

New metrics for changing times

Many companies that own large IP portfolios are doing a better job of determining whether the rights they own are getting traction from their IAM strategies. Kimberly-Clark is a perfect example

By **Amy Achter** and **Paul DiGiammarino**

Large portfolio IP managers need to do more than merely educate themselves about IAM concepts and tools or implement them without objectives if they are to maintain their competitive edge. With the opportunity to use powerful software innovations to catalogue and track a wide range of intellectual assets, managers are finding it easier than ever to align IP portfolios with the company's most current business strategy.

As we all now know, while not so long ago a publicly traded company's total value correlated primarily to its physical assets, companies today derive a startling 70% of their market value from their intangible assets, of which IP portfolios are a significant part. This means companies rely heavily on intangible assets that can prove challenging to categorise, evaluate and manipulate accurately.

A managed patent portfolio is one that typically sees: 1% of its assets generate 90% of its value; 50% of its assets actually enable and protect the business; 25% of its assets are candidates for licensing to competitors within five years of commercialisation; 30% of its assets are available for immediate non-conflicting out-license review opportunities; and up to 15% of assets are actively considered for abandonment.

For a global company with an IA portfolio – including extensive patent rights – representing the culmination of several decades, mergers and docketing programmes, not to mention continents, the management difficulties are obvious: corrupt or inaccurate data, wasted time and

personnel spent on redundant processes, opportunity costs generated by inadvertently lapsed rights or delayed filings, as well as different company sectors working at cross-purposes due to imperfect goal alignment.

Using state-of-the-art tools, however, without a vision of how one plans to align a company's IP to its corporate business strategy, is not the way to IAM success. Instead, lasting IAM success requires the continued leadership and support of an executive sponsor who understands how adding value to the portfolio adds value to the company. Someone who is willing to champion the allocation of sufficient resources to IAM can make the difference between success and failure for IA innovations. Meaningful and sustained improvement of the bottom line is more likely when a leader at the executive level is free to motivate employees to get on board with consistent IAM practices geared towards achieving the company's strategic business goals.

Suppose, however, one is using the best available IAM tools and practices already – what then? What are the metrics of IAM success? For starters, examine your company's bottom line. Some important questions and concerns to ask regarding best IAM practice are:

- Does the current model save the company time, money and resources?
- Is the IP portfolio aligned with the company's most current business strategies and goals?
- Are employees able to data-mine the company portfolio instantly and from any geographic location and receive customised reports that manipulate various aspects of the portfolio?

The companies that get it can answer “yes” to all of the above and are the true success stories of IAM.

Central control

Despite the fact that patent filings have more than doubled over the past 10 years, companies today may still find themselves in the position of investing as much as US\$600,000 in external costs, such as attorney prosecution and filing fees, over the lifetime of the average patent. From a pool of perhaps 900 invention disclosures per year, roughly 30% to 50% led to patent filings; of those patents, at best one-third provide a profitable return to the company. Bottom line: in an inefficiently managed portfolio, approximately 70% of new patent filings turn out to be a waste of precious company resources. Obviously, it pays to get on board with IAM so a company can thoroughly know what it owns and manage it effectively. It's not a simple process. And it's made more difficult by companies that provide only limited IAM funding, not realising the short-term cost savings and long-term profits that are possible with the right IAM strategy.

IP portfolios managed through a centralised web portal tend to facilitate the company's collaborative exploitation of their intangible assets by streamlining processes, which also may reduce the company's total IP budget by virtue of its increased efficiencies. At the most basic level, employing a centralised, web-based database to manage an IP portfolio makes it easier for a global company's inventors to enter disclosures into the company database from anywhere in the world in an internally consistent format. This enables the company's business executives, technicians and counsel anywhere in the world to access and manipulate the data to suit their purposes. The immediate result is faster turnaround times on information requests and decision making. Long term, the company enjoys increased productivity and strategic alignment throughout the lifecycle of the IP asset.

From a different vantage point, imagine the company's patent counsel is concerned that a particular patent has too narrow a claim and wishes to apply resources to broaden the claim. Meanwhile, an R&D director is convinced that a particular invention disclosure should be filed quickly to overcome an emerging competitive threat. The R&D director believes the patent the patent counsel wants to invest in should be a much lower priority as it is not furthering

this year's IP goal/strategy. No mere cataloguing programme can provide the nuanced information and analysis required to resolve this dispute and align the portfolio's priorities with the company's goals. It requires the detailed responses/reports of a comprehensive, centrally managed database to assist decision-makers as to how best to navigate the IP landscape to maximise the portfolio's yield.

When companies merge and their IP portfolios conflate (eg, HP, Compaq & DEC), proliferating various docketing platforms and applications, they require a uniform methodology of information input and extrapolation across inter-departmental teams. At Kimberly-Clark, where the sheer volume of the IP portfolio renders single-person management impractical, our IAM team has evolved into a collaborative, company-wide process guided by leadership committed to robust IAM practices. Our IA content owners (such as inventors, IA Teams and technical managers) and process owners (such as corporate and marketing executives, and internal and outside counsel) can obtain detailed customised reports in response to any corner of the company, from R&D to the C-suite. This allows them to advise how the portfolio is performing relative to increasing the company's value, alignment with the company's current business strategy, maximising innovation and market share, and minimising costs (legal, staff, technology, training, etc).

Pruning the IP estate

Over the past five years, one of the most notable advances in IAM has been the emergence of software tools that grant company personnel web access to a comprehensive classification of their IP portfolio. The power to tap into a detailed and easily manipulated database of a company's IP assets, one that is uniformly and accurately organised as well as current, can facilitate fluid cross-departmental interaction, both internally and externally, with the most critical aspects of the portfolio at a moment's notice. Seamless incorporation of these IA power tools separates successful IP companies from those less so.

Kimberly-Clark's goals for its comprehensive portfolio classification effort were to:

- Provide a way to bucket the portfolio based on potential business questions.
- Allow for sharing of the knowledge contained with the IP.

Product taxonomy

- | | |
|--------------------|-----------------|
| • Bath & body care | • Glove |
| • Business systems | • Medical |
| • Dispensers | • Non-wovens |
| • Dry wipes | • Other apparel |
| • Face masks | • Etc. |

Empirical evidence suggests that an initial patent portfolio analysis based on business, technical and legal value usually identifies 10% to 20% of total patents as candidates for abandonment.

- Enable portfolio metrics and data analysis based on portfolio content.

Capturing and maintaining the entire classification information for a large IP portfolio requires significant effort, so getting the classification design right is critical. The optimal IAM system can answer questions such as:

- What IP metrics will you want to measure?
- What will you want to know about the portfolio?
- How will your business teams want to analyse the information contained in the estate?

After a careful review with all relevant departments, we defined classifications with eight major categories that tended to contain up to two sub-categories per level:

1. Business deliverable – the customer/consumer area of need that's to be addressed.
2. Business perspective – where in the business plan the IP is useful.
3. Business value – external indicators of the IP value (marking, opposition).
4. Claim type – product, method, design, etc.
5. Cross-sector business interest – identification of others with interest in IP (internal to K-C).
6. Product taxonomy – products that may utilise the IP.
7. Stage of development – conceptual to commercialised.
8. Technology attributes – listing of technologies utilised.

The ability to set up any number of hierarchical classifications for any IP type is a critical feature of the success of Kimberly-Clark's global IAM team. Invention and patent review committees are given the responsibility for seeing that the classification information is captured as required during the invention disclosure process. Using their own designated web portal, inventors are required to enter this information in their disclosures. They can also track the status of prior submissions. Cross-sector business interest can be captured during the review process or at a later date. K-C's IAM system allows the classifications to be managed and modified over time, and permits movement within or across classifications.

With all the information about the portfolio available at any time, managers can quickly run reports to get answers to questions that

once required projects that lasted weeks:

- What are our 100 most valuable inventions and how much are they worth?
- What IA coverage do we have for specific businesses?
- What IP supports our 10 highest-margin products?
- What IP supports the products comprising 80% of our revenue?

Within a few months of implementing an IAM system of detailed taxonomy and fluid information manipulation, the Kimberly-Clark business teams discovered that 15% of the IP portfolio was not in alignment with its business strategy and was available for licensing or abandonment. The review process focused on four key areas:

- Technical strength. What is the technical value – is this a breakthrough technology? Does it build on an important patent area? Does it block competition?
- Business (value) fit. How well does this piece of IP fit with a specific business objective? How well does it fit with future business needs?
- Legal strength. What is the potential claims coverage? How easy or difficult is it to detect infringement?
- Predictive indexes. How well does a patent stack up against prior art? Considering as many relevant factors as possible, how strong is a patent compared to others using the same criteria?

The alignment of intellectual assets with business goals and priorities becomes clear to all participants. Not only is the estate-planning process much easier, but there is more confidence in the decisions. Kimberly-Clark's global IAM team truly manages its intellectual assets for business competitive advantage.

K-C's high level of analytical astuteness creates a business environment where:

- Every annual K-C portfolio review is more challenging than the last. Each year, as the weakest assets are pruned from the portfolio, it becomes harder and harder to find low-hanging fruit; a sure sign that each year our estate is growing stronger, healthier and more aligned to our company's business strategy
- Each analysis of the estate-to-business plan correlation has yielded significant budgetary savings, which we then reallocate more efficiently throughout the organisation
- K-C's target cost savings from each yearly

review consistently trend downward. This is yet another indicator that IAM success can lead to business success.

Big picture

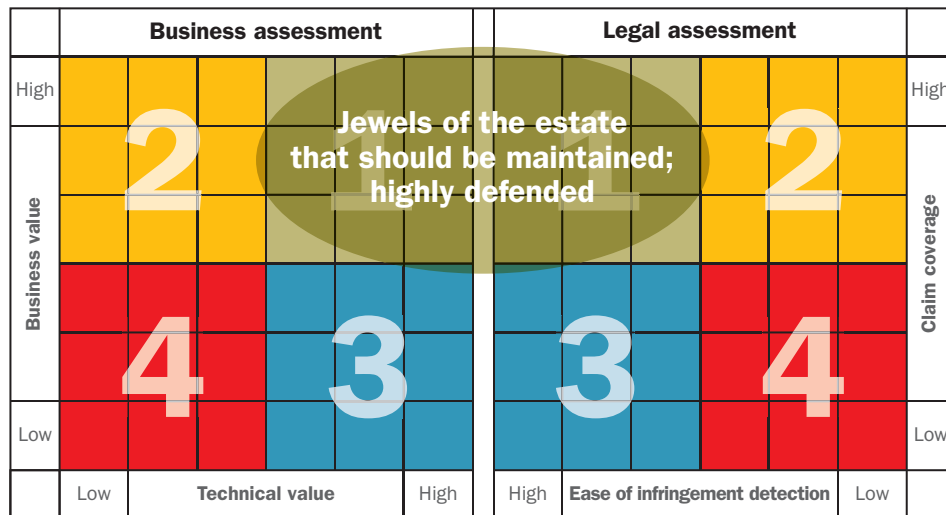
Over the past 10 years, IP market growth and the need for better ROI have spurred increased appreciation for IAM, particularly among businesses with large patent and trademark portfolios. Due to the broad size and scope of the IP assets in their estates, large portfolios face more difficult management challenges. Time has shown that those challenges are best met with powerful organisational tools and practices that are fluid enough to satisfy the needs of a company's business, legal and technical teams. One of the most efficient management practices of the large portfolio manager is instant access to detailed and accurate information as to IP assets past, present and pending. And now more than ever, the queries for information about the portfolio are coming from every department, level and sector of the company, from content owners and process owners, and need to be answered more quickly than ever before.

Your IAM is working for you when:

- Over time, the portfolio is increasingly aligned with business strategy. The assets in your estate are understood relative to the role they play in enabling the businesses.
- As weaker assets are eliminated via estate review/analysis, it becomes more difficult to find assets that need to be eliminated.
- As each assessment brings the portfolio into closer alignment with the company's long-term business goals, redundancies are eliminated, generating a savings return to the company.
- As the portfolio is trimmed of fat, the company's decisions to litigate or mitigate are made more strategically, ultimately saving the company in avoided litigation costs.
- You are getting out of your portfolio those things you expected to.

As today's IA becomes more linked to business, IP managers are expected to answer very different questions from more varied quarters of the company than in the past. To keep a company competitive, today's IP managers are using more powerful IAM databases to streamline IP portfolios, ultimately saving the company time, money and crucial resources.

Estate evaluation



Proactive IAM makes it easier to trim underperforming assets from the portfolio, freeing up time, money and personnel to be focused on managing the crown jewels of the IP estate. Ideally, the best IAM tools enable uniform access to and input of information, regardless of where the user happens to be located on the globe. Quick and detailed access to a company's IA can eliminate process redundancies, save on litigation costs and smooth the way towards a portfolio that is annually better aligned with the company's business goals.

It is the people who use these tools – not just IP managers, but those in other departments such as marketing, finance and accounting – who are making companies' investment in IAM pay off. Properly employed, such IAM databases can deliver a deeper understanding of the portfolio's strengths and weaknesses to company teams at all levels, allowing for faster and more informed decision-making.

The next generation of IAM strategies – IAM 2.0, if you will – will be expected to handle administrative tasks seamlessly, such as renewals, but also will play a significant role in such activities as joint ventures, acquisitions and more productive R&D. ■

K-C bases its successful IAM on a comprehensive and detailed taxonomy of all its IP. It then associates portfolio attributes and value to each piece of IP through the full lifecycle – from invention disclosure to patent filing to licensing – allowing it to focus on the crown jewels of its estate.

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