projected $35 million in revenue for 2008.

Was Cox correct to pay this significant multiple of Adify's existing revenue to gain entry into the vertical advertising market? Only time will tell, but the patent filing data I obtained indicates that several sophisticated companies have already staked a significant claim to the vertical advertising market. The chart below identifies major players in this area as identified by patent landscaping analytics from patent filing data.

Year	Apple Inc.	AT&T/BellSouth IP Corp	Capital One	Cisco	Google/DoubleClick	Microsoft	Yahoo
1999					1		
2002					1		
2003			1		1		
2004					6		
2005						1	
2006					2		
2007	1	10	2	1			5
2008		1			4		1
Total	1	11	3	1	15	1	6

A short explanation of the source of the above data is first in order. The data was obtained from a search of published patent applications and issued patents pending as of August 2008 in the US Patent Office. Duplicate and abandoned filings have been removed, and assignment information corrected by manual checking of updated assignment records. Additionally, although Google and DoubleClick patent documents are separately listed in the US Patent Office assignment database, filings for these two companies were combined because Google acquired DoubleClick in 2007. Similarly, BellSouth's filings were combined with AT & T's as a result of the former's acquisition of that company in late 2006. Approximately 138 unique patent filings were identifed in the search, however, only those documents assigned to companies considered to be major potential competitors to Adify are included in the above graph.

It is apparent that Google has established a solid presence in vertical advertising with its 15 patent filings that date earlier overall than other filers. Right behind Google is AT & T with 11 patent filings that go back just a couple of years. Not surprisingly, Yahoo has established a presence in vertical advertising with 5 filings. Microsoft and Apple only have only 1 application each. Capital One has established a small presence, presumably in support of its aggressive credit card marketing efforts. Notably absent from the above filing data is Adify: Cox paid $300 million for a company with no visible technology advantage as would be apparent from patent filings.

For an IP Business Strategist such as myself, this patent filing data can provide remarkable insights into whether Cox's purchase of Adify was a good long term investment.

First, the Google and Yahoo filings indicate that these companies are likely actively innovating in the area of vertical advertising networks. Google's 15 total filings spread out over the course of several years show that Google is undeniably serious about competing in this market, and that it may own dominant rights to basic technology as a result of its acquisition of DoubleClick's early patent rights. Such early rights could also mean that Adify may need to seek a license from Google for the mere right to play in the vertical advertising market.

Moreover, the rights owned by AT & T could also be a concern for Cox, because AT & T (through its acquisition of BellSouth) conducts an aggressive patenting licensing program. The AT & T rights could indicate that Cox may need a license at some time in the future, again for the mere right to play in the vertical advertising space.

The absence of Microsoft and Apple from the filing data show that to date these companies likely have not made a play for the vertical advertising market. This assumption should be valid because both of these companies are significant patent filers.

In sum, this patent filing data shows me that Cox may experience difficulty in freely operating in the vertical advertising space due. My opinion that Cox may face significant competitive threats in marketing vertical advertising networks is not due solely to the patent filings themselves. The number of patent filings signals a seriousness by the patent filer: a well-managed company does not file several patent applications in a single technology area unless there is a business reason for doing so. We can then assume that Google, Yahoo and AT & T each hold business plans to compete in this market in a substantial way. Put simply, even though Cox paid $ 300 million for Adify, it may not have "permission to play" in this market due to the presence of serious competitors such as Google, Yahoo and AT & T.

(Interestingly, Google recently confirmed that it is as serious about competing in vertical advertising as the patent filing data discussed above indicates. Google is partnering with NBC Universal to establish vertical advertising that competes directly with Cox in the cable advertising realm.)

I have no way of knowing whether Cox performed a third party patent landscape assessment before buying Adify, however, I would tend to doubt that it did because this is not a normal aspect of patent due diligence. And, even with this information, Cox may still have moved forward with its purchase of Adify for good business reasons. It is nonetheless my opinion that this third party patent filing information related to Adify's core product offering signals that Cox will face a hard road to establish market share against sophisticated and obviously serious competitors such as Google, Yahoo and AT & T. Only time will tell if Cox is able to beat the dismal odds of a successful financial payoff for its Adify acquisition.

For companies seeking to enter a new product or technology market, the patent filing data associated with Cox's acquisition of data should serve as a cautionary tale. Such information is hiding in plain sight in the patent offices of the world. This patent filing data is not so complete to comprise a "crystal ball" for businesses, but such third party patent filing information can serve as a useful tool to gauge the amount of competition that an acquiring company may face in executing on the business plans upon which the acquisition is based. Given the low probability of success from corporate acquisitions, adding this tool to the patent due diligence toolbox can only help.