

## **Five Questions Every Business Must Ask to Know Its IP IQ**

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Intellectual property has never been more important to businesses. It can protect your margin, be a deterrent to competitors, function as collateral, and increase the overall value of your business.

In many cases, a company's IP might be its most valuable asset. Joseph Hadzima, Jr. [noted in 2013](#) [1] [Forbes]:

Research indicates that about 70% to 80% of a company's market capitalization comes in the form of intangible assets, which include intellectual assets such as patents, trademarks, copyrights, and other business knowledge and know-how.

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While in the midst of its bankruptcy, Eastman Kodak, the inventor of the digital camera, [sold off digital image patents](#) [2] for \$527 million. When Google bought Motorola Mobility for \$12.5 billion, it did so [to use Motorola's patents to defend lawsuits](#) [3] filed by Apple and Microsoft.

But in order to take advantage of your company's IP, you first must figure out what you have, i.e., your IP IQ. So how can you improve your company's IP IQ? Start by asking the following five questions:

## 1. What is your IP ROI?

Intellectual property is a key part of every business's strategy and has to be managed to get the highest ROI. Every business has at least three of the four types of IP (patents, trademarks, copyrights and trade secrets) and many all four. If you have a business name, a brochure and a client list, you have a trademark, a copyright and a trade secret. It is critical to know your ROI on these and how to maximize that ROI.

In 30 years as an IP lawyer, I have seen some amazing returns on IP. A business held patents on innovative metal cutters and commanded impressive prices for them during the life of the patents. The day after the patent expired, competitors began selling at a fraction of that company's original price. This clearly shows the value of the patent. It also shows the respect the competition had for the patents while they were enforceable.

Another client recently sold his business for \$40 million. The company's product was easily copied without any real technical know-how. The value of the company was clearly in its trademarks, which protected the quality and reputation of the products, and the patents, which protected the products. In simple terms, the IP (the ten patents and seven trademarks), was worth \$40 million. Without them, the purchaser would have just copied the products and added them to its line of products.

## 2. How can you immediately increase your IP ROI?

A fairly easy and relatively inexpensive way to ensure you are maximizing your ROI is to make sure that your IP is properly protected, i.e. that trademarks and copyrights are registered, and trade secrets are documented. Any competitor, potential investor or purchaser of your business will want to know immediately if you have properly protected IP.

Also, you should thoroughly investigate your IP. Have you protected everything? Do you have inventions that should be patented, or designs that should be patented or trademarked? Are you properly maintaining copyrights? Do you have agreements in place to establish ownership of your copyrights? Do you have agreements with your employees, suppliers and customers to protect your trade secrets?

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Finally, you should regularly advertise your IP. Customers, suppliers, investors and potential employees appreciate your innovative culture. Show it off!

### **3. What strategies can you implement to increase your IP ROI?**

The most obvious step to increasing your ROI is to consistently remind competitors of your IP. If they are violating your IP, put them on notice. IP litigation is expensive; no one really wants it. But a simple letter can protect your IP and prevent encroachment on your rights.

A client recently had an issue where a competitor began using the client's distinctive color. We sent a letter and, within weeks, received an agreement that the competitor would stop using the color, recognizing the client's IP rights and, as a result, improved the ROI on its IP investment.

You should also regularly review your portfolio, including all innovations, inventions, marketing material, new product names, logos, and internal information. You should be looking for any expensive but unproductive IP to clean out, and any unprotected IP that you should be protecting. Keep in mind that all IP is best protected early, and patents and copyrights have critical filing dates that must be observed.

### **4. Do you have an IP IQ program?**

The best way to improve your IP IQ and, as a result, your ROI, is to have a regular IP IQ meeting, including top management to give an overall direction. Marketing and sales should be involved to discuss what the market wants and how to advertise what you have. Engineering should be involved to know what is needed. Lastly, your IP counsel should be involved to spot opportunities.

Management should push IP counsel to make sure the company is getting what it needs. The client that recently sold his business was great at explaining the importance of their innovation and pushing IP counsel to stretch the limits in protecting IP. Some IP protection is tough to get, sitting on the edge of what's protectable. Unless pushed, IP counsel can miss the importance of some IP protection.

### **5. Do you know your competitors' IP IQ?**

A good way to know where your competition is headed is to research their activities in the IP field. We regularly monitor our clients' competitors, performing a simple search on a monthly basis to see what they are filing and where they are headed. This is great for intelligence-gathering.

Any company needs an IP strategy. Your IP is too valuable to leave to the engineers, scientists, and product/service developers as many companies do. You have a business investment in IP that must be managed effectively to produce the highest ROI possible. The potential is staggering if your IP IQ needs attention and is going to grow as it should.

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[1] <http://www.forbes.com/sites/forbesleadershipforum/2013/06/25/how-to-tell-what-patents-are-worth/>

[2] [http://www.kodak.com/ek/US/en/Kodak\\_Completes\\_527\\_Million\\_Transaction\\_Related\\_to\\_Digital\\_Imaging\\_Patents.htm](http://www.kodak.com/ek/US/en/Kodak_Completes_527_Million_Transaction_Related_to_Digital_Imaging_Patents.htm)

[3] <http://money.cnn.com/2012/05/22/technology/google-motorola/>