Patent protection is one of the most important ways companies can safeguard their assets. Patents provide an unequalled head start in the marketplace. With patent protection, your business can work out all the growing pains associated with your new technology, perfecting it and its distribution, before your competitors start. But even more importantly, patents allow you to prevent latecomers from getting a foothold. Patent protection prevents your competitors from making, using, selling, offering to sell, or importing your technology in the country or countries in which patent rights are held. That sort of exclusivity is immeasurably valuable, especially where key technology is involved.

But patents are not cheap. Most businesses cannot afford to patent (or attempt to patent) all their technological advances. So how can businesses most effectively manage their technology and patent strategy so that they receive the protection they need when they need it? Here are five tips for managing your patent assets.

1. Prioritize patenting

It sounds simple, but if you want your business to maximize patent assets, you need to make patenting your technology a priority. This means more than simply patenting those technological advances your company considers to be valuable. This allows far too many assets to slip through unprotected and risks unauthorized disclosures along the way – invalidating some potential patents.

Maximizing patent assets requires a company-wide commitment to protecting intellectual assets. This means educating employees on what sort of advancements can be patented. Unfortunately, many engineers, developers and research and development personnel undervalue their technological advances, but identifying all possible inventions means more exploitable technology for the company.

Maximizing patent assets also means educating your management on the costs associated with patenting technology. Patent acquisition is not cheap, although there are systems such as the Patent Cooperation Treaty (PCT) which offer a cost-effective means of protecting patents internationally (see box). Patenting costs need to be seen as an investment in the company and not expenses to be cut. And, perhaps most importantly, prioritizing patents means enforcing the patents you do obtain against infringers. Patent infringement actions are very expensive. But without enforcement (or the credible threat of enforcement), patents are not worth the paper they are printed on.

2. Identify early

One of the most important tips for managing your patent and potential patent assets is to have a process in place to identify key technological advances early in the development process.

Knowing what technology is being developed and carefully evaluating it with an eye toward the marketplace will allow the company to muster the assets necessary to protect key advances. This evaluation should not be limited to research and development personnel alone. Ideally, for maximum returns, key marketing, sales and management personnel, should all be involved in this evaluation together with research and development personnel and a qualified patent attorney. While this evaluation is critical, it also needs to be quick. Research and development often moves at a frenetic pace. Evaluation should not slow this process, but should be integrated in a way that allows for seamless identification and evaluation.

And perhaps most importantly, early identification of key technology can help prevent unauthorized disclosures. When technology is exposed to the public (whether through use, publication, sale, or offers for sale), the
About the Patent Cooperation Treaty (PCT)

The Patent Cooperation Treaty (PCT) offers users of the patent system a streamlined and cost-effective means of protecting their inventions internationally.

The PCT eliminates the need to file separate national or regional patent applications in each jurisdiction for which patent protection is required. The granting of patent rights, however, remains under the control of the national or regional patent offices concerned.

By filing a single “international” patent application within 12-months of filing the first patent application with its national patent office, an applicant can set in motion the process of obtaining patent protection simultaneously in 148 countries.

The PCT also helps national patent Offices with their patent granting decisions; and facilitates public access to a wealth of technical information relating to inventions through the Patentscope database. Further information is available at: www.wipo.int/pct/en/faqs/faqs.html.
ability to patent it is lost. There is little more frustrating than spending a fortune developing an important, groundbreaking technology, only to find that it is not patentable because a marketing leaflet was sent to key customers during development or because of a trade show demonstration of the technology. Both of these acts would in effect destroy the novelty of the technology, which is a core requirement for obtaining a patent. Identifying key technology at an early stage can help the company make sure that early, unauthorized disclosures are avoided – preserving its ability to acquire rights in that technology for protection at a later date.

3. Exploit hits to the hilt

Research and development does not always produce valuable technology, which is why when technological advances are made it is important for the business to extract every possible bit of monetary return from it. This requires identifying and exploiting all possible iterations of the technology at issue. This process should ideally include the same cross-disciplinary personnel as above, with a qualified patent attorney, to ensure that possible modifications are understood and appropriately covered by additional patent applications. Multiple patents and patent applications should be filed for every way that a particular technology can be practiced, to ensure that competitors are unable to modify your technology easily and that your exclusive use of that technology lasts as long as possible.

4. Incentivize development

Obviously, one of the keys to a successful patent strategy is a steady succession of new and valuable technological advances. In addition to excellent research and development personnel and evaluators capable of identifying technologies that can be exploited, it also requires an effective incentive program to reward those involved in the process. While the business must ensure that any and all developments made by its personnel are exclusively owned by the business, this does not mean that bright, innovative employees should not receive adequate reward for their achievements. The business should have in place an incentive program that encourages all employees (not just those tasked with developing new technology) to innovate on behalf of the company. And where that innovation benefits the business, those involved should share in the profit.

5. Keep an eye on your competitors

Finally, any good patent asset management strategy must include some idea of what competitors are doing in the marketplace. This monitoring serves two main purposes: one defensive and one offensive. First, by monitoring what the competition is doing, a business can ensure it stays at the forefront of technology and is in a position to develop responsive technology when competitors achieve technological breakthroughs. Effective monitoring of the competitive landscape can be achieved by, for example, encouraging salespeople to report on the new technology they encounter in the field. Marketing personnel should also be encouraged to monitor what the competition is saying about its new technology and development. Key personnel should also attend national conferences to identify technological trends and cutting-edge developments. These steps help ensure the business is never far from the technological forefront. Companies can also use publicly available patent databases such as Patentscope to monitor the patenting activity of competitors (see box) or take a look at patent landscape reports which offer a snapshot of the patenting situation of a specific technology in a given country or countries.

The second reason for monitoring is to make sure that instances of infringement are promptly identified and stopped. As noted earlier, patent rights are worthless unless enforced. When infringing technology is found in the marketplace, it should immediately be brought to the attention of management so that appropriate steps can be taken to put an end to it. Again, sales and marketing personnel should be encouraged to report potentially infringing activity and customers should also be encouraged and incentivized to report on such activity. By actively investigating possible infringement and taking steps to halt it, the business maximizes the value of its patent rights and gets maximum return on its research and development investment.
About Patentscope

WIPO’s Patentscope is a publicly available (free-of-charge) global patent search system. It provides access to information about new technologies which are often disclosed for the first time in patent applications.

The Patentscope database currently contains over 50 million patent applications comprising international applications filed under the Patent Cooperation Treaty as well as 41 national and regional patent collections.

Patentscope offers users working in multiple languages a wide range of user-friendly search tools, making it easy to access the valuable technological information contained in the database.

Further information is available at: www.wipo.int/patentscope