

How Can Patent Searches Foster Innovation?

by Chad G. Clark | Mar 1, 2021 | Innovation, Patents



The dreaded patent search. Typically, this is the *last* thing clients want to invest in when they are trying to get a patent or launch a new product or service. Many patent attorneys would avoid them if they could.

A patent search can be expensive, and it usually doesn't end with a definitive "yes" or "no" from the patent attorney, but rather, likelihood estimates. And a search can often unearth problems the client didn't know they had. Even so, patent searches can also be powerful tools for businesses to spur and improve innovation - and to dramatically improve a company's competitive position.

Two Types of Patent Searches

There are generally two types of patent searches. A patentability search is a search that surveys published literature and patents for inventions that share features with a planned invention, and is aimed at ensuring the invention is both new and not an obvious combination of existing innovations.

The second type, a freedom-to-operate search, surveys issued and pending patents for individual elements of a planned product, and is intended to ensure no patent would be infringed by selling that product.

These uses are essential for drafting a valuable patent or launching a successful product. However, such traditional uses fail to fully leverage the value of a patent search to inform and improve innovation.

Nontraditional Uses of Patent Searches

In contrast to patentability and freedom-to-operate searches, one nontraditional, strategic use of a patent

search is to identify and characterize your competitors and their fields of operation.

As a patent search zeroes in on the planned invention/product, companies with adjacent patents will emerge. By looking at those adjacent patents, you can discern whether a potential competitor is working with the latest technology, and in which specific areas it is most invested.

Further, the extent and sophistication of a potential competitor's patent portfolio can reveal a great deal about its staying power, its focus and the overall strength of its innovation processes. Some apparent competitors may be revealed to have very weak patent portfolios, while others you may discover are more formidable than you had thought. Lastly, it is always good to know if a Google, Amazon or other big player is in or near your technology space.

Another nontraditional, strategic use of a patent search is to explore the market space around your invention or product. By locating your invention within the context of existing patents, you can identify specific areas in the market that are receiving the most attention from businesses and researchers.

Areas receiving such attention indicate strong market potentials, and perhaps your company's approach is novel enough to enable you to capture part of that lucrative market. Then again, maybe that space is just too busy and should be avoided.

The other side of this coin is that you may also discover key areas within your field that are neglected. These "green spaces" represent potential targets for innovation, and potential niches that your company can exploit. You may also discover dormant areas that connect busy patenting spaces. These interstitial green spaces represent licensing opportunities if your company can successfully innovate ways to join those large markets together.

Finally, patent searches can also help illuminate what is most innovative about your invention or product, inspiring new innovation in the process. By comparing adjacent patents, those features of your invention that are rare or unusual will become apparent.

Often, those rare features are not the expected ones. And finding something unexpected can fuel innovation, since those rare features may indicate an unmet need or overlooked problem. Individual feature analysis can not only better inform you about the truly innovative elements of your invention, but such an analysis can also give you a window into other approaches taken in your field.

How do other players in your technology space solve similar problems? How are those approaches better or worse than your approach? Can your technology exploit those other approaches to make a better product? Answering these questions will likely lead to valuable advances in your approach, and may spawn new, effective and lucrative ways of solving familiar problems.

Leveraging Patent Searches for a Competitive Advantage

Patent searches can be strategic tools to drive innovation, not merely to determine if an innovation is patentable. Properly performed, these critical market-intelligence tools orient your company in its optimum market and technology spaces, providing otherwise-missed inspiration to drive your next invention - and perhaps your company's next big win.



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