

CREATING VALUE FROM IPR

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business has changed

COMPONENTS *of* S&P 500 MARKET VALUE

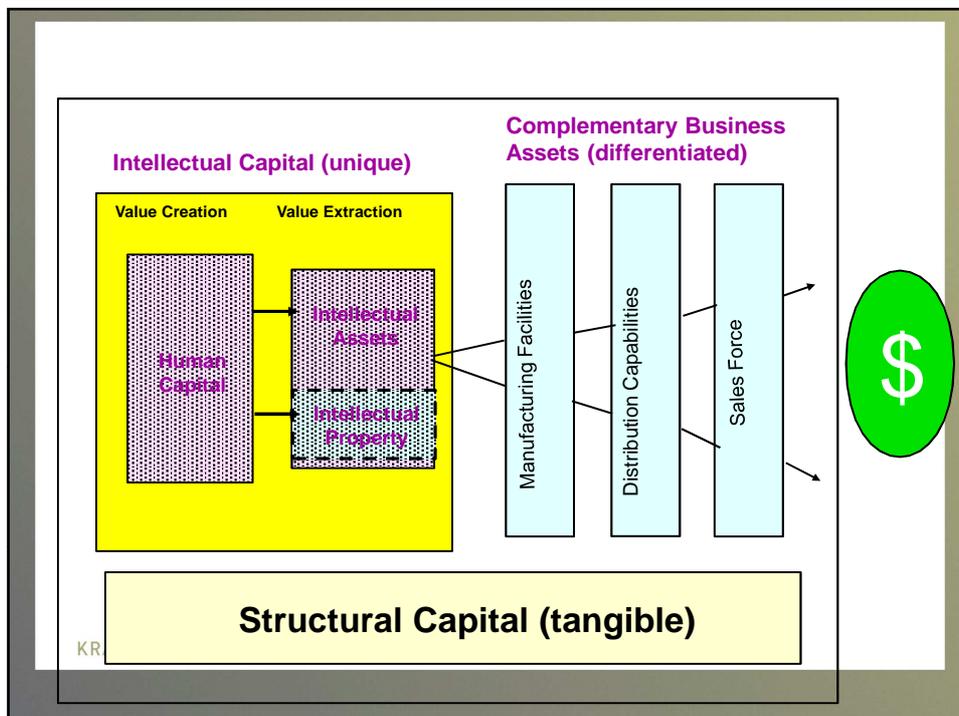


SOURCE: OCEAN TOMO, LLC
* JANUARY 1, 2015

Challenge:

How to identify, capture, grow and sustain these intangible assets that make up over 80 % of the value in a company?

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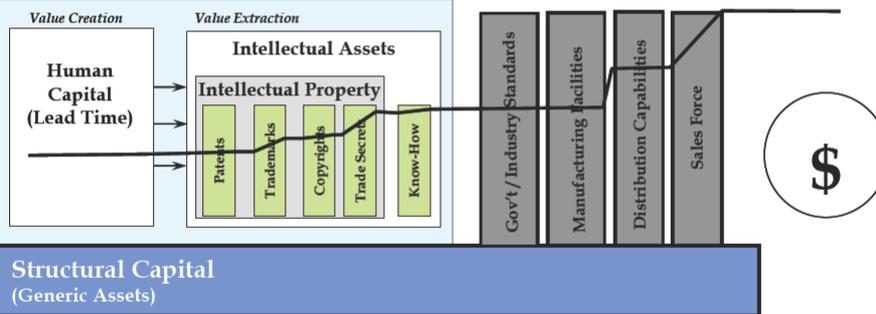


Knowledge Based Company Model

Beverage Companies

Intellectual Capital (Unique Assets)

Complementary Business Assets (Differentiated Assets)



- Lines Show the Percentage of Company Value (Market Capitalization) That is Protected By This Asset
- Most value is in Trademark, Trade Secret, Distribution and Sales

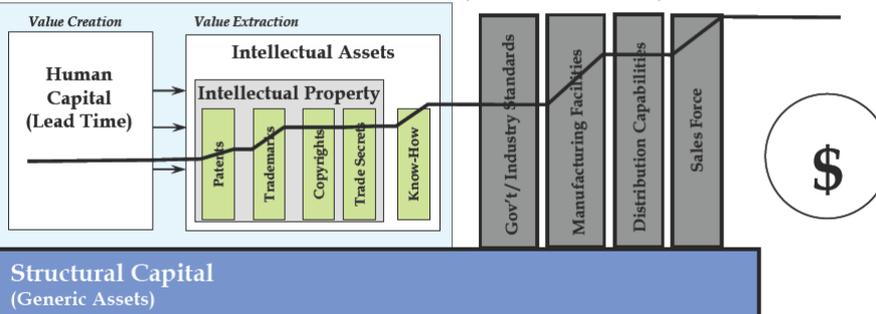
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Knowledge Based Company Model

Paper Companies

Intellectual Capital (Unique Assets)

Complementary Business Assets (Differentiated Assets)



- Most value is in Trademark, Know-How, Manufacturing and Sales
- Some value in Patents

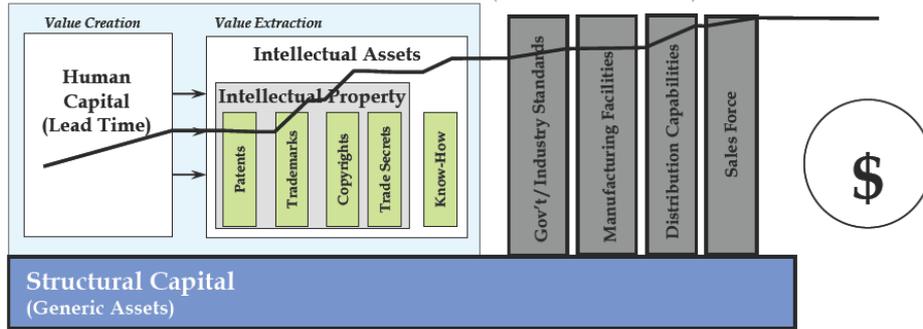
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Knowledge Based Company Model

Software Companies

Intellectual Capital (Unique Assets)

Complementary Business Assets (Differentiated Assets)



- Most value is in Human Creativity, Trademark, Copyright, and Distribution

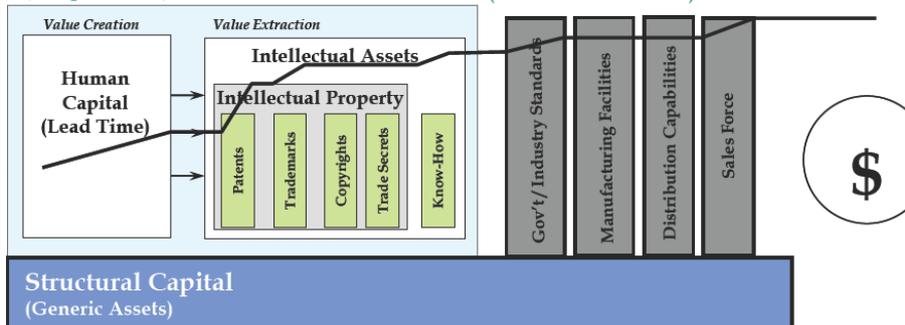
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Knowledge Based Company Model

Pharmaceutical Companies

Intellectual Capital (Unique Assets)

Complementary Business Assets (Differentiated Assets)



- Most value is in Human Creativity, Patents, and Trademarks
- Some value in Know-How, and Sales

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Basic concepts

- An invention is a solution to a technical problem
- Patents are granted for inventions that are novel, inventive and industrially applicable
- National/regional scope
- Valid for 20 years from filing
- A patent is a negative legal right

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A granted patent...

...only gives you the right to prevent others from commercializing your patented invention.

You may stop them from:

- manufacturing
- selling
- importing
- using
- renting...

You may of course grant them a license to use your patented invention.

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Why apply for a patent?

Patents create exclusivity:

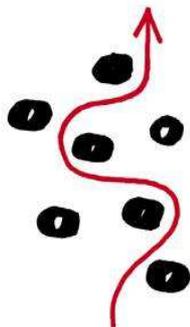
- preventing competitors from introducing a similar product
- blocking competitors from patenting

Patents:

- are assets with legal rights associated
- build substance in a company
- encourages inventiveness and builds the company image internally and externally

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Safety

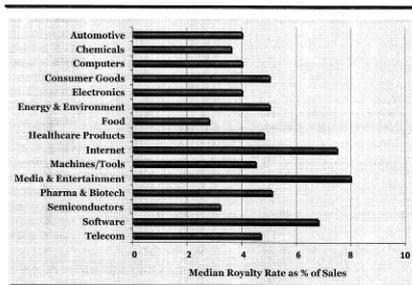


- Analyze “freedom to operate”
- Create “freedom to operate”
 - Design around
 - Invalidate
 - Negotiate
 - Cross licenses

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Royalty rates

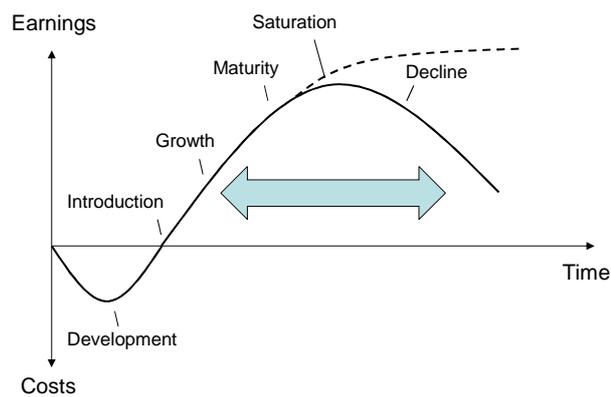
Royalty Rates – Royalty Source



- A typical royalty is 25 % of the gross net margin
 - Example:
A gross net margin of 20 % results in a royalty of 5 % of the sales value
- Minimum (and maximum) levels are common

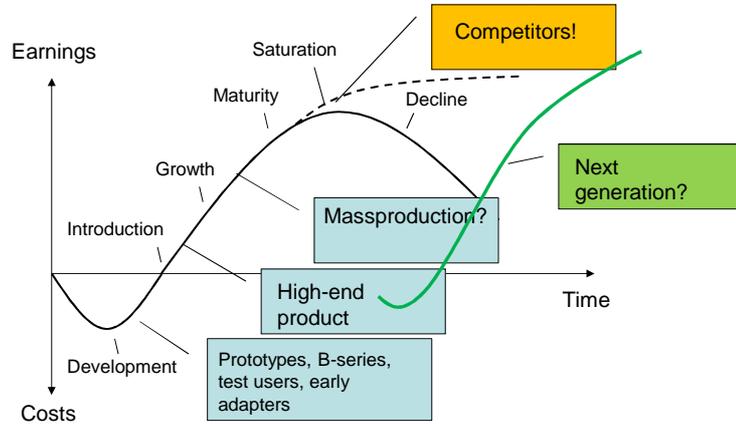
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Product Life-Cycle



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Timing is everything!



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Strategic models

"Revenue"

Increase revenues by
licensing
or selling IPR

"Assets"

IPR as an asset in the
company
Boost company value
Attract investment

"Safety"

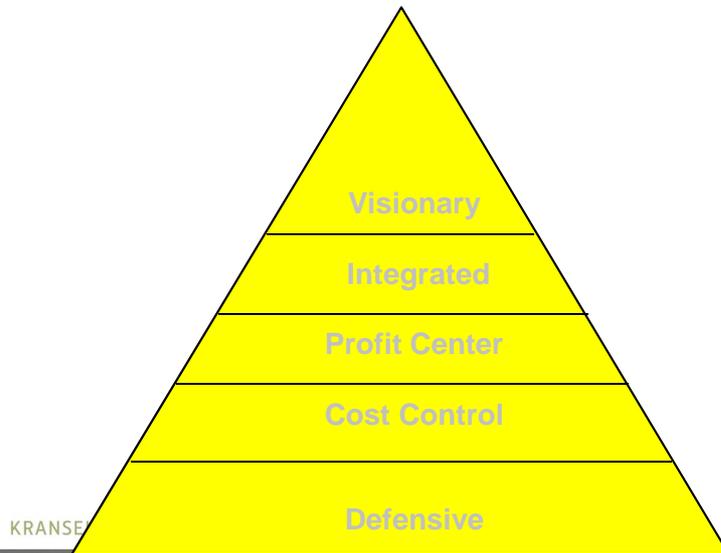
Use the system
Stay informed
Freedom to operate
Possibility for cross licensing

"Exclusivity"

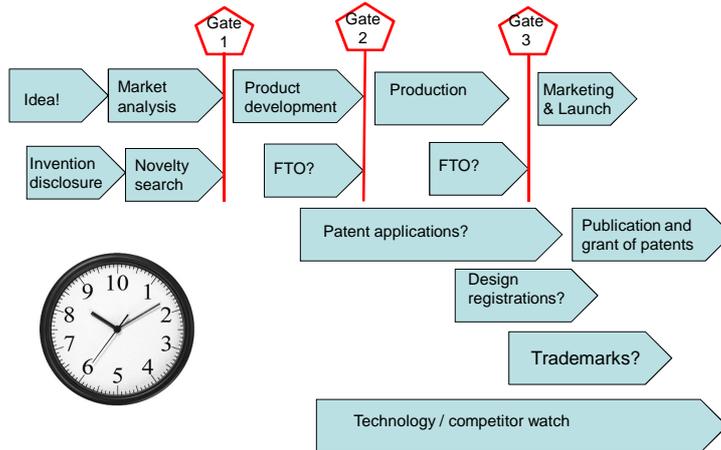
Create an exclusive market
position
Maintain high margins

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IP Value Hierarchy



Managing Intellectual Assets



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Managing Intellectual Assets

When should you file your patent application? Well, as early as possible since...

- The risk of being blocked by others is reduced
- Earlier revenues are possible
- The chance of obtaining a granted patent increases
- The chance of obtaining broad scope of protection increases
- An obstacle for others to patent is created earlier

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Managing Intellectual Assets

Where should you file?

- Where are the customers?
- Future markets?
- Where are the competitors?
- Where is the product manufactured? Where could it be manufactured?
- Where can IPRs be enforced?

N.B. "Global" coverage is neither possible nor financially defensible, make strategic choices!

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Managing Intellectual Assets

Different routes to a patent

- Swedish patent applications – fast, cheap
- European patent applications – high quality search, greater coverage
- International patent applications (PCT) – slow, global coverage
- Priority year enables further filing within 12 months

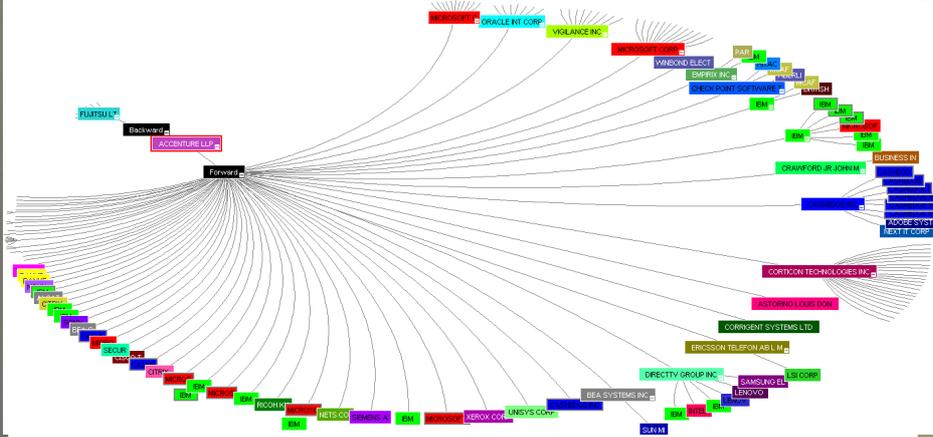
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Competitor / Technology Watch

- Input: competitor names/ fields of technology / keywords / inventors
- Keep track of your competitors!
- Oppose and invalidate disturbing patents
- Identify copy-cats and possible infringers
- Business intelligence, share data within the company

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CITATION TREE



**Question: Who are citing this specific patent, and why?
What are they developing and how close are they?**

Managing Intellectual Assets

Alternatives to patenting?

- Prophylactic publication
- Trade secrets, in case of
 - substantial technology lead
 - reverse engineering difficult or impossible
 - infringement monitoring difficult
 - numerous possibilities to work-around

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Licensing

- Highly established in some fields
- Requires considerable administrative capacity
- Can be very profitable

- An alternative / shortcut to acquire IP
- A possibility to monetize non-core assets
- Applicable to patents, trademarks and designs

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Examples

- In 2016, ERICSSON had license earnings of 10 000 MSEK (14 400 MSEK in 2015, 9 900 MSEK in 2014)
- Ericsson holds > 42,000 granted patents according to their Annual report 2016 (compared to 39,000 in 2015)
- Quote: “As IPR licensing margins are above the Company average, they have an accretive impact on profitability.”

- NASA offers non-exclusive licences to start-up companies with no up-front payment , and on May 5, 2016 NASA released 56 formerly-patented technologies into the public domain

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You are accused of infringement – what to do?

- Invalidate patent
- Work-around
- License in
- Negotiate
- Ignore – continue infringement
- Wait until patent expires
- Stop R&D (and/or commercial activities)

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Infringement by competitor

- Intellectual Property rights are business tools, and tools must be used to give maximum benefits
- A slow escalation:
 - Initial contacts / Warning letter
 - Offer to license
 - Infringement action
 - Settlement?
 - Judgement
 - Damages

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Damages awarded 1995 - 2014

Figure 4. Top ten largest initial adjudicated damages awards: 1995-2014

Year	Plaintiff	Defendant	Technology	Award (in \$M)
2009	Centocor Ortho Biotech Inc.	Abbott Laboratories	Arthritis drugs	\$1,673
2007	Lucent Technologies Inc.	Microsoft Corp.	MP3 technology	\$1,538
2012	Carnegie Mellon University	Marvell Technology Group	Noise reduction on circuits for disk drives	\$1,169
2012	Apple Inc.	Samsung Electronics Co.	Smartphone software	\$1,049
2012	Monsanto Company	E. I. du Pont de Nemours and Co.	Genetically modified soybean seeds	\$1,000
2010	Mirror Worlds LLC	Apple Inc.	Operating system	\$626
2005	Cordis Corp.	Medtronic Vascular, Inc.	Vascular stents	\$595
2004	Eolas Technologies Inc.	Microsoft Corp.	Internet browser	\$521
2011	Bruce N. Saffran, M.D.	Johnson & Johnson	Drug-eluting stents	\$482
2014	Masimo Corporation	Philips Electronics N. America Corp.	Device measuring blood oxygen levels	\$467

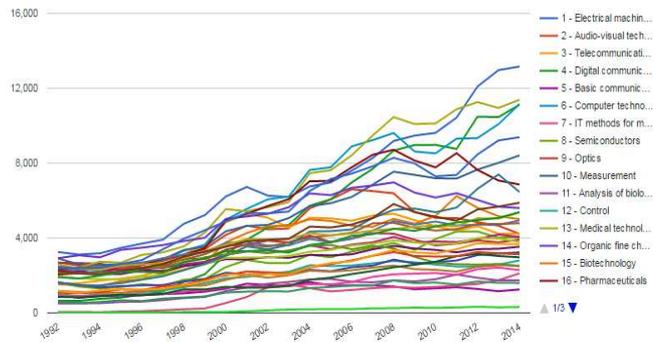
Source: 2015 Patent Litigation Study, PWC

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THANK YOU!
Please feel free to ask questions!

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Trends in patenting



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Trends in patenting



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Trends in patenting



Source: WIPO IP Statistics Database, <http://www.wipo.int/ipstats/en/>

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Patent strategies

Model	Description	Suitable for
“Exclusivity model”	Creates an exclusive market position. Enables high margins for innovative products.	R&D-intensive companies selling innovative products and aiming for high gross margins.
“Revenue model”	Revenues from licensing or selling of IPR.	Companies unable to capitalize on their innovations in all possible fields of technology.
“Asset model”	IPR regarded as an asset in the company. Boosts company value.	Companies facing an exit or a major investment.
“Safety model”	Enables freedom-to-operate.	Companies fearing or experiencing problems commercializing products due to competitor’s patents.

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