



Bridging the information gap

Rachael Schwartz, senior manager at ipCapital Group, explores how successful communication of the value of IP is sure to accelerate business potential



Picture: Palto / Shutterstock

It is well-accepted that intellectual property can be a key driver of value for companies. However, given the length of the patenting and licensing processes, companies with strong IP portfolios often do not realise value from their IP investments for at least four years from issuance. There are many situations in which a company wants to get value from its IP prior to issuance, and it can do so as long as it knows how to effectively communicate the value of its IP.

Why companies communicate the value of their IP

There are many benefits to communicating the value of a company's IP. For a company that is being acquired, it is important to communicate the value of its IP to the acquirer in order to have it accounted for in the sale price. In IP and technology licensing, developing an IP valuation is often not enough to convince the licensee to pay a premium for the IP. The IP-holder must effectively communicate why that IP provides value in order to support the numbers behind a valuation. For a company seeking investment, effectively communicating the value of its IP can

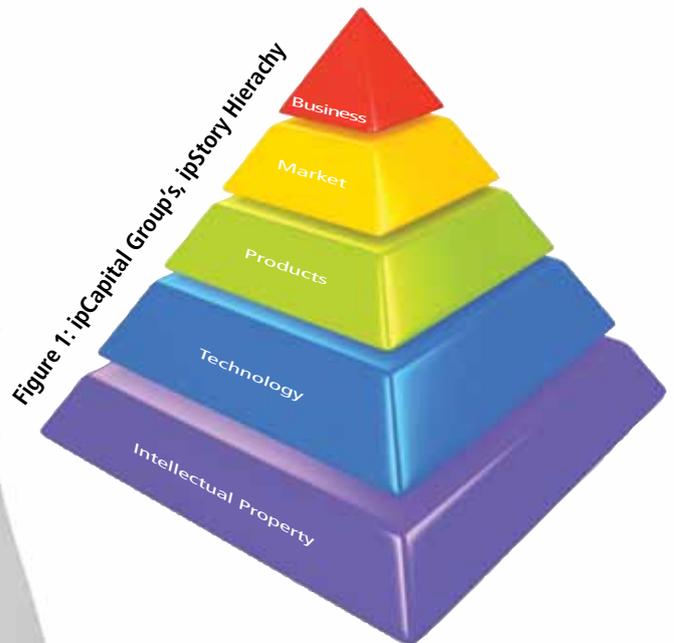
support a significantly higher valuation for the company, resulting in less dilution from the new investments. For a public company, communicating the strength and value of its IP to research analysts and investors can result in a greater confidence in future revenue projections, leading to an increase in stock price. Companies sometimes communicate the strength of their IP to customers or competitors in order to mark their territory in the marketplace. Finally, companies occasionally communicate the value of their IP as a way to strengthen their brand; suggesting to customers, competitors, and even current and potential employees that they are an innovative company.

How to communicate the value of a company's IP

The most common communication methods used today do not effectively communicate the value of a company's IP. In an IP-related transaction (eg, licensing transaction), a business person may pitch the business model or plan while only quickly glossing over the IP details. An IP lawyer may simply provide copies of the patents without providing



The ipStory, in its most effective form, leads the audience through a compelling argument as to the strength of a company's IP by providing connections between the patent claims, the core technology, the products it supports, the market drivers, and the business outcome. As illustrated by Figure 1, the ipStory shows how each layer of the ipStory Hierarchy supports the layers above it in order to show how a company's IP directly supports its business objectives.



The most effective ipStories provide a framework for understanding the different levels of the ipStory Hierarchy, which are carried throughout the presentation.

For example, we supported the IP licensing endeavors of a company that made protective coatings for video displays. The company's ipStory began by outlining the market need for a coating that had specific key characteristics and the business opportunity for addressing those needs. The ipStory explained the financial impact on a potential licensee's business if it developed a coating that met those characteristics. Subsequent slides described the other competitive products on the market and illustrated how the company's products had all of the required characteristics, while the competitive products did not. The presentation then described the company's technology and explained how the company's combination of chemicals and manufacturing process uniquely allowed it to achieve the stated market goals. Finally, the presentation discussed the key claims of the patents and demonstrated how the patents related to the technology and the products.

The ipStory should address the key concerns that a stakeholder may have regarding a company's IP, including: its value; whether it adequately covers the technology; how it compares with competitive IP; and how strong it is. A company is able to demonstrate that its IP covers the technology by showing the connections through the ipStory Hierarchy. A company can demonstrate the value of its IP by sharing market data and explaining valuation findings within the ipStory. The key differences between a company's IP and that of its competitors can be illustrated in the ipStory through an IP landscape, patent comparison tables, or other visual representations of the patents.

context to the business opportunity, falsely believing that the patents speak for themselves. An inventor may concentrate on the benefits of the technology itself, even if the deal is IP focused. These ineffective communications result in lower value for the IP and longer time to closing a deal.

ipStories

The term ipStorySM¹ is used to refer to communication materials that tell a story for a specific purpose about the strength of a company's IP. ipStories may take many different forms, including: print ads; press releases; a paragraph or page in an annual report; a section in an offering memorandum or an investor pitch; or a PowerPoint or other presentation to a specific group. The common thread in all of these communications is that they tell a story. The ipStory communicates in clear business language what IP the company has, what that IP covers, why it is unique, how it will provide the company with a competitive advantage, and the value of that competitive advantage.

To address the strength of the patents, a company often needs to take additional steps. Some companies hire outside patent experts to strengthen the patents. The company then amends the patent application or files additional patent applications accordingly. The steps taken by a patent expert to strengthen the patent become a strong component of the ipStory and support the ipStory's assertion of patent strength. Other companies initiate a study with Article One Partners (AOP) to support their strength assertion. AOP is a crowdsourcing website which has a community of hundreds of thousands of researchers around the world who are rewarded for finding prior art. While most commonly used to invalidate others' patents, a company occasionally conducts an AOP search on their own patent to determine if any strong prior art can be identified. If no strong prior art is identified, the company highlights in its ipStory the steps it went through to support the strength and validity of the patent.

Communicating the value of a company's IP for licensing

The most common reason for a company to create an ipStory is for IP licensing. The ipStory explains to the potential licensee's executives the value of the IP from a business perspective. ipCapital Group worked with a company who had recently won an infringement lawsuit against a competitor and was interested in licensing additional patents and patent applications to the same competitor. The company's ipStory to the competitor communicated the strength of the rest of its patent portfolio as compared to the strength of the patent from the infringement case, the relevance of the rest of the portfolio to the competitor's product portfolio, and the strength of its inventive engine to continue to develop patents in its competitor's path. The ipStory provided a compelling case for the competitor to license its current and in-process IP.

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Communicating the value of a company's IP to support an acquisition

As discussed in the article, "Considering Intellectual Property in Acquisition Pricing" (*IPM*, February 2011), many early-stage companies receive low offers in an acquisition as the offers do not take into account the future revenue potential supported by the company's IP. While a valuation is a good way for the early-stage company to quantify the value of its IP, without properly communicating this value to a potential acquirer, the acquirer's offering price will not reflect the full value of the IP.

Case Study: MeshNetworks

One example of a successful ipStory used in an acquisition is the case of MeshNetworks. In 2004, MeshNetworks was a four-year-old, 80 person, start-up in the wireless mesh networking space. While the company had strong technology and some initial successes in the public

safety sector, it recognised that its growth was severely limited by the size of its sales force and government entities' concerns about the risks associated with dealing with a young company. Therefore, it positioned itself for acquisition. The founders understood the importance of developing a strong ipStory supported by a strong IP portfolio, directed at a major telecommunications company. MeshNetworks' strategy of IP development, as illustrated in Figure 2, combined with its skillful communications regarding the value of that IP, was successful, resulting in a US\$169m acquisition by Motorola.

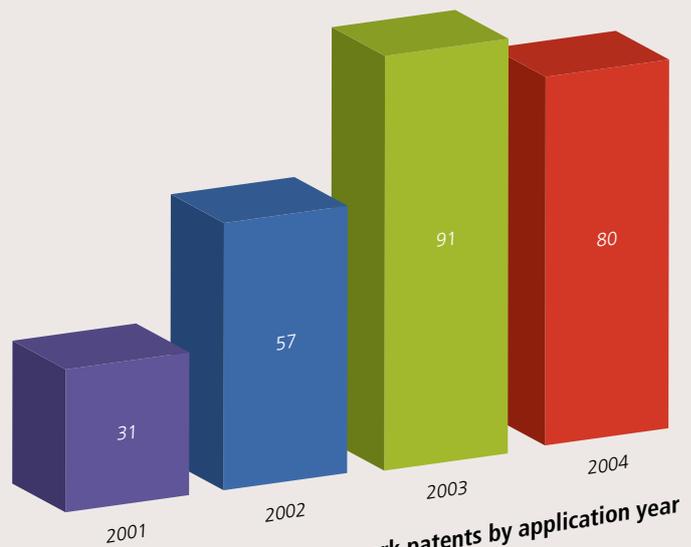


Figure 2: Number of MeshNetwork patents by application year

A company that understands the full effect that strong IP can have on an acquisition price, may even develop its IP with the acquisition ipStory in mind. For example, Color Kinetics Incorporated was a small LED lighting company which developed color LED lighting solutions, most frequently used in architectural and theatrical lighting. The company recognised early on that there were few patents in LED lighting and, while its products were focused on color LED lighting, the large lighting players would most likely become very interested in white LED lighting in the coming years. In 2000, Color Kinetics raised US\$13m with the primary purpose of extending its technologies in its growing patent portfolio into new markets (white LED lighting). Color Kinetics continued to develop its color LED products, but also started patenting heavily in the white LED lighting space with the goal of developing a compelling ipStory for the big lighting players. By 2007, Color Kinetics had developed a strong product presence in the color lighting space, garnering approximately US\$65m in revenue in FY2006, and GAAP Net Income of approximately US\$3m². However, because it had developed such a strong portfolio of 79 patents and over 200 patent applications, all geared around the future direction of the large lighting manufacturers, Royal Philips Electronics ended up acquiring it for nearly US\$800m, far exceeding typical multiples.

Communicating the value of a company's IP to investors

All too often, investor presentations focus on the products, technology, and market potential of a business, and only have one slide that provides a listing of the IP. Potential investors are frequently nervous that the company's IP is not strong enough to ward off copycats. An ipStory increases current and potential investor confidence that the IP strongly supports the technology and that competitive IP is not an issue.

IpStories are not just for early-stage companies seeking funding. Small-cap public companies sometimes use them to communicate to investors and research analysts why their IP will help them achieve greater revenues in the future, often resulting in an increased share price.

The industrial building materials manufacturer, James Hardie, used this approach in 2001. At an analyst briefing day in July 2001, James Hardie presented its IP strategy to analysts and explained how it would have an effect on its future revenues. The company then demonstrated that it was taking significant actions to support the ipStory by increasing its patent filings from an average of 10 patents per year in 1996-1999, to over 45 patents in 2001, and over 60 in 2002. Following the analyst briefing and the subsequent press releases announcing patent filings and issuances that supported its ipStory, James Hardie's stock increased over 350% in one year and maintained an increasing trend for six years, as shown in Figure 4.

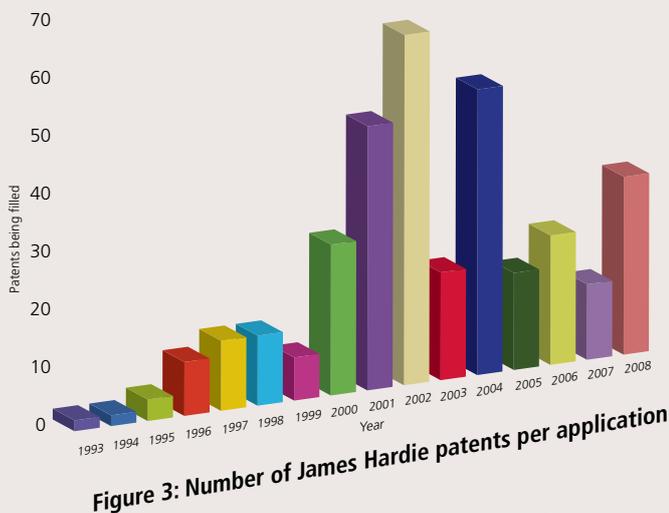


Figure 3: Number of James Hardie patents per application

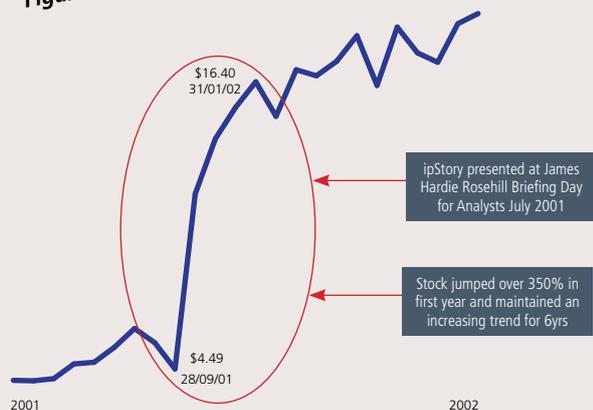
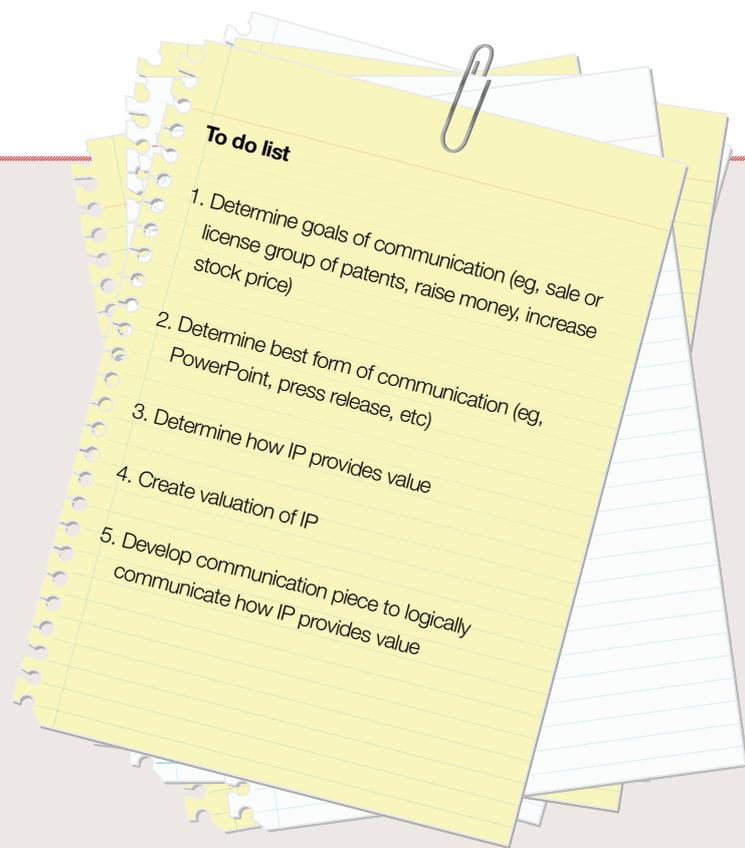


Figure 4: James Hardie's stock jumped significantly following its analyst briefing of its IP strategy

Communicating the value of a company's IP to its customers

Sometimes companies use an ipStory to enhance sales. The underlying message may be subtle, suggesting that by having strong patents the company is innovative, thereby attracting customers who are looking for innovative, cutting-edge solutions. One company that frequently does this is L'Oreal. L'Oreal often includes references to the quantity of patents it has in its print ads, suggesting that they are technologically advanced. For example, in 2003 L'Oreal ran an advertising campaign which included the line "440 patents creating the perfect chemistry – because you're worth it."

Sometimes, communications to customers about patents are more



To do list

1. Determine goals of communication (eg, sale or license group of patents, raise money, increase stock price)
2. Determine best form of communication (eg, PowerPoint, press release, etc)
3. Determine how IP provides value
4. Create valuation of IP
5. Develop communication piece to logically communicate how IP provides value

straightforward. A small technology company was recently concerned about its corporate customers buying less expensive competitive products that it felt may be violating its patents. While the company was exploring the legal route of enforcing its patents, it realised it did not want to lose large contracts while the lawyers were negotiating. Therefore, the company developed an ipStory for its corporate customers that explained its technology solution in detail. It illustrated how the solution is strongly protected by its patents, and matched up the key competitive patents with the company's patents to illustrate the differences. The ipStory suggested, but never explicitly stated, to the corporate customers that they should stay with the company's products as the competitor's solutions may be infringing. While the ipStory is currently being presented to customers, the company is optimistic that it will be effective in ensuring customer loyalty.

Summary

Communicating the strength and power of a company's IP is a very effective means to realising value from that IP. However, those communications must be supported by strong IP that also supports the value the company is claiming. A company will quickly lose credibility if the IP it has doesn't support the story it is telling, or if the company doesn't put the focus and emphasis on the IP development that is being claimed in the ipStory. However, sometimes the development of an "ideal ipStory" is the first step towards identifying what IP holes need to be filled, as well as developing an IP strategy to fill in those holes in order to realise the full value of a company's IP.

Footnotes

1. The ipStorySM is a methodology developed by the ipCapital Group, inc.
2. Color Kinetics Press release "Color Kinetics reports financial results for Fourth Quarter and Full Year 2006", Feb 8, 2007.

Author



Rachael Schwartz is a Senior Manager for ipCapital Group, a premier IP strategy consulting firm that helps companies create, manage, and monetize IP. Rachael uses the ipCapital methodology to develop IP strategies, value IP and communicate that value. Rachael has 11 years of consulting experience and an MBA from The Wharton School.