Who Actually Owns the Rights Over A Patent?
For More Details View Page 2

2010 TOP 10 GLOBAL FRANCHISES
For More Details View Page 4

6 STEPS on How to License Your Trade Mark
For More Details View Page 5

CONTENTS

2 Who Actually Owns The Rights Over A Patent?
2 Applying for Patents Abroad?
3 Warning: Do-It-Yourself Franchising
3 Global Licensing - Factors Before Entering A New Region
4 IP Audit - Why Is It Important?
4 2010 Top 10 Global Franchises
5 7 Snowball Benefits of Good Business Branding
5 6 Steps on How to License Your Trade Mark
5 Creating Distinctive Logos/Marks
6 Simple Ways to Effective Employee Evaluation
6 Selling Your IP Online
6 Whose Idea Is It Anyway?
7 - 8 Event Highlights
Who Actually Owns The Rights Over A Patent?

An inventor is a person who conceives ideas and invention. On the other hand, the person that files patent application is the applicant, holder or owner of the patent. There are at times where the inventor may also be the applicant and note that two are often of different entities. In general, institutions and Companies are the main holders of an invention because they are the one who employs inventors. In order to analyze these issues, the following are some instances that merit further understanding:

- **Employee Inventions**
  Generally, in most countries, inventions developed during employment are automatically assigned to the employer. In some countries, patent ownership belongs rightly to the employee unless and provided that it is specifically stated in the employment contract. In some cases where there are no employment agreement, the inventor may retain the right to exploit the invention but the employer is given a non-exclusivity right to use the invention for internal purposes which often refer to as ‘shop rights’. In fact, it is advisable to learn about the legislation of every country to ensure the employment contracts deal with such issues especially in an Organization that deals with Research & Development (R&D). The issue of ownership over employee invention is very important in order to avoid future disputes.

- **Independent contractors**
  This is important to note that it is common practice in most countries that when one Company hires an independent contractor to develop a new product or process, the independent contractor basically owns all the rights to the invention unless specifically stated otherwise or unless and until the contractor stipulates in a written agreement with the Company.

- **Joint inventors**
  At times, there may be more than one person who contributes significantly to the conception and realization of an invention. However, they must be treated as joint inventors and mentioned when filing the patent application. As long as the application is being filed as joint inventors, the patent will be granted to them accordingly.

- **Joint owners**
  Many institutions and countries often debated on the issues of having different rules concerning the exploitation or the enforcement of patents that is being owned by more than one owner or entity. In some cases, there will generally be no single co-owner who may license a particular patent or sue third parties for any infringement without the consent of all other co-owners.

Applying for Patents Abroad?

Note that all patent applications are based on territorial basis. There are many misconceptions that there is such a thing called ‘International patent’, in fact there is no international protection for most Intellectual Property. Basically, territorial rights are protection being given to inventions filed in a specific region or country only. Hence, if you have not been granted with a patent with effect in a specific country, your invention will not be protected in that country which allows anyone else to make, use, import or sell your invention in that country itself. Therefore, it is important to file your application in countries or regions which you plan to penetrate.

Corporations enjoy tremendous exclusive rights over patent protections in foreign countries because all patents being filed abroad leverage your Company’s assets through licensing the inventions to foreign firms which will eventually assist in the development of your outsourcing relationship. Other benefits include having access to the particular markets in partnership with others. This eventually saves a lot of time in penetrating foreign markets and gaining market share.

**When should you apply for patents abroad?**

Priority Date is a term given to the date for your first application for any given invention. Any subsequent applications in any other country being filed by you within the 12 months will actually benefit from the earlier application and will have priority over other applications for the same invention filed by others after the priority date. It is highly advisable to file your foreign patent applications within the priority period.

After the expiration of the priority period and until the patent is first published by the patent office (which is generally about 18 months after the priority date), you will still have the possibility to apply for protection for the same invention in other countries, but you can no longer claim priority for your earlier application. Once the invention has been disclosed or published, you may be unable to obtain patent protection in foreign countries due to the loss of novelty. Novelty specifically refers to the non disclosure of your invention.

Sources from WIPO, Inventing The Future, Series no.3
Warning: Do-It-Yourself Franchising

Many Corporations fail to realize the importance of professionalism and expertise especially when it comes to the development of Franchise systems.

Many entrepreneurs developed their own legal agreements, manuals and business plans that they probably believe would save a huge sum from consultation fees. When told of the flaws, most could not accept it but soon realized the mistakes after the occurrence of the disputes.

Franchising is one of the most misleading terms in the industry. Many assume that as long as there are more than one outlets, laymen will term it as a franchise, failing to realize that franchising is so much more complex than just its physical concept.

Many prospective franchisors believe that using expertise is a waste of money. The resourceful nature of entrepreneurs who are too accustomed to their hardworking attributes and confidence, often continue to develop their own franchise programs using personal opinions and research.

Most common questions from prospective franchisors are “Can I develop my own programs?”. The answer would definitely be yes and are often shocking to most. However, the questions asked should instead be “Should I develop my own program?”

Time is Money

The development of a franchise program takes substantial time and effort such as development of manuals for training and operations, well conceived strategic plans, sophisticated financial analysis, optimized websites and promotional activities. All these require diversity of skills.

In view of an entrepreneur’s busy schedule, finding time and in house expertise to do all the above may be a huge challenge. Engaging the right consultants and outsourcing the preliminary part may speed up the market entry while the window of opportunity is still open. While the entrepreneur is focusing on the operations of the business, the consultants will be doing the heavy lifting to assist him to penetrate the market faster.

Global Licensing - Factors Before Entering A New Region

In the age of globalization and global economy, ‘licensing’ is quickly becoming the next favorite ultimatum to optimize from the global economy.

Popularized from the Americans in the early 1930s, licensing is a lucrative business and nations out of the US continent hold more than one third of the total licensed produce on a worldwide basis. The exchanges are becoming more healthy as more licensors around the world penetrate the market and expand existing activities. Hence, the creators of all the new properties are mainly focusing in the international arena. In the past, most properties which were successful internationally were created and developed in the US and then licensed in the international markets.

However, it can be seen that in recent years, the Asian brands are up and coming especially after realizing how lucrative the business can be from the utilization of brands. However, there are several factors to consider before entering a new region:

- Licensors must realize the different specifics and the territories for the licensing
- The existence of differences in language
- The different licensing strategies
- Market structures
- Retail patterns
- Legal systems and limitations
- Tax implications

It is also important to note that in the development of the licensing packages, the need to have a global thinking becomes a necessity to include the cultural, linguistic, legal and financial differences in all different territories. Last but not least is the understanding of the global consumer behavior and the knowledge of prospective licensee and its competencies in holding the licenses.
**IP Audit - Why is it important?**

Many businesses, particularly SME, are blissfully ignorant about the importance of their brand values. Perhaps this expression gives a tinkle "If you don’t measure it, you can’t manage it" - which is the single most compelling reason for a company to conduct an Intellectual Property (IP) Audit to review how well their IP is doing.

The major reason why one conducts an IP Audit is to unearth the underutilized IP assets to determine the Company’s bottom line results and to make sound plans to further enhance the brand to improve and further strengthen the Company’s market positioning. It is very common to find the majority of the Corporations actively protect their IP rights but not many truly look into the brand to exploit its potentials. IP Audit, apparently became more popular in recent years but the availability for such services may be limited due to the expertise required to conduct such an audit. IP audit involves putting values into each individual components that make up the IP assets which further determines the bottom line. It is often misjudged that IP protection are merely protection failing to notice the astounding values inherent in these intangible assets.

IP Audit is a process that carries across the entire organization to identify the IP assets owned by a business and how important these assets are towards the firms. Common process of a typical Audit:

**Step 1: Identifying IPs**
Identifying the readily identifiable IP. All assets within the category usually includes any registered Intellectual Properties such as registered trademarks, copyrights, designs or patents owned by the businesses, any licenses to third parties and any licenses from third parties which also includes cross-licensing. Auditing processes also include manuals, databases, recipes, agreements or any product know how. Hence, once these have been identified, the IPs will then be scrutinized to identify the owners and whether it has been effectively been utilized. The audit allows to unearth the potential or actual exclusivity of the particular technology.

**Step 2: Determining Internal and External Influences**
The second step of the audit involves determining both the internal and external influences which will include the Company’s brand, product brands, company and product get-up, good will certifications, regulatory approvals, etc. Hence, upon such the audit will continue to value the brands in view of the entire scope attached to the brand. Several IP valuation methods will be used to evaluate and establish the value of the underlying IP assets. All in all, IP Audit makes sound business sense and that it can identify the Company’s strengths and weaknesses which is a useful tool to further polish and enhance the branding activities for value creation.

---

**2010 TOP 10 GLOBAL FRANCHISES**

<table>
<thead>
<tr>
<th>Rank</th>
<th>Franchise</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>SUBWAY</td>
</tr>
<tr>
<td>2</td>
<td>MCDONALD’S</td>
</tr>
<tr>
<td>3</td>
<td>7-ELEVEN INC</td>
</tr>
<tr>
<td>4</td>
<td>HAMPTON INN/ HAMPTON INN &amp; SUITES</td>
</tr>
<tr>
<td>5</td>
<td>SUPERCUTS</td>
</tr>
<tr>
<td>6</td>
<td>H&amp;R BLOCK</td>
</tr>
<tr>
<td>7</td>
<td>DUNKIN’ DONUTS</td>
</tr>
<tr>
<td>8</td>
<td>JANI-KING</td>
</tr>
<tr>
<td>9</td>
<td>SERVPRO</td>
</tr>
<tr>
<td>10</td>
<td>AMPM MINI MARKET</td>
</tr>
</tbody>
</table>

If you don’t measure it, you can’t manage it
7 Snowball Benefits of Good Business Branding

1. IN THE COMFORT ZONE
Creating a mind-set among the consumers that you are credible and trustworthy as they become familiar with your brand.

2. DECISION SHORT CUT
It shortens the decision making process of the consumers and provides competitive edge.

3. MINIMIZED MARKETING COSTS
Once awareness is built, you require less time and effort to get new customers.

4. BUILD-UP OF CUSTOMER LOYALTY
Consumers usually purchase based on trust and familiarity. The chances of return purchase is often very high as it becomes a habit.

5. REFERRALS, REFERRALS
A trusted brand often triggers mouth to mouth referrals thus providing testimony and gives more credibility.

6. ATTRACT THE BEST
Having popular brands attract better employees - which in turn helps to build morale and work quality. People like to work for well known companies.

7. DEFEND AGAINST COMPETITORS
Creating a new entry barrier to withstand competition from rival companies.

6 Steps on How to License Your Trade Mark

Since a Trade Mark is a brand that distinguishes your products and/or services amongst your competitors, your name, figure, design or logo should be registered to ensure that it can be licensed to another firm in return of royalties. There are several ways which you can license your trade mark:

Step 1:
Obtain your trade mark registration. In the Malaysian context, registration process takes approximately 18 months. This claim of ownership gives you legal rights upon the obtaining of trade mark certificate.

Without registration, the trade mark is merely a symbol or a logo.

Step 2:
Understand your prospective licensee well. You may need to identify his stand in the business, product ranges, scopes and the scale of his production and distribution.

Step 3:
Seek a consultant to further understand your rights as a licensor before licensing your trade mark. Complete knowledge prevents disputes.

Step 4:
Making decisions on how to earn from your brand by confirming the royalty as well as the terms and conditions. Royalties may be flat rate, percentage or combination.

Step 5:
Ensuring that all products, services or both being licensed have qualities.

Step 6:
Termination clause must be part of the provisions within the documentations. In the event of dispute, the termination clause is vital to avoid further complications.

Creating Distinctive Logos/Marks

There is often confusion about how to create distinctive logos and marks. Most entrepreneurs and business owners tend to create logos or brand names which are descriptive about the business and argue that without being descriptive, the consumers will not be able to identify which industry the business is in. These are common reasons for the rejection of the trade marks by the Registrar. Hence, in order to create a good trade mark, one has to ensure that the mark is distinctive. The following diagram shows the level of distinctiveness:

Less Distinctive | More Distinctive
---|---
Generic | Descriptive | Suggestive | Arbitrary | Fanciful

Note: This newsletter is for internal circulation only. All graphics or photos used are for illustration purposes.
Simple Ways to Effective Employee Evaluation

Just conducted the evaluation for your employees? Ever doubt the effectiveness of the evaluation? Here are a few simple ways where you can ensure the effectiveness of the evaluation:

Pre-Evaluation
1. You must ensure that everyone in the Company knows their Job Description (JD) and what is the evaluation criteria in the beginning of the year.
2. Allow the employees to retain a blank copy of the evaluation form so that he/she remembers the evaluation.
3. Set out the outline of the goals for the Organization and the evaluation based on the specific requirements.

During Evaluation
1. Allow the employee to fill in their own evaluation form and continue to fill in the evaluation at your end. Review what the employee has written and justify it.
2. Set up time and place for a quiet meeting.
3. Set aside at least an hour for the meeting.
4. Outline your goals for evaluation and remember to both reward the good performances for the year and review the performances.
5. Avoid doing all the talking. Let the employee speak. Let them tell you how they feel and get their feedback.
6. Offer the employee an option to write an alternate point of view in case of any disagreement with the evaluation.
7. Do your best to put the employee at ease, or lower their anxiety to ensure that they listen to what you have to say.
8. Avoid focusing on areas that only require improvement. Everyone loves to be praised and hence you should do it honestly and sincerely. Take time to reiterate what he or she is doing right. This will keep your good employees around.

Post Evaluation
Always do a round of monitoring and review every quarter with the employees and do highlight errors when they happen.

Whose Idea Is It Anyway?

The idea of joint venture with a Multinational may sound very dreamy - Think again! If you are the entrepreneur, then your worst nightmare could be having an MNC calling, promising the moon and ending up out of business and watching your ideas venture into the market without your knowledge and you.

Smaller Companies have got a lot to learn and of course a lot to lose. In recent years, as the importance of intellectual property grows, ‘idea theft’ became more significant. Despite having protection though Non Disclosure Agreement (NDA), smaller firms tend to be at the losing end, it is either the idea is being used without their knowledge and that they are being afraid to step on the toes of the MNCs or fear to spill the beans because they need the resources.

Most often enough these firms think that having an NDA is sufficient, but in fact it is not because MNCs will claim that nothing new has been invented and it is not an invention, unless and until you can prove that your invention is new - of which the best means is by showing your patent filing and application. Not only does this build credibility for the investors but it also shows your commitment towards your invention.

Always get yourself prepared with a short agreement up-front prior to any meetings or discussion to table down the initial ideas, concepts and general description about what have been negotiated and discussed. This is a security given to the entrepreneurs to protect your ideas from being stolen or imitated. In the end most big companies will conduct their own due diligence of which will also put you at the losing end in the event the deal is not closed. Such negotiations normally takes 3-8 months or sometimes even longer to close.

An entrepreneur must be very careful and take extra precaution to protect oneself and have his own stand - so as not to be exploited.

To sum this up “Do not get too excited that you allow yourself to be taken advantage of”.

Selling Your IP Online

The Exciting News: You have come out with a new solution to a problem in your business and know for sure that your solution can be the answer for other businesses. However, the problem is that you have spent sleepless nights coming up with that idea and are ready for some compensation.

Most often, benefits coming from such creations are lost by the creators. In a few cases, though, many millions have been made by inventors for example, Priceline.com founder Jay Walker, whose idea for a “demand collection” system that matched bargain hunters with surplus inventory gave birth to a multibillion-dollar business (and a large fortune).

That’s a rare exception, sure-but numerous Web-based intellectual property exchanges could change that at any time. Have an idea and these exchanges will give you a way to test the waters for buyers without sacrificing control over the idea.

Sources from Entrepreneur.com
A Walk Down Memory Lane

The Penang Heritage Walk

On the 21st November 2009, all employees and family members of the Intellect group took a stroll along the cultural sites of the Georgetown, recently being accorded as one of the ‘World Heritage Site’ by UNESCO. Guided by trained professionals from the Penang Heritage Trust, the walk along the sites made many reminisce the olden days and the description of historic sites truly made the tour very worthwhile. The heritage trail included a tour to popular sites such as Rumah Peranakan, Khoo Kongsi, Little India and the Temple of Goddess of Mercy. The 3 hour walk brought very good memories and reminded all the importance of history and respect for the ancestors.

Yet Another Triumph

ENTERPRISE 50 AWARD!

Another great milestone to close year 2009 for Intellect by receiving the Enterprise 50 Award on 13th November 2009 at Mandarin Oriental, Kuala Lumpur. The Award signifies Intellect’s commitment towards service excellence and towards continuous improvement. The Enterprise 50 Award marks the beginning of a great journey excellence. This is a great end and a new beginning for the coming year.

Enterprise 50 is an annual award program organized by the Small and Medium Industries Development Corporation (SMIDEC) and Deloitte Malaysia, with supporting sponsorship by Telekom Malaysia Berhad (TM), to celebrate and highlight the achievements of enterprising homegrown companies that are well positioned for the future.
SME Recognition Award - Services Excellence

16th December 2009 marked the day Intellect Group was awarded the SME Recognition Award 2009 under the services excellence category. SME Recognition Award (SMERA) Series is an annual award program organized by the SMI Association of Malaysia to recognize and celebrate the outstanding achievements of small and medium enterprises in Malaysia.

The services excellence award serves to highlight the recognition of Intellect as an outstanding performer in the services industry sector, thereby indicating the enhancements of our leadership position as an Intellectual Property and IP Commercialization consulting firm.

Christmas in Hat Yai!

On 25th and 26th December 2009, Intellect celebrated its Christmas party and 16th anniversary in Hat Yai Thailand with a “Hawaiian beach wear” themed dinner. All the iPeople enjoyed the hot and spicy dinner at a local restaurant. The short trip was relaxing and a day for an Intellect family get together totalling 40 persons which made the gathering the more the merrier! The tour included a tour to the floating restaurant and the morning market.