

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 8 | Issue 1

2025

© 2025 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Patents as Corporate Assets: Governance, Valuation and Legal Disputes

VIDYUTH G.¹

ABSTRACT

This study delves into the intricacies of patent governance, emphasizing the importance of integrating robust corporate governance practices to safeguard and optimize the value of patent portfolios. It also examines methods of accurately valuing patents, highlighting their significance in financial reporting, mergers, acquisitions, and technology licensing. Furthermore, the paper addresses the rising incidence of patent-related legal disputes, including infringement claims, licensing conflicts, and challenges in enforcing patent rights, offering insights into mitigating these risks through proactive legal strategies. To provide practical context, this paper incorporates real-world case studies that illustrate both successful and failed attempts at patent management, drawing lessons for businesses and policymakers. By addressing these dimensions, the paper aims to offer a comprehensive understanding of how patents can be effectively managed to support sustainable growth, foster innovation, and maintain a competitive edge in a rapidly evolving marketplace.

Keywords: Patent, Patent Governance, Valuation, Intellectual property.

I. INTRODUCTION

Within the modern worldwide economy, patents have developed as crucial resources that altogether impact the victory and maintainability of organizations. More than simply legitimate securities for innovations, Patents encapsulate the mental inventiveness and inventive soul of organizations, giving them with a key edge in profoundly competitive markets. They serve as pivotal devices for defending imagination, cultivating innovation, and enabling organizations to set up and keep up administration in their individual businesses. As intangible resources, Patents not as it were upgrade the esteem of a company's mental capital but too contribute to its budgetary execution by opening openings for authorizing, associations, and showcase development. In spite of their gigantic potential, be that as it may, the successful administration, valuation, and administration of Patents stay complex and regularly full with challenges.

The developing significance of Patents is prove by the expanding dependence on mental property (IP) as a driver of financial development. Companies over different segments, counting

¹ Author is a student at Sastra deemed university, India.

innovation, pharmaceuticals, fabricating, and green energy, are contributing intensely in inquire about and improvement (R&D) to make patentable developments that separate them from competitors. In any case, the exceptionally qualities that make Patents profitable – their eliteness and the competitive advantage they bestow – have moreover made them defenseless to abuse, fumble, and debate. In an environment where obvious trolling, encroachment, and excessively forceful case are getting to be commonplace, the require for strong components to administer and secure obvious portfolios has never been more critical.

Corporate governance plays a essential part in overseeing Patents as key resources. It envelops approaches, forms, and frameworks that guarantee responsibility, straightforwardness, and productivity in decision-making related to Patents. Viable administration systems offer assistance organizations adjust their obvious techniques with broader trade goals, moderate dangers, and optimize the esteem determined from their mental property. This is often especially significant in an period where advancement cycles are shortening, and worldwide competition is powers. Companies must not as it were center on obtaining Patents but moreover guarantee their significance, enforceability, and vital arrangement with long-term objectives.

Valuation is another basic angle of obvious administration that requires cautious consideration. Not at all like substantial resources, the esteem of Patents is regularly challenging to measure due to their intangible nature and reliance on variables such as showcase conditions, mechanical pertinence, and lawful enforceability. Exact valuation is basic for a assortment of purposes, counting money related announcing, mergers and acquisitions, securing ventures, and authorizing transactions. Misvaluation of Patents can lead to critical money related and vital slips, underscoring the significance of receiving solid and standardized valuation strategies.

Legal disputes shape however another dimension of obvious administration that requests proactive governance. Patent-related litigation has surged in later a long time, driven by components such as expanded competition, the multiplication of obvious trolls, and the worldwide nature of trade operations. Companies are regularly involved in debate over issues such as encroachment, nullification, permitting terms, and cross-border requirement. These debate not as it were force considerable money related costs but moreover occupy assets and consideration absent from center trade exercises. To explore this complex scene, organizations must embrace proactive lawful procedures, counting strong obvious due constancy, careful checking of competitive exercises, and compelling debate determination components.

Real-world case ponders give profitable experiences into the multifaceted challenges and openings related with Patents as corporate resources. Effective cases illustrate how companies

have utilized their obvious portfolios to secure advertise administration, drive advancement, and open unused income streams. For occurrence, innovation mammoths such as Apple and Samsung have utilized their broad obvious portfolios not as it were to ensure their advancements but too to arrange favorable authorizing bargains and declare their dominance within the industry. Alternately, cases of fumble highlight the pitfalls of lacking administration, imperfect valuation, and ineffectual lawful procedures. For illustration, companies that fizzled to uphold their Patents or adjust to changing showcase elements have endured critical budgetary misfortunes and reputational harm.

This paper points to investigate the transaction between Patents, corporate administration, valuation, and lawful debate, advertising a comprehensive system for understanding their part in present day commerce techniques. By analyzing the challenges and best hones in obvious administration, the paper looks for to prepare organizations with the instruments and experiences required to maximize the esteem of their mental property whereas moderating dangers and cultivating feasible development. Through a combination of hypothetical investigation and commonsense case considers, the paper sheds light on how Patents can be changed from inactive legitimate disobedient into energetic drivers of advancement and competitive advantage.

In doing so, this think about underscores the require for a worldview move in how companies see and oversee their Patents. Past being unimportant legitimate shields, Patents must be recognized as fundamentally components of a company's key and operational system. This requires an intrigue approach that coordinating lawful mastery, monetary intuition, and key vision. By tending to the administration, valuation, and debate measurements of Patents, this paper points to contribute to the broader talk on mental property administration and its part in forming the longer term of innovation-driven economies.

II. WHAT IS PATENT GOVERNANCE?

To first understand what a Patent Governance is we need to understand what a corporate is and what a corporate governance is. The companies act,2013 outlines the framework for corporate governance, regulation and management in India. Corporates as defined under the act includes entities such as public companies, private companies, one person company, and other business entites registered in under the act. In relation to what a corporate is there comes the part of corporate governance which means Corporate governance describes “the way trust is shown, power exercised, and accountability achieved in corporate entities, for the benefit of their members, other stakeholders, and society by Bob Ticker, The future of Corporate

Governance”².

A patent is an exclusive right, which means that the owner of that particular patent can exercise their right as to who can use the patent registered under the owner’s name and prevent the third party from misusing the patent. Therefore the companies that are having their own patents use a concept called as Patent Governance. Patent Governance basically means the governing of patents in a very careful manner.

Patent Governance has basic structures which includes the Patent Cooperation Treaty(PCT) and the World Intellectual Property Organisation(WIPO).

The Patent Cooperation Treaty (PCT), administered by the World Intellectual Property Organization (WIPO), simplifies the process of seeking patent protection in multiple countries. Established in 1970, it enables inventors and businesses to file a single "international application," which is valid across over 150 member countries, instead of submitting individual applications to each country.

The PCT operates in two primary phases: International and National. In the international phase, the applicant files a PCT application, designates member countries for protection, and receives an International Search Report and Written Opinion on the invention's patentability. This helps the applicant assess the likelihood of obtaining patents in desired jurisdictions. The subsequent national phase involves pursuing patent grants in each designated country, where specific national laws and requirements apply.

The PCT does not grant a "global patent" but provides a streamlined, cost-effective pathway for international patent protection. It extends the timeline for entering national phases, typically up to 30 months from the priority date, allowing applicants time to evaluate the invention's commercial potential.

By harmonizing procedural aspects, the PCT promotes innovation and reduces duplication, making it a cornerstone of global intellectual property management.

(A) Role of governance frameworks in managing patent portfolios:

In today's competitive and innovation-driven economy, governance frameworks are crucial for the strategic and effective management of patent portfolios. A clear governance structure improves value creation and reduces risks by ensuring that a company's intellectual property (IP) assets and its overarching business goals are in line.

² Bob Ticker, the future of Corporate Governance, A personal Odyssey, 2022

1. Alignment of Strategy

Organizations can use governance frameworks to match their patent strategy to business objectives like expanding into new markets, gaining a competitive edge, or encouraging innovation. This alignment guarantees that patent portfolios are viewed as strategic assets rather than just a compilation of legal documents. Prioritizing patent filings in crucial technological fields, geographical areas, and markets that are most pertinent to the expansion of the business is made easier by decision-making procedures that are governed by a governance framework.

2. Optimization of Portfolios

Maintaining or growing a patent portfolio requires weighing the advantages and disadvantages. Governance frameworks set up procedures for routinely auditing the portfolio to find patents that are out-of-date or performing poorly. These audits aid in the reduction of unnecessary patents, the reallocation of funds to valuable assets, and the possibility of making money through the sale or licensing of unused patents. This maintains the portfolio's relevance and guarantees the best possible use of its resources.

3. Compliance and Risk Management

Risks associated with managing intellectual property include legal issues, infringements, and adherence to local laws. By outlining the duties and responsibilities of R&D departments, legal teams, and IP managers, a governance framework reduces these risks. Additionally, it enforces compliance with regulatory requirements, including timely maintenance fee payments and cross-jurisdictional patent law compliance. Organizations can anticipate possible litigation and take preventive action by incorporating risk assessments into the framework.

4. Fostering Creativity

By establishing clear procedures for obtaining and safeguarding intellectual property, a strong governance framework promotes an innovative culture. Clearly defined procedures for submitting ideas, evaluating them, and filing patents encourage internal inventors to participate without facing administrative obstacles. The framework encourages innovation and increases employee confidence by making the decision-making process transparent.

5. Opportunities for Licensing and Monetization

The strategic monetization of patent portfolios is made easier by governance structures. In order to ensure that transactions are in line with the company's strategic goals, licensing agreements, cross-licensing arrangements, and partnerships are frequently governed by governance rules. Frameworks also assist in determining the worth of patents for possible revenue generation,

such as technology transfers or licensing royalties.

6. Handling International Portfolios

Managing a patent portfolio across jurisdictions can be challenging for multinational firms. By unifying rules and processes for foreign filings, renewals, and enforcement, governance frameworks simplify global operations. This eliminates duplication and guarantees a uniform method of managing patents around the globe.

7. Making Decisions Based on Data

In order to monitor patent performance, competitor activity, and market trends, contemporary governance frameworks make use of technology and analytics. Actionable insights for making well-informed decisions, such spotting portfolio gaps or new technological areas to explore, are provided by tools like patent landscaping and IP analytics.

III. PATENT VALUATION

For a business to flourish, there has to be an innovation from the part of that business for the sole reason that is to stay competitive in the market which is ever growing and is growing more and more competitive over time. The only way to keep that competitive edge is to protect the innovative ideas from the other companies from claiming the idea as their own even if they thought of the idea from their own mind. If the said company is to innovate the idea first then it must be so, therefore the company must patent their idea to protect it from the other companies from using it.

Innovation and patents go hand in hand as patents help to secure the name for the company for their innovation of that one particular idea. The company's growth also depends on how many patents they have to their name and what does it value at that particular time and how much would it value in the future. This is also known as Patent valuation.

Patent valuation involves determining a patent's financial worth, reinforcing its competitiveness and tradability. However, its value remains speculative until infringement occurs. Infringement serves as proof of market viability and practical use, indicating that the patented innovation holds commercial relevance. Without infringement, a patent's worth is theoretical, as its real-world demand and impact remain untested. Thus, while valuation helps define potential worth, actual value emerges only when the patent is used or challenged in the market.

There are various ways in which a value of a patent can be determined

Firstly, Market Approach, it determines the market value for the similar patents that are available in the market how well are they performing and how much demand does it garner in

order to the substantial market that the particular patent is flowing in. The market concerned with the patent must be active.

A market is active if all the following conditions are fulfilled:

- a) the goods in the market are homogenous;
- b) purchasers and sellers willing to enter into agreement can generally be found at any time;
- c) prices are publicly known.

Since intangible assets are generally not traded in active markets, it must be determined whether comparable transactions can be drawn upon for the valuation of an intangible asset.³

Then comes the Income method of Patent valuation, this method is based on the assumption that the value of an intangible asset results from the future success which will be generated by the asset in the form of cash flows. The value of an asset is considered to be the sum of the present value of the future cash flows that can be generated as of the day of valuation (Discounted Cash Flow) from the use of the intangible asset within the expected economic useful life and possibly its divesture/disposal.

The central tasks within a valuation are therefore the prognosis of the cash flows relevant for the valuation and the determination of the capitalization interest rate/capitalization cost rate depicting the risk of the concerned intangible asset. A major task in connection with the valuation of single assets is isolating the specific cash flows that can be credited to the asset to be evaluated.

These cash flows are a type of added value to the cash flows that could be generated without the specific asset. The planning period for the cash flows is to be based on the economical useful life of the intangible asset or its remaining useful life. The useful life of intangible assets is usually limited wherefore a valuation may not consider revenues in perpetuity from such an asset. In exceptional cases, revenues in perpetuity may be considered in case the useful life of the asset is sufficiently long so that it becomes irrelevant whether the present value of a limited series of cash flows is considered or whether the present value of cash flows in perpetuity is considered. The income approach allows valuations from different perspectives.

Aside from standardized concepts of value, e.g. the fair value, which are relevant for company external objectives, it is possible to include individual and subjective components and thereby reach strategically relevant decision values. This is relevant in cases in which the valuation is carried out not only for tax or accounting purposes, but for example shall be used for a purchase

³ Still A Long Way To Value-Based Patent Valuation, By Martin A. Bader and Frauke Rüether

price finding or shall facilitate other decision making processes. There are basically four different methods to evaluate intangible assets based on an income approach each of which allows for a different way of isolating the specific cash flow for the relevant intangible asset. These methods are generally equivalent. In individual cases, one method or the other may be better suited than another due to the importance of the specific intangible asset for a company or the fact that the information required for the application of one specific method may be difficult to come by.

IV. IMPORTANCE OF PATENTS IN MERGERS AND ACQUISITIONS, AND JOINT VENTURES

Creation of a standardized Intellectual property rights are important for the smooth transfer of any kind of intellectual property from one company to another when a merger or an acquisition between two entities. Also creation of a vast range of Intellectual properties not only of Patents helps a company to effectively manage a merger or an acquisition that is to happen whilst creating a proper strategy for it, this mainly involves of valuating the existing patents or any of the intellectual property that the company has with it at the time of the merger or an acquisition.

When one company mergers with another it creates a lot of haphazard for both the companies if the intellectual property of the company is not standardized properly, it can create a lot of discrepancies. Therefore it is always suggested that the workplace to be harmonious at all times and the merging companies to be harmonious in times of merger to avoid any problems at any cost.

Not only Pre Mergers and acquisition IPR management is necessary, post M&A IPR Management is also necessary at all times and is a legal necessity.

V. CASE STUDIES

(A) Google's Acquisition of Motorola

Google announced that it will be purchasing Motorola mobility for \$12.5 billion. This decision of acquiring the assets of Motorola came at the cost of the Nortel patent auction which google misses to purchase the assets of the Canadian Telecom giant. After the purchase of the Motorola Mobility, Google now owns roughly around 17000 patents across the globe in the wireless domain alone.

Google then went on to sell Motorola Mobility in 2014 to a Chinese Technological giant(Lenovo) for around \$2.91 Billion, which is really a low sale value when compared to what amount Google had purchased it earlier.

However this ended in favour of google, for the reason that

- 1) Google realized that in order to capture the Android Phone hardware business it had to have a dedicated electronic manufacturer.
- 2) Motorola's operating losses were increasing unlike ever before, Motorola's operating losses were amounted to \$1.94 Billion during the 2012-13 period. Due to discrepancies in acquiring a company which is incurring losses companies like Samsung, LG started to Create their own OS. By selling Motorola Google emerged as an easy winner with creating Android which is being used by most of the Mobile phone manufacturers worldwide.

Due to this acquisition and selling of Motorola now Google can diversify its operations by creating wireless hardware systems at par with their competitors like Apple, Samsung, HP and Microsoft, moreover supplying Operating software to major Mobile Phone manufacturers in the world.

(B) Tesla's Open Source Patent Strategy

Tesla, a leader and a formidable name in the Electric vehicle (EV) industry made a revolutionizing decision in 2014 to make the patents under its name to be open sourced, that is, anyone can now be using Tesla's patents without being sued by Tesla in return.

This was aimed at revolutionizing and fostering innovation in the field of EV for the coming years and expanding the market for sustainable market.

Tesla's open patent strategy was driven by several strategic factors. Instead of restricting competitors, the company aimed to expand the EV market by encouraging widespread adoption of its technology, creating a larger ecosystem that benefited all players, including Tesla.

By allowing other companies to use its patents, Tesla fostered network effects, promoting the development of charging infrastructure and supply chains, which indirectly strengthened its business. The move also reinforced Tesla's image as an innovative and mission-driven company, enhancing customer loyalty and attracting top talent.

Despite sharing its patents, Tesla retained a first-mover advantage in software, battery technology, and manufacturing, maintaining a competitive edge. The impact of this strategy was significant, encouraging industry collaboration as companies like Toyota and GM followed suit by increasing cooperation in EV technologies.

It also accelerated EV adoption by reducing legal barriers, enabling more automakers to enter the market and drive competition and innovation. Ultimately, Tesla maintained its market

leadership through continuous advancements, particularly in software, battery efficiency, and supercharging networks, proving that open innovation could coexist with sustained business success.

VI. RECOMMENDATIONS FOR STRENGTHENING PATENT GOVERNANCE

1. A **rigorous non-obviousness standard** is essential to ensure that patents are granted only for truly inventive concepts. This requirement—that an invention must not be obvious to someone skilled in the field—must be strictly upheld. In areas such as **business methods**, where general knowledge may not be fully documented in accessible literature, alternative methods should be used to assess common knowledge.
2. **Transparent and Accessible Patent Databases:** Improve patent databases by making them more user-friendly, searchable, and publicly accessible, allowing innovators, businesses, and researchers to efficiently assess patent landscapes.
3. **Ethical and Societal Considerations in Patenting:** Introduce ethical frameworks for patenting in sensitive areas like genetic research, AI, and public health, balancing innovation incentives with public welfare.

VII. CONCLUSION

In the future, patents will not only serve as legal protections but also as strategic business assets that influence corporate growth, partnerships, and innovation. Companies will need to adapt their patent strategies to emerging technologies, regulatory shifts, and competitive pressures, ensuring that their intellectual property portfolios align with long-term business objectives.
