

Recognising trends with patent monitoring

Dr. Lars Zanzig

Serviva GmbH

Monitoring Tasks

Patent monitoring is the ideal tool for

1. Always knowing what your competitors are working on,
2. Not missing out on technology trends in your own industry,
3. Recognizing possible collisions with third-party patents at an early stage.

Patent monitoring consists of a search query specially developed for this purpose, which is carried out at regular intervals. A monthly interval is often chosen, but an interval of 14 days or 3 months can also be useful for very large or small amounts of data.

In the case of technology monitoring or competitor monitoring, a search is carried out for new IP rights on a precisely defined subject matter, whereas legal status monitoring has a completely different information content: The legal status of a patent application is monitored at the relevant patent offices or other data sources for an already known list of IP rights and information is provided when certain intermediate steps are reached.

Technology monitoring / competitor monitoring

The search profile of a typical technology watch is a compilation of several different search queries that deliver a common result set. A document that is already found by one of these search queries is included in the result set.

- Search for patent applicants or inventors

Competitors who are active in the subject area to be monitored are often known. By searching for the applicant or inventor name, all new documents of these already known applicants/inventors are "automatically" included in the monitoring report.

- Search by patent class

Searching by patent class has one major advantage: you are independent of the choice of words used to describe the technical content; the only thing that matters is the subject area in which the relevant patent office categorizes the IP right.

- Search for keywords

Some cross-cutting topics occur in different patent classes. A supplementary search with the most important terms is therefore often useful and a second starting point to avoid missing relevant documents.

Creating a search profile for a technology watch is an independent search in which SERVIVA draws on the extensive experience of its search team. A certain proportion of documents that are not relevant in terms of content cannot be avoided during monitoring. If a technology watch only finds relevant documents, it is very likely that the search profile is formulated too narrowly.

Legal status monitoring

Even those who do not apply for patents themselves can be affected by patents of other applicants, and should not omit the area of patents because they do not have any patent applications of their own. When working with patents on a regular basis patent applications from third parties, that are of interest to your own work, accumulate, and whose further development can no longer be efficiently monitored manually. In addition, there is often a lack of motivation or capacity for regular processing.

At this point at the latest, it makes sense to monitor the legal status in order to ensure that the IP rights are systematically monitored according to the same criteria. A further advantage is that new family members in patent families do not go undetected and the strategic country coverage of the monitored patent families becomes known.

Typical events that are checked for their occurrence in a legal status monitoring are:

- Inspection notices and replies to inspection notices
- Decision to grant, grant
- Opposition by third parties against the monitored IP right
- Lapse of an IP right, e.g. due to non-payment of fees

Since patents and utility models are governed by the law of the competent institution (national patent law, EPC or PCT), the scope of the available notifications, the exact wording and the handling of the patent register differ depending on the country of publication. This data is published – with varying degrees of completeness and up-to-dateness – in the patent registers and sometimes also in commercial patent databases. By regularly using all data sources, SERVIVA can check the reliability of the information and is always informed of new developments at an early stage.

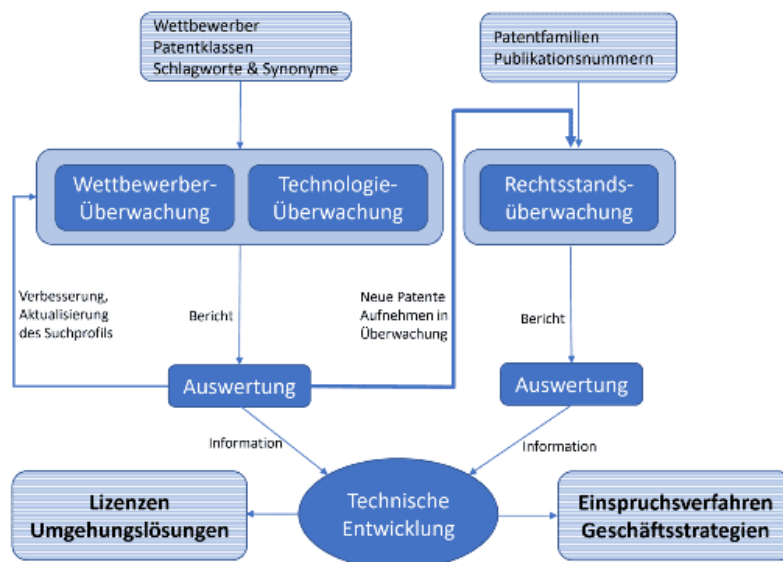


Figure 1 Integration of patent monitoring into the company's decision-making processes.

Both types of monitoring answer different questions and are most effective in combination: If technology monitoring finds IP rights that are interesting in terms of content or critical in terms of the scope of protection, legal status monitoring can pursue these IP rights in the future. If the competent patent office then grants the critical IP right, you are informed in good time and can check whether an opposition should be filed against the granted version of the patent application (in many countries only possible during the first 9 months after grant).

Process sequence: set-up – evaluation – further processing

Setting up patent monitoring is a communicative process and then moves into an automated state. Often a list of criteria already exists, which we complete and secure with tried and tested strategies. Smaller companies or start-ups often have little experience in dealing with industrial property rights. Here it is important for us to see each customer with their respective level of knowledge so that the patent information received can be processed appropriately. If no

processes and capacities are yet available in the company, we support IP management in establishing these.

Conclusion

After the initial creation of the search profile in close consultation with SERVIVA, the monitoring report is created in the agreed format and time interval. Only the new documents added in the respective monitoring period need to be evaluated. The number of documents is therefore often lower than expected. Nevertheless, a comprehensive overview is obtained promptly, trends can be identified and the innovations that competitors are currently working on can be observed. This information forms the basis for further decision-making processes within the company and, in particular, helps to avoid infringing third-party property rights.

Although many technical innovations from individual inventors or small companies are registered for patents, they do not reach market maturity or fail to achieve commercial success. Often there is a lack of money, time, sales know-how or all of the above.

Even for larger companies with a portfolio of several patent families, the question of appropriate commercial exploitation arises if the technology is not (or no longer) part of their own core business. In all these cases, the exploitation of property rights by selling or licensing them to third parties can be a suitable way of commercial exploitation.