

Patent Connections – Using Patents To Open Innovation And Open Minds

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Open Innovation (capital “O” capital “I”) seems to be the “buzz word” of the day amongst anyone dabbling in the ever expanding global market for transaction of ideas, inventions, knowledge and products. The concept behind the words making up this popular phrase, open innovation (little “o” little “i”), is undeniably simple: embracing externally developed, as well as internally developed ideas when translating those ideas to reality and incorporating them into new products and technologies. For those of us whose English isn’t horribly scarred by years of “corporate-speak,” we refer to this another way: giving credit where credit is due. Of course, for anyone spending years in a corporate not-invented –here environment, this simple concept might seem downright strange.

As someone who spends a lot of time tracking down IP owners for particular technologies, I definitely agree that a good idea can come from anywhere, which means I tend to be open-minded about benefits of “unconventional” ideas like Open Innovation. Keeping in the spirit of the post, then, I won’t be shy about liberally quoting from and linking to other companies and experts in this space as it helps drive home my overall point. The first useful resource I want to mention is Ben duPont’s post about 5 Open Innovation Mistakes Companies Make. Read Ben’s post for all 5, but I only wanted to talk about the first one:

Culture – Changing the culture to be receptive to outside ideas and technology requires more than one speech or memo. Changing the culture requires changing work habits and changing incentives.

You’re likely unsurprised that changing culture is a critical step in embracing externally created ideas and technology. What is surprising, however, is the fact that people actually need to be told that. Consider a large company like Microsoft as an example. Microsoft reportedly employs almost 90,000 people worldwide, which seems like a lot of people who are presumably obligated to sign over all of their inventions to the company. But once you factor in the fact that the global estimated population is nearing 7 Billion, Microsoft’s overall control of the world’s inventions is actually very limited. My former mentor said it another way (paraphrasing): *Microsoft owns a lot of brains but doesn’t own them all. They can’t be too surprised if someone else invents something first.*

Another culture change that can aid Open Innovation is to alter this misconception some people have that the marketplace should only reward people who *implement* technology, and not people who merely invent it. Mark Cuban, for one, speaks with disgust about companies “who have no intention of solving a problem or building a business but want to get paid by those that do.” If we’re going to have a patent system, however, then why shouldn’t companies be able to do exactly that? Consider this: should we allow doctors the choice to be OB/Gyn’s or pediatricians, or should Congress pass a law requiring all doctors who chose one specialty to do both? Ridiculous? Read on.

The benefits of specialization have been written about for hundreds of years, and intellectual property laws take this concept a step further. Intellectual property can separate freedom to manufacture articles of commerce from the articles themselves. Some innovators may prefer to invent for invention’s sake, not wanting to be tied down to years of market research, product development, regulatory approvals and mass appeal. Such people are free to finance their future discoveries by licensing their inventions to implementers who are particularly skilled at dealing with the various steps of bringing a product to market. Similarly, the implementers may be less skilled at originating new ideas, and prefer to leave the inventing to the inventors. Companies have long practiced this type of specialization internally, by funding R&D departments and transferring viable ideas to product development. Open Innovation allows firms themselves to specialize in one or the other.

Patents are a particular instantiation of this concept, separating the transfer of knowledge (which happens instantaneously) from the privilege of preventing others from applying that knowledge in specific ways (which lasts for a limited time). In other words, the whole world is entitled to learn as it pleases from anyone’s patent. The knowledge is transmitted around the globe, enlightening all who care to learn. But there’s a quid pro quo for the inventor. By making that knowledge known, the inventor gets to control (somewhat) who is allowed to put that knowledge to practical use.

This feature makes patents particularly well suited for Open Innovation efforts. There may not be a particular need to develop infrastructure for trading technology. After all, it takes time to build trust for new platforms and concepts. Without specific IP protection, firms may be reluctant to share the most valuable technologies, fearful of not recovering its true value. Thus, the best technologies might go undisclosed. But the patent system has already proven itself to be a relatively robust strategy for disclosing technology to the world.

But I didn't figure that out all by myself. Experts that *specialize* in developing IP strategies did. Jackie Hutter writes that patent information should be a *substantial* part of an Open Innovation program:

Why do I believe patents are a critical piece to Open Innovation methodology? Put simply—patents can serve as a veritable “shopping list” for a company seeking to identify innovations available for adoption from outside the organization. By its very nature, a patent sets forth the fundamental basis of the subject matter that the patentee wishes to exclusively own. If the patentee developed a product or technology and later decided not to introduce it into the market, then that subject matter could be essentially market ready (or nearly market ready) for a significantly less cost than to develop a similar technology from scratch within one's own organization.

So perhaps the real culture change needed for Open Innovation to work is to recognize that the benefits of specialization can apply just as easily to facilitating technology transfer from innovators to implementers as it does between, for example, manufacturing and packaging. Patents provide a framework for identifying the technology to be transferred, and a set of rights to be transferred (if that is the owner's wish) that encouraged the identification in the first place. So get your shopping lists together, and happy hunting