



Quality control

Balancing quantity v quality in patent portfolio management can be achieved by following some sound principles, argues **Martin Bijman**

In recent years, quality has eclipsed quantity in terms of importance in portfolio management. Where historically the focus had been on amassing a greater number of patents in a portfolio, that focus has shifted toward the importance of patent quality. Maintaining the balance between quantity and quality involves three separate, ongoing activities.

Portfolio assessment

Understanding what you have is critical, especially when it changes constantly. New patents are granted, older ones expire, some are acquired, sold, or abandoned, some are successfully licensed, and others are weakened with prior art. The portfolio's alignment shifts based on product success, innovation and new technology, consumer trends and demands, and changing competition. Internally, the knowledge and perception of your portfolio within your IP team evolves as team members come and go. Considering this constant change, it is important periodically to get a detailed view of your patent assets and to identify which patents are key value drivers in which markets.

Portfolio assessment provides an understanding of the balance of quantity and quality within a patent portfolio. Analysts fully read a portfolio, with the goal of rating each patent's potential for licensing based on identifying applicable markets, the likelihood of use, and the potential for detectability. Analysts develop a taxonomy of the technologies enabling the features of the market that helps identify what areas a portfolio covers, and where white space exists. The result can guide portfolio course corrections and ensure its health. For example, lower-value patents can be identified for sale or abandonment, therefore reducing costs. The portfolio can be re-aligned to meet corporate goals and to protect valuable features and technologies of successful products. Using this as a baseline, key value driver patents are validated, and new ones are identified. This knowledge assists in creating business plans for future licensing programmes. In addition, managers can maintain a census to interpret the quantity and quality of patents.

IP landscape analysis

Periodically, reporters and IP tool providers publish rankings and awards for the top patent holders in various markets. It is easy to count patents, similarly it is easy to grow a portfolio for defensive purposes. A larger portfolio has benefits. It helps protect innovations, regardless of their impact. It may give a company the upper hand in negotiations, where having a diversity of patents can result in a large volume of claim charts. This may weigh the balance of payments in a company's favour in a negotiation. It can reduce risk, as there are a wide range of technologies available for licensing or counter-licensing activities. Finally, it allows a company to promote its brand of innovation leadership to consumers and investors.

Whereas a portfolio assessment focuses internally on assets, an IP landscape analysis looks outward at the market and competition, and it helps to refine the quantity of patents. IP landscape combines analytics, selective reading, and research to create high-level data and

visualisations of portfolio assets that can be compared with those of an applicable market.

IP landscape analysis assists in understanding the combined technologies that drive the features from all the players in a market. It provides an important perspective on whether a company may be over-patenting in some technologies. It also identifies white space where patent creation or acquisition is needed. In addition, it provides insight on where other companies in the value chain are expanding, which can identify where indemnity may apply, or identify IP threats. Alternatively, it points to opportunities for a company to form alliances and seek partnership in development.

Patent strengthening

Although more difficult to measure, improving patent quality is an extremely important part of making a portfolio more robust. Patent strengthening increases efficiency of prosecution by studying market adoption of claims, and it has the potential to lower costs. It focuses IP teams on licensing in areas where a company excels. As a result, important innovations will have stronger patents as they get more attention in prosecution. Additionally, it lowers the chance of patents being weakened, as they are well-written and studied.

In general, patents are added to portfolios through corporate acquisitions, individual purchases, and the prosecution of applications. It allows prosecution teams to make fact-based decisions by comparing application claims and portfolios to technical evidence of products on the market.

Ongoing portfolio management

In summary, portfolio managers can benefit greatly from several core activities on a periodic or continuing basis to streamline portfolio quantity and improve quality. These include:

- Measuring the quantity and quality of a portfolio with portfolio assessment;
- Monitoring portfolio health, and addressing quantity with IP landscape analysis to ensure balanced coverage of technologies; and
- Adding quality to a portfolio with continuous attention to patent strengthening, so that patent prosecution focuses on applications that read on competitors' products, thus providing value to enhance a portfolio.

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