

Market Research tip of the Month

June 2014

by John Rau

Have you ever wondered what the potential value might be of your new invention idea or, if you already have obtained your patent, what is its worth? These are generally complex questions to answer and depend on many factors as well as assumptions. Conducting your "due diligence" in the context of performing a detailed market research assessment will give you some insight into the answers, but the fact is that it really depends on what you do with your new invention idea and/or recently granted patent.

If you sell your patent outright to another entity, then it is only worth what they are willing to pay you for it. If you license it to one or more entities in return for future revenue streams, then it's worth in today's dollars is the present worth of these future revenues. If you decide to manufacture, distribute and sell your new product idea by yourself or in conjunction with investors and other business entities, then "your exposure" in the marketplace could lead to challenges from other product developers who may claim infringement on their ideas or even prior patents, thus causing you to incur legal expenses that would devalue future revenues. It is in this latter situation where it becomes difficult to predict the future revenues, that is, the complexity in determining patent valuation increases dramatically.

In general and independent of what you decide to do with your new invention idea, here's an overview of the factors that could affect its valuation, based on an article by Shahan Islam and Stanley H. Kremen in Computer Forensics Online (<http://www.shk-dplc.com/cfo/articles/value.htm>)

◆ Industry and competition

- ◆ Some of the most important factors that should be considered are the target industry itself, potential profits derivable from the target industry, barriers to market industry, potential market share and whether or not new technologies are available.
- ◆ You must consider whether the target industry is in its infancy (Blue Ocean perhaps) or is established (Red Ocean) and how this affects the amount and duration of profitability. Remember that in the Red Ocean situation competitors can affect the amount and duration of profitability by introducing competitive alternative products and by developing a superior new product.

◆ Economy and market conditions

- ◆ If you are entering a segment of the marketplace where there is a downturn in sales and revenue, then you can expect to see a decline in potential revenues and profits.
- ◆ If you are entering a segment of the marketplace where there is a major upturn in sales and revenue, then you can expect the "Red Ocean frenzy" where the competition will be keen.

◆ Risks of emerging technologies

- ◆ Emerging technologies present a unique valuation challenge because they have yet to prove their viability and have as yet no historic track record. Furthermore, without some indicators in company, university and other scientific research reports, it is sometimes difficult to predict what these new technologies may be.
- ◆ The potential competition that emerging technologies represents can affect the economic remaining life of your patented product.

◆ Costs of development and commercialization

- ◆ The necessary steps and their associated costs to make the product commercially viable must be evaluated. One approach sometimes used to value new products is based on the total cost to "create", but unfortunately this approach doesn't take into consideration the future economic benefits that might accrue from the patent.
- ◆ There may also be regulatory costs which must be considered to obtain government approval. Government regulation could pose a significant barrier to commercialization. If the target industry is one that is heavily regulated (such as with medical devices), the costs of entering the industry will increase and the risk that the product will not be profitable could potentially increase.

In any case, the point of this discussion is that estimating the value of a patent is in general a very complex process and should be performed by a team of experts in skill areas that include, at least, patent law, engineering, accounting, marketing and technologists in the product area. There are numerous firms that provide such types of services. One such firm, Accuval Valuation & Advisory Services (see: <http://www.accuval.net/services/appraisals>), suggests the following specific factors that need to be considered when determining the value of a patent (or family of related patents):

- ◆ Qualitative and quantitative characteristics of the patent(s)
- ◆ Earnings capacity and profitability relating to the patent(s)
- ◆ The impact of known blocking patents
- ◆ Any current or previous licensing of the patent(s)
- ◆ Legal rights and restrictions to the patent(s), including foreign patent protection
- ◆ Contracts associated with the patent(s)
- ◆ Competition, barriers to entry and risks associated with the patent(s)
- ◆ Product life cycles and positioning
- ◆ Historical growth and prospects for the future
- ◆ Alternative uses for the patent(s)

In summary, obtaining a patent valuation appraisal from a reputable firm that specializes in such types of services will provide you with information that might enhance your chances of increased licensing opportunities, assist you in obtaining working capital (if you are a business), based on the value of your patent assets, and provide the basis for the sale price of your patent portfolio.



Contact John Rau at:
ultraresch@cs.com
714.281.0150