

STRATEGY FOR INTELLECTUAL PROPERTY MANAGEMENT GUIDE

Making your organisation IP smart

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Introduction

This brief was specifically created to assist clients to have an understanding of strategic intellectual property management as well as how and why IP should be part and parcel of the overall business strategy.

Strategy and IP value

IP Strategy is an integral part of an overall business strategy. Accordingly, strategy does not follow policy; rather, strategy should follow the mission of an organisation, while policy should be used to reinforce the strategy being pursued. The competitive environment, the company's technology position, its size and the maturity of the business determine the IP Strategy. Depending on these conditions an organisation should have an appropriate IP value extraction model or models depending on the number of divisions and the related markets.

Indeed, the most important aspect of IP protection is that it bestows control over intellectual assets. If an organization fails to obtain IP rights for its inventions, brands, designs etc., it risks losing control over them. An IP strategy is not static, but should be adapted in relation to the changing economic climate.



Elements of an IP Strategy

The basic elements of an IP Strategy should not differ significantly from those of a good business strategy. If they did, there would be a risk that the IP strategy would not fully support the business strategy or that unnecessary time and money would be spent on IP efforts not tied to the business strategy. An IP Strategy must address the management of IP internally as well as externally.

The internal IP Management is imperative because if IP is not identified and protected there will not be anything to manage! Secondly, the IP Management strategy must be directed externally to have any effect on the company's competitiveness and economic affluence.



An Internal IP Strategy is comprised of:

- the IP Audit,
- the IP Policy and
- the IP Acquisition & Maintenance Strategies.

An External IP Strategy is comprised of:

- the Enforcement Strategy,
- the Competitive Intelligence Strategy and
- Public-Policy Issues.

The IP Audit

The IP Audit is the first internal element of an IP Strategy and it forms the basis of the overall IP Strategy. An IP Audit is defined as a systematic review of the IP assets owned, used or acquired by a business.

Its purpose is:

- to uncover under-utilized IP assets;
- to identify any threats to a company's bottom line; and
- to enable business planners to devise informed strategies that will maintain and improve the company's market position.

The IP Policy

The IP Policy is the second internal element of an IP Strategy and it is the basic rules that the organisation follows in handling IP. The inventions and creative ideas in the minds of employees have to be transformed into patents and other protectable intellectual property.

There must be a consistent and effective process of recording, evaluating and protecting IP within an organisation. An IP policy should define IP ownership and explain the rules that apply to independent contractors. The IP policy must contain rules and procedures for employees' reporting of newly created ideas, products and or IP Rights.

The policy must set out the policy and procedures for IP filings/protection as well as the maintenance procedures. The policy must describe the manner in which an organisation will handle confidential information for the protection of trade secrets.

In short, an IP Policy should address the following key questions:

- Who owns the IP?
- How will revenues/benefits from the commercialization of IP be shared?
 - between the employer and employees/researchers/inventors,
 - departments within the organisation, and
 - the funders/sponsors of R&D.
- Who will manage IP assets, including negotiation of licenses and royalty sharing?
- How will the costs of IP protection and maintenance be paid?
- How should any invention disclosure procedure be managed?
- Will spin-of companies or licensing contracts be used to transfer technology?

The IP Protection & Maintenance Strategy

The IP Protection and Maintenance Strategy is the third internal element of the IP Strategy. The company must develop rules to determine what type of IP rights will be secured; it deals with cost implications and IP protection strategies. Lastly, it also deals with the maintenance of IP to minimize risks.

The external elements of an IP Strategy

The enforcement of IP is the first and foremost external element of the overall IP Strategy. The enforcement of IP combines **offensive** and **defensive** objectives. Independent watching and reporting services can play a meaningful role in ensuring that steps are taken to address the infringement of the company's IP rights.

Strategies to enhance Competitiveness

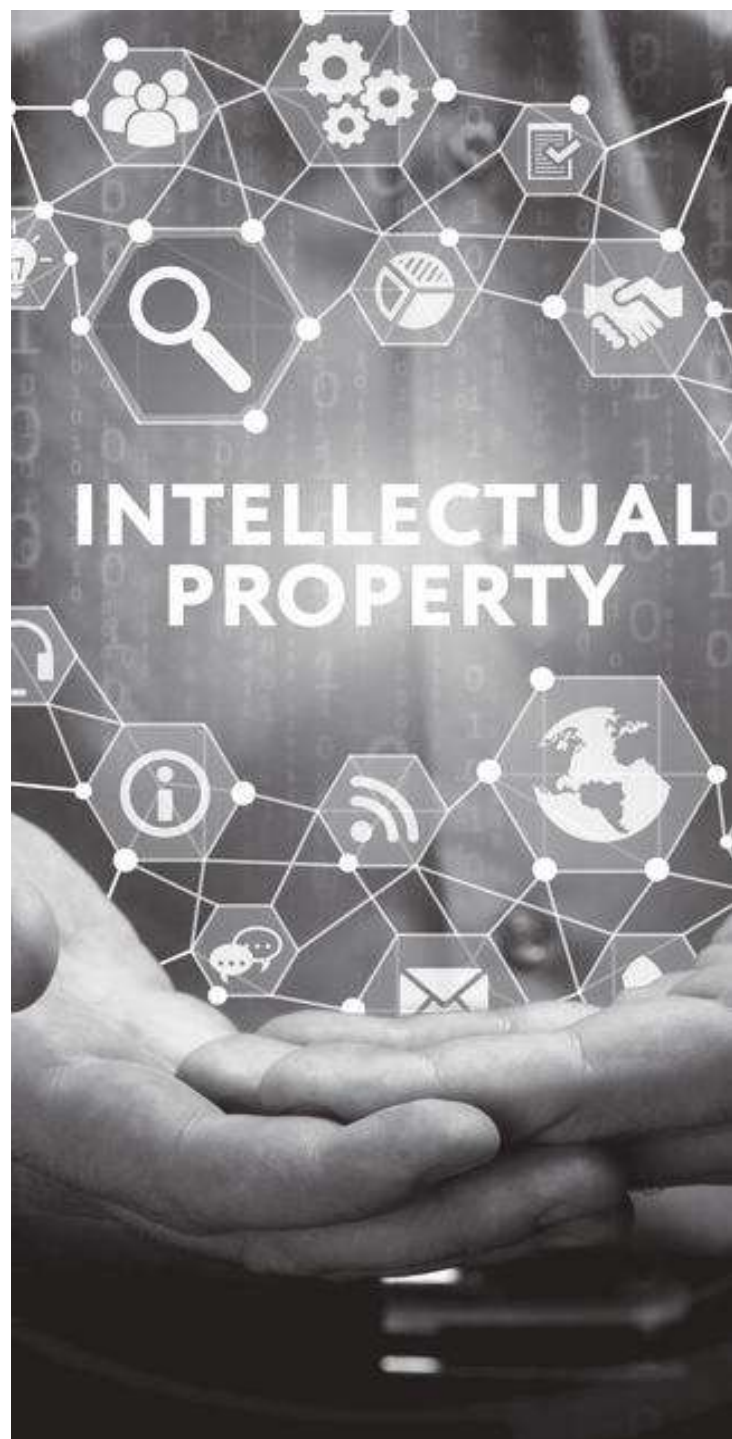
The adoption of an IP Business Strategy, the use of competitive intelligence and patent information are all part of the overall strategy to enhance companies' competitiveness.

Competitive Intelligence

Competitive intelligence focuses on future direction and shape of technologies and industries.

Three main questions feed into the competitive intelligence process:

- Where are we now?
- Where do we want to go?
- How will we get there?





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Implementation of the IP Strategy

Once the IP Strategy and policy of a company have been set, the scope of the work that needs to be done is known. For this work resources need to be made available.

These resources include trained patent attorneys; business people to determine how to capture value from IP, business intelligence specialists to know the competition and the markets and financial and legal specialists.

A certain core of specialists needs to be available in house, but other specialists can be hired from specialized companies and **PalladiumIP Consultants** is readily available to play that role comprehensively.

The position of the IP organization within the company often reflects the importance the company attributes to IP. Focus on legal issues means the IP organization reports to the head of the legal function. Focus on protection of own inventions means the head of research is also heading the IP organization.

Focus on IP as a strategic issue means reporting to the CEO or CFO of the company with a strong focus on financial and long term strategic issues.

Important steps for implementing an IP Strategy

STEP 1

Ensure that every employee from the CEO, CFO, and Board of Directors to the shop floor is aware of the strategic importance of IP and has this included in their **employment contract**.

STEP 2

Ensure that there is an individual, department, or a Consultancy firm charged with the responsibility of preparing and maintaining IP audits and reporting them to the Board.

STEP 3

Put in place a company-wide education program so that the importance of IP is understood. Such a program should include accounting, legal, sales, marketing & advertising departments, distributors, R&D departments and any outside consultants.

A book value should be placed on all company IP and this value should be reported. This has recently become a key issue that international investors seriously consider.

STEP 4

Expiration and Renewal dates of all IP's should be managed and independent watching and reporting services considered.

STEP 5

STEP 6

Expiry dates for important Patents, if any, likely to have a negative impact on core product sales should be clearly enunciated and contingency plans made.

STEP 7

Company trademarks and/or brands and their proper use should be protected energetically.

STEP 8

Royalty payments and both license-in and license-out investigations should be undertaken to ensure that proper royalties are paid and received. Surprising as it may sound a large number of local firms pay for licenses for technologies that have not been renewed or have lapsed and are actually in the public domain.

Undertake a **full audit of all of your IP**, place a value on it and a grading as to its importance. This can generate good revenue streams from IP that is not in use.

STEP 9

Seek independent advice from your consulting firm or Agent on the management and enforcement of IP. Such advice should provide comment on whether or not to obtain foreign IP rights or trademarks and the availability of these before expanding product lines and brands, or entering into any joint ventures or technology transfers.

STEP 10



IP Strategy monitoring

It is important to keep in mind that the IP Strategy deals with events that will occur in the future. The future is a slippery thing that often veers in unanticipated directions; thus, an IP Strategy is not intended to be static. The company must continually monitor it and its implementation to ensure that the IP function is providing the best support possible for the company's business activities. The IP Strategy must be flexible and open to change.

Establishing organizational IP culture

In conclusion, the implementation of all the internal and external elements of the IP Strategy should result in the establishment of an IP culture within the organisation. The IP culture must be part and parcel of the company's vision and mission. Most importantly, the IP culture must be embedded in the company on a horizontal level across all functionalities. It must also be practiced by all employees on a day-to-day basis irrespective of the level of engagement.

An IP culture is created by the **training of employees** and **awareness campaigns**. In creating an active IP culture it is critical that the top management of the company realizes the importance of IP. An IP culture within an organisation is only possible where the message filters down from top management to employees. This means that managers need to understand the how the implementation of IP policies and strategies leads to a competitive advantage. They need to know the facts about the IP position of the company and how its strategy on the acquisition, maintenance and enforcement of IP strengthen this position. This approach will actually result in employees of an organisation acting as monitoring agents of the company's IP wherever they go.

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We are involved in the implementation of our recommended IP solutions and help our clients' businesses to create the most value out of their IP assets

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Your IP, Our Commitment

Contact Us

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