

Monetizing Your Patent

AUTHOR: JASON SCHMIDT

All companies understand and appreciate that innovation is a requirement for success. One way to innovate is to develop a novel product or method (an “invention”), and a way to protect a nascent invention is to file for patent protection.

But patents can be costly to obtain, and there is no guarantee that any given invention will ultimately receive an accompanying patent. So, the decision to pursue patent protection is not one to be taken lightly, and, once that patent issues - what next? In other words, after all the hard work and expenses that go into developing a novel invention, filing for, and ultimately obtaining a patent, then how does a company monetize the valuable intellectual property captured within that patent?

Before answering that question, let’s take a quick step back. What rights does a patent afford an inventor?

Patents give you the exclusive rights to prohibit others from practicing your invention within a geographical area (usually a country) for which you have pursued protection. It’s useful to think of a patent as a monopoly on an invention for a prescribed duration and a prescribed geographical market. Once obtained, patents allow inventors to profit from their creativity and investment in a variety of ways. Here are several strategies for monetizing a patent:

Licensing: Licensing your patent means allowing another party to use your invention in exchange for royalties. You can license your patent to one (exclusive) or multiple (non-exclusive) companies, depending on the nature of the patent and the market.

Selling or Auctioning the Patent: If you prefer a lump sum payment over periodic royalties, selling your patent outright might be the preferred option. This means transferring your rights to a third-party. Companies or investors might be interested in purchasing your patent, especially if it complements their existing product lines or strategic goals.

Practicing the Patent: If you have the capability, you can manufacture the product or offer the services yourself. This approach requires an investment in production, marketing, advertising, and distribution, but can lead to higher profits if the product or services succeed.

Patent Assertion: Some companies (sometimes referred to as “non-practicing entities” on the one hand, or “patent trolls” on the other) focus on acquiring patents for the sole purpose of claiming infringement by others, monetizing the patents through settlements or licensing fees. While this is a controversial practice, it has a track record of success. Partnering with a patent-aggregation company is a viable option, especially if you’re finding the barriers to enter the market yourself becoming overwhelming.

Cross-Licensing: If your patent is valuable to another company, but you also need access to some of their patents, you can enter into a cross-licensing agreement. This allows both parties to use each other's patents without exchanging money, which can be beneficial if you're looking to innovate further or expand your product line.

Patent Pools: In some industries, companies form patent pools where multiple patents from different patent holders are licensed together. This can simplify the process for companies that need to license multiple patents from various sources, and it can provide steady royalties to patent holders who join the pool.

Creating a Startup: If your patent has the potential to be the foundation of a new business, creating a startup could be a viable option. This approach requires a significant amount of work and investment but can be highly rewarding. You might attract investors interested in your technology to help scale the business, and investors are more comfortable putting capital into a venture that has protected its technology through patents.

Consulting and Partnership: Sometimes the invention itself may not be a standalone product but a process or improvement that can significantly benefit existing products or services. In such cases, offering consulting services or entering into strategic partnerships with companies can be a way to monetize your patent.

Strategic Partners: Related to consulting partnerships, but somewhat different, are “professional partners,” or companies that, if a good fit, will partner with you to help use your innovation combined with their experience to create a mutually profitable business relationship. These relationships can reduce your time and investment, defray some of your overhead, and mitigate risk in exchange for sharing in the profits.

The possibilities can be understandably overwhelming. In order to maximize the value of your patent, it's essential to understand the market for your invention, the needs of potential licensees or buyers, and the legal landscape. Consulting with an experienced patent attorney or legal professional specializing in intellectual property can provide valuable guidance and help you navigate the complexities of patent monetization.

Sandberg Phoenix is a full-service law firm with attorneys experienced in a wide variety of technological areas, from life sciences and agriculture to mechanical engineering and telecommunications. Contact the intellectual property group to schedule a consultation to discuss monetizing your valuable ideas.