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An image is worth 10,000 words

Businesses that have a reputation for successfully identifying and managing IP rights could be sitting on an overlooked asset – their patent brand

What's in a name? Apparently a great deal when it comes to facilitating higher return on rights such as patents.

A reputation for success is gravitational. Audiences are drawn to iconic businesses, universities and personalities like a moth to light. Reputation simplifies matters and satisfies the psyche. It renders impressions more manageable and decision making less arduous. In a digital universe, with far too much information to process, less can be much more. Audiences would prefer to accept that a+b+c = x, as long as x is generally reliable over time.

If a picture is worth 1,000 words, then when it comes to patents, which can be dizzyingly complex, a positive image is worth 10,000.

A global 500 IT company recently retained my firm, Brody Berman Associates, to explore which patent holders are seen as the leading players. The client wanted to learn on what the responding IP executives based their conclusions. The client was also interested to discover (anonymously) how it ranked. The findings of the relatively small sample, while hardly definitive, shed light on how IP opinions are formed.

On matters such as the relative importance of patent counts, the respondents agreed strongly; on others, they were divided. All had strong opinions about which patent holders were exceedingly good at identifying and managing IP within their respective industries, even if the conclusions were frequently based more on impression than fact.

The findings suggest that licensing income is a more important indicator of success to some than others. Non-IP people, such as chief executives and investors, are better able to process the meaning of revenue. The respondents agreed that patent counts were highly overrated and meant more to a general business audience than to those who made their living from IP. Risk mitigation was the least obvious and most difficult measure of strength, yet for large operating companies it was probably the most relevant.

Businesses such as IBM, Microsoft, Qualcomm and Philips were more highly regarded by survey respondents, not only because IP rights play a role in their success, but because these companies remind audiences that they do. There was the widest disagreement about Cisco. Perception of its IP performance differed broadly. Some thought it smart of it not to rely too heavily on patents and to settle disputes; others thought Cisco shortsighted for not having a more reliable portfolio.

The survey take-away: a lack of information about a company's patent performance relative to its industry is at best confusing and at worst damaging. The professionals' take on whether a business's patent strategy and rights were meaningful, while often accurate, tended to be based more on impression than on fact.

Accessing patent performance can be daunting. A reputation for extracting value from patents enables diverse IP audiences – these days pretty much everyone from shareholders to customers to employees – to have a handle on results. While companies can and do conduct their IP business in the dark with little consequence, results that are conveyed strategically over time can turn a solid reputation into a brand.

Understanding the role of patents in a particular transaction or business objective is not as simple as adding spreadsheet columns A, B and C. Many elements go into providing an accurate representation of performance. Most managements believe either that IP results cannot be explained or that no one of consequence is listening. If that were true, it is less so today, as the importance of IP increases and the audiences affected by it are better informed.

What constitutes an IP reputation is really no different from what goes into any positive business profile: clarity, credibility, consistency – words that are more easily spoken than embodied.

Some companies with a strong consumer brand are in a position to help their patents. P&G, with well over 20,000 worldwide patents and the stated desire to license any of them after three years, has leveraged its formidable brand equity on behalf of its patent portfolio. Others known primarily for their technology innovations (eg, Micron) may have to work harder to establish their innovation reputation. Patent brand holders are more likely to enjoy better values, more favourable transaction terms and higher stock price. They may also find greater customer support and stronger, more loyal vendor relationships.

While the value of patent prowess is difficult to quantify in absolute terms, IP reputation management is something that IP Hall of Fame executives such as Marshall Phelps (Microsoft, IBM) and Ruud Peters (Philips) have been practising for years. They know that it pays.

At its best, image provides an aura of success that, while based on literal performance, in the end transcends it. What makes Goldman Sachs *Goldman* is not an accident. It is a generally accurate depiction of what the company has achieved in finance and the values it stands for. The image is based on fact, but emboldened by reputation. When questionable practices threatened that profile during the financial crises, the Goldman brand was tarnished and its margins threatened. I am certain that the company will work quickly to restore the lost lustre.

The problem with a brand is that, once established, it cannot be taken for granted. Yes, those companies with a reputation for identifying and managing patents are in a better position to benefit when they succeed. They also are in a position to be adversely affected when they fail to meet expectations.

Like consumers, IP stakeholders have long memories and trust that is violated can turn a brand against itself. Just ask General Motors, or Chrysler.

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