

Patent value

How do you calculate a patent's value to your company?
Figure this: development time plus investment dollars equals profits



Illustration: Nate Williams

NBW

BY PAUL LIMA

After years of build up and angst, the conclusion of the patent battle between NTP and Research in Motion was a bit anticlimactic: the BlackBerry giant penned a quick cheque for US\$612.5 million and the whole thing went away. The dispute had put patent law under the North American public-opinion microscope, caused U.S. government leaders to worry publicly about going cold turkey on their e-mail addiction, and left the rest of our southern neighbours considering BlackBerry alternatives.

It also highlighted the value and power patents have assumed in modern society.

Business leaders now see that a successful product or service could grind to a halt if a patent owner claims

infringement. Business can be gored, investor returns can suffer and new capital can suddenly dry up.

On the other side of the legal coin, a patent and the product borne of it can power a successful business. Toronto-based Star Navigation Systems Group, for example, was awarded its first patent in 2005. Star Navigation signed approximately \$17 million in orders for its In-flight Safety Monitoring System (ISMS), the first such product to combine inflight data monitoring and diagnostics with a real-time, secure satellite connection between aircraft and ground. In January 2006, Star Navigation secured its second patent and was expecting even more success, said joint patent owners Viraf Kapadia, Star Navigation

chairman and CEO, and company president Hillary Vieira.

Innovation fuel

Of course, the patent was no guarantee of success for this product, which required approval from Transport Canada, the Federal Aviation Authority and equivalent aviation regulators around the world. Kapadia and Vieira raised \$10 million in start-up capital from family, friends and associates, and while “the patent was one thing, more importantly, people believed in the company,” Kapadia said.

What the patent did was protect research conducted by the inventors and demonstrated to potential investors that the company owned tangible intellectual property.

“Patents and copyright are central mechanisms to foster innovation,” said Thomas Keil, assistant professor of entrepreneurship with York University’s Schulich School of Business. “Patents are the only tangible thing a small firm or inventor owns. They are one of the motors that keep innovation going.”

A patent provides protection for about 20 years from the date of application. During



VIRAF KAPADIA
Star Navigation

PHOTO: KELLY TAYLOR

that time, the patent holder can use the exclusivity of the patent to raise funds required to develop the product and take it to market, or to license or sell the patent.

Central to long-term business success is the ability to demonstrate “the present value of the future stream of payments,” said Leonard Lee, founder of Canica Design, based in Almonte, Ont., which patents its products worldwide. The company enjoys a global market for products such as its “mind-numb-

ingly simple” adhesive bandage that draws together the edges of a wound to help healing and reduce scarring. Clear plastic lets doctors see if there is infection without removing the bandage. Without patents, competitors could reverse engineer the product and “take it to market in months,” Lee said.

Investment dollars

Beyond the protection of intellectual property, a successful patent can help secure investment in a new product, Lee said. Canica patented a retractable scalpel that is “taking a large chunk of the U.S. market. There is huge added value to having your name on the scalpel that top surgeons are using.” Canica can take both the new patent and the “credibility of our scalpel” to investors in order to leverage the existing patent on its successful product to help finance new ventures.

Patents can also help companies go public. When Star Navigation went public last year through a reverse takeover (RTO), an independent valuation set a figure in excess of \$50 million based on Star Navigation’s business plan and patents. That helped the company gain approval for the RTO. Once that was complete, Star Navigation raised about a million dollars from investment houses. “The patent, the orders on our books and our business plan all played a part in this,” Kapadia said.

“Securing patents is a key strategy in maintaining Star Navigation’s proprietary advantage with the ISMS. We could not run this business without the patent. Each patent makes us stronger,” said Kapadia, who is seeking worldwide protection for the ISMS. “When you have a product that flies through the airspace of a number of countries, you want patent protection in each of those countries.”

The patent-protection conundrum



LEONARD LEE
Canica Design

While patents do afford some legal protections, these are not bulletproof and, indeed, the patent itself can draw fire from unscrupulous business people.

Thomas Keil, assistant professor of entrepreneurship with York University’s Schulich School of Business, cautions inventors to perform due diligence when approached by potential investors. Some investors simply want to get close to a technology so they can figure out how to work around it or exploit it in a patent infringement case, he said. “Serious players can’t afford to do that, but there are many bogus investors out there.” Sometimes inventors get so caught up in taking inventions to market that they do not investigate the investor and end up losing their proprietary advantage.

There are also companies that gladly help inventors take products to market—for a small fee, said Leonard Lee, founder of Canica Design. For \$5,000, for example, they might conduct a marketing feasibility survey which would, of course, demonstrate pent-up demand for the product. Once the inventor is hooked, the supportive company soaks up more cash for more studies, cash for prototyping and maybe even for marketing initiatives. When the cash runs dry, the obliging company disappears, leaving the inventor with little more than colourful brochures.



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