IP Commercialization

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Intellectual Property

1. Patents
2. Copyrights
3. Confidential information
4. Trade secret
5. Integrated circuits
6. Designs
7. Plant varieties
Patentability criteria

- Subject matter that qualifies for patent protection
- Invention should satisfy the substantive conditions of patentability
- Real test of patentability occurs on patent opposition
- Jurisdiction variance is observed in statute across countries.

**Novelty** - Must not be known in public domain or published before

**Non-obviousness** - Obvious combination of known processes or equipment

**Industrial Application** - Must be useful and should have commercial application
Term of patent

20 years from date of filling

• Refrain other from selling / manufacturing / Use / offer to sell

• No term restoration in India but there is term restoration in US

What does the term of patent implies for commercialization?

• Time available for commercialization of patent is limited to 10 years. (3-4 years for grant + 4-5 years for technology diffusion)

• Value of patent can be exploited within first 7 years else technology in certain cases will become obsolete.
IP commercialization challenges

- Only few IP assets can be globally protected.

- Patent are jurisdiction based and need to be protected in each country for its exploitation.

- Standards and IP

- IP and Competition law

- Type and level of protection

- Difference in statute, legislation and statutory requirements.

- Return on Time and Investment (ROTI)
Statute in Europe - The European Patent Convention

Art. 52(1) EPC
• Patents shall be granted for any inventions which are susceptible of industrial application (utility), which are new and which involve an inventive step (non-obvious)

Art. 54 (1) and (2) EPC
• 1) An invention shall be considered to be new if it does not form part of the state of the art.
• (2) The state of the art shall be held to comprise everything made available to the public by means of a written or oral description, by use, or in any other way, before the date of filing of the European patent application.

Art. 56 (Inventive Step)
• An invention shall be considered as involving an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art. If the state of the art also includes documents within the meaning of Article 54, paragraph 3, these documents shall not be considered in deciding whether there has been an inventive step.
Novelty explained

Each element of the invention should be disclosed in the state of art.

**STATE OF ART:** Everything made available to the public by any means before the filing of the patent application.

**Imp.** - Don’t go by design aspects; evaluate the technology no its features and merits. Visual matching may provide wrong assessment.
INVENTIVE STEP (Obviousness)

Obviousness – All features are provided in the state of art and it is obvious to combine them without extending the technology. What is extension of technology?

Imp. – Don't add your own assertion; go by the merit of the technology provided in state of art.
Process Flow in Commercialisation

Idea → Reduction to practice → Patent filing → Patent Prosecution

Rejected →

Granted →

License → Assignment → Cross License
IP Due Diligence

Commercialization is usually preceded by IP due diligence to ensure that patent is valid and enforceable.

Validation requires conducting in-depth searches

procedural requirements as per statute as required during prosecution

Requirements under statute are complied
INTELLECTUAL PROPERTY SERVICES: OVERVIEW

Under Search and Analysis, we can offer a range of searching services. These include: prior art searches, invalidation searches, validity searches, landscape searches and any other type of customized searches.

Patent Drafting: Preparation of both provisional and non-provisional application

Patent Illustration: Preparation of patent drawing for patent applications as well as formal drawing preparation for design patents.

Patent Prosecution Support: Formal Office Action responses; Technical evaluation of office action on merits; Claim chart preparation; Review of prosecution history and file wrapper; and enablement of claims.


Patent Portfolio Management: Preparing patent portfolio for clients; and Circumventing the entire IP space by formulating an IP strategy

Patent Commercialization: Identification of potential infringers, patent licensee searches, assessing the likelihood of patent portfolio from commercialization perspective.
NEW PRODUCT DEVELOPMENT - PROCESS AT INTRUST GLOBAL

Existing Product

Product Analysis
- Competitors
- Markets
- Innovations

Market Analysis
- Product Feature Enhancement
- Product Competitor Analysis
- Product Marketability Assessment

Patent Analysis
- Patent Search & Landscaping
- Patent White Space Analysis
- Feature Enhancement

Suggested Augmented Product Enhancement Solutions