Reducing Costs in Managing Patents

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The need to cut costs across the board in many corporations to meet the current financial crisis is acute. The cost of an intellectual property (IP) portfolio is no exception to this crisis. There are several proven ways to reduce costs while maintaining or even enhancing the business value of your IP. We discuss one important way in this letter.

Patents can be costly to obtain and maintain. Widely filed foreign patents can cost up to $500,000 over the 20 year lifetime for fees, attorney costs, translations and annuities. The value of patents in a typical company's portfolio approximates the bell curve. Some patents are very valuable and protect enterprise value at a much higher level than their costs. Some patents are out-licensed and bring in huge sums of running royalties. However, the majority of patents are of questionable or possible future value, while others are worthless. The key to controlling the cost is to have a process in place to determine or predict the value of these questionable patents so that they may be abandoned with low risk and thus save future costs.

In the early 1990's, Dow Chemical was faced with a recession that required severe cost cutting. Up to that point, inventors were rewarded for the quantity of patents obtained with the expected result of Dow building a portfolio of a large number of patents of dubious value. There was no IP strategy in place to filter invention disclosures. This meant there was no reason not to file everything that met the patentability test. With no business-aligned prioritization process, patent applications were filed based on inventor urging rather than on projected value. The Intellectual Asset Management group evaluated every patent owned by the company for business use and value. It was determined that 25% of the 20,000+ patent portfolio had no business use. Some patents were out-licensed, but most of the 25% were abandoned. This strategic approach to its IP portfolio saved Dow $40 million in future lifetime costs.

The key to reducing patent costs is to set in place a process to audit the IP portfolio for business alignment and strength which will provide the information necessary to make the decision to sell, license or abandon those patents that are not creating value.

IP Portfolio Strength Assessment

There are many ways to determine the strength of a portfolio, but we have found it is best to use a number of basic immutable factors such as: citations, inventor experience, the age of a patent, and electronic claims analysis. Also, we have found that it is best to analyze the strength of your portfolio against a related, random cohort portfolio. As shown in Figure #1, the cohort portfolio and your portfolio are analyzed against your business opportunities. A relative "strength" is assigned to your portfolio --- both at a comprehensive and individual patent level which leads to improved strategic decisions, like abandonment or licensing.

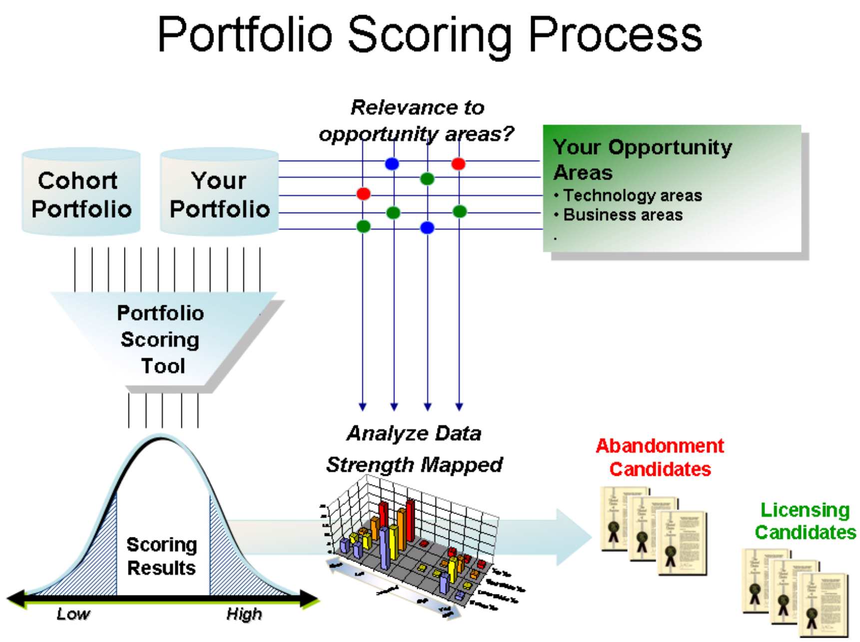
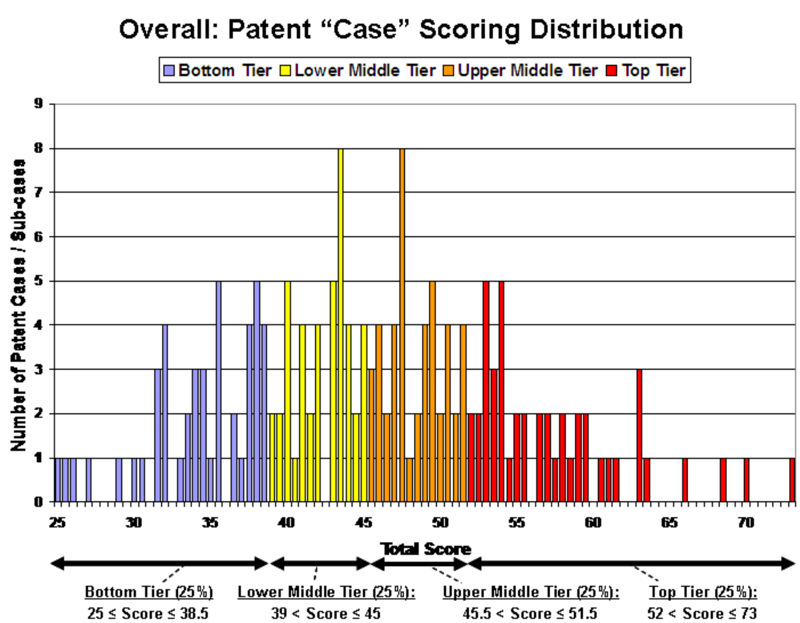


Figure #1



Results typically produce a strength number for each patent in the portfolio (Figure #2) and allow the company to look at each patent in terms of its value and relevance (Figure #3). This analysis can then be used to determine a course of action that could help reduce future costs and maximize the ROI for an IP portfolio.

Figure #2

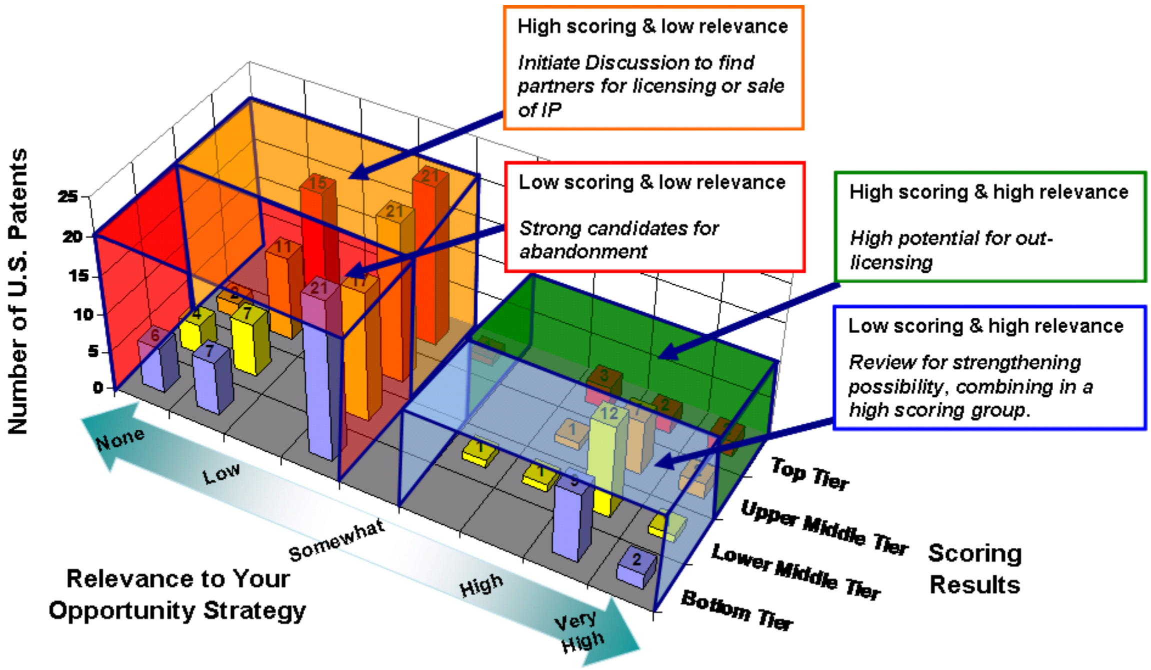


Figure #3

Use the Audit and Strength results to develop or update an IP Strategy.

The cost of IP protection is a small fraction of the total R&D investment in a large company – typically less than 10%, sometimes much less than that. Economic downturns last for a relatively small percentage of a patent's potential 20-year life. Decisions on IP strategy should take into account the long-term business needs of the organization. Auditing the IP portfolio for business alignment and strength can inform a decision to sell or abandon many patents thus saving large sums of money over time. Licensing particularly strong patents can bring in much needed cash flow. When implemented, a conservative IP strategy can be developed to contain costs while providing adequate protection and value.