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Brand Management Focus 2005



IP asset management: making it happen

 **Anaqua**

Making it happen

The increased visibility of IP in today's market has upped the value attached to companies' IP rights, increasing also the responsibilities of intellectual asset managers. **Michael Leathes** of **British American Tobacco** considers whether their mindsets and tools keep pace with the changing demands

Outside the front door of British American Tobacco's head office stand two statues of Mercury, Roman god of trade and commerce. One faces west to the Houses of Parliament. The other looks east past the Inns of Court, between the roofs of the Patent Office and the Stock Exchange and out towards the great Port of London. They remind us of the interplay between politics and international trade, law and business, the shareholder's expectation for good corporate governance, and the need for continuous improvement.

Mercury also calls upon those responsible for the integrity and enforcement of the intellectual property rights portfolio of this international corporation, to focus on the relationship between shareholder value and the effective and efficient management of our intellectual asset base.

While some intellectual asset managers believe that their kind is often misinterpreted as backroom support, technicians or legal eagles, this is not the case at BAT. But business people do need reminding. How often has a stock price soared or plunged on the prospective fortunes of a single drug which gains a key patent or loses one? How often do branding issues hit the news for fast moving consumer goods companies? Over 80% of the market capitalization of many quoted companies is derived from their IP. Deloitte & Touche, for instance, reports that US licensing revenues increased from \$15 billion in 1990 to around \$150 billion today, with an expected increase to \$500 billion by 2007. Some have estimated the value of unexploited technology assets at around \$1 trillion in the US, a figure which may be as high as \$3 to \$5 trillion worldwide (http://www.deloitte.com/dtt/section_node/0%2C2332%2Csid%25253D31257%2C00.htm).

The intellectual asset managers

Given these trends, corporate shareholders face both risk and opportunity, depending on how well their underlying IP rights are managed. For example, some companies stand to lose important markets if some patents or trade marks are lost or are poorly defended. Conversely, higher performing companies will make informed, strategic and swift decisions about allocating resources to those intellectual assets most likely to maximize shareholder value.

But that's not the end of it. After Enron, WorldCom, Tyco, Parmalat and other corporate mismanagement scandals, new control standards and expectations on intellectual asset managers are fast developing. The Sarbanes-Oxley Public Company Accounting and Investor Protection Act, and other legislation on good corporate governance, are emerging around the world, applying to us as much as to any other executive. Applying a well-worn mindset based on out of date systems and hoping for the best is no longer good enough.

Aristotle observed that "all human actions have one or more of seven causes: chance, nature, compulsion, habit, reason, passion and desire". Although reason might be expected to drive most decisions that an IP manager makes, in reality many depend on habit. There are good and bad habits. It would be a bad habit to make decisions based on inaccurate data. But there are good habits which enable good reasoning and good decisions, and they are worth thinking about carefully.

Stephen Covey wrote one of the bestselling business management books – *The 7 Habits of Highly Effective People*. They are all relevant to us, but Mercury makes us think of three in particular: begin with the end in mind; synergize (cooperating creatively) and be proactive. By selecting the right IP management system, those of us responsible for maintaining and leveraging IP can

go almost halfway to achieving Covey's exalted stature of being highly effective people and, therefore, maximizing the prospects of discharging our increasing responsibilities to our shareholders.

Beginning with the end in mind

To manage an IP portfolio effectively, from both strategic and day-to-day perspectives, we need to achieve all of the following:

- See the portfolio in one go, as well as country-by-country and asset-by-asset.
- Analyze the portfolio in a range of different ways to aid strategic decisions.
- Eliminate duplication of effort and cost.
- Guarantee the accuracy of data.
- Secure full and prompt information.
- Procure transparency from a cost control perspective.

Synergizing

Creative cooperation is needed to secure buy-in from people in and outside an organization. They need to come together with the same mindset to procure the required end results. For this, all of the following are needed:

- A motivated group of outside professionals who place client needs on top.
- An environment where everyone can see everything that is not really confidential.
- The ability to pay law firms and agents promptly without big administrative costs.
- Trusting outside professionals with delegated data responsibilities.
- Focusing on added value tasks best performed internally.
- Minimizing duplication in all areas of activity.

Being proactive

To secure maximum efficiency and efficacy from an IP management environment, it is not sufficient just to delegate. The best results

will not drop into IP owners' hands by chance. IP asset owners need to identify exactly what principles to operate on, by:

- Restricting time as much as possible to where best value can be added internally.
- Reducing administration to a minimum and outsourcing it without a cost penalty.
- Prohibiting renewals of IP rights to be done without the owner's full control.
- Providing IP data access to business colleagues/functions worldwide.

Stephen Covey's seven best habits

- 1) Be proactive
- 2) Begin with the end in mind
- 3) Put first things first
- 4) Think win-win
- 5) Seek first to understand, then to be understood
- 6) Synergize
- 7) Renew and continually improve

- Developing new ideas and practices that enable earlier and better outcomes.
- Ensuring the portfolio and data system will survive close scrutiny by auditors.

With such demands, principles and ideas, anyone with a large IP rights portfolio needs the most state-of-the-art IP management system embracing the following characteristics and deliverables:

- Being browser-based, not just web-enabled – fast, secure and user-friendly.
- Enabling transfer of data responsibility from in-house to outside firms.
- Not being dependent on delegating renewals to an IP systems provider.
- Ability to manage all IP rights – patents, trade marks, copyrights, domain names.
- Scalable to business needs.
- Relatively inexpensive given the state-of-the-art technology involved.

The wrong tools

Several years ago, it was obvious to us at BAT that no off-the-shelf IP management system met all our require-

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ments. Some systems did a good basic job and were inexpensive, but often there were strings attached:

- Some providers pressed us to outsource our renewals administration to them, enabling them to generate big margins by negotiating discounts with their local IP providers, which were not passed back in full, or at all.
- Some would charge us based on fixed rather than actual exchange rates, which were never in our favour and the huge margins made from this were used to subsidize the IP management system business.

- Some providers would offer us little or no control over the firms to be delegated with the task of renewing our IP rights – they could be firms acting for competitors, who could become attorney-of-record for our IP rights. Our regular, trusted, firms would have lost out on bread-and-butter work.

We were not prepared to tolerate such risks and hidden costs. It is surprising that any IP owner would be.

The right tools

In 2000, BAT decided to create a system which did it all and was cost-effective. It was a daunting prospect, but

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synchronicity and serendipity came to our aid. Fortunately, Ford Global Technologies Inc, the intellectual asset management unit of Ford Motor Company, had a similar vision and need. We combined our efforts and resources and we created what is now ANAQUA. As Covey would have put it, we began with the end in mind. We were proactive. And two big intellectual asset owners synergized so we could each collaborate with our over 200 IP firms worldwide.

The results speak for themselves. By December of year one, in 2003, Anaqua was being used by our own outside IP law firms and agents to handle 75% of our trade mark data covering 115 countries. By the end of 2004, 83% of our trade mark data was being handled online by firms/agents covering 148 countries. During 2004, Anaqua went live for our patents records and for royalty tracking.

The system enabled BAT to make more strategic decisions based on outcome, higher levels of certainty and potential to increase shareholder value.

In 2004 our decisions were based on far better

quality information, thanks to data maintenance by BAT's law firms on our own system and at no greater cost to us. We have been able to increase the number of trade marks we allow to lapse, because our managers can make better decisions on what to retain due to more reliable data. When managing a portfolio where 10,000 trade marks come up for renewal or lapse each year, serious cost/benefit decisions must and can be taken; a single renewal today on average costs over \$1,000. We have reduced our IP operating costs by 16% over the past two years, mainly by eliminating redundant and paper-based clerical/administrative tasks. Our headcount has come down by over 20% in 2004 and by 33% in the past 18 months, though the portfolio has come down by only 7% in the same period. We are able to pay our firms more quickly and efficiently, and invoice queries have shrunk.

While Anaqua is not the sole cause of these benefits, it continues to have a contributing effect. In October, the Anaqua system was a Gold Medallist in the Annual IT Business Achievement Awards, judged by the British Computer Society. We believe it will go from strength to strength with new functionalities. Two unrelated companies in vastly different sectors – one (Ford) being mainly patent-orientated and the other (BAT) being trade mark-orientated – could effectively and quickly produce something completely new which, even today, is years ahead of anything remotely similar in terms of delivering all our needs.

We intellectual asset managers are no longer boffins in a backroom. We are now accepted as the controllers of the integrity of the core assets that the shareholders own. This will always be a challenge, but if we do not stay ahead of the task it can also be a stress, a risk, even a danger. We all need to sleep soundly. A critical night time sleep aid is a day time IP management system that does it all. A quotation on my office wall fits the bill: Don't let it happen, make it happen.

Michael Leathes



Michael Leathes is head of Intellectual Property at British American Tobacco, London. He is a non-executive director of the International Institute for Conflict Prevention & Resolution in New York City and a member of the Panel of Neutrals of INTA.