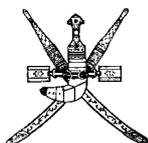


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**Under the Patronage of
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THE ROLE OF INTELLECTUAL PROPERTY RIGHTS IN THE PROMOTION
OF COMPETITIVENESS AND DEVELOPMENT OF ENTERPRISES

Lecture prepared by Mr. Kari Sipilä, Executive Director, Licensing Technology,
Foundation for Finnish Inventions, Espoo, Finland*

* Mr. Kari Sipilä may be contacted by e-mail at kari.sipila@keksintosaatio.fi . The web site of the Foundation for Finnish Inventions is www.innofin.com.

1. Constant Renewal is Vital to Entrepreneurs

Demand is a central prerequisite for business and for new products and methods. Consumers demand and buy new products, and industries require better and more efficient equipment to keep up with domestic and international competition. To make a product succeed, enterprises need inventions, product development and aggressive marketing. New products also have a great impact on employment, particularly in small and medium-sized enterprises, as they secure existing jobs and create new ones. Preparing for the future and for global markets is a long-term project.

New technologies change the fabric of the economy and facilitate an improved standard of living and the creation of new jobs. Growth of the economy is largely based on know-how and jobs requiring expertise are multiplying. This has a great bearing on education as well. Services account for over two-thirds of the output and jobs in OECD countries. The world is going through a period of fundamental change due to the rapid development of information technology and its ever-increasing utilization and proliferation to most fields of technology. New technologies support a renewing society.

The success of businesses is founded in their capacity for renewal and innovation. Corporate development and intellectual property rights are related in many ways. These include:

- The intellectual capital of an enterprise and its development
- Intellectual property and innovation strategies as parts of overall business strategy
- Vision regarding the importance of intellectual property rights as a basis for business success
- Preparedness for intellectual and financial investment into product development and innovation
- Strong contacts with customers and stakeholders
- Need for new products, competitiveness, international expansion and successful business operations.

2. Patent Strategy and Policy

Technological and economic development world wide leans heavily on new and competitive products. They can be classified on the basis of their significance at different levels of sophistication and in different sectors of the economy, from high-tech to mundane everyday products. Some reach international success, while others are noted within their home region or country. Technology and inventions promote general welfare and also play an important role in the production of services.

In most industries, intellectual property rights, especially patents and their exploitation, hold key significance in the development and commercialization of new products. Businesses should have an intellectual property strategy as part of their corporate planning and strategy.

An intellectual property strategy defines the principles that intellectual property rights are designed to serve and how patent matters and other intellectual property matters are handled within the enterprise. The purpose of patent policy is to support the business operations of an enterprise. Neglecting patent matters may turn into a threat to development in an internationally expanding business.

The patent and intellectual property policy of a business should include, among others, a definition of intellectual property rights, the organization of corporate activity designed to protect intellectual property rights (or just patents), making and acquisition of inventions and available sources, instructions on how to secure and maintain adequate patent protection, instructions on acquiring, tracking and otherwise utilizing patent information, protecting corporate patents, licensing behavior and publication policies.

Corporate patent policies may be divided, for example, into low and high profile policies, aggressive patent policies of businesses involved in international markets, and patent policies followed by businesses engaged in the commercial exploitation of intellectual property rights or transfer technology.

The patent policies of diversified businesses can be classified as follows:

1. Build a patent portfolio commensurate with the scope of your operations and technological sophistication and exploit it in your business.
2. Respect and avoid infringing on the patents and intellectual property rights of others.
3. Enforce and protect your own intellectual property rights.
4. Seek to enter into liberal cross-licensing arrangements and/or find an ally.

Even a simple patent policy is vital for smaller companies since their business is often based on only a few key products.

3. Benefits of Patenting

A patent gives the inventor the right to decide the fate of his or her invention. The inventor may manufacture and sell the product himself or may assign his rights to someone else. A trademark, on the other hand, is a fanciful name given by a business to its product(s) in order to distinguish them from other manufacturers' goods. International recognition of rights is also a common denominator for intellectual property rights. All international property rights are subject to international agreements.

The legal protection afforded to intellectual property has commercial significance to the owner since the owner may, for instance, preclude others from taking advantage of the protected intellectual property in their business. Businesses – manufacturers, merchants, etc. – need to, in fact, establish a name or brand for their products so that customers can tell them apart from other products. Likewise, an inventor must secure an exclusive right to his invention, a patent, so that not just anyone can exploit the invention in his or her business.

In a Finnish research study, businesses gave the following reasons as the most important rationales for their patent interest:

- Securing the basis for continued manufacturing operations.
- Utilizing patent publications in product development.

- Pre-empting competitive market entry.
- Using a patent in marketing.
- Monitoring competitors by following patent publications.
- Avoiding patent infringements and disputes.
- Evaluating the level of technology in an industry.
- Using patents as a medium of exchange.
- Licensing agreements.

Components of the benefit – usually economic – derived from important patents include:

- Pre-eminent market position.
- Pre-empting competitive entries.
- Pricing flexibility with new technologies.
- Quick payback period for investments.
- International expansion.
- Strategic patent alliances.
- Patent ownership as an advantageous negotiating tool.
- Breathing space afforded by patent protection.
- Favorable image.

The protection afforded to the inventor or inventing organization by a patent is an indisputable advantage, which does, however, require some expenditures. A patent provides a head start on the competition; even from the secrecy point of view 18 months. Filed patent applications can also be used to intimidate competitors through, for instance, corporate communications. Patents serve as flexible instruments of trade through licensing and sublicensing and thereby open opportunities to earn substantial income and to expand internationally. However, in cases of dispute patents must be vigorously defended.

Patent databases also function as a vast source of information for inventors and businesses who wish to find the latest technology in their field or are trying not to infringe on competitors' patents. Aside from databases available in most Patent offices, a considerable amount of patent information may be found also on the Internet, for instance at www.patents.ibm.com or <http://ep.dips.org>.

However, in some fields the intellectual property rights are problematic. Information and communications industries as well as biotechnology are examples of fields which have developed very strongly in recent years. Consequently, the ground rules for intellectual property rights and their exploitation have not kept pace with this development in many countries. Particular attention should be paid to rapid development of necessary legal protections in fields such as these.

4. Businesses Invest in Patents

An individual, research team, corporate employee or a product development team may come up with an invention. Generally, an individual owns his or her invention personally, whereas a corporation owns an invention made by its employee if it is related to the employer's business. Ownership of the inventions of university researchers varies by country, but often they are the property of the university. Inventions, however, are always made by humans.

Successful businesses know to invest in research and development. Although individuals and small and medium-sized companies suffer from lack of resources, know-how and innovation can still produce inventions and patents. The result is evident in the form of new products, improved competitiveness and success. In a recent research, made by Statistics Finland, the profitability in firms which are active in research and development is clearly on a higher level than in the non-R&D firms.

Further in Finland, the world's largest mobile phone manufacturer, Nokia, invests annually approximately 1 billion U.S. dollars and the labor of several thousand employees into research and product development. Nokia files some 500 patent applications each year. IBM is the leading U.S. patent applicant with its 2,657 filings. Next in line in the U.S. are Canon, NEC, Motorola and Sony. Each day, two thousand patent applications are filed around the world. A patent alone, however, is not enough. The invention must be developed into a marketable product.

5. Earmarks of a Good Invention

To remain innovative, successful and competitive, an enterprise must continually make or acquire new inventions. Simplistically, one could say that an idea or invention has established its worth when it has offered a novel solution, has turned into a product, and has also been an economic success. Successful inventions are innovations. Success is always more easily recognized in retrospect and the real difficulty lies often in evaluating an idea's or invention's chances for success, planning its execution, and the execution itself.

A good idea, invention or innovation and related products may be recognized in advance by the following earmarks:

- The product is market driven; it is in demand.
- The product is inventive, novel, and patentable.
- The product is significant to the business and to employment.
- The product is functional, capable of being produced and economical.
- The product can be launched quickly.
- There is organizational commitment behind the development project and the product.
- Investors are interested in the venture.

It is easier to raise development financing for a good, promising invention because public or private backing or investment is required if the venture is to succeed.

In many cases, several stages are involved in the development of an idea or technological invention into a marketable product, such as:

1. Planning, evaluation and preliminary technical and commercial studies.
2. Patenting or other intellectual property protection domestically and internationally.
3. Product development and related planning, experimentation and testing.
 - technical
 - commercial
 - production
4. Business planning or licensing of invention.
5. Pilot production runs and test marketing.

6. Production and marketing.

An idea that seemed good may fail at nearly any one of these stages and the venture may end there. Terminating development in time is sometimes a better economic decision than battling the odds and continuing to develop an idea that is likely to fail. This, however, is often emotionally a difficult decision.

6. Characteristics of an Innovative Enterprise

Distinguishing characteristics of innovative organizations include the following:

1. Innovation and intellectual property strategies are established, and followed.
2. Corporate culture is managed.
3. Teams are created for tasks.
4. Creativity is rehearsed.
5. Mistakes are permitted.
6. Creativity and innovation are rewarded.
7. New opportunities are actively created.

Although these principles and observations mainly relate to the evaluation and promotion of technical ideas, inventions or innovations, they can also be carried over, where applicable, to other innovations and business ideas.

Innovativeness and creativity are excellent qualities in people and businesses. However, an invention needs a home – in practice a business enterprise – where it will be developed. Corporate management skills often play a key role in the success of products. When evaluating the competitiveness and likelihood of success of a business, especially a startup business, one focuses on factors such as:

1. Management, entrepreneurship and commitment.
2. Demand for products, market conditions, and potential for increased production.
3. Patents on innovative products, development resources, quality and significance of patents, and potential for increased production.
4. Well-rounded totality.
5. Finances and business operations.

These evaluation and business planning stages are designed to identify the realities faced by and chances of success for the venture.

The chances of an inventive product should be examined from a business viewpoint by finding and evaluating answers to the following questions:

1. Who are your customers and what are your channels of distribution?
2. Does your profitability analysis look promising?
3. How important is the product to your business and your image?
4. Do you have the requisite intellectual and economic resources for product development?
5. How will the product impact your operations and bottom line?

Continually assessing the product's commercial potential throughout the development process is of key importance. Marketing and commercialization measures take on added import as the project approaches the commercialization phase. The business idea itself is usually evaluated

in the light of factors external to the organization on the one hand and internal factors on the other.

7. Conclusions

Products stemming from inventions and related intellectual property rights have, despite their many development stages and difficulties, a great impact on businesses and their competitiveness, success, development, and also employment. Businesses must undertake new product idea generation, acquisition and development timely and with a long-term view, not only after troubles start to mount up.

Finally, perhaps the most significant competitive tool in this decade is timing: you have to hit the market at the right time and with the right products. Due to advanced communications services and extensive international cooperation, gathering and effectively utilizing information is more important now than ever before.

[Annex to follow]

