

Valuation

Secrets to Using Intellectual Property to Increase Startup Value

The authors identify six secrets for increasing the value of technology startups with intellectual property.



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A 2010 study of 188 technology startups showed an average \$4 million valuation increase per patent in early financing rounds. This data point tells only half of the story. Very few patents really live up to their potential, to a point where a majority of patents are unused and have no real value.

Large companies have strategies for creating valuable patents with consistency. Small- and medium-sized enterprises (SMEs) are not privy to these strategies and often miss very simple steps that could help convert intellectual property investments into value.

This article reveals six strategies to level the playing field in IP development and for realizing better returns on investments for SMEs: aligning patents with the business, monitoring external threats, and targeting areas worth patenting with the right team.

1. Define What Success Looks Like

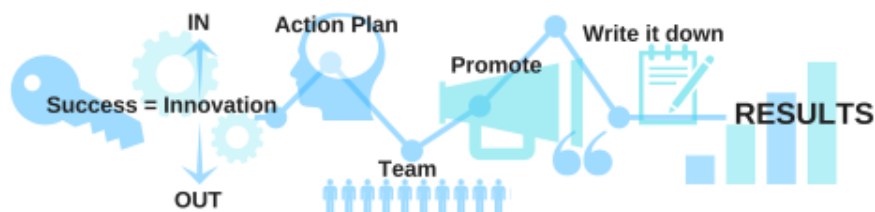
Patents don't have value in a vacuum. Patents are negative legal rights to prohibit an activity (infringement) and by themselves do not permit an activity. They drive value through their relevance and applicability to a business.

As any business asset, patents contribute to the success of a company. For this reason, patent investments should be aligned with their contributions to support the value of a successful business, whether it is a technology licensing business (e.g., a fabless company), the value of the company in a pre-revenue phase (e.g. fundraising), and/or the company profits when there

are long R&D investment cycles that could be threatened by fast followers.

2. Look Both Inwards and Outwards

A first or early part of any action plan should include a thorough understanding of the company's existing technical innovation. Getting this understanding may include an audit of existing patents and applications, trade secrets, and all existing technical R&D efforts relevant to your future plans.



In addition, it is important to monitor the competitive patent landscape to anticipate specific threats and quantify the right amount of patents that are needed. It is ideal to have access to high-quality tools that allow for data analytics. Such tools are expensive and require significant experience to provide useful results. This is why for SMEs it is best to seek help from service providers who already licensed and use these tools.

3. Prepare an Action Plan

Building a patent portfolio is a marathon, not a sprint. It is important to allocate time and resources consistently rather than erratically. To maintain the right level of effort, companies should plan five years ahead and build specific annual goals to reach the long-term objective. This includes a preparation of a realistic budget that accounts for mistakes.

It is really hard to tell whether a patent application will yield a strong patent. It may be better to file twice as many patent applications and abandon them over the course of their life as under-performing assets, in order to select the best patent assets through regular patent portfolio pruning.

4. Assemble a Multidisciplinary Team

Most large companies have teams of engineers, lawyers, and IP professionals who are constantly engaged in various versions of the patent development process. With limited in-house expertise, SMEs can leverage skills outside of their organizations to augment their internal teams based on their gaps.

Internal training or presentations of the company's business and technologies can speed up the learning curve of outside resources. Former chief IP counsels or former intellectual asset management executives often offer business IP management services on a project or part-time basis. These business consultants can help assemble and manage legal resources.

SMEs can use directories and inter-professional associations to find qualified individuals such as IAM Media (<http://www.iam-media.com/strategy300/>) for IP strategists and Legal 500 (<https://www.legal500.com/>) for outside legal counsels.

5. Evangelize Inside the Company

Identifying inventions is not as trivial as it sounds. Engineers typically do not know what is patentable or not. Lawyers do not read the minds of engineers and don't know what inventions have been developed.

There are two main approaches to harvesting inventions: organic harvesting and focused development. The organic investing won't be effective in new business areas. A focused development ("pulling" inventions) is recommended for SMEs or startups. This process is not as easy as it may sound. For starters, it can be challenging to take time from engineers away from their jobs. Most of them would rather spend an hour coding than talking to a patent attorney.

6. Write it Down!

To turn the harvested technology into something that can be protected, it is important to collate material. In other words, you need to get as much as you can out of the inventors' minds and onto paper.

Quality collating will correlate with the quality drafting of patent specifications. How you do this step is really key for patent quality. IP mentoring and proximity with the inventors comes into play here.

Getting an experienced IP professional involved from the beginning helps in numerous ways. It helps to educate inventors so they are more clued up to spot inventions and understand what makes a quality patent, i.e. what goes into a patent. It also helps ensure that the right information is extracted.

Conclusion

Given their impact on a company valuation, patents are worth the attention of the leadership team and should be managed as real business assets, not legal matters. To create value, a company can perform six key strategies: align patents with business goals, monitor external competitive threats, prepare an IP business plan, assemble a rockstar team, harvest inventions in the right places, and lastly prepare written materials.

While this is easier said than done, implementing these strategies is key to attaching the value companies create to their business. Yes, talking with an IP attorney may not be as exciting as coding or creating new products. But without strong patents, large corporate acquirers may be tempted to lure key employees with attractive compensation packages (a practice known as “acqui-hire”) rather than paying the full acquisition price of a company (M&A).

For More Information

The study referenced in the first paragraph is “Small Firms, Big Patents? Estimating Patent Value Using Data on Israeli Start-Up Firms’ Financing Rounds” by Gili Greenberg, published Sept. 2010 and available at <http://econ.biu.ac.il/files/economics/seminars/greenberg.pdf>.