



Managing intellectual assets

Managers who generate, control and leverage IP should be well aware of the potential power of IPR, says **Subramaniam Vutha**

In any company, good management involves the use of judgement, effort, expense, time and ability (also known as the 'Jeeta' factors) towards a particular result; often the outcome is the creation of a new intellectual property asset that is entitled to protection under intellectual property rights (IPR). But unless the manager is knowledgeable about IPR, the intellectual property (IP) may be lost, copied or neglected.

IP assets are knowledge assets with legal rights attached to them, making them potentially the most powerful knowledge assets that a manager can generate or leverage. For functional managers, there are several ways in which to leverage IPR to obtain or retain a competitive advantage for the company. Let's see a few examples of how IP works powerfully in favour of the company when applied to assets created through normal operations.

The production manager: Production managers are constantly looking for improved techniques, tools, processes and methodologies and use 'frugal engineering' to lower cost. Each new technique, tool, process or methodology is the outcome of Jeeta factors. But competitors can easily copy or emulate these through inspection or reverse engineering, or by getting the drawings from a common vendor of components, unless the production manager uses patents, trade secrets and copyright to prevent competitors from doing so.

Example: Mr Iyer, the production manager in an automobile components company, has improved a tool used in production resulting in enhanced through-put and safety. More importantly, the tool is simpler to use, making it possible for less skilled workers to work as efficiently as the more trained ones. Mr Iyer can seek a patent on the inventive features of the tool. The drawings, design documents and bill of materials of the tool can be treated as copyright materials. And the tool concept and design itself can be protected as a valuable trade secret of the company. This means that a vendor

who manufactures the tool for Mr Iyer's company cannot copy the drawings or make the tool for rival companies. This helps Mr Iyer's company retain the competitive edge provided by the new tool.

The human resources manager: For the HR manager there are two IPR-related concepts that are vital. Firstly, all IPR flows from human resources as it is people who exercise or expend judgment, effort, time and ability. And human resources entail expenses. Each person in the company should sign an agreement allocating all IPR in that person's work output to the company. There are many cases of companies losing valuable IP assets because they did not take this simple step.

Secondly, every HR manager should consider ways of motivating human resources to generate and protect IP assets. People may leave. But, if IPR processes are implemented, IP assets remain with the company. This is a vital distinction that sets IP savvy companies apart from their less diligent competitors.

Example: Mr Dasgupta, the HR manager of a chemical factory, was asked as to what could be done in a situation where an ex-employee had taken with him valuable design documents and had signed up with a new employer. Fortunately for the company, Mr Dasgupta had in place comprehensive agreements with each employee as to secrecy and non-disclosure. This agreement also allocated to the company all IPR in anything developed by employees. These agreements formed the basis of a lawyer's notice to the ex-employee that resulted in his undertaking to return the documentation and to refrain from retaining any copies of these.

The quality manager: Quality improvement entails innovation, evaluation, testing, criteria, test plans and so on. If quality is a differentiator for the company, it is important to prevent competitors from copying the company's quality plans and processes. Here again,

copyright law and trade secrets come to the rescue as all the improvements flow from Jeeta factors. The testing tools can be patented to provide a competitive edge to those who identify, protect and leverage their IP assets.

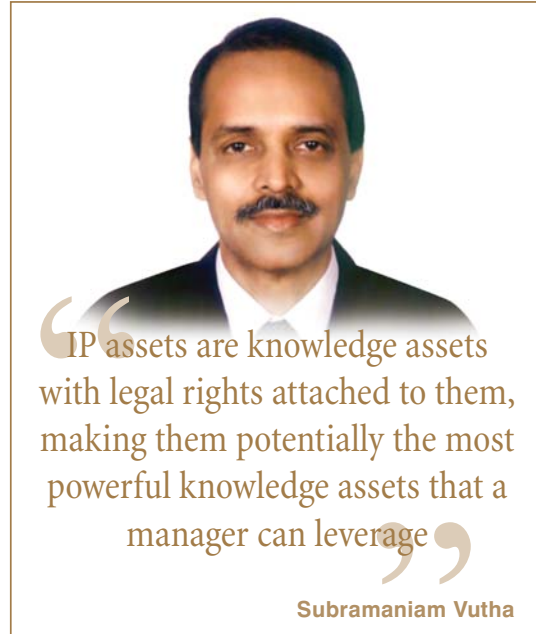
Example: Mr Khan, the CEO of an engineering company, received some bad news. A Chinese vendor had plans to sell the very product that Mr Khan's company sold, but at half the price. Mr Khan moved swiftly to negotiate an original equipment manufacturer deal with the Chinese company. Under the deal, the Chinese company would sell the bulk of its output earmarked for Indian markets to Mr Khan's company, which would sell these under its own trademark (or brand). This low-cost procurement deal has resulted in a substantial increase in gross profits. This has made the company more competitive in the market place and turned a crisis into an opportunity; the crucial factor here was the company's well-known trademark (or brand) that enjoyed a good reputation in Indian markets.

The purchase / vendor development / supply chain manager: Getting someone else to design, develop and manufacture a product, its components and spares is a popular method of reducing costs, increasing operational flexibility and gaining competitive advantage.

A company can own the IPR in the designs, drawings, blueprints, bills of material, vendor lists, vendor information, production processes, techniques, quality processes and the like. This can happen based on contracts with employees and vendors. Such IPR ownership provides a considerable degree of control over the vendors and the supply chain. Companies that own such IPR can get discounts, special supply prices and terms, and even prevent vendors from dealing with rivals. Here the company has the Jeeta advantage as it has used contracts to allocate IPR to the company even though the vendor provides the Jeeta factors.

Example: Mr George was a purchase manager in a company that made and sold watches. While the watches were assembled and tested to stringent quality conditions in the company factory, most of the components were manufactured by vendors in a complex and extensive supply chain. Recently, Mr George discovered that certain vendors were slipping up in delivering supplies. Investigations showed that the vendors were using some of their capacity to make parts for a rival watchmaker. Even worse, Mr George discovered that these vendors were using drawings, specifications, processes and techniques developed at the company's product development centre for the rival's benefit.

Fortunately, two of the processes had been patented by the company and the documents shared with the vendors were protected by copyright. In addition, the company had trade secrecy agreements with the vendors.



This meant that it could leverage these to persuade the vendors to stop further wrongful dealings with the rival, by threatening legal action.

The marketing and sales manager: A patent is a powerful sales and marketing tool. When a product has patented features it provides an advantage over competitors in the market place that offer similar products.

Example: Mr Sen was a sales manager in a company making cosmetics. Over the course of time, the company came across various spurious products in the market bearing their brand (trademark). The company also faced new competitors who sold brands of cosmetics that were cheaper but were likely to prove harmful to users. It took swift action:

- ▶ It carried out a series of raids on the makers of the spurious products and started legal action against them for counterfeiting.
- ▶ Highlighted through advertisements its patented technologies on skin protection formulations that were totally harmless to even the most sensitive skin.

Leveraging its two most valuable IP assets, trademarks and patents, resulted in resurgence in sales and cutting off the low priced competition. These examples have been used to show that getting the Jeeta advantage entails knowing more about IPR. IPR adds firepower to plans and strategies, and empowers managers. ●

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