

Why Spend Money on Intellectual Property?

Article By:

Lowndes, Drosdick, Doster, Kantor and Reed, P.A.

In the current economy, companies are looking for ways to trim their budgets. Legal fees can seem like an easy target, with the justification that no one in the company gets hurt if fewer patent or trademark applications are filed, or if rights are not secured through contracts with other entities. However, are you putting the value of your company at risk by reducing your Intellectual Property (IP) expenditures?

A number frequently tossed about is that 80% of the value of publicly traded companies resides in IP. Whether or not this number is accurate, it is indisputable that IP holdings can play a large role in corporate valuation.

We have previously written on inventorship and ownership issues with regard to patent rights (May 14 and June 16, 2010). Clearly, ensuring that your company actually owns all the IP it has developed and paid for is vital, which includes obtaining assignments from employees and from contractors, and reaching agreement regarding IP ownership with any entity with which joint development has occurred.

As a defensive measure, patent and trademark searches should be performed prior to investing large amounts of capital in development and branding in order to prevent expending resources only to learn too late that protection is not available, or, what could be even worse, that you are treading on the IP rights of others.

It is also vital to ensure that IP rights are not lost by publicly disclosing inventions prior to filing patent applications. Keeping your IP practitioner aware of your marketing activities could prevent you from inadvertently placing an invention that could form the core of your company's value in the public domain.

Therefore, at the risk of appearing self-serving, we strongly advise that you not skimp on your IP budget. Work with the law firm of your choice to optimize your IP holdings without being profligate with your resources. Your practitioner is also operating in this economy, and should be acutely sensitive to the financial concerns of his/her clients. An IP lawyer or patent agent can serve you best when closely tied in to your development efforts, commercialization and publication plans, and branding activities. Do not risk everything you and your colleagues are working so hard to build by paying insufficient attention to securing your IP assets.

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