

IP Advisory



Deep value creation for tech companies through Intangible Asset Management

Technology companies have an enormous opportunity to capitalize on the many intangible assets they create. These include intellectual property (IP) rights such as patents, copyrights, trademarks and trade secrets, as well as other assets including data, brand reputation, strategies, and customer and business relationships.

As technology companies develop new products and services, however, these processes and intangible asset portfolios become complex, particularly around patents in highly competitive areas such as digital transformation, machine learning and cloud technology. Such assets need ongoing management and critical assessment to clarify which innovations are worth protecting and monetizing.

Many technology businesses place strategic emphasis on having freedom to operate in new markets. This freedom gives them a platform for rapid expansion and product commercialization. However, this requires a strong awareness of competitor patents and trademark filing, as well as an understanding of IP litigation risks to confirm the balance between freedom and expenditure.

When involved with development partnerships, including through open innovation, companies should anticipate what will be created, with contracts specifying ownership of assets, how protection and monetization will work, and what happens when a contract ends. Agreements should also consider IP rights involving new concepts such as artificial intelligence algorithms, complex datasets and trade secrets, and they should address a suite of IP assets where legally registering rights is not sufficient due to either the lengthy timescales involved or the risk of publicizing private designs.

Six Essential Actions and Considerations



INNOVATION PLANNING

Active monitoring, evaluation and protection of intangible assets is essential to generating value from products and services being developed, especially when multiple parties are involved. Technology businesses need effective operational processes to identify, assess and capture rights, and to monitor and grow them, including protecting trade secrets. Detailed evaluation helps to confirm innovation consistently matches strategy. Meanwhile, mapping innovation to expenditure and income streams can unlock tax breaks in countries with incentives around research and development, and around patents.



COMPETITIVE INTELLIGENCE

Companies should be keenly aware of their competitors' intangible assets to understand their own IP positioning around networks, standards and technology. From there they can spot and act upon innovation opportunities, while also being aware of risks resulting from insufficient protection. Comparative patent positioning provides a knowledge of space for research, development, commercialization, supply chain changes, and rights filing and acquisition. It can also provide a clear understanding of legal exposure that could prove financially costly or operationally restrictive.



PORTFOLIO EVALUATION

Regular IP portfolio reviews and evaluations equip technology firms with a clear value assessment of each asset. Rights can be viewed in terms of business alignment, defensive value against infringement lawsuits, and the potential for cost reduction or revenue generation. Decisions can be taken around each right, including whether a patent should be renewed completely or only in specific countries, retained for defensive purposes, abandoned, or used for cross licensing or monetization. This process is essential in articulating and planning an IP rights portfolio strategy.



RISK MITIGATION

Unmanaged IP risk can restrict freedom to operate in strategically important markets. Companies with effective risk mitigation policies in place can avoid lawsuits while developing their technologies quickly. Regularly monitoring the filing and litigation activities of competitors can be critical. Searches may unveil high-risk patents owned by entities buying rights just to monetize them, highlight existing forms of inventions to help build a defensive arsenal, and inform workaround designs and defensive strategies that could include acquiring IP rights.



MONETIZATION

Following portfolio reviews, IP divestment, licensing and technology transfers can be executed to generate revenue from underused and non-core assets. Objective data is essential in underpinning an effective process of licensing or selling assets. This data also provides a basis for understanding value for price setting and negotiation, and can be bolstered by market and rights analytics. In addition to revenue generated, significant savings can be realized from having a more streamlined asset portfolio.



TRANSACTION EXECUTION

Buying, licensing and selling intangible assets requires an in-depth understanding of assets, target markets, price arguments and deal structures. Potential sellers and buyers can be identified with a market outlook, helping confirm they are approached with qualitative arguments. Technology companies armed with a detailed value analysis, and a reasonable price backed by data, are well placed to close transactions. Having a clear deal evaluation framework and specialist knowledge of IP transaction execution, including valuation, legal and tax matters, is imperative.

Services

Businesses across the technology sector seek Deloitte’s strategic IP advice, market and analytics capabilities, and transaction experience, in connection with the essential steps of identifying and unlocking value from intangible assets.

Deloitte’s IP Discovery and Innovation Capture programs enable companies to consistently identify value, while competitive intelligence analysis reveals rival innovation activity, patent positioning and developments in fast-moving arenas including cloud computing, artificial intelligence, blockchain and digital transformation. Portfolio evaluation services help confirm businesses understand their assets’ value, while risk mitigation analyzes freedom to operate issues. Deloitte enables businesses to strategically monetize intangible assets, bringing parties together in a trusted framework to execute transactions effectively.

IN PRACTICE

A global provider of enterprise software had a diverse suite of products, a large patent portfolio and a centralized IP team. It lacked institutional knowledge of which patents were in use and where the most value lay. By developing assessment criteria and carrying out a strategic portfolio review, Deloitte helped the company achieve double digit percentage savings and embark on a lucrative monetization program.

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