

# Intellectual Property Rights and Its Strategic Management in Modern Business Market

Vandit Bindal<sup>1</sup>

Student, Pathways World School, Gurgaon

---

**Abstract:** Firms have actively participated in investing their major portion of shares in acquiring Intellectual property as it is prima facie the key player to global competition. But acquiring an IP does not do the job, since managing it is an important and vital task. Labelled under a company asset, IP needs to be managed with a specific approach. A smart business practice is to chalk out a strategy for managing the IP since a good business knows that acquiring an IP but not managing it to the best of the abilities can result in underperforming or underutilisation of the asset. Business managers and leaders have the position to ensure the smooth mechanism of business fertility. In order to expand the horizon of IP management there has been a major share of research portion dedicated towards a crossover of management and IP assets. Since IP management issues makes the top hierarchy vulnerable hence the failure in that sector is less likely to be published and that is the exact reason why there is too less of data available on IP management issues. A plausible better business approach would be to have transparency towards failure, exploring different angles on underlying issues on management's role towards intangible assets and raising interrogative questions to strategic decision making.

**Keyword:** Intellectual property, strategic management, business, corporations, investment.

---

Date of Submission: 07-09-2022

Date of Acceptance: 23-09-2022

---

## I. Introduction

Intellectual property rights (IPR) refer to the rights given to the inventor or creator to protect his invention for a certain period of time. Intellectual property as defined by WIPO (World Intellectual Property Organization) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. IP is a critical component of a company and resources that enhance the worth of a corporation. These resources belong to a subset of business resources and come under the class of intangibles assets. Essentially, IPR is a legal structure that grants an individual or a business certain rights which are exclusive to their creation. Trademarks, Copyrights, Patents, Geographical indications, industrial designs, trade secrets, technological know-how and business goodwill are the types of intellectual property. Consequently, a business corporation owns and lawfully protects these set of a valuable intangible resources in order to prevent their imitation by potential business competitors.

Investors and businesses spend their finances in multiple research and development initiatives and in turn make gains from these creative initiatives only due to the opportunities which intellectual property rights provide to them in the market. The intellectual work related with creativity and innovation, as well as the necessity to safeguard information, has emerged as the primary significant method for supporting corporate expansion and financial success. As the human skill cannot be owned, the human resources tend to have a limited fiscal growth the human skill cannot be owned and hence, the most significant determinant of corporate performance is a balance of human capital and intellectual property. These intellectual properties can be created, held, managed and commercialised in order to create revenue which can be advanced by adopting various different protection schemes. For example, a combination of patents and trademarks can sustain IP-based competitive advantage.

## II. Importance Of Ip Assets

To boost one's market competitiveness, almost all businesses build innovative technologies and get them patented around the globe to safeguard their intellectual property rights. Thus, an organization's competitiveness is determined by the technology it creates. In present times, IPR protection is acknowledged as an origin of competitive advantage instead of merely a tool for businesses to entice funding and generate income.

---

<sup>1</sup>VanditBindal, Student, Pathways World School, Gurgaon.

The type of IPR protection used appears to aid businesses develop and maintain a competitive edge in many ways as follows:

- safeguard unique products and services;
- improve the market awareness, popularity, and worth of the products;
- differentiate one's company and its commodities from those of the competitors;
- gain access to technical and trade information and knowledge;
- minimises the possibility of using intellectual material of third-party mistakenly or accidentally losing one's own valuable knowledge, inventions, or artistic expression.

Corporations can use patents to gain a transitory technological advantage and for shaping its industrial construction. Patenting of the existing items may hinder the foundation of new firms by posing an obstacle to competitive companies, particularly in industries where development and clearances are much more tedious and expensive such as healthcare industries. In addition, it encourages the corporations that possess the patent to generate economies of scale. To maintain their competitive advantage, businesses can utilise a patent barrier, which not only protects the underlying innovation of the product generated, as well as a series of alternatives that competitors in the market are able to build.

Rival businesses cannot replicate the distinguishing marks of the quality products and services of a company because of the protection provided by the trademarks and geographical indications which are attached to the given company. As a result, a company can defend its powerful brands, creating a promotional edge. The cost of switching enhances by maintaining market standards by a business along with getting its IP rights registered because innovations created afterwards must accommodate or be compatible with the given standards which in turn provides a certain market domination in the development and marketing of these components by the business having the intellectual protection.

Rights given on intellectual property or not merely privileges but they also promote creativity, business dynamics, business inventories which further enhances the performance of an organisation. Furthermore, it allows the companies to invest in their research and development wing without any risk. The portfolio of an organisation widens when new and competitive products enter the market thereby creating a full return option on the investments. A protective biosphere is what an organisation tries to create not only for the investors but also for the managerial staff. This increases the persuasive character of any firm who wishes to get sources and resources from the outside world. It also puts the business in a position of credibility thereby generating a strong ethos.

In particular IPR protection is very important for smaller players in the market, especially for those who have recently ventured the market. Since these start-ups are solely dependent upon their skills to foster resources from the key investors in the market hence it becomes imperative for them to distinguish their performance from the already existing players. The key vital ingredient is the innovation that these new start-ups generate as it puts them at par with the existing products and services. The protection on intangible assets allow the start-ups to freely experiment on product design and create a vital strategic management that is going to help the business lift. Both vertical and horizontal differentiation falls on the prospective of the smaller companies which is primarily pillar for not only dealing with Business to Business issues but also Business to Consumer issues as well. As in IPR protection not only protects their skill but also allows them to settle in a competitive environment.

### **III. Strategic Management Of Intellectual Property**

With the realization that the primary source of value in the current economy is the knowledge capital in form of innovative or creative ideas rather the infrastructure and machinery of a business has given intellectual property a new significance in business market. For securing venture capital, completing an effective initial public offering (IPO), and growing the worth and earnings of established enterprises, owning breakthrough innovation which is properly secured by the intellectual property tools have become a prerequisite. In order to optimise the results on their investments in R&D targeted at producing new inventions, processes and services as well as to safeguard these and to increase their competitiveness in the market, businesses are required to have an effective IP management plan.

#### **A. *Assessment, measurement and audit of IP portfolios***

The increased interest in intellectual property management has led to several initiatives in order to enhance its assessment. IP performance is measured by different methods other than mere counting of patent numbers. The new measurements adopted by the companies which help them to examine and manage their patent assets are a combination of both quantitative and qualitative factors "Business" audits are conducted by the companies to determine the economic worth and competitive usage of the intellectual properties for their business. The audit divides IP into various categories. It is the initial stage in developing of a strategic IP profile. Dow Chemical, which owns 29000 patents, requires every business entity to categorise its patents into three

classes: (1) highly valued patents connected to high-growth businesses, (2) patents with no commercial use but that are still useful to others; and (3) patents that are highly improbable to be utilized.

**B. Valuation of IP**

Determination of the worth of the intellectual properties owned by a business is considered as a critical stage in its management. The practise of assigning worth to an innovation is known as valuation. The process of valuation plays a very crucial role in monetisation of pioneering innovations/technologies, for the purpose of licensing and mergers and acquisitions of corporations. As per Razgaitis, the foundation of valuation is indicative of the fact that it includes two concepts, namely, Technology and Right. When these vary, so does the worth of the intellectual property. The following are the primary valuations techniques:

- i. Industrial norms in which prime concern is detecting a suitable criterion;
- ii. Thumb rules, i.e., 25% rule and many variations;
- iii. Grading and Ranking;
- iv. Reduced cash flow
- v. Latest methods for pricing
- vi. Auctions

**C. Strategic IP plans**

A formal IP roadmap establishes an approach for generating and maintaining IP throughout time, following the stage of IP audit and valuation of IP assets. Like any other business plan, strategic plans for management of business explain the nationwide or regional method for developing and integrating human resources and intellectual property, in addition to the strategies to be used for economic gain of these resources. These strategic plans may include an advisory body suggestions or reports, corporate white paper or some other informative documentation. It is not necessary that a business does have a separate or exclusive IP management strategy planned, instead there may exist an innovation or a R&D strategy that encompasses intellectual property management in its ambit. Such innovation or a R&D strategy is inclusive of strategic aims and purposes, techniques, expenditures, rules, initiatives and assets, along with ties to certain other planning instruments, inclusive of development, financial, and academic planning.

**D. Clustering:**

Nations are executing IP resources creation and its management plans specific clusters or targets areas where their firms or research groups may have an edge over its competitors or where national requirements and capabilities are fulfilled by the way of identifying particular market dominating areas in a very effective and efficient manner. Such cluster region categorization might also serve as a guideline for researchers and businesses. Several nations have used such technique of clustering in managing their businesses and are discussed as follows:

- i. In Philippines, the Department of Science and Technology for the development and progress in science and technology in the country has issued of 25 focus sectors which are inclusive of IT, electronics, instruments and controls, optoelectronic, and aerospace engineering technologies. These sectors serve as the foundation for human resource growth planning and R&D finance selections.
- ii. Bioscience engineering, electrical or computer technology, metallurgy and materials technology are the three priority research fields which are so designated by the National Science and Technology Development Agency in Thailand.
- iii. To help expedite the goals of Vision 2020 which is an initiative to develop an information and communication technology sector in Malaysia, seven domains of "Flagship Applications" have been selected by the Malaysian Multimedia Development Corporation (MMDC) that would encourage world-class multimedia enterprises.

**E. Incentives and awards**

The following step in IP strategy management is to create multiple incentives and cooperation for creation and marketing of IP assets. It included tax exemptions, grants for patent application, reimbursements, venture funds for businesses in cluster regions, and economic incentives for developers and innovators in private corporation. Following are the instances of this method for the management of IP asset:

- i. The Ontario New Technology Tax Incentive as operative and effective in Canada provides business taxpayers with a full prompt cancellation of qualified IP purchase costs incurred by the businesses.
- ii. A certified film producer in Jamaica is eligible to income tax exemption for a period of up to nine years from the date of the first distribution of the motion picture. In addition, import duty on instruments, gadgets, and materials used in the construction of studios or expenses incurred in the production of a motion picture is also free.

- iii. Stanford University in United States of America, pioneered the system which allows academicians to maintain ownership of their innovations and has created an evolving technological licencing office.
- iv. The Incentive Act, Republic Act No. 7459 operative in Philippines, exempts innovators and firms that play a part in development of the nation from paying registration fees, government fees, and other corporation taxes. Imports pertaining to domestically created technology are exempted from customs charges.
- v. Brunei Darussalam provides tax incentives to Leading Companies, which are businesses in fields deemed critical to the nation's progress, by its Department of Economic Planning and Development. Overseas employees with exceptional knowledge in technology also are permitted to enter the nation.
- vi. Incentives for R&D and intellectual property are also provided in Indonesia. The Ministry of Research and Technological administers AsuransiTeknologi National, a national technology insurance organisation to protect businesses from the potential of technological breakdown. A cover is issued by a group of insurance firms and the Research and Technology Ministry of the country pays the premium.
- vii. The Multimedia Super Corridor (MSC) in Malaysia certifies qualified enterprises to receive a variety of incentives in order to conduct R&D and for the establishment of human resources in selected regions. MSC companies are entitled to the following benefits: (a) a five-year exclusion from Malaysian payroll taxes which is renewable for a period up to ten years; (b) a reimbursement for investment taxes allowing deductions of 100% of qualifying capital expenditure from earnings for five years; (c) the capability to accept foreign skilled employees, i.e. individuals with five years' expertise in interactive media, IT, definite levels of IT academic achievement, or a master's degree or higher degree in any discipline; and (d) protection for intellectual property.
- viii. There is a Presidential Award for Innovation, Utility Design, Industrial Design, and Intellectual Research offered by the Philippines Government. It comprises of a significant payment, such as Php 5,000- Php 10,000.
- ix. Yearly prizes for scientific achievement and technical innovation are given out by universities and institutes in Vietnam.

#### **IV. Commercialisation Of Ip Assets**

##### **A. Product advancement**

IP resources are the safeguarded outcome of investment in invention, which results in new goods or improvements to the functionality or operation of existing systems. One of the primary business advantages of IP is the capacity to manufacture a superior or more personalised product, notably when rivals do not possess this edge. It allows the proprietor of the intellectual property to offer more products, earn more revenue, and keep customers interested over period. In order for this to happen, a company's business model has to include IP and IP management, and incorporation into marketing plan of the IP resources should be done.

##### **B. Licensing**

Licensing is perhaps the most incredible ways through which intellectual property assets are utilised. Licensing refers to the pooling or leasing of intellectual property by a way of a legally binding agreement by one party/business which defines specific terms with another entity, called a licensee in consideration for royalties. Royalties are typically compensated as a percentage of the sales per copy sold, or as a single amount. Therefore, this method of licencing of intellectual properties by the innovators to the licensees enables them to sell the products of the innovators without incurring a liability for the infringement of IP rights of the innovators as it removes the prohibition on selling of the products of the innovators. The licensees are also allowed to upgrade the products of innovators which are currently in the market with new capabilities and technology and can offer the same in market for monetary gains. Licensing can also be appealing to licensors as it allows them to cater to markets that they would not perhaps be capable to penetrate due to insufficient distribution mediums or production incapacity. Licensing could entail the pooling of intellectual property in return for monetary compensation or "inter-licensing," where both parties hold intellectual property and trade on it. Inter-licensing allows the licensee party to interact without such fear of lawsuit and could mean that no exchange of money is involved. Licenses involving intellectual property are quite diverse and are commonly form a part of a bigger corporate arrangement, namely, joint ventures by leading corporation. Occasionally, these license agreements are formed as a result of settlement of corporate issues between the parties which in turn provides an arrangement for the usage of concerned intellectual property involved in such a way that is beneficial for both the parties instead of a lawsuit between them.

##### **C. Business Partnerships and Joint Ventures**

Typically, companies aim to establish coalitions in order to perform certain business strategies/agendas which it cannot accomplish independently. Intellectual property licencing agreement is feature which is attributed to such business coalitions, however, the legal structure of such coalitions may

differ. In order to develop or produce a superior product, the parties to coalition agree to inter-license their intellectual property assets. The IP licence can sometimes be integrated with a production executed contract, in which the parties distribute duties and IP ownership rights and liabilities in the area of research and development of a negotiated product or invention. The parties may also licence copyrighted production paperwork, blueprints, and instructions, in addition to design rights and proprietary information. A strategic business partnership may also involve coordinated commercial agreements and trademark licences, which allow the partners to divide costs involved in product advertising and promotion under same brand name.

#### **D. Geographical Indications and Branding in Use**

Marketing relies heavily on intellectual property. A powerful trademark or branding may serve as the foundation of a business's marketing plan. It could also be utilised as a "geographical branding" by a nation to convey its identity and advertise its commodities. Geographical indications are defined as a type of intellectual property which may be advantageously employed in marketing initiatives. Geographical indications, like could boost demand by creating favourable images and conveying product features to prospective buyers. IP is a key tool in marketing. A strong trademark or brand can be the cornerstone of a company's marketing strategy. It may also be used by a country as a "location brand" – a way to project the image and promote the products of that country. Geographical indications are a form of IP that can be effectively used in marketing campaigns. Like trademarks, geographical indications can stimulate demand by projecting positive images and communicating product attributes to the potential buyer.

### **V. Conclusion**

A well-prepared strategy and moderation of IP assets is freeway pass to use IP rights that is integral for micro and macro-economics of the society. Inventions and innovations are vulnerable from infringement and cheating and if not protected it would risk the finances that have been involved in generating it. Hence it is the financial principal to market and expose the creativity so as to incur profits over it. In the era of modernisation all the tangible as well as intangible assets fall under the competitive domain of any business rivalry. Smart business practises are always promoted to reduce down the cost of inputs and it is an observation that has graphed in a manner of logos where heavy expenses on R&D have slowly diminished and co-operative R&D is promoted which is further out-sourced to technical firms dealing specifically in the same domain. The management and control of the IPs is very important for every establishment and should monitor all the phases of IP development, execution, promotion and publication. The management should keep a strict quality control check, so as to maintain the competitive environment. With indulgences of IP rights, the "Stricter Control Policy" has now made some room since the fear of documents piracy has now become very less and limited.

### **References**

- [1]. "Intellectual Property Audit Tool", WIPO Publication No.927E by IP and New Technologies Division +41 22 338 8814.
- [2]. <http://backingaus.innovation.gov.au/>
- [3]. <https://www.elsevier.es/en-revista-journal-innovation-knowledge-376-articulo-intellectual-property-rights-competitiveness-academic-S2444569X18300738>
- [4]. Bently, L., Sherman, B., Intellectual Property Law, Oxford, Oxford University Press (2001)
- [5]. Hisrich, R., Peters, M., Shepherd, D., Entrepreneurship, Eight edition, McGraw – Hill, (2010)
- [6]. <http://www.innovationstrategy.gc.ca/>
- [7]. See Section 4 ("Deepen economic restructuring and open still wider to the outside world") and Section 6 ("Conscientiously implement the strategy of national rejuvenation through science, technology and education and the strategy of sustainable development") of the Premier's annual report at [http://english.peopledaily.com.cn/200303/19/print20030319\\_113574.html](http://english.peopledaily.com.cn/200303/19/print20030319_113574.html)
- [8]. [http://trendchart.cordis.lu/tc\\_policy\\_information\\_fiche.cfm?ID=3110](http://trendchart.cordis.lu/tc_policy_information_fiche.cfm?ID=3110) A KEY STRATEGY FOR ECONOMIC GROWTH 39
- [9]. [http://www.dkpto.dk/int/publications/indu\\_policy/index.htm](http://www.dkpto.dk/int/publications/indu_policy/index.htm)
- [10]. <http://trendchart.cordis.lu/Reports/Documents/Balogh%20HU.ppt>
- [11]. [http://www.dst.gov.za/legislation\\_policies/white\\_papers/Science\\_Technology\\_White\\_Paper.pdf](http://www.dst.gov.za/legislation_policies/white_papers/Science_Technology_White_Paper.pdf)
- [12]. [http://www.kantei.go.jp/foreign/policy/titeki/kettei/020703taikou\\_e.html](http://www.kantei.go.jp/foreign/policy/titeki/kettei/020703taikou_e.html)
- [13]. <http://www.dost.gov.ph/nstp.php>
- [14]. [http://www.osim.ro/strate\\_en.htm](http://www.osim.ro/strate_en.htm)
- [15]. <http://www.dti.gov.uk/scienceind/strategy.htm>
- [16]. The final document was entitled "The protection and valorisation of African inventions in the field of medicines".
- [17]. <http://www.dost.gov.ph/nstp.php?vop=longtrm>
- [18]. <http://www.mdc.com.my/> 34. <http://www.dti.gov.uk/clusters/ecotec-report/>

Vandit Binda, et. al. "Intellectual Property Rights and Its Strategic Management in Modern Business Market." *IOSR Journal of Business and Management (IOSR-JBM)*, 24(09), 2022, pp. 11-15.