

Factors for a successful patent exploitation

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Many technical innovations from individual inventors or small companies are registered for patents, but do not reach market maturity or fail to achieve commercial success. Often there is a lack of money, time, sales expertise, or all of the above. Even for larger companies with a portfolio of several patent families, the question of appropriate commercial utilization arises if the technology is not (or no longer) part of their own core business. A suitable way for commercial exploitation may be selling the intellectual property (IP) rights to a third party or granting a license.

Success factors

Many years of practical experience have shown that there are a number of factors which, taken together, significantly increase the probability of successfully exploiting technical property rights.

❖ Legal status and term of the property rights

It is important whether the offer only includes one (or more) patent application(s) or one (or more) patent(s) which have already been granted after an examination by the patent office.

Patent applications are generally associated with the risk that the patent will not be granted at a later date and are therefore assessed with caution by a potential buyer. Even if an early start to exploitation activities often makes sense, significant payments by the buyer or licensee should only be expected after the patent has been granted. Additional value security is provided if the opposition period has also expired after the grant of the property rights.

Furthermore, the (remaining) term of the patent plays a major role in the realization of the patent. Both when selling property rights and when licensing, the buyer naturally wants to exploit the economic advantage that the acquisition of a patent or license gives them for as long as possible. A remaining term of a few years is usually unattractive from the purchaser's point of view and reduces the value.

❖ Scope of protection

In principle, the scope of protection of the property rights available for utilization must be critically examined. If – for example, due to relevant prior art – only one patent has been granted for a very specific embodiment of an invention, there is a risk that alternative solutions will be developed relatively easily that do not fall within the scope of protection. In such a case, one speaks of a "narrow scope of protection", which makes the patent appear rather unattractive to a third party and thus makes it significantly more difficult to exploit.

❖ Current development status

There are two key questions that a potential buyer or licensee always asks themselves:

"Will the invention really work in practice and fulfil the expectations placed on it?"

"Is production really as simple and cost-effective as promised?"

Skeptical questions are always asked about inventions. It is very helpful if the functionality can be demonstrated directly with the help of a functional sample or, even better, a real prototype. Independent expert opinions from renowned research organizations or testing institutes can create additional confidence. The more hurdles that have already been overcome before a real market launch, the greater the security for the potential buyer, and the more likely it is that a corresponding agreement will be reached. Typical hurdles include, for example, official approval and certifications e.g. from the Technischer Überwachungsverein (German Technical Inspection Association or TÜV) or similar organizations, as well as the production of a pilot or small series.

❖ The package

It is advantageous if it is not only the patent(s) or patent applications offered for sale or license. Instead, it should be checked whether special expertise or design drawings for the preferred embodiment or software can also be supplied. Ideally, a complete solution is offered that reduces the further development effort for the buyer or licensee to an absolute minimum. In addition, the technical solution should be protected by several patent families that provide protection in the most important markets.

❖ Realistic price expectations

A very obvious and, in practice, very critical factor is the seller's asking price. Especially if the development of an invention has cost a lot of time and money, and the inventor has a close emotional connection to "their" invention, the value and therefore the achievable price is often overestimated. At the same time, the effort required by the potential buyer to develop the invention into a production-ready product and bring it to market is underestimated. Frequently, the knowledge and experience required for a fair market assessment is simply lacking. A valuation by an independent expert can help the seller or licensor develop a realistic asking price.

❖ Genuine added value

Potential buyers or licensees are usually companies that have already been present on the market for years with their own solutions and are constantly optimizing their products. Accordingly, the interest in taking licenses from third parties is usually not particularly pronounced if it is only a matter of minor improvements to existing products. The situation is different if the technology on offer can be used to define completely new unique selling points that represent significant added value compared to all competing products on the market. It may already be assumed that individual companies are already using the patented technology or intend to do so in the near future.

A strong partner at your side

An experienced partner with in-depth market knowledge and a good network of contacts in the industry can make patent commercialization much easier. If the listed requirements for successful commercialization are met, Serviva GmbH offers its support in patent commercialization at a fair price model. In addition to ongoing remuneration at a greatly reduced daily rate, a moderate profit share is due upon successful commercialization. In addition to our broad network of contacts with companies in Germany and abroad, an important feature is the maximum transparency of our work, so that our customers can see the current status of their projects at any time.

Serviva's services include the development of a viable utilization strategy, the preparation of a meaningful exposé and the identification and approach of companies that could be potential buyers or licensees. The exact division of labor for the further steps up to the conclusion of a contract are agreed individually between Serviva and its customers.