

NJORD Estonia: Intellectual Property in Business: How to Increase Company Value Through Careful Strategic Planning?

Today, the foundation and biggest asset of any smart business is intellectual property (IP). Through the protection of intellectual property, a company creates its competitive advantage and ensures its market position, which in turn increases the value of the company. Therefore, IP protection is necessary not only for the proper management of the company's assets, but also for maximizing the benefits from these assets. When considering different intellectual property protection strategies, it should be noted that IP can be protected by several types of intellectual property rights. The most appropriate defence strategy must therefore be chosen in accordance with the company's economic and marketing strategy.

Intellectual property is the greatest asset of any smart business

During the times of the industrial revolution, a typical company owned land and labour and, through production, benefitted from them. Looking at companies today and with future developments in mind, they no longer own large expanses of land or massive labour forces; instead, a company's fixed assets are its intellectual property. Future companies will gain value from how well they are able to use their intellectual property and benefit from it. Looking at some of the most successful companies in Estonia, such as the world-renowned Taxify and Skype, it is clear that they are not traditional companies with a large fleet of vehicles, but they create value through IP and their strategy for using it.

How to make your business make money on intellectual property?

It is definitely not easy to manage the entire company's IP and establish a sustainable strategy for the future that would make profits. IP commercialization is a process for improving one's products and services, making them commercially viable and value-generating. The success of this process depends on several internal and external factors, such as business objectives, intellectual property type, economic nature, and intellectual resources used. Additionally, intellectual property may be marketed either by its owner through direct transfer or through development in a business partnership. The choice of the most appropriate tool is often difficult, especially for small and medium-sized enterprises.

Instructions for successful intellectual property agreements

Firstly, we should establish the origin of the IP that we wish to manage by the contract - whether it be internal (e.g., transfer of knowhow between worker and company) or external (e.g., transfer of knowhow between different project partners). When entering into a contract, we first have to determine the exact need for the conclusion of the contract and the wishes of the parties. For example, technology transfer is required to provide a new and improved product or service. In addition, we should consider the desired result of cooperation: (joint) research and development agreements, licensing agreement, (custom-made) production contract, consultancy or brokering services, labour or agency contracts, etc.

Keep your ideas secret

Patents/utility models or designs can only protect inventions or designs that are not publicly disclosed. Business ideas that do not include inventions or technical solutions cannot be thus protected. Therefore, it is important to keep your ideas secret, so as to maximize the benefits of your own business idea and avoid copying by competitors. One option is to add confidentiality clauses when entering a new business relationship. It is therefore important to verify the conditions under which the parties have entered into an NDA (non-disclosure agreement), as well as how long and under what conditions it is valid. Agreements with similar content and their parts must not be contradictory. NDA contracts are somewhat like handshakes that are signed automatically. In practice, when preparing the main contract, it is sometimes forgotten that the NDA may have an effect on the main contract or vice versa: by concluding the main contract, the NDA ceases to apply and appropriate confidentiality agreements must be set out in the main contract.

The following measures can help businesses keep their trade secrets in the company:

- **Make sure that employees, researchers and co-authors have signed confidentiality agreements** and occasionally remind them of the importance of fulfilling their obligations

- When disclosing information to the public (e.g., technical publications or communication with potential partners), **make sure that disclosure notices do not contain confidential information**

- **Signing confidentiality agreements with partners and testers; before conception and technical testing and partner negotiations.**

These tips for concluding IP agreements are definitely not exhaustive and their main goal is to direct companies' attention towards the importance of concluding IP agreements. Regardless of the company's industry, be it manufacturing or services, it is important to understand that each company is to a greater or lesser extent engaged in the creation, development and sale of its intangible assets; effective contracts and IP strategy may make profits.



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