

## Patents and Early-Stage Research and Development

by Martensen IP | Oct 15, 2019 | Intellectual Property Due Diligence, Patents



Why should research and development (R&D) teams or organizations care about patents? The answer might surprise you. A recent report by Forbes states that each year R&D introduces more than 250,000 new products into the marketplace. Of those, 66% will fail within the first two years.

Moreover, a Deloitte-Doblin Group research paper points out that a whopping 96% of all innovations fail to return their initial cost of capital. As the top R&D organizations collectively spend more than \$950 billion annually on new innovations, a need clearly exists for them to make effective analytical decisions on where to spend their money. Patents provide a huge resource with insight into applied technology that can be used to help solve this challenge.

### Leveraging Existing Patents

Patents represent a vast repository of technical information for the taking. When conducting R&D, it is important to understand if the solution to a proposed inventive effort already exists and if so, to whom it belongs. A corollary of that point is the understanding of ownership and control of any underlying and/or enabling technology necessary for the R&D effort to succeed.

Before venturing down a path of an expensive R&D exercise, it is critical to gain an appreciation of whether the building blocks of a technological solution are controlled by one or more entities. This may alter a plan of attack or foster a desire to form strategic partnerships and alliances. It may also identify trends within an industry sector and even potential disruptive threats.

Almost all patents have a relatively standard format. A patent, as a single document, includes a technology classification system, the names of the innovators and, in most cases, the companies with which they are associated. It also includes the jurisdiction in which the rights rest and dates by which the

innovations have taken place. And certainly, all patents include a title describing the technology, an abstract and a detailed description of the technology.

For example, the International Patent Classification Code, or IPC, found in each patent defines the technology area in which the invention belongs while the Cooperative Classification Code (CPC) gives detailed indications of technology sectors in which the innovation is applicable. And lastly, the claims identify the rights conferred to the applicant upon grant.

## **Providing the Right Amount of Information in a Patent**

Many patents proliferate into a technological treatise that fails to distinguish between information sufficient and necessarily required to gain patent protection and a treasure trove of valuable trade secrets. A well-crafted patent is not the same as a technological white paper, dissertation or treatise. Well prepared, the patent should provide just enough information to fully enable and describe the claimed invention. But most unknowingly leak information about an inventor's technology and unclaimed inventions. Using the information presented in patents, researchers can go beyond the "claimed invention" and ascertain valuable information about a technology sector, competitor actions, intentions and market trends.

The trends of the market and where a proposed R&D effort may reside with respect to competitors can best be seen in a graphical landscape. A patent landscape reflective of a technology area of interest can provide not only a snapshot of current filings but a temporal assessment of when patents were filed and by whom. And you can also input a proposed R&D effort and see where on the competitive landscape that innovation would land as well as look at renewals to validate whether interest in the technology remains, or abandonments exist, indicative of a technology fall off.

A white space identified between two or three crowded sectors of technology can pose an opportunity to link technologies to meet a growing need sufficient to warrant additional inquiry. Data of this type, supplemented with third party validation, can be properly used to focus a successful R&D effort.

Patents fundamentally protect inventions and are particularly suited for products in which an innovation, or innovations, contained therein can be ascertained through reverse engineering. Property-focused R&D funding can produce technology that is ripe for success yielding a high return on invested capital. Choosing where to invest that capital is best done through careful analysis of the competitive landscape and market trends. Patents, while a fundamental source of protection for inventive material, are also a source of research and analytical data valuable to R&D determination.

# MARTENSEN

719-358-2182 | [info@MartensenIP.com](mailto:info@MartensenIP.com) | [www.MartensenIP.com](http://www.MartensenIP.com)

---

**Contact:**

Martensen IP

[jodee@thecreativealliance.com](mailto:jodee@thecreativealliance.com)

[Download vCard](#)