The business of Intellectual Property

Including IP patent value funds

15th September 2008

Julian Nolan
Julian Nolan - background

• Applications Engineer – National Instruments, USA
• Business Development Director – Scipher plc, UK
• Vice President of Licensing - Europe, Honeywell Inc., Switzerland
• CEO, Iprova SA (in formation), Switzerland
  − New IP start-up – offices in London and Lausanne
  − Broad range of IP services provided in conjunction with partners
  − Unique patent synthesis tools
  − Author of BBC licensing column
  − Close partnership with IPB AG ...
IP Bewertungs AG (IPB)

- One of Europe’s leading consulting firms for intellectual property services such as patent evaluation, patent monetisation and patent management
- Access to international network with worldwide resources in commercial legal protection, in the financial services sector and in auditing and taxes
- More than 130 transactions with a total volume of € 2.5bn
- Bank independent spin-off from HypoVereinsbank Group
- Headquarter: Hamburg
- International representatives in
  - United Kingdom
  - United States
  - Japan
  - Switzerland
  - India
  - China
  - Korea
IP Bewertungs AG (IPB)

- **Clients**
  - International blue chips
  - DAX-, MDAX-, STOXX 600 companies
  - SME
  - Universities
  - Research centres
  - Individual inventors

- **Background**
  - Investment bankers
  - Innovation managers
  - Engineers
  - Scientists
  - Lawyers
  - Patent attorneys
Agenda – the business of IP

• Revenue generation
  − Patents
  − Trademarks

• Patent investment funds
  − Open Innovation
  − Converting ideas to products
Intellectual Property - what is it?

- Intellectual property is not just about patents.
- It's about brand names, products, services, music, software, paintings and many other creations of the mind.
Worldwide Licensing Revenues, 1980 to 2010

Development of Worldwide Licensing Revenues

- European patent office
- Ocean Tomo
- Athreye & Cantwell
- Rivette & Kline
- The Economist
- Klawitter & Hombrecher
- The New York Times

in Billion USD

Why is IP valuable?

Components of S&P 500 market value:
- Tangible assets
- Intangible assets

USPTO patent applications:
- World Total
- Annual growth rate

Source: OECD: Compendium of patent statistics 2007

Value from Knowledge
Specifically, why is IP valuable?

- Common uses include...
  - Generate income
  - Preserve competitive advantage
  - Scale product lines and brands
    - License to other companies
  - Allow greater focus on core business
    - License non-core or 'nuisance' products
  - Discourage unauthorised use of IP
    - Prevent copying...
  - Identify acquisition targets

... “use of IP to obtaining and raising finance, earn revenues, raising loans or venture finance, licensing, franchising, securitization, valuation, obtaining technical and commercial information”
What is licensing?

Licensing is a direct way of creating value from IP

“A License is a written authority granted by the owner of a patent or other intellectual property (licensor) to another party (licensee) empowering the latter to make or use the article for a particular application.”
The business of IP - Patents

- Patents
  - Use for defence and competitive advantage
  - Assert to 'tax' competitors
  - Analyse for competitive intelligence
  - Sell and license for incremental income
  - Buy/sell and trade or cross-license
  - Timing is everything!
The patent deal

... Licensor can limit the licensee’s use of a patent by:

- Market
- Geography
- Time
- Specific Application
- Grant of Rights Usage
  * Make, have made, sell, market, sublicense, etc.
Patents that mean business

Settlement reached in BlackBerry patent case
Research In Motion pays NTP $612.5 million; devices to stay on

Research In Motion Ltd., the maker of the BlackBerry e-mail device, announced Friday it has settled its long-running patent dispute with a small Virginia-based firm, averting a possible court-ordered shutdown of the BlackBerry.

The New York Times
Monday, March 31, 2008

Kodak Told It Must Pay $909 Million
By JOHN HOLUSHA
Published: October 19, 1990

LEAD: In the largest award ever in a patent-infringement case, a Federal judge ruled yesterday that the Eastman Kodak Company must pay the Polaroid Corporation $909.4 million for infringing Polaroid's patents for instant photography.

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Despite the size of the judgment, the decision represents something of a victory for Kodak, since it is well below the $12 billion sought by Polaroid and the $1.5 to $2 billion that some financial analysts had expected.
The business of IP - Trademarks

• Brand licensing
  – Globalisation
  – Extend to adjacent markets

• Business advantages
  – “Try before you buy”
    • Test out new markets and territories
      – Identify acquisition targets or alliance partners
      – Time limited deals
      – Contractual reporting provisions
  – Income
  – Increase brand equity etc.
The trademark deal

- Usually exclusive for product category territory
- Usually time bound
  - 3 to 8 years
- Licensee has to comply with strict brand usage guidelines
  - usually as set out in a 'brand manual'
- Agreement terminates if strict guidelines are broken
- Commercial structures vary but
  - upfront fee, percentage of product revenues typical
Deals that go bad

- 1973
  - RR trademark becomes owned by RR aircraft
  - Bentley trademark still owned by RR cars

- 1998
  - BMW offers $575M for RR cars
  - VW outbids BMW with an offer of $795M – for RR Cars
  - BMW acquires the RR trademark for $65M from RR aircraft
Summary

• Intellectual Property
  − 80:20 flip between tangibles and intangibles
  − About $300B of IP transactions per year

• Use it to
  − Get competitive advantage
  − Gain strategic focus and scale
  − Generate incremental revenues

• Increasing investment opportunities
  − Such as the IPB investment fund ...
Part 2 – Patent Value Funds
OPEN INNOVATION

Companies, by looking outside their boundaries, can gain better access to ideas, knowledge, and technology than they would have if they relied solely on their own resources.

- increasing the use of inflow of knowledge
- increasing the use of outflows of knowledge
- accelerating the rate of internal innovation
- expanding the markets for external use of innovation
Open Innovation by Patent Value Funds

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<td>How is it accessed and managed?</td>
<td>No controlling entity: IP open</td>
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<tr>
<td>Distrust of others No sharing</td>
<td>Do individuals choose to share?</td>
<td>Trust and reciprocity while being exposed</td>
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CLOSE INNOVATION
- Value From Knowledge -

| Internal R&D | Patent Value Funds | Collaboration Network |

INNOVATION BRIDGE

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**CLOSE INNOVATION**

- Value From Knowledge

**FULL OPEN INNOVATION**

Internal R&D

Patent Value Funds

Collaboration Network
How to combine external knowledge and protection?

External Knowledge Sourcing
- Universities
- R&D centres
- SMEs
- Large Corporations
- Other knowledge intensive, non competing entities

Knowledge Protection
- Strategic
- Freedom to operate
- Tactical

Innovation through Patent Value Funds
An alternative to in-house R&D

- Single field of use/application
- Utilization of internal resources
- Higher opportunity cost & higher risk
- Limited by R&D resources
- No investment in seed-stage techs

- Exploitation of every possible application
- R&D outsourcing opportunity
- Lower opportunity cost & lower risk
- Not limited by R&D resources
- Investment in seed-stage techs

Positive Risk/Reward Ratio
Why are patent value funds needed?

PATENT VALUE FUNDS

Financial Gap (e.g. for prototypes, test series, miniaturization...)

R&D Budget

Sales Budget

Patent Application

J-Curve

Time

€
Patent Value Funds

Patent value funds are SPV’s initiated by a bank. They secure rights on patents in order to commercialise them by e.g. licensing or selling them with the objective of obtaining the maximum rate of return for both, the patent owner and the investor.
Patent Value Funds: value proposition

- Accessing the Open Innovation Model without bearing its costs
- Financing the “Death Valley”
- Solving the False Positive Problem – you don’t invest in R&D directly: no opportunity cost –
- Solving the False Negative Problem – you can access excellent R&D otherwise not selected –
- Bridging from Base Research to Development
- Bridging from Invention to Innovation
- Developing Technologies towards specific industry needs/applications
- Enlarging companies’ R&D base
- Eliminating the R&D Opportunity Cost
- Realizing the value of unexploited technologies
- Stimulating the Markets for Technology
Where is IPB positioned?

- Strategic decision for IP handling
  - Patent portfolio
  - Licensing

- Transfer via financial instruments

- Investors decision for investment targets
  - Return
  - Risk
Summary

• Patent value funds
  – Investing in early stage technologies
    • To overcome the 'technology gap'
  – Driven by increasing liquidity in the market for IP
    • Open Innovation driving the market

Good technologies + prudent investment + 'market pull'

= tomorrows blockbuster products
Thank You for Your Attention!

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