



The knowledge advantage

Subramaniam Vutha writes about the importance of intellectual property assets and their role in the current global business scenario

Not very long ago, intellectual assets were confined to the economies of the developed world. But not any more. Emerging global economies such as India and China are more and more demonstrating the primacy of knowledge-based goods and services.

Tata Motors' Nano is an example of a knowledge-based product. The innovations that have made this remarkable vehicle possible are represented by several patents and various forms of knowledge (know-how, know-why, findings, tools, components, devices, drawings, designs, test data, methodologies, processes and techniques) that have been generated, compiled, adapted or organised by the Engineering Research Center of Tata Motors and its supply chain.

Another incredible example of a company shoring up its intellectual property firepower is Huawei, China. The company has chalked up an impressive portfolio of patents to help it match its western rivals on the intellectual plane even while it gains market share from them. With over 32,000 patent filings, Huawei is clearly up there in the technology and knowledge space with the global leaders in next-generation telecommunications network solutions.

While most managers understand why knowledge management is crucial in a knowledge-driven economy, they may not have the same degree of comfort with intellectual property rights (IPR). Managers should be aware of the linkages between IPR and knowledge management, and how these are mutually supportive.

Adding IPR firepower

According to a knowledge management expert, knowledge management is about obsolescing what you know before others do, and profiting by creating the challenges and opportunities others haven't even thought about. However, the catch here is that

lower-cost followers and imitators could catch up soon. And business history points to several successful companies that have followed the innovators and outdone them. How do the innovators prevent this?

Here is an answer: Such obsolescing could spring from new business models, new inventions, new processes, new technologies, new trademarks / service marks and so on. Each of these could be the subject of trademark, patent or trade secret protection. The representation of these in the form of software, drawings, designs, diagrams or flowcharts would be the subject of copyright protection. And getting memorable trademarks, service marks and domain names (in the context of the internet economy) would be crucial for any business.

Thus, IPR can add considerable power to any knowledge management plan by providing legal rights that prevent copying, imitation or emulation. IPR can enable an innovator to impose licensing costs or legal damages on imitators or followers. For instance, Dell, reportedly, has over 40 patents on its famed business models. Such IPR firepower has enabled Dell to protect its business model which now extends beyond PCs to PDAs, storage and printers.

Organisational learning

Knowledge management emphasises the need for, and the value of, organisational learning. Best practices databases, learning tools, sharing processes and the like are powerful devices that need to be protected as proprietary to a business. They are the outcome of considerable investments by a business. Copyright and trade secrecy protection provide ready legal tools for such protection. Thus, IPR helps to preserve the competitive advantage from investment in tools and processes for organisational learning.

Management of technology, its generation,

control, direction and utilisation is a central focus of knowledge management. From the IPR perspective, global leaders in technology and technology management have been using patents, copyrights, trade secrets and design rights to protect and, therefore, effectively control technology for decades. But it is equally important to recognise that it is IPR that allows and facilitates the sharing of such technology through licensing and cross-licensing agreements. Thus, IPR plays a key role in the application of knowledge management to technology.

IPR in internet strategies

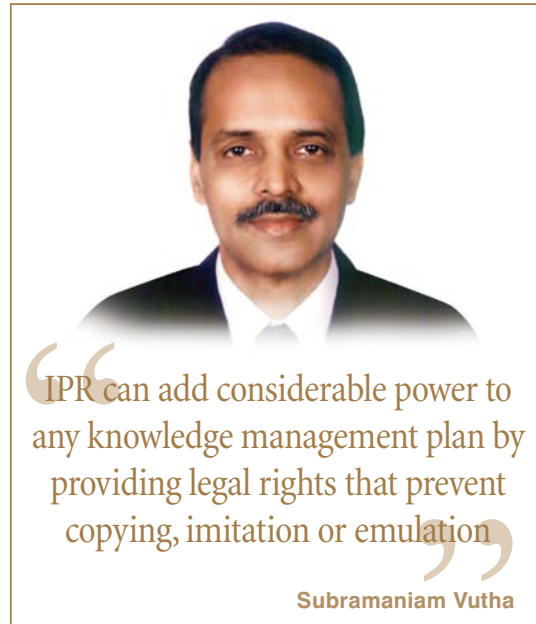
The internet has made possible newer business models. It has accelerated both the need and the capacity for innovation. In relation to internet, e-commerce and e-business firms, knowledge management faces new challenges and proliferating options. These have resulted in a new breed of internet-based business model patents, the most famous being the 'one-click patent' granted to Amazon.

This patent has generated heated arguments, review challenges and heightened awareness of the potency of internet patents and even a bounty for anyone who can provide data for its revocation. There are thousands of such patents — many of them not so valuable or prominent. On the internet, copying and imitation is rampant. And easy. That is why companies that aim at dominating in terms of e-commerce are building up strategic IP portfolios. The internet has made it possible to collect, organise and deploy crucial information, thereby making knowledge management more complex and worthwhile. But it is IPR that will provide the key differentiators in such businesses.

New options

Another area where IPR is of utmost importance is open innovation. Most companies are engaged in some form of open innovation or the other through the use of growing and complex supply chains and distribution networks. Regardless of the scope or complexity of such efforts, knowledge is seen as a key input and a key output of open innovation. Knowledge of IPR provides functional managers with valuable options in allocating the IP assets that result from open innovation, knowledge management, open sourcing or collaborative learning.

IPR provides innumerable, finely-nuanced options. For example, it is possible for one party to own an IP asset even while allowing the other certain licensed-use rights. Such rights can be exclusive or non-exclusive and limited in terms of geography or market segment, may permit sub-licensing or otherwise, may be for certain specified uses and may exclude other uses for which



there could be other licensees. Thus, the application of IP opens up valuable options that knowledge management practitioners and business managers should know.

A handy scoreboard

In the hierarchy of data, information and knowledge, IPR would, arguably, top the list. This is because IPR in the form of patents, copyrights, trade secrets, trademarks and designs have multiple uses and enhanced power because of the legal rights attached to them. Besides, not having IPR could make a business susceptible to IPR-based threats from rivals.

When knowledge proliferates, it becomes necessary to classify knowledge assets. IPR provides a handy and valuable device for this. Knowledge assets that are the subject of trade secret or copyright protection are obviously superior in some ways because of the legal rights attached to them. Such legal rights also open up new options for licensing or sharing such knowledge assets. When knowledge assets are the subject of patent rights, they gain additional potency and can be used as bargaining chips in negotiations with suppliers, technology partners, vendors and distributors. The size and value of the IP portfolio of a business is a good indicator of its progress in knowledge management. ●

Subramaniam Vutha is a consultant with the Tatas on the Group IPM Programme, and an advocate with the firm of Subramaniam Vutha and Associates. He specialises in complex IT transactions and in the management of property rights and assets.