The intangible investor

Written by
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0 to 50 in 8.5 years

When this column started publishing in 2003, IP investing was less of a strategy than an idea. Today, how patents contribute to results is better understood - so are the associated challenges

Don't let the lofty prices being paid for mobility patents and businesses fool you: while IP rights have made significant gains as financial assets they are yet to be universally accepted.

When *IAM* magazine was established, its audience included a small but growing core of innovative IP managers and lawyers. The original "IP investor" column was aimed primarily at them and a handful of non-practising patent owners. Now called the "Intangible investor", the column still serves that audience, but has grown to include a wide range of direct and indirect investors, including operating companies with commitment to innovation and R&D.

Despite progress, the role of IP rights such as patents in business performance remains murky. To be fair, these are not easy assets to comprehend, on or off the balance sheet. Context driven and time sensitive, the size, industry, capitalisation and risk tolerance of an IP holder all influence its value. In theory, good patents are worth at least something to everyone. In practice, the mobility mania is showing us that they are worth a lot more to some holders than others. Call it perceived need.

Who? What? How?

Just who is an IP investor? What is considered an IP transaction? How is success or return on IP (ROIP), best measured?

This is my 50th "Intangible investor" column. That the column has appeared in every issue of *IAM* is as much a surprise to me as anyone. The editor Joff Wild and I had talked about starting an IP business magazine as early as 1998, while we worked on my book, *Hidden Value*, for Euromoney Institutional Investor. When Joff asked me if I could write a column for the new business journal, *IAM*, I feared there would not be enough material to fill 1,000 words every other month. Now I have more ideas than the publication knows what to do with and some of the spillover can be found on IP CloseUp, an independent blog I started in early 2010.

Accomplishments

What has IP investing achieved over the past decade or so, and what still needs to be accomplished? A few observations:

- IP rights are being taken more seriously by businesses and IP management.
- It's becoming clearer that IP investors come in many shapes and sizes. Some secure patents internally; others acquire them; still others employ them to partner. Fewer investors appear to be looking to make a quick buck on dispute avoidance.
- More people have an interest in IP performance than they may at first appear to; call them IP stakeholders.
- Much to the chagrin of some economists, senior managements are beginning to take IP as seriously as tangible assets. (Their fiduciary responsibility to investors is yet to be a significant factor. That will probably change).
- The media loves to cover a war. They are especially attracted to patent disputes involving large dollar amounts, well-known companies and the latest technology. IP disputes, in fact, are less frequent and rewarding than we are sometimes led to believe.

Aspirations

A lot still needs to be accomplished:

- IP transactions need to be recognised as more than out-licences. They may include M&A, individual asset sales/buys or securing favourable customer agreements.
- IP performance needs to be better measured. Patent counts and royalty revenue are only part of the performance picture.
- Good IP reporting enhances respect for assets, holders and strategy. Business reporters need to be more thoughtful about sources and their possible agenda.
- An IP dashboard configured to industry needs and business goals can help C-level execs better steer innovation-driven businesses. (Reminder: too much patent data can be less useful than too little).
- Investors need to scrutinise how IP rights are being used. IP education, information and communication are good for shareholder value. IP disclosure should be seen as an opportunity, not a requirement.
- Patent quality and value are not the same. They are often confused. Investors need to understand the myriad factors that make a mere right and an asset and that allow an asset to be monetisable.
- Patent disputes are inevitable. More efficient alternatives for resolving them are required.
- Business schools need to integrate IP into the core curriculum.

The good fight

IP rights, including patents, are a force of good. They are not an impediment to innovation or a tax on business, as some would have us believe. A positive sense of mission to educate and inform about IP rights will help their progress and keep them in perspective. IP rights may be exclusive for a period of time, but their exclusivity should not put their value beyond the reach of many. An educated stakeholder is potentially a loyal one. A level of transparency will help to make IP better understood and more accurately valued.

The playing field for deploying IP assets such as patents is levelling. For holders unfamiliar with flatter terrain, it presents a problem of having to deal with new competition. For those previously unable to enforce their rights because of size or cost, it represents an opportunity to provide more value and create new businesses. The intangible investor is starting to materialise. By *IAM* 100, we may have a better idea of what she looks like.

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