

Invention Harvesting Begins at the Top

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The growing importance of intellectual property to corporate business has shifted the focus of corporations from generating raw numbers of patents to implementing an effective and cost-efficient patent harvesting program – that is, an ongoing program that consistently generates valuable patent applications covering technologies of strategic corporate importance.

The response by most corporations has been to introduce a program through which individual inventors can submit ideas. Such programs typically ask the inventor to fill out an Invention Disclosure Form (IDF) which becomes the basis of a patent application. In order to motivate inventors, incentive programs ranging from carrots (paying inventors extra for IDFs) to sticks (making the submission of IDFs part of performance goals) are often employed.

Unfortunately, this type of “bottom-up” harvesting program (that is where ideas come up from the individual inventors) fails. While such programs invariably generate more IDFs, in the authors’ experience the quality of the inventions (based on their overall value and value to the specific business goals of the company) in those IDFs typically went down.

The Modern “Top-Down” Approach

In order to create patent harvesting programs that generate an ongoing stream of truly valuable patent applications, successful companies now primarily rely on a “top-down” approach. The top-down approach, which may also be referred to as a “pull” approach to emphasize that inventions are being actively pulled out of the existing business activity, is designed to identify strategically important products and services within a corporation and then to patent inventions that protect the value of those products and services.

The top-down approach can be most easily described as a three-stage process.

Stage One: Strategic Direction

Group meetings of senior business and technical executives (of software, hardware, manufacturing, etc.) with patent counsel for project-by-project reviews of:

- What’s going on
- What’s important
- What’s valuable
- What problems are being overcome
- What are competitors doing

The executives chosen should include the leader in charge of plotting the overall business strategy and the project executive in charge of implementing the strategy.

The purpose of this meeting is to develop a list of potentially valuable, differentiating and new technologies within each important project.

Stage Two: Invention Identification

For each identified project/technology resulting from stage one there should be a group meeting of the appropriate project executive, patent counsel and project team leader.

The purpose of this meeting is to generate a list of items - inventions, technologies, innovations or product features - to be protected by patent applications, if possible. In addition, at least one inventor for each item should be identified as the technical expert tasked with assisting legal counsel in the evaluation of the patentability of the technology and preparation of a patent application on the technology.

Stage Three: Execution

For each item on the list generated in stage two, one or more patent applications should ultimately be prepared and filed, preferably after some evaluation as to whether the particular items are, indeed, patentable.

Conclusion and Elements of a Successful Program

Effective patent harvesting requires a top-down approach in which the patent counsel assumes a communication/facilitation role so that the patent activity of a corporation is closely aligned with the corporation's business strategy. A valuable and strategic patent portfolio is not generated by accident, but rather by an affirmative effort that includes coordination between legal counsel, business executives and project executives specifically focused on patent harvesting. This direction from the senior decision-makers in the patent harvesting process is a necessary element to keep the patent activity focused on the intellectual property of the greatest value.

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