

Defying the monetisation market

Valuations for businesses that provide patent management and analysis are rising, even as patent licensing continues to decline

By Bruce Berman

Do investors know something that patent holders do not?

The very challenges facing patents – lower value due to a lack of certainty, greater volume and complexity – are helping to fuel a rise in demand for businesses whose job it is to help manage them.

New players notable for their ability to facilitate speed and cost savings and to impart competitive intelligence could make this sector even more attractive to both strategic and private equity investors. Offerings include prior art searches, docketing or patent application management, competitive and white-space analysis, patent and trademark renewals and even ownership searches.

IP tools providers are the proverbial sellers of picks and shovels to the gold miners. They are reminiscent of those, like Levi Strauss, who supported risk takers during San Francisco's Gold Rush. Today they permit their clients to make more informed bets in R&D, litigation and patents. Uncertainty has made investing in technology a challenge and the information premium more valuable. Also, fuelling the rise of these companies is the rapid growth of patent applications around the globe. China is now number one worldwide and number two in the United States.

Higher multiples

Examples of success include CPA Global's 2017 acquisition from Cinven by private equity firm Leonard Green & Partners for £2.4 billion (\$3.1 billion). Cinven had acquired the firm in 2012 from Intermediate Capital Group for around £950 million (\$1.3 billion), backed with \$555 million of debt financing.

In 2015, CPA Global acquired Innography. An industry insider told this observer that the price was likely between \$80 and \$90 million, or about six times Innography's revenue – not bad for a software company with about \$12 million in revenues and no profit. Patent translations firm RWS acquired Inovia in 2013 for \$30 million and in 2017 bought Article One Partners for about one time its annual revenue.

Recently, RPX sold to private equity for \$555 million, below its initial public offering price of \$19 per share and well below its peak of \$31 per share in 2011. In 2017 there was a buyout offer reported at \$800 million. It is a positive sign given the moribund state of the licensing market due to confusion over patent eligibility and the Patent Trials and Appeals Board, that RPX can still command more than half a billion dollars, even though its business model is now arguably more questionable.

Thomson Reuters sold its IP and science business in 2016 to Canadian firm Onex and Baring Private Equity Asia (Hong Kong) for \$3.55 billion. The new company – Clarivate Analytics – is a value-added provider of

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IP, scientific and academic research resources, data and tools, combined with high-level consulting. Derwent and Aureka (SmartPatents) are among its antecedents.

On a smaller scale, Anaqua, a patent and trademark software management firm originally founded by Ford and BAT, sold partially to Insight Venture Partners in 2013 for \$215 million. Private equity firm Warburg Pincus recently sold Munich-based ipan, a renewals business, to Luxembourg-based Castik Capital, which also acquired Delegate (formerly Valipat). Finally, Germany's PatentSight was sold to LexisNexis a few weeks ago.

"Success for some service providers can be attributed to increased patent risk due to uncertainty, higher volume of filings in more countries, and the potential for rising IP values when patent licensing returns," comments Stuart Rechter, vice president, IP services, Clarivate Analytics. "IP portfolios are growing and there is pressure among R&D and legal departments to save money and extract value."

AI and IP

A new and interesting entry in the IP services space is ClearAccessIP, a Palo Alto-based firm "that indexes patents, looks for vulnerabilities in a corporation's patent strategy, and finds opportunities in a patent collection for further value".

ClearAccessIP was founded by Nicole Shanahan, a young patent attorney and Code X fellow who served as a researcher for patent-sceptic Colleen Chien at Santa Clara University College of Law and who is a member of the Clear Access IP advisory board. Shanahan says that the company is "trying to build and democratise a marketplace platform [in the cloud] because not all patent holders and sellers can afford the large transaction firms". A revealing interview with her appears in *Software Engineering Daily* (the audio can be found here – <https://softwareengineeringdaily.com/2017/08/01/patents-with-nicole-shanahan>; the written transcript – <https://softwareengineeringdaily.com/wp-content/uploads/2017/07/SED385-Patents.pdf>).

Margin conscious

IP services and software providers, especially those using the latest algorithms, may represent a new wave of IP businesses that can help clients get a more data-driven handle on risk and cost. While these companies' solutions may still be unpatentable (under *Alice*), they make up in know-how what they may lack in other rights. The analytics capability they offer may be just what some rights holders and margin-conscious law firms need to compete. Another possibility is that these companies may simply be repackaging the 1980s outsourcing mantra for the AI age.

Whatever the case, expect some of these relationship-driven, technology-focused service providers to grow in value as global patent applications and portfolios increase and uncertainty lingers. A better outlook for patent values will only add to their lustre. **iam**