

III Company – Treat IPs as a component of Corporate Revenues

Under the circumstances where companies struggle with cost reduction, intellectual property plays an important role for competitiveness. Whether a company has strong intellectual property competitive to foreign companies is critical. Intellectual property is more vital for venture businesses and medium/small companies than large companies, playing a key role for their corporate strategy and market competitiveness. Measures should be sought in order to appropriately evaluate the value of intellectual property, and to weigh the value of IP in corporate revenue. This type of business-assisting, IP-related business will be offering professional service of high quality on free competition market.

[Problems]

1) For the last decade, a majority of corporate values have shifted from tangible assets to intangible assets. Major components of intangible assets are such intellectual properties as corporate brand and patent. For business management, IP strategy plays an important role in corporate governance which is a key to efficient management. Nevertheless, recognition in this respect is insufficient. The fact that corporate legal department and IP department are usually separate from management in corporate hierarchy and regarded as cost centers witnesses insufficient recognition of business people. In contrast, advanced companies engage in takeover and strategic alliance for reinforced competitiveness, taking into account intellectual property.

2) Venture companies usually do not have tangible assets. For them, IP is a key to successful financial strategy. Adequate evaluation plays an important role for smooth entrepreneurships in Japan.

3) In the United States, evaluation of IP is coming up as an agendum for corporate accounting. It seems that US businesses attempt to establish de facto standards in corporate accounting practice. Management in the 21st century would require the establishment of evaluation processes, development of evaluation technologies, distribution of intellectual properties, and investment to intellectual properties. Along with these developments, related business would be created such as money-funding for IP and IP consulting.

[Proposals]

35. IP as a component of corporate management

Intellectual property should be set as an important weapon for management. In the past, Japanese top management was scarcely involved as a leader for dealing with IP disputes. However, IP is a core of corporate strategy. In the near future, each company should strengthen its business strategy in order to establish core competence. An IP portfolio would be one of the measures to allow a company to have a head start. Adequate evaluation of intangible assets and disclosure to shareholders would be prerequisites for corporate management.

On the other hand, patent is not the only vehicle for the protection of IP. Like in the case of Coca Cola, know how and trade secret, if properly treated, would be more suitable than patent as they allow protection and utilization for a longer period of time. On the other hand, when a good is released, that would allow counterfeit to be launched. Therefore, a patent should be considered. Strategy for intellectual property would be a corporate of corporate management.

36. Assign IP Officer

Research and development type of companies should have at least one IP specialist as a corporate officer. In western world, CSO (chief science officer) or CTO (chief technology officer) are responsible for corporate science and technology matters. The fact that many companies assign CIPRO (chief intellectual property officer) as management officer would be considered a signal that Japan has a head start as an IP-oriented country.

37. Change IP Sector From Cost Center to Profit Center

In order to promote IP management, companies should introduce an IP statement and an IP accounting. With such accounting system, monitoring of management by shareholders will be possible. Consequently, companies will be able to plan out strategies for license-in and license-out, and scenarios for cost-effective strategic patent applications.

Then, corporate IP department will change its role as a cost center into a profit-yielding section. To make this possible, the IP department should collect human resources from the divisions of Management, Planning, Marketing, Legal and Accounting.

38. Management Training for IP Department People

Business training should be provided to IP department people. For such training, cooperation should be sought from business school. With the training, power of corporate IP management will be improved significantly. In addition to educational programs for conventional jobs such as filing patent applications and maintaining patent rights, education

for IP management would be necessary, covering a wide variety of subject including IP evaluation and valuation of corporate brand on balance sheet. Each company should place professional personnel for license-in and license-out and have its own educational program for strategic technology transfer.

39. Develop Method for Evaluating IP Value

For distribution of intellectual property and fund raising thereon, it would be necessary to evaluate the value of IP depending on intended purposes. Evaluation of intellectual assets is now indispensable for the evaluation of corporate value. In the US and EU, various entities including accounting firms and venture companies are attempting the development of evaluation tools. Some of them have already been on market.

In Japan, methods for determining the value of invisible assets of intellectual property should be sought. Determination of IP value in quantity would be prerequisite for the recognition of intellectual property value. The development of valuation methodologies would constitute infrastructure on which new type of business such as patent exchange, patent finance and consultation would be created.

40. Introduce IP Accounting

The concept of IP portfolio should be introduced. In the balance sheet, IP-related profit and loss should be recorded. The profit should cover royalty income arising out of patent and know-how license, and payment for goodwill. The loss should cover expenditures for filing patent and trademark applications and fees paid to the Patent Office to maintain obtained patents. Information disclosure would stimulate a shift to profit-oriented IP management. The introduction of IP accounting would prevent the human and financial resources from being wasted for the purpose of obtaining patents only usable for defense purpose. In the UK, the corporate brand is required to be listed as one of assets on the balance sheet. This will be a global trend. Proposal is thus made for Japan to have a head start in this area.

41. Publish an IP Statement

Investors and shareholders have a right to know corporate activities precisely and accurately. Therefore, disclosure of corporate activities is one of the duties imposed on corporate management. Each company should disclose to shareholders patent-related information as part of management information. Such information should include specific data on the number of: applications filed, applications as laid open, applications for which examination has been requested, patents granted and maintained, and patents licensed and transferred.

Like in the case of the Environment Statement, disclosed information would be a valuable parameter for investors to make any decision on investment.

42. Enhance the Value of Corporate Brand

Each company has to endeavor to enhance the value of its own corporate brand. For that purpose, a company should consider planning of brand strategies. Such planning will include the establishment of a brand management office within the company.

In 1990s when M&A was active, the establishment of intangible assets was considered a major component of corporate strategies. With that recognition, many companies attempted to strengthen their product brand and corporate brand. Unfortunately, international comparison of corporate brand value reveals the low rating of Japanese companies in general. In Japan, the present value accounting system has been introduced. Corporate value is now available along with market information. In the future, efforts should be made, in parallel to R&D of high quality products, to enhance corporate brand and product brand by way of utilizing intellectual property.

43. Keep Good Custody of IP Information

Japanese companies have not paid due attention to the custody of technical information. Some say that even valuable information in secret nature has been leaked. Corporate custody systems should be renewed and at the same time, a practice of keeping laboratory notebook should be introduced in the division of research and development.

44. Increase the number of Foreign Patent Applications

According to WIPO statistics, Japan and Korea (ROK) are exceptional countries wherein the number of national applications is overwhelming compared with that of international applications. Other countries weigh international applications for strategic reasons. In the US, a ratio of international application to national application has been treble or more since 1990. In 1997, it was 13 times as much. To the contrary, Japan has spent resources for defense-oriented patents, whose asset value is comparatively low. This is a waste of money and unproductive way of using human resources.

45. One Company One Basic Patent Campaign

In the past, Japanese patent strategy has been quantity-oriented. In the future, license-in of basic technology would be more difficult than ever. Japan has to create basic patents which can be licensed to foreign companies. One company should obtain at least one such basic

patent.

46. *Financially Support Venture Companies for Foreign Applications*

Filing foreign counterparts for patent and trademark is expensive. For this reason, many venture companies, medium/small companies and researchers have given up filing foreign counterparts. This situation is against the desirable protection of Japan-originated properties. Those who meet reasonable terms and conditions should be given grants to financially support the filing fees for foreign counterparts.

47. *Patent Applications Backed Up with Scientific Data*

In the United States, a piece of false description may likely be revealed during discovery process. Any right based on such false description would be invalid or unenforceable. In Japan, many patent applications reportedly include speculated information which are not necessarily backed up with scientific data. Even if such applications are granted patents, litigation process in foreign country would reveal the failure of demonstration or falsity of data, resulting in losing the case.

Enforcement of vulnerable patents may lead to injury of company reputation and fame. The system should be amended so as to eliminate falsely described patent applications. When that is achieved, the value of a patent specification as technical literature would be enhanced. The patent specification would be regarded as being equal to scientific paper for scholarly purpose.

48. *Promote IP Business Industries*

Patent is a property available for trade. Trading patents is taking place gradually in Japan. It is now the time that local governments as well as large companies purchase patent from venture companies.

In the future, the value of intellectual property as asset has to be enhanced. For that purpose, the new type of IP-related businesses should be emerged in addition to trading business. Such new businesses should include patent loan business, risk money financing, IP consultation, and royalty collection. Liberalization of risk money financing, introduction of R&D firms and IP consultant/joint research would surely foster and develop new business opportunities.

Any barrier and regulations against the emergence and expansion of these new businesses have to be removed appropriately.

49. Service Industry Linking Global IP Information

In the world, there are a variety of IP-related information, from patent database to drug side-effect information. If information is retrievable with appropriate linkage, then human being is in a position to use human wisdom all over the world. For example, the possible side effect of the Thalidomide was discovered in Germany but its discovery was not utilized effectively not only in Japan but in Germany. However, its teratogenicity was found in the U.S. Reportedly, availability of such side-effect information successfully prevented Thalidomide victims in U.S.

IP information directly helps on university researchers and company engineers. In addition, it will be helpful for risk management. It will be a precious source of information for financing, insurance and legal businesses. Such information industry is expected to grow as business sector.

50. Establish IP Funds

Reportedly, the amount of individual monetary assets reaches 1000 trillion yen. Unless part of these assets flow into venture companies as stock investment, revitalization of Japanese economy would be difficult. In order to lead flow of individual monetary assets to R&D type ventures, professional investment funds should be created.

One approach is the selection of top 50 ventures to be determined by stock companies as being promising R&D ventures. Stock companies invest development funds to these ventures. The role of the stock company is to raise fund from individual investors, invest them to venture companies, collect capital from successful companies and allocate dividend to the investor. We already have environment funds for environment-friendly businesses. IP funds should aim at fulfilling the social responsibility to raise IP-oriented venture companies a like.