

# **INTELLECTUAL PROPERTY PORTFOLIO MANAGEMENT**

**Professor Name : Prof. Rajat Agrawal**

**Department Name : Department of Interdisciplinary**

**Institute Name : IIT Roorkee**

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Welcome friends. So, now we are starting. Another very interesting area in this IP portfolio management when you are having so many arms ammunition in your basket how to use them that is the important thing because why are we keeping all these IPs with us just to take the advantage in my business to improve my competitive position to fight competition in the market to be the market leader all these are the objectives for which we are maintaining this IP portfolio. We are advocating that we need to spend more money on our R and D and we are also advocating that we need to be very cost effective for maintaining our IP portfolio.

So, let us see that in how many different ways organizations can use their IP. What are the possible strategies through which IP can be used for achieving the business objectives. So, in this particular video we are going to discuss the process of developing the IP strategy, what are the different components of IP strategy and some of the interesting type of patent related strategies. defensive, offensive, transactional, their advantages, their limitations, what are the determinant of the IP strategy and then trademark enforcement strategies, copyright related strategies, trade secret related strategies because all are the different types of IP, they need to be handled with their respective type of strategy.

So, that is what we are going to cover in this particular session. We all know that the word strategy is not actually the word from business or management. This word has come from the military sciences that how are you positioning your army, your personals, your other tanks etcetera in the battlefield. And the battlefield is very dynamic where on a regular basis situation keep changing and accordingly You also need to be dynamic so that you can face the enemy and ultimately win the battle.

So, this strategy word later on after you can say second world war started adopted by the business organizations also and therefore, now it is more used in management than in the armies. Now, when we are talking of IP strategy particularly. So, it is a systematic approach that any kind of institution whether it is academic, R and D, startup, individual or a business organization they can use to manage and leverage their intellectual property assets effectively. So, from any type of organization whenever you have a portfolio obviously, strategy may not come into picture when you have one or two IPs only with you.

So, many a time individuals may not be able to use this IP very effectively because they may not have a very strong portfolio with them. But when you start getting a portfolio, when you have a IP in a bouquet with you then strategy comes into the picture. It is very important for any organization and individuals to protect their innovations establish a competitive advantage and maximize the value of their IP assets only when you have a proper strategy. We know that how organizations have actually leveraged even the trademark type of IP they have because as per the law

You can write them as per your intangible assets in the balance sheets and organizations are trying to use for getting more and more value in your balance sheets in the form of assets. Startups are using it for generating funds investment from the investors. So, there may be different types of objectives which you may use. Align with your IP portfolio. From the startup's point of view, IP may help in getting more investment.

From a established company like Apple and Samsung, IP may help in getting market dominance or the leadership position in the market. So, based on your organization's stage, current strength, you will use IP strategy accordingly. For creating effective IP portfolio, IP strategy is also required. The meaning is what type of IP portfolio I want to have. The IP strategy can drive this particular aspect.

Accordingly, if I want to become more business model oriented IP portfolio, maybe I will be more interested to keep more trademarks in my portfolio. And if I want to remain more science and technology oriented organization, I will keep more patents in my alt IP portfolio. So, IP strategy will help you in achieving the objective of IP portfolio. And finally, as I am continuously saying, IP strategy should align with your business plans. That is a very important.

Now, taking a very simple example. for a mobile phone a common device all of us use it. Now, in one single device like mobile if you see this diagram there are so many different

types of IP which are used. There are IP like logo which is appearing on your mobile that is protected using the trademark. Then UI UX how the appearance of that screen is looking.

that is protected using the copyright type of. Then the curves etcetera which you have special curves everywhere whether you have slide opening or slide closing that type of things that all is protected under the design. Then the hardware which is going inside which you cannot see from outside different types of components Many of you may be knowing that a simple phone may have more than 3000 patents. So, 3000 patents are going inside in the form of various hardwares which are used in this mobile device.

And the semiconductor layout is also there inside this on the motherboard on which this mobile is made. All these things are in fact a perfect your mobile device itself is a perfect example of IP portfolio. Now, in this case we have some very expensive mobiles which are status symbol also and then we have mobiles which are not so expensive any common citizen can use those mobiles. Now, all these things are possible only because of effective IP strategy. Organizations are putting some of their patents under SEPs.

Some of the patents are exclusive to them which they are not going to give to any of their competitor. Some of the patents may be done on the transactional basis. We will explain what is the meaning of transactional in few minutes. So, accordingly I develop IP strategy because if I only remain the market leader and there are no other company in the market, market will also not grow. So, I need to create some competitors also.

If I am Apple, I need Samsung also, I need Nokia also, I need Motorola also. Then only people will be able to compare that yes this is a product of value and then the entire ecosystem of mobile, mobile related repairing, mobile accessories all those things will happen and the benefit will come to me. So, IP strategy should facilitate all these things. That is the important thing I am trying to explain with the help of this mobile example.

So, here we have understood two important things. One, in a single device, a single product, there may be multiple type of IPs which are involved. So, you may require IP strategy for each one of them separately. Second, you will have a combination of IPs which you will see that how you are going to use them.

Out of this patent, some of them will become SEPs, some will be part of transactional, some will remain exclusive to you. So, that is how it has to be seen at two levels. Now, when we talk of IP strategy, There are some important components of IP strategy which

should be the elements of the IP strategy that is IP improvement. Your IP strategy should help in improving the IP culture in your organization.

People should understand. that what do we mean by IP? Why should we do the IP? What are the benefits of IP? That is one important activity of IP strategy.

Improving in IP portfolio. Second is IP policy. How the benefits will be shared? When you have IP portfolio and I am the inventor, my organization where I am working that organization is owning the IP. how the benefits will be shared between developer and the owner.

May be somewhere it is 50 per 50 in some other cases they say that you are employee. So, no benefit will come to you and in some other cases 100 percent benefit may go to inventor. So, all these things are decided under the IP policy. For improving the IP culture in your organization a lot of training is required. searching the databases, nitty-gritty of IP, how to write the patent application, how to respond to the queries of examiners, all these things are important thing.

Not only these things, but also how to monitor your IP portfolio, how to minimize the cost related to IP spending, these are also part of your IP training activities. IP asset deployment, in JVs, partnerships, licensing, etc. Because if you remember in one of the video when we were discussing about cost related aspects in IP portfolio, we discussed that partnership sharing is a very good way of reducing the cost of your IP portfolio. So, because many organizations they may not be able to use their IP on their own.

they will be looking for some kind of JV some kind of opportunities of licensing etcetera. So, that it can be used by somebody else and we enjoy the royalty or we enjoy the other fruits of this IP. IP reporting which is similar to IP monitoring that how my IP assets are performing whether expected gain. expected profit, expected increase in market share etcetera is happening because of these IP or not. So, that is about the IP reporting.

And important thing of IP strategy is finally, the budget you are giving for IP activities. IP activity budget is a subset of your R and D budget. So, what is your R and D budget out of that one subset will come for IP activities. So, if focus on budgetary related aspects is also important for deciding your IP strategy. Now, after understanding these components of your IP strategy let us discuss three very important types of IP strategies defensive, offensive and transactional strategy.

names are explaining that what is going to be there in these strategies. Let us first discuss offensive strategy where in the offensive strategy we are in an aggressive posture. Now, we are in a position that we can fight with our competitors by active utilization of patents. I can acquire patents in the similar area from various startups, individuals, I develop a big patent portfolio and then I will create a position for myself that nobody can compete with me. I try to get supremacy in the market and unfortunately you will see that the tussle between Samsung and Apple

can be put under this offensive patent strategy. Both these companies are continuously looking to have offensive patent strategy. They are trying to build their patent portfolio so that which company is in the leading position and there are so many, so many court cases are happening between these two companies at various countries because of better utilization of their patent portfolio. So, offensive patent strategy is one way.

I will never recommend, I will never recommend offensive patent strategy for individuals. I will never recommend offensive patent strategy for startups because of limited resources. Offensive patent strategy is only possible when you have a good budgetary support because it will immediately go into the litigation. When you are with this mindset with the offensive patent strategy you want to start the process of litigation and that is not possible with limited budgets.

and startups individuals they always have the question of budget. So, therefore, offensive strategy is only suitable for multinational organizations, organizations which are able to provide extra budgetary support for IP portfolio management. The other possible strategy which is more common than offensive strategy that is defensive patent strategy. As the name indicates, defensive means I don't want to attack on you. I want to save myself.

So, I want to create boundaries. I want to create fencing. I want to put some kind of lock on my doors so that others do not come to me. In offensive, I want to go to other's place. But in defensive, I just want to protect myself that nobody should come and I am saved against all possible threats, all possible attacks.

So here we are creating the IP so that nobody can copy my business idea. nobody can infringe my business ideas and this is a kind of protection against patent trolls and we are creating this defensive system for cross licensing agreements. If I have a patent particularly in terms of startups it is going to be very useful. Startups if they have patents Ideally, they should follow this defensive patent strategy because it will help them in getting investments.

When they are going to market, if they do not have patent, their products, their ideas may be copied by some bigger organizations. So, they get protection because bigger organizations are also intelligent. They know that if they copy, it may lead to some kind of litigation. Even if a startup is not having that much of resource, but if you go to a court and you file a suit against some multinational company that yes, this company is infringing my IP, it will be a loss of goodwill at least for that multinational organization. So, this defensive strategy can also provide you some kind of offensive scope also, but

Generally, we are creating a fencing, we are creating a protection for my IP. When we are talking of defensive patenting that is a large number of low cost patents. Generally, you will be able to accumulate or you can say a bigger portfolio is possible. It is a kind of deterrent you are creating as I already said to the patentee considering suing a company with a large patent portfolio. So, those companies which are having the large patent portfolio even if using the defensive strategy it is a kind of deterrent for those who are trying to sue them because they may be able to use this patent portfolio for their advantage.

Then because you are having a large patent portfolio whether you are using it or you are not using it your competitors. because they will read whatever information is available in the public domain. And understanding this techno legal document also requires super skills. So, it may confuse and misguide many times your competitors about what type of claims you are having and what actually is protected. It functions as a protection.

for possible infringers or possible infringement of your patents. So, that we already discussed since it is not for attacking others it is to save yourself. So, therefore, since the litigation is not involved in this case of defensive patenting your cost of litigation is also saved it is reduced. It facilitates cooperation through cross licensing because ultimately we will go for cross licensing of these patent portfolio. once you have licensed the IP to some other users, you are directly avoiding the confrontation with the possible infringers.

So, that is also a benefit of this type of defensive patenting strategy. However, there are some limitations also of defensive patenting that because defensive strategy is requiring. a bigger portfolio, then only you will be able to have a defensive strategy. You are saving your house. So, you need to put everywhere good locks, good doors, doors which are strong enough.

So, that is the cost of defensive patenting that here it requires extra budget for filing the patents. Sometime, because of this size issue, because you want more and more IP, the

quality is compromised. We are more interested in filing whatever is coming. Create your bigger and bigger basket. So, quality becomes a secondary factor.

I think we should easily improve the quality by more checks and balances. It increases the burden of maintenance of patents. When you have more patents obviously more maintenance cost also and therefore you need to go for extra monitoring of those patents. It leads to wasteful expenditure where patents are not useful in reality. Again the same point in a slightly different ways that you are in a race of increasing the portfolio.

So, you are creating those patents also which may not be used in reality. Now, here comes the role of patent offices also because you remember that one very important condition is industrial application. So, how this industrial application is explained in my patent application then only the patent is going to be used in reality. because of this race of creating a bigger portfolio we are losing sight from the application or usefulness in the reality. Then obviously when the portfolio becomes bigger its management is also a challenging thing.

when you are filing more and more defensive patents, it is not a challenge for you only, but it creates a challenge for the your country's patent office also. Because the number of application and backlog starts increasing, more applications are coming to the office and they may not be in a position to process them with very effective way. So, that is also a challenge in this case. The third important type of patent strategy is transactional patent strategy.

And in the transactional patent strategy, we see that it is the most commonly widely used strategy. Particularly in R&D organizations, particularly in individual cases, particularly in research and academic institutions, the transactional patent strategy is used. It is also used in the business organizations. How? Because it involves

either out licensing of the patented technology or cross licensing of the patent technology with other firms to ensure mutual beneficially outcomes. Like in case of SEPs it is the most common way of IP strategy unless until cross licensing take place organizations will not be able to use these SEPs. So, SEP type of things which are used in all our IT, IT enabled mobile communication devices in that cross licensing is the only way of getting the patent of company A to company B and company B to company A. So, that is the way of IP strategy in this environment. Outlicensing has its own benefit and cross licensing is also having its own benefits. Let us discuss about outlicensing what is it.

So, outlicensing it has the potential to lead licensees into a course of R&D that is directed and overseen by the licensors potentially causing them to lose autonomy. Then it is a powerful means to preempt the licensee from gaining the capability to design around the patents. What you can anticipate that what licensee is going to get around this particular patent and therefore, you can be more proactive that my licensee is taking this patent to get the capability around this particular thing. So, you can understand

the interest of those organizations that in which direction they are going to lead their interest. Licensor is in a dominant position because you are already owning the technology, now you are giving to a licensee to dictate to some degree the licensee's learning ability. Maybe you have a bouquet of 5 technologies and you are only licensing out of 5, 4 or So, you are still holding one critical technology with you that is possible because you are in a dominant position the one who is holding the technology and one who are receiving the technology in that way you are able to direct and control the products which are going to come from these licensee into the market. And obviously, this becomes a very effective way of getting the revenue you get lot of

etcetera and you may take license fee, you may take annual charges also and that is a very very important way of earning the revenue for R and D and educational institutions at the moment. Then another type of transactional strategy is cross licensing. Now, cross licensing means both parties are exchanging something. So, cross licensing is very effective in keeping firms at the leading edge of development. Only then other party will come to be.

It can reduce the risk of infringement and can help mitigate risk of business closures because of the mutual interest. It creates a collaborative knowledge sharing environment in the industry because you need my help. I need your help. So, therefore, a collaborative knowledge sharing environment is created in the industry. It facilitates exchange of patented technologies which is highly complementary across the industry.

Again that example of SEP comes here that all SEPs are patented technologies and without using your SEP, I cannot make my product and without using my SEPs, you cannot make your products. So, therefore, lot of complementary activities happen because of this cross licensing activities. And you can hold your patents and your competitors can also hold patent.

So, in a competitive environment, collaborative activities are possible. So, you are not collaborating to compete, but you are collaborating for collective success that is possible

with cross licensing. So, that no single organization in this world is able to create a technology which is singly available for complete product. You need help of various stakeholders and these stakeholders may be your suppliers or your competitors.

So, you generally collaborate with your suppliers. but you very rarely collaborate with your competitors. Cross licensing is a way where you are able to collaborate with your competitors also. So, these are the three very important IP strategies we discussed about offensive, defensive and transactional strategies. So, depending upon your business interest, depending upon your strength and weaknesses, we discussed that large organizations can go for offensive strategies as a start-up

As a small organization, MSMEs, you can go for defensive strategy and if you are in an area where lot of competition is there, you should go with transactional strategies like in the case of mobile devices, etc. With this, we come to end of this video. Thank you very much.