The intangible investor

Written by
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A curious journey

After six years and 38 columns IP Investor emerges with a new name and broader outlook. What does stock investing have to do with patents? Keep reading to find out

When editor Joff Wild asked me if I would write a column about IP investing for his new magazine, *IAM*, I wasn't sure if there would be enough material for more than a few issues. It was 2001 and Joff, who had edited my first book, *Hidden Value*, wanted to bring out an IP business publication. This was before anyone knew what NPE meant and "troll" was still an ugly little doll.

My involvement with IP began in 1989 when Kenyon & Kenyon, still smarting from a billion dollar defeat in *Polaroid v Kodak*, retained my firm, Brody Berman Associates, to help rebuild its reputation. We knew about Wall Street from having marketed debt and equity research for financial institutions and providing shareholder communications to companies like Marvel Entertainment and Autodesk. Joff and I agreed that IP investors were too narrowly defined and that their concerns, including return on costly R&D, needed to be discussed more openly.

Well, 38 columns and some 40,000 words later and I feel like I'm starting to get it regarding the complex role IP rights play in return on innovation. Their success as investments, I have learned, like stocks, frequently has as much to do with perception as performance. While IP licensing cashflows have been modelled and occassionally securitised, many aspects of IP performance still are not well-understood, let alone reflected on balance sheets or income statements, and they may never be.

From frames to claims

My IP journey has been a curious one. Thirty years ago I was a young scholar teaching film studies at Columbia University. My output included structrual deconstructions of French New Wave films and DW Griffith shorts. How I traded contemplating frames for claims was mostly an accident. However, the transition seems less surprising to me today than 10 years ago. Visual analysis of moving images and patent management have much in common: both are young disciplinces with little history; both lack a common vocabulary; and despite their abundant detail, pictures and patents can be extraoridnarily vague: the more information they provide the less you seem to know.

This is where investment theory can be useful. Benjamin Graham, an economist who joined the Columbia University Business School faculty in 1928, was an uncharacteristically patient investor and beloved teacher. He believed that the herd mentality should be resisted at all costs. Market swings and over-reactions to shares are merely an opportunity for the *Intelligent Investor*, the title of his widely read 1949 book.

Margin of safety

Graham, the father of modern investment theory, recommended that investors spend time and effort to analyse the financial state of companies. He believed that when a company's shares are available on the market at a price which is at a discount to their intrinsic value a "margin of safety" exists which makes them more suitable for investment. The same could be said for intangible assets such as patents, which have less well-defined fundamentals than businesses and securities.

London-born Graham wrote that investment is "most intelligent when it is most businesslike". Many successful investors regard his words as gospel, including Warren Buffet, who named his son for his business school professor. Graham said that the stock investor is neither right nor wrong because others had agreed or disagreed with him; he is right because his facts and analysis are right. The intelligent investor should profit from market folly rather than participate in it. Graham was terrific at marrying theory with practice. His 1934 *Security Analysis* which he wrote with David Dodd is still essential reading in business schools.

IP investors can learn discipline and focus from portfolio theory that emphasises risk management over speculation. Value investing draws upon fundementals and looks at multiple factors such as price to earnings ratios, which until the 1930s had little meaning for most investors.

New fundamentals

Investment theory will not generate higher returns for all IP holders. However, I am willing to say that a disciplined, systematic approach to investing in intangibles such as patents, reflective of the one practised by Graham and his disciples on stocks, will lead to a sounder methodology. Intellectual assets have more variables to contend with than tanglibles. But the amount of capital, cost and value associated with intangibles, including inventions, content, brands and trade secrets, constititue an abundance of wealth that cannot be ignored. IP assets have fundamentals just like operating businesses. It is up to conscientious IP stakeholders to learn what they are and how best to regard them.

It is with intelligent investing in mind and intellectuall property the focus, that this column now will be called *The Intangible Investor*. The title is not only a play on the title of Graham's enduring book, but a reminder that while innovation rights can be assets, frequently their impact cannot be readily discerned. Concensus on the language and metrics of IP, especially patents, will help to make intangible investing more palpable. Readers of this column tell me that IP accountability is on the rise, especially ROI. I suspect that the good professor is looking down from on high, watching us feel our way.

Far from being an ideologue, Graham wrote that he wished everyday to do something foolish, something creative and something generous. Warren Buffett says that Graham excelled most at the last.

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