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Defining your IP vision

The Balanced Scorecard technique can help IP managers align with the broader business function, writes Alexander Butler of Thomson Reuters

Ask many IP counsel about their IP strategy and answers routinely include: “increase portfolio size”; “reduce costs”; “improve patent quality”; “increase the number of invention filings”; or “avoid infringement.” Each of those propositions merits the simple question: “why?”

The Balanced Scorecard approach to management and implementation of strategic change initiatives helps get you to the answer. Pioneered by Robert Kaplan and David Norton in their 1992 Harvard Business Review article “The Balanced Scorecard – Measures that Drive Success,” it was later cited by the same publication as one of the most significant business developments in 75 years.

The approach addresses a shortcoming in traditional management systems – namely, that they were based upon the lagging indicator of financial statements and did not address many of the causes of growth and performance, such as how well firms develop and protect their intangible assets.

As IP counsel know, intellectual assets are a predominant source of corporate value. However, despite ongoing efforts, no clear and consistent valuation approach is incorporated into the daily development of these assets, much less into routine portfolio management.

Thus, a challenging mandate is provided. Manage a business’s most critical assets, without a structured strategy or standardised measurement system – hoping that you can lead the company through the legal and competitive environment, as well as the internal, results-oriented/ROI-driven organisation.

This is a recipe for which few IP counsel are trained. A common result is that IP visions are poorly defined (if at all beyond tactical objectives) and IP plans poorly executed.

Law departments chartered with defining and executing IP strategy often face critical barriers, mirroring those identified by the Balanced Scorecard Collaborative:

- Vision barrier – few understand the IP strategy.

- People barrier – few IP department members have objectives linked to the strategy.
- Resource barrier – money and resources are not allocated according to strategy; for example, budgets are not linked to strategy, wasting resources as filings occur haphazardly, and management finds (years later) that a perceived position of IP strength is substantially less than thought
- Management barrier – management spends too little time on strategy and too much time on short-term tactical decision-making. How often do cost cutting, infringement or acquisitions impose upon counsel’s precious time and disrupt the development of strategy?

A new focus is required to help IP counsel identify their IP vision and critical supporting strategies, initiatives and metrics. The Balanced Scorecard framework is one method to capture and communicate the cause and effect relationships of initiatives supporting strategies, and strong, integrated performance measurements, targets and goals. Tying these historically disparate elements together will separate the winners from losers in the IP game.

How to proceed

At a high level, answer the why question first. Work across the corporation; include the firm’s licensing/IAM function (if one exists), executive team and brand/product managers in this first step. The trick is to blend commercial objectives with possibilities embedded in intellectual assets.

Achieving the IP vision requires moving beyond tactics. Larger portfolios, reduced expenditures and increased transfer of ideas from R&D are insufficient. The IP strategy should draw upon larger ideals and visions of what IP means for the business – be that partnering, commercial freedom, revenue, innovation leadership, etc. The following four hierarchical perspectives from the Balanced Scorecard provide an approach to defining the business processes and supporting systems:

- Financial – how does our organization define financial success?

- Customer – how should we appear to our customers?
- Business process – what processes must we excel at?
- Learning and growth – how will we sustain our ability to change and improve?

These initiatives are where IP departments excel. This area is also where firms often misperceive their tactical wizardry as a replacement for advanced strategy.

Remaining steps include creating performance measurements and targets to forecast and record progress within each perspective. A strong management platform is also a necessary investment given needs for collaboration between firms and departments, risk management and real-time reporting of portfolio demographics and performance.

The availability of sophisticated, browser-based IP management systems and implementation services make this capability possible. Systems drawing upon workflow and automation open new possibilities to work differently and increase productivity. An important component of any management system is strong integration with sophisticated rules engines to assure compliance with global rules for IP filings, prosecution and maintenance.

Complimenting increased productivity and collaboration is the ability to use the management system to measure performance and show meaningful indicators and metrics. Top IP departments utilise a targeted web of leading (forecasting) indicators of success and confirming (lagging) measurement of results. Leadership in IP includes an understanding of where the portfolio stands today and creating a common understanding of next steps.

IP counsel should embrace a systematic approach to IP strategy and portfolio management. This will enable them to break the death-grip that tactical ways of doing business often hold over truly effective IP management.

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