INTELLECTUAL PROPERTY IN
THE GLOBAL MARKETPLACE
AN INDUSTRY INVESTIGATION - 2014

WITH INSIGHTS FROM EXPERTS INCLUDING:

Andrew Browne
Senior IP Counsel
Shell

Tom Briscoe
Director – Strategy IP & Technology
Dako, an Agilent company
CONTENTS

- Executive Summary 3
- Global Patent 2014 Survey 4
  - About Respondents 5
- Global Patent Insights 2014 and Beyond + Expert Analysis 6

MONETISATION
- Leveraging IP Value at Shell – Andrew Browne 15

STAKEHOLDER BUY-IN
- Revealing Innovative Methods for IP Awareness – Jan-Willem Goedmakers 18
- Getting the Right Perspective on IP Value – Tom Briscoe 20

STRATEGY
- The Right IP strategies for the Right Companies – Tommi Lehtinen 23
- Quickfire Interview: Strategising Through the Patent Cliff – Dr. Aman Trehan 25

Resource Centre 26
Thanks 28
About the Event 29
About Legal IQ 30
Ahead of the Global Patent Congress in Copenhagen, Denmark on the 22-24 September, Legal IQ conducted the **Global Patent 2014 Survey** to investigate how companies are implementing their patent strategies and the philosophies behind them. This survey provides a backdrop against which the rest of this report is based.

The survey, which took place in April and May 2014, was conducted by Legal IQ. We surveyed our members, which consist of in-house Intellectual Property (IP), patent, trademark, brand, anti-counterfeiting, security officers among other professionals to bring together the latest insights into the IP area.

To explore the findings of the survey, we contacted senior industry IP in this space to see whether the results resonated with what they are seeing more generally in the field. These insights, along with our own commentary make up the analysis of the Global Patent 2014 Survey which makes up the first part of the report.

We then interviewed these thought leaders from diverse industry sectors including petrochemical, biotechnology and telecommunications to discover what the driving trends are in intellectual property and where they think the field is headed in the coming 18 months. These interviews form the second part of the report.

We then round off the report with a resource centre of valuable content which has been collated from Legal IQ’s portfolio of events in this space including the Global Patent Strategy Exchange, the Global IP Exchange and the Global Patent Congress 2013.

We hope you find the material in this report useful.
GLOBAL PATENT CONGRESS
ABOUT THE RESPONDENTS

Which of the following fall within your responsibility?

- **Patents**: 87.2%
- **Trademarks**: 43.6%
- **Licensing**: 62.8%
- **Brand Protection**: 26.9%
- **Anti-Counterfeiting**: 28.2%
- **Security**: 10.3%
- **Designs**: 35.9%
- **Copyright**: 38.5%
- **Litigation Support & Management**: 43.6%
- **Recruitment & Team Management**: 24.4%
Generally speaking, how significant will intellectual property be to your business over the next 18 months?

Very significant 56.4%
Fairly significant 33.3%
Not very significant 7.7%
Insignificant 2.6%

Our survey respondents were made up of in-house intellectual property (IP), patent, trademark, brand, anti-counterfeiting, security officers among other professionals. The multiplicity of backgrounds of the respondents is borne out by the variety of company sizes and responsibilities they hold. They are united by the common emphasis on intellectual property with 89.7% of our respondents declaring that intellectual property would be fairly or very significant for their business over the next 18 months.

A majority of the respondents are responsible for patents and licensing with sizable minorities also responsible for trademarks, copyright, designs and litigation support and management.

The size of the companies which the professionals work with range from under $50 million to over $1 billion, with 41.1% working for the former and 20.5% working for the latter.

91% of our respondents believe IP rights are an important incentive for innovation within the business.
Rating the following in order of importance, why do you file patents?

1. Improve the reputation of your company and product image 2.7
2. Increase licensing revenues 2.7
3. Prevent others from copying your products/services 1.7
4. Improve your position when negotiating with other companies in cross licensing agreements 2.3
5. Prevent patent infringement 2.8

Our respondents reported three separate reasons as almost equally important reasons for why they file patents: Improving image, licensing revenues and preventing patent infringement. These results clearly demonstrate that there is no one specific reason why companies file patents, but rather a multitude of reasons. Legal IQ asked Tom Briscoe for his insights on these results.

**Insights from Tom Briscoe**

The ones that I think should come to rate higher are; improving your company’s reputation and improve your negotiating position, but, again, all the answers reflect a very patent centric traditional perspective and I wouldn’t limit improving your negotiating position in cross licensing and licensing agreements. Patents can improve your negotiating position in business deals and that’s where, I think, the focus needs to be. Not that many companies are going to actually get licensing revenues, other than incidental licensing revenues and not that many companies are going to be well served by spending a lot of focus on infringement and copying. Those are legitimate purposes, but the thing that companies should focus on most is, how can patents support my business plan? And is my patent filing strategy and my patent promotion strategy and how I positioned myself with my IP, does it make me the clear competitor? Does it make me the company that people really want to work with? Does it support that goal? So I’m saying that, yes, those answers, they’re not surprising to me, but that as people begin to see that IP can be an integrated part of business strategy, and they can, for example, trade a patent license in return for something other than a patent license, those types of deals will become more common. Patents can be an asset that is fully negotiable and has advantages over tangible assets in that you can more easily come up with different ways of dealing and carving out rights that are tailored to the needs and the growth of your trading partners.
GLOBAL PATENT INSIGHTS 2014 AND BEYOND

Which of the following do you think will be your companies’ biggest IP challenge during the next 12 months?

- Cutting costs from your portfolios: 37.2%
- Implementing defensive patent strategies: 38.4%
- Filing patents in the BRIC region: 10.3%
- Non Practising Entities: 14.1%

There is an interesting contrast between the results in this year’s survey and those from 2012, where two thirds of our respondents chose ‘implementing defensive patent strategies,’ the greater diversity in answer this year perhaps suggests a more mature market. Jan-Willem Goedmakers elaborates on the ever-present pressure to cut costs.

**Insights from Jan-Willem Goedmakers**

The cost-cutting in most companies is across the board, so the patent department can hardly be exempt from that. That’s why I believe this will be a focus point for most companies and for most heads of IP departments.

Implementing defensive strategies is really about how to make the best use of your resources, and how to make sure that you patent what needs to be patented. That is basically an on-going struggle, and I don’t think anybody has the answer, not even within their business, but it’s just where you try to improve year-over-year.

One thing is I do believe that what you have to do is you have to carefully evaluate what it is that you want to do in-house, what are the core competencies that you need, and what can you better outsource, and what can be more efficiently done by companies that specialise in that. That way you will be able to create flexibility by reducing your in-house headcount and, at the same time, make use of specialisms which are being developed outside by companies that provide these services.
What geographic region do you think will be most important for your patent strategies in 2014?

In 2012 40% said US and 20% said Europe, in 2014 there is a wider selection of geographies with the US losing ground to Europe and BRIC countries. Stamicarbon represents a growing selection of companies who are looking beyond the established.

**Insights from Jan-Willem Goedmakers**

At Stamicarbon we have been active pretty much globally, and we sell our technology all over the world. For us, Asia, and then, in particular, China, but also Indonesia, and the US, and, for example the states in the former Soviet Union – in particular, the Russian Federation – has been very important for us; but, also, the Middle East is important. Interestingly enough, for Stamicarbon – and I believe that this is probably an exception – Europe is less important as a market for us than all these other geographies.

The big challenge in China is that, before, the technology would be developed somewhere in the rest of the world, predominantly in Europe, and a little bit in Japan. Nowadays, we are looking at, competition from China; also what we are looking at is infringement by Chinese companies and, for us, it’s very important to defend our intellectual property rights. I’m not saying that, in my experience that we have had a case in China, which we actually won against an infringer. **[There is definitely positive development in China with respect to understanding of intellectual property rights]** and also the courts are making large progress in this understanding and coming up with more consistent decisions.

I believe that we are going to see more of that in the coming years, but for the standpoint of an IP department, it is just a lot more work, because instead of just monitoring a few companies in Europe or in the US, depending where you are based yourself, there are now a lot more geographies that you have to keep an eye on, and you have to up on. It’s important to follow up because you have to defend your intellectual property rights.
Global Patent Insights 2014 and Beyond

To what extent do you think that increasing globalisation of sales and the supply chain has increased the risk of IP infringements in the last 10 years?

An increasingly global marketplace is presenting companies with challenges along with opportunities as the respondents believe with a large majority that it has increased risk of IP infringements. Jan-Willem Goedmakers summarises this with a comparison to the previous, more local, markets.

Insights from Jan-Willem Goedmakers

In the old days you only needed to look at a few competitors and you knew your competitors very well. Nowadays, in the upcoming countries – and, for example, India and China – there is also a lot of IP being developed, and there are new competitors opening up everywhere so you have to monitor that and you have to carefully look at potential patent infringement.

Of course, there is a particular challenge here, and that is that Chinese companies, for example, will often only file in China, but we are trying to sell our products in China, but the Chinese patents are not as accessible to us as, for example, US patents which are in English and are easily accessible for us. I know that there are now companies trying to make this information more available by providing machine translations, and this is improving every year, but there is still a long way to go.

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Are IP lawsuits frequent within your industry?

With the diversity of our respondents, it is perhaps unsurprising that there is also a diversity of answers to this question. With such a variety we asked Tom Briscoe what effects this could have on IP strategy.

**Insights from Tom Briscoe**

I think litigiousness in an industry has had an impact on IP strategy in those sectors. The more litigious an industry is, the more the management of a company feels compelled to stay on par with competitors in terms of patent activities. On the other hand, if an industry is not that litigious, there may still be a degree of we have to have patents in order to cross license. We have to have patents as a chip to enter the game. The reality is that both views are driven by keeping up with competitors, in terms of patent filing, and in my opinion, the proper perspective to have is whether the industry is litigious or not should impact your IP strategy.

But what should really be driving your IP strategy is, depending whether the industry is litigious or not, how can I create a patent portfolio that supports my business plan in such a way that both my fiercest competitors and my best partners see me, see my company, as a company that is excellent at IP, that is innovative, that is leading and who they would much rather work with than against when it comes to IP issues.
Global Patent Insights 2014 and Beyond

Are any of the following specific concerns when defending allegations of IP infringement further in court? Select as many as apply.

- Loss of revenue/profit: 49.3%
- Fear of negative press/brand impact: 36%
- Complexity of law across various jurisdictions: 42.7%
- Uncertain probability of success: 68%
- High litigation cost: 82.7%

Going to court clearly raises many concerns and the two most shared are the related answers of uncertain probability of success and high litigation cost. Andrew Browne discussed this uncertain probability of success and how it can affect a company jurisdiction to jurisdiction.

**Insights from Andrew Browne**

Shell is a global company, but the real issue is in the USA, in particular, where you can look at a casino of liability with jury trials, with the fact that there isn’t a user pays phenomenon. Even if you lose a suit in the States, you don’t have to pay the other party’s costs. That is subject to review. Barack Obama has basically put a team in place to look at some of these issues, but it is a major problem. The other problem too, is that in terms of fragmentation across the EU, you know that you might win in one jurisdiction, but not in another.

And there’s the on-going issue of bifurcation in Germany, where you have one court that deals with nullity, so revocation of a granted patent. And another court that deals with infringement. And if the infringement court is seized of jurisdiction, you can’t go to the nullity court and the infringement court simply assumes that the patent is valid. So, it’s really a race, and if a patent troll or an NPE is the first to issue proceedings for infringement in the German infringement court then a defendant is in a really tough position. The UK is very friendly when it comes to defending or protecting rights, but it’s really a race to see who gets there first.
How highly does licensing and patent monetisation rank in your portfolio management strategy?

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<tr>
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<td>5.3%</td>
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There was somewhat of a spread in answers to this question which illustrates different companies placing assorted emphasis on monetisation of their IP portfolio. Tom Briscoe says we need to look beyond the simple question of how to make more money and address the underlying issue.

**Insights from Tom Briscoe**

I think the answer is reflective of the fact that it’s very expensive to pursue patent prosecution and to pursue obtaining patents. Therefore, there is increasing pressure on professionals to be able to show the increasing amount of money that’s being spent is bringing the business revenue. So one way is so-called monetising or licensing revenue, but in reality, very few companies probably get sufficient licensing revenue to cover their patent costs. I think what we need to get better at, as an industry, is in making a clear link to where, some day, you can talk to any of the companies that are spending a lot of money on patents. And you can talk to their CFO or CEO and they would answer something like this; yes, we’ve spent a lot of money on patents, but it’s worth every penny because, and then they would name the reasons why the money they spend on patents helps their business to grow.

I think very few companies actually get their money’s worth out of patents, but yet, we see more and more people spending money to obtain patents and to innovate. So I think the real issue is: **how do we create or how do we identify what the real value is, rather than following what the rest of our competitors are doing?** We need to say; why is the money I’m spending on patents really creating value for our company and for our shareholders?
SUMMARY

The world of intellectual property is facing several revolutions at the same time with increasing globalisation, emerging markets and the growth of the internet. 59% of our respondents said that globalisation had considerably increased the risk of IP infringements in the last 10 years. Protecting intellectual property has perhaps never been harder, especially with 47.5% describing litigation in their industry as frequent or very frequent. The Global Patent 2014 Survey revealed how companies are dealing with these challenges and what strategies they are putting in place to do so.

It is perhaps easy to see IP departments within company as a cost and not so easy to see the benefits. Indeed, 82.7% of our respondents described high litigation cost as specific concerns when defending allegations of IP infringement further in court.

To increase the ROI on the IP department, many are looking for ways to monetise their IP portfolio with 61.9% of our respondents designating licensing and patent monetisation as a very or fairly significant part of their portfolio management strategy.

When asked what the main reasons are for filing patents, preventing patent infringement was some way more popular than Improving position when negotiating with other companies in cross licensing agreements. Tom Briscoe suggested that the value of patents, beyond just protecting from infringement, needs to be understood better and spread within an organisation.

Gaining this stakeholder buy-in is crucial so that IP departments can work better within their organisation and truly maximise the value of a company’s IP portfolio.

With these three themes of Monetization, Strategy and Stakeholder Buy-In we now move on to the insights of out industry panel of experts in 5 exclusive interviews.
MONETISATION
LEVERAGING IP VALUE AT SHELL

Andrew Browne
Senior IP Counsel
Shell

Andrew Browne, Senior IP Counsel at Shell believes the first step to leveraging IP value is to have a solid understanding of what that value is. In this interview he outlines the steps taken at Shell to ensure that valuation methods are implemented, risks are identified and potential roadblocks are addressed. He also discusses the potential impact of open innovation and unitary patent litigation will have on the field.

Legal IQ:
At the global patent congress, you’re going to be talking about assembling and utilising a powerful patent portfolio, through effective business alignment. What are the steps to doing this properly?

Andrew Browne:
What’s key in any company is that clearly the company will have business objectives and a business strategy and also a technology strategy that’s designed to support the achievement of the business strategy. Now we have IP strategies in Shell and most companies should do so as well. An IP strategy shouldn’t exist in a vacuum, it’s really got to be designed to help the business to achieve its technology and business strategies. Otherwise it doesn’t really serve a useful purpose. It also costs a lot of money to establish an IP position and then to maintain it, so close interaction between the business functions, is absolutely key, in this regard.

Legal IQ:
How can companies use and leverage their IP portfolio, to build and develop market leading positions?

Browne:
Shell is very firmly on the pathway to leveraging IP value and to leverage IP value, you really have to have some sort of understanding of the actual value of your IP portfolios. So we will, on a regular basis, carry out quantitative valuations of bundles of IP assets and this involves the application of income valuation methods. And we’re going to arrive at a net IP value. It’s not simply about the number that’s given to the value of an IP portfolio; it also seeks to identify risks, in terms of legal IP risks, technology risks, and business risks. So that in looking at the risks, you can actually then seek to address them, whether within the IP function, in terms of more patent filings. Looking at stealing the march on competitors or addressing roadblocks, in terms of what you’re seeking to achieve. Also to steer the business, in terms of, perhaps the need to increase R&D in a certain area or to increase invention disclosures as well.

This can help to build and develop market leading positions, based on IP strategies, which could be exclusivity, so you don’t want anybody else to be working in your sandpit, so to speak. Or, shared exclusivity, where you cannot achieve that, because of road blocks or else freedom to operate to ensure that you’re not going to be sued by anybody else. So, this can help to provide a lens to achieve a market leading position.
LEVERAGING IP VALUE AT SHELL

Legal IQ:
How can licensing in joint ventures, be used to meet business objectives?

Browne:
Shell certainly does license IP to national oil companies, on the global stage, as well as into joint ventures, in various markets. We don’t do it to make money, that’s simply based on the strategy for Shell, which is a focus of supporting our upstream business to foster and reinforce relationships, when it comes to exploration and production. It’s also good, in terms of bragging rights, to support deals, in terms of licensing. Because, where you have a number of license arrangements in place, it demonstrates to the market that you have the relevant smarts, capability and know-how. In a joint venture, there’s just a variation on a theme, because that’s simply a vehicle through which you will license IP. It’s about trying to increase your reputation and brand in the marketplace through doing things successfully, in terms of licensing and joint ventures. The other point is that licensing IP and putting IP into joint ventures, can assist in terms of learning where pressure points may arise new improvements, which you can then feedback into your business.

Legal IQ:
What will be the major changes, do you think, in the intellectual property field, in the coming 18 months?

Browne:
Well, open innovation is a major challenge. I think that any company that suggests it has a closed innovation model isn’t being truthful about the nature of R&D. No individual company has a monopoly, in relation to R&D smarts, and forth. So, open innovation is something that is growing exponentially in the marketplace and it’s something that companies need to look at very, very carefully to avoid the risks of contamination against their own R&D efforts, but also, as a means of getting to markets more quickly, and having something that’s going to deliver on needs, in the marketplace. I think one of the concerns, too, is that around the continuing fragmentation in Europe when it comes to enforcing patents and ensuring freedom to operate.

We would like to hope the unitary patent and unitary patent litigation will come to pass, but that’s something we’re looking at closely because of the fact that it means that there’s uncertainty of the business, in terms of enforcing rights, but also defending positions. Another thing on the global stage, I think things are improving in the Gulf and in Asia when it comes to protecting and enforcing IP, but, there are on-going challenges there. The reality is that many companies operate on the global stage, and it is quite expensive and time consuming to have a clear view about what the challenges and risks are and how best to address them.

Andrew Browne will explore this topic further in his talk “The real value of IP is how you use it: employ IP to grow your business” at the Global Patent Congress. Find out more by downloading your agenda here.
STAKEHOLDER BUY-IN
Legal IQ: What are the challenges that companies are facing at the moment in intellectual property?

Jan-Willem Goedmakers: There are currently many challenges that are facing the IP departments. Of course there is always the desire to do more with less as we have to demonstrate our value to the business. Budgets are always limited and we need to show that we use our budget wisely. This automatically leads to questions about the balance between in-house and outsourced activities and this affects how you organize the work. Probably every company is currently looking at that and we have to find answers to those questions.

Then there are a number of changes in IP law that are going to affect everyone. For example the introduction of the unitary patent and the impact of the American Invents Act. We are following closely the developments around the unitary patent and we want to refine our patent strategy accordingly. Today there are still a lot of questions to be answered and it is likely that we will take a cautious approach, opting out for our most critical patents and testing the waters for our less critical patents.

Legal IQ: How can companies align IP with the direction of their business products?

Goedmakers: For the IP department it is important to be involved in every step of the business process, from definition of business strategy at the outset to the protection of the final products. During the definition of the business strategy IP should provide support about the potential IP position to be obtained and the position compared with the competition. If a particular strategic option would be lack promise because the IP landscape is crowded, the management needs to know that. If you are not involved from the beginning you will only be perceived as a hindrance later on when freedom to operate issues surface.

During the development of new technology the IP department should be very close involved in all technology reviews and define the patent strategy. Ideally we do not wait until inventions are made by engineers and scientists and then try to figure out the scope of the patent, but we define what it is we want to protect and define our patents accordingly. If we tell our engineers what to invent, they can do the work and come up with the inventions.
Legal IQ: What are the key points to integrating IP with the innovation process?

Goedmakers: We use, like many companies, a stage gate process to manage our innovation. In Stamicarbon, IP has deliverables at every stage, so the IP department must interact with the other departments and therefore is always involved. In addition we are part of gate reviews and the Head of IP is a decision maker in the gate decisions. Being part of the formal process is extremely helpful. To manage the process we use a software package which tracks all the projects and the gates. We have developed with the supplier of the software a module to manage our IP as well. This means that engineers working on a particular project can also see relevant information (of course subject to security restrictions) about the patents. This integration through a system has helped us a lot.

Further we do a lot of work to ensure that IP is part of the culture of the company. For example we talk to all new hires in the technology department and they attend an IP awareness training. We are currently doing a pilot to have refresher training via webinars. This way the awareness stays fresh and they know when and how to contact us. We also have recently introduced an inventor remuneration program for inventors on patents. This has been very well received by the technologists as it provides recognition for the work they do. We have designed the program such that that the reward system is aligned with the commercial success of the patented technology; that’s why we hope this is going to work very well.

Legal IQ: What do you think will be the major changes in this area in the coming 18 months?

Goedmakers: The budget pressures will stay the same and I expect that we will be able asked to do more with the same resources. We are constantly looking for improvements, together with our partners such as our outside counsel. The development of the unitary patent will be very interesting and we will follow this closely. We are also looking at the US and whether we want to use the new possibilities for challenging patents at the USPTO, similar to the European Opposition process. We haven’t made any decisions yet, but we are following the developments closely.

Jan Willem Goedmakers will explore this topic further in his talk “Integrate IP process with you company’s business strategy for improved results” at the Global Patent Congress. Find out more by downloading your agenda here.
Legal departments are under pressure everywhere to reduce costs, the key to dealing with this is to ensure you have the right perspective on costs and to have effective, internal communication says Tom Briscoe, Director – Strategy IP & Technology at Dako, an Agilent company. He underlines the importance of bringing key stakeholders to the table as “crucial” and suggests that once these key stakeholders are on board, others will begin to follow.

**Legal IQ:**
What are the keys to executing patent strategy? What battles need to be overcome?

**Tom Briscoe:**
I think the most important key to executing patent strategy is recognition very early on, that patent strategy doesn’t stand alone; it really needs to be integrated as part of the business strategy. The most significant battle that needs to be overcome is that those who are crafting the business strategy for each business unit and for the company in general, need to make sure that they involve someone who is going to be creating the patent and the intellectual property strategy at the earliest stages and throughout the strategic planning process.

**Legal IQ:**
How can companies utilise defensive versus offensive filing to keep competitors at bay?

**Briscoe:**
That’s a great question. Defensive versus offensive is an interesting way to think about it and it’s a very traditional way of thinking about it. The way that I think about IP is that a strategy doesn’t have to follow, or a filing, doesn’t have to necessarily be defensive or offensive. Our filings are strategic, so for example, you may file something that you don’t intend to enforce in a coercive way, but you intend to use it as a growth tool, for example, in getting a leadership position in a standards group.

Is that a defensive filing or is that an offensive filing? It’s hard to say, if you think of it as a dichotomy, everything strictly defensive or offensive. You could end up licensing that, at no royalty, to the standards body and make much more money by having the standards group adopt a standard that’s advantageous to your business than you would if you tried to get people to pay a royalty when they adopt the standard. So think about it as; how can companies use their patent filings? Instead of to keep their competitors at bay, focus on how can they use their filings to grow their business, whether or not their competitor’s business grows along with it.
Legal IQ: Can you achieve both maximising value and reduction of costs?

Briscoe: Yes, you can, but it depends on your perspective. If you take the long-term perspective, sometimes you have to pay a little more upfront in order to maximise the value, but in the long run, that reduces your cost. For example, there are some companies that outsource all of their patent drafting to outside counsel, and they pay very little attention to communicating their strategy very well to their outside counsel. That seems to reduce the cost, but not necessarily maximising the value. The problem with that strategy is that, in some cases, it’s an important part of your portfolio that it ends up costing more in the end, either because you have patents issues that aren’t strategically valuable for growth. Or because you end up having more rounds of prosecution and end up paying more over the long run, even though, for any given case, you think that you’re keeping the cost to something very reasonable.

On the other hand, by thinking very carefully; why am I filing this patent? Why am I doing this IP activity? How is that going to help my business grow? And making sure that everyone understands exactly the reasons for your IP activity, in terms of business growth, then you can really maximise value and, in the long run, really reduce the cost because you don’t spend time on things that aren’t valuable to the business.

Legal IQ: Can you underline the importance of bringing key stakeholders to the table to avoid business silos?

Briscoe: This is absolutely crucial. It’s not only bringing key stakeholders to the IP table. As I said before, it’s really bringing the IP stakeholders to the business table and creating a culture and a business environment where it’s not only the IP experts that are thinking about the value of IP for business growth, but it’s everyone in the room. They’re thinking about IP in the same way they would about market growth, financing, it’s just a key element of business strategy going forward. So who are the stakeholders? The number one stakeholder needs to be the leadership of the company, specifically, the CEO. The message that he or she sends out about how he or she values IP and how he or she intends to use it to grow the business. So it’s the talent for the company and a good IP leader will help the CEO understand and communicate that message. And as those two stakeholders take the lead, others will begin to follow.

Tom Briscoe will explore this topic further in his talk “Enough talk about strategy, now onto patent strategy execution” at the Global Patent Congress. Find out more by downloading your agenda here.
Every company’s needs and priorities are different; Nokia’s Head of IPR, Product Differentiation Portfolio, Tommi Lehtinen says this should determine the shape of their intellectual property (IP) strategy. He discusses these differences in need and lays out the priorities that different companies should be setting. Tommi also speaks about how the quality of an IP portfolio can support an IP strategy.

Legal IQ:
How can companies reach a higher level of protection and profitability through IP management?

Tommi Lehtinen:
It actually depends on different companies having different goals, so if you are a start-up your focus is getting something, a file, and really covering the basics of what you are doing. There you need a couple of patents. If you are in the consumer business, you also need the trademark, but if focusing to patents you don’t need very many. I would say for a start-up, five to ten patent families covers quite a lot, but then the game changes if you are an established a high tech company. Then you easily need to have hundreds if not thousands of patents, so it’s really the answer differs quite strongly in what your IPR strategy will be.

And for the start-ups it is really crucial to have some patents because if you’re a start-up and you don’t have patents then you don’t have very many ways of fighting against the others copying your inventions. And for the big players in the high-tech sector, you have to have patents to compete with others. If you don’t have patents and your competitors have the patents then you are in trouble. If you are in the high-tech world, regardless you are a start-up or established company, you need to have patents otherwise you won’t survive.

Legal IQ:
What the key to introducing and maintaining a comprehensive IP strategy covering all the relevant IPR?

Lehtinen:
The key here is really having the IPR strategy and having the IPR strategy linked to your business. So to me, just filing a certain number of patent applications, that’s not an IPR strategy. You have to have a business plan, what do you do with your patents. And that’s the key thing; link your IPR strategy to your business strategy. IPR strategy is not some kind of standalone. It’s really linked and should be very much linked whatever the business your company is and the business strategy.
Legal IQ: How can you utilise your IP in the effective way to meet business and innovation goals?

Lehtinen: Again, it depends what kind of company you are. In the small companies, like start-ups, really the meat is get your business running and maybe even get your business sold to someone else. There you need a certain amount of patents. With the big companies, again it’s a question of having a portfolio to meet what your company does have, basically, and protecting your R&D investment there.

I wouldn’t count IP as an innovation goal. To me, innovation goal should not be that we filed so many patent applications, because filing patent applications is pretty easy. You just need money. The goals for innovation would be coming up with something that is noble and really bring your business forward. Then the IPR is protecting that what you have invented. But to me, I wouldn’t personally link the innovation goal to IP goals. You have the innovation goals then you have the IP to protect those innovations you have made.

Legal IQ: What is important to remember in building and maintaining a powerful IP portfolio?

Lehtinen: That your IP portfolio supports your business and the quality is good. Just having the numbers, then you’re wasting money, simple as that, because in the end your patents are only as good as you can inform or to convince somebody that they are good. Even you have tens of patents but this other party can easily say that they are rubbish and not worth very much. So what is important to remember is the quality. You have to have the quality and then you have to have IPR strategy supporting your business. Those are the main things. First, define an IPR strategy and then define a good quality patent portfolio executing that IPR strategy or supporting that IPR strategy.

Tommi Lehtinen will explore this topic further in his talk “Reaching higher level of protection and profitability through IP management” at the Global Patent Congress. Find out more by downloading your agenda here.
QUICKFIRE INTERVIEW: STRATEGISING THROUGH THE PATENT CLIFF

Dr. Aman Trehan
General Manager-Global IP & Strategic Planning
Wockhardt

The patent playing field is very different in pharma than in many industries and careful foresight and strategy to lay out a safe path for a company’s future. In this quickfire, 1 minute interview we spoke with Wockhardt’s General Manager-Global IP & Strategic Planning Dr. Aman Trehan about how Wockhardt deal with the difficult challenges they face.

**Legal IQ:** Could you outline the challenges in the global generics market and how Wockhardt are working to overcome them?

**Aman Trehan:**
The challenges include lots of competitors especially in case of Multi-FTFs resulting in significant erosion in market share in view of costs involved in litigation and complexity of patents. We are trying to focus more on niche and differentiated products wherein we can expect less competition and hence can capture major market share.

**Legal IQ:** How are Wockhardt strategizing for best results for Patent Cliffs I and II?

**Trehan:**
By picking up good products wherein technical complexity is there and besides the major patent expiries, there are other patents which can be targeted for P-IV filing, further leading to lesser competition as compared to those products wherein there are no patent challenges after patent cliff.

**Legal IQ:** How are you implementing and executing patent strategies in a competitive landscape?

**Trehan:**
By careful selection of products and types of patents and challenges involved in those products. To devise strategies for mitigating litigation risk.

**Legal IQ:** What are the major litigation trends in this area?

**Trehan:**
The P-IV litigations have significantly increased by almost 550% over the past 10 years or so. The number of ANDA court decisions has also increased significantly by almost 350% over past 10 years. Teva, Mylan and Actavis are the ones who are on the top of litigations with maximum ANDA cases from generic perspective. The overall success rate for generics is about 60% if settlements are included. If only court decisions are included, then success rate falls to about 45%.

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**Dr. Aman Trehan will explore this topic further in his talk “Patent strategies in view of a competitive and litigation landscape” at the Global Patent Congress.**

Find out more by downloading your agenda here
Leveraging IP and Patent Strategy for Business Growth
Legal IQ’s latest 22-page whitepaper explores how you can monetise your IP and patent strategy with insight from tech giant IBM’s Director of Licensing, Bruno Leduc and niche operator Dako’s Senior Principal Strategist of IP, Tom Briscoe.
Download your copy here

Questel Whitepaper: A New Paradigm?
On January 27 2014, two major tech companies - Cisco and Samsung – announced a 10-year patent licensing agreement covering a cross-license patent deal, allowing them to access the patent portfolio of their counterpart. Dan Lang, Cisco’s VP of IP, explained by cross-licensing their patent portfolios, Cisco and Samsung were taking important steps to reverse the trend and advance innovation and freedom of operation. Beyond reducing risks of patent-infringement lawsuits, licensing transactions serve other purposes.
Download the whitepaper to find out more.

How ST-Ericsson is Driving Revenue from their Patent Portfolio
Peter Ericsson Nestler, Head of Patents at ST-Ericsson, joins Legal IQ to discuss how to drive revenue from your patent portfolio and how to address challenges along the way. He also reflects on the impact of the America Invents Act on future patent applications, and on how he expects the IP sector in Europe is set to develop.

Adobe’s Open Innovation Concept and the Impact of Open Reach Development
Dave McAllister, Director of Open Source at Adobe Systems, joins Mikk Putk, Patent Attorney, Patent Searcher and Partner at Sarap & Partners Patent Agency and owner of the IP Insiders blog site and Stephen Jenei Editor-in-Chief of Patent Baristas Blog, and Patent Attorney and Owner of Jenei LLC, to discuss Adobe’s open innovation system, the ongoing debate of adobe flash player vs HTML5 debate, Adobe’s open screen project and the impact and reach of open development that Adobe is embracing, such as Flex, Brackets, and PhoneGap.
Listen to the Podcast or Read the Transcript.

Impact of the Global Business Environment: Trademarks & Patents
Legal IQ recently completed a survey on Portfolio Management in Patents and Trademarks. The study had over 600 respondents representing legal portfolio management professionals working in a wide variety of industries and disciplines. Key industry commentators were invited to review the results and offer their analysis.
Gaining Market Insights from Patent Information
Companies need to make more use of patent information to gain global market insights which may not be available from other sources. This is the point Jason Loh, Head of Global IP Frontiers Group at Panasonic R&D Centre Singapore makes in his video interview. He also explains the challenge facing organisations of how they can make sense of all the information they generate.

The World of Patents is in a State of Flux - Interview with Ravi Srinavasan
Ravi Srinavasan, partner at JA Kemp believes the IP landscape is shifting and while eager to discover which way things are moving, they are not standing still. Ravi states that in his experience, professionals are focused on optimising their patent portfolio. In this interview, Ravi runs through where he thinks the industry is currently placed.

Fighting Back Against Online Infringement
David Franklin of NetNames believes that there is an increasing importance in the industry on online infringement and also the importance of protecting IP in apps. He gives us the low-down on where companies’ concerns currently lie.

Putting IP at the Heart of Your Company
Having a vision of where your company is going and how IP can help you get there is central to successful implementation of IP strategy. In this video interview, Tom Briscoe, Director – Strategy IP & Technology at Dako, an Agilent company runs through what needs to be done to get the buy-in to put IP front and centre in a company.

Doing More with Less in Portfolio Management
Companies everywhere are under pressure to reduce costs and are asking the question “How can I do more with Less?”. Joni Sayeler from Uppdragshuset runs through the options that are available to those in this position and looks at how this situation will change with emerging markets appearing on the scene.

Prioritising Patent Value in an Organisation
Legal IQ spoke with Isabel Cantallops Floi, US Patent Agent, Patent Attorney at Valea about what she thinks the major trends are in the field of intellectual property. She stresses the importance of companies prioritising value by discovering where the value lies.
Legal IQ would like to thank all of those who took part in the Global Patent 2014 Survey, along with the Legal IQ community for supporting and publicising the survey. We would also like to thank our expert panellists whose invaluable insights made this report possible. A final thanks to you for reading. See you at the Global Patent Congress.

Conclusion

The intellectual property world is one trying to get its house in order before a potential earthquake. Unitary patent will have a seismic impact on the landscape and the effects it has will depend on how it arrives.

Another driving trend we have seen is globalisation and the opening up of new markets. The opportunities they bring are matched by the number of challenges they also raise. We have also seen that in order to be successful in using patents externally, they have to be first promoted internally. Tom Briscoe, in particular, emphasised the importance of getting key stakeholder buy in in order to succeed.

One of the things Tom Briscoe said which summarises the current situation for IP departments best is “how do we create or how do we identify what the real value is, rather than following what the rest of our competitors are doing? We need to say; why is the money I’m spending on patents really creating value for our company and for our shareholders?”