

## GUIDELINES FOR IP SWOT ASSESSMENT

An IP SWOT assessment itemizes the Strengths, Weaknesses, Opportunities, and Threats with respect to a company's IP.

### Work in S-W-O-T Order

As items are being listed in each category, order them by priority (i.e. strongest strength, most threatening weakness... at the top).

Be sure to keep the following in mind:

- Strengths and Weakness are based on internal analysis—looking at the internal characteristics of the company.
- Opportunities and Threats are based on external analysis—looking at the outside influences and forces affecting the company.

### Questions to Consider for Internal Analysis: Strengths & Weaknesses

Depending on your positions, take into consideration resources, resource utilization, processes, compliance, and past experiences.

#### R&D Manager:

- ✓ Are you innovative?
- ✓ Do you spot opportunities and come up with new ideas to address them?
- ✓ How are you capturing ideas and developing innovations?
- ✓ Do you regularly run into IP roadblocks?
- ✓ How do you leverage your IP?
- ✓ Can you more effectively exploit your IP?
- ✓ Think for a moment about the knowledge, skills, and attitudes of your inventors. How would you assess their knowledge of IP?

#### Inventors:

- ✓ How well can you identify protectable subject matter?
- ✓ Do you attend regular education/training sessions?

#### Legal:

- ✓ Do you have an adequate budget allocated to IP activities?
- ✓ How is that budget determined?
- ✓ Is it being appropriately spent on IP procurement and analysis?
- ✓ Are employees seeking counsel appropriately when it comes to IP matters?
- ✓ Has any patentable subject matter been lost due to oversight of key dates or identification of the invention too late?

#### Generally:

- ✓ What are your key IP positions?
- ✓ What are your product strengths?
- ✓ What are the weak aspects of your IP portfolio?
- ✓ In what areas would outside licensing be necessary?

#### Examples of IP Strength:

- ✓ Particularly valuable know-how or trade secrets
- ✓ Difficult to replicate products like complex software
- ✓ Strong branding and brand loyalty
- ✓ Strong patent protection
- ✓ Dominant market share
- ✓ Market leadership
- ✓ Global protection

#### Examples of IP Weaknesses:

- ✓ Dependencies on third parties for critical IP
- ✓ Weak brand recognition
- ✓ Limited R&D activity
- ✓ Technology follower
- ✓ Limited or no patent protection
- ✓ Products easily reverse engineered and copied
- ✓ Lack of protection outside the United States

## GUIDELINES FOR IP SWOT ASSESSMENT

### Questions to Consider for External Analysis: Opportunities & Threats

Take into consideration trends, market forces, customers, competitors, partners, the IP landscape and ecosystem, locally and internationally.

#### Market:

- ✓ Are new competitors entering your market segments?
- ✓ Are any competitors exiting?
- ✓ Who are your major competitors and what do their patent positions look like?
- ✓ What future or emerging product development trends can you take advantage of?
- ✓ What geographic regions are of importance (or are growing in importance) to you or your competitors?
- ✓ How does your IP portfolio look in these regions?

#### Technology:

- ✓ What does your technology roadmap look like?
- ✓ How do your competitors fit into that roadmap?
- ✓ What do these competitors' IP positions look like?
- ✓ Which of your current or future products are in crowded patent spaces?
- ✓ Are there companies in other markets that have IP that may be useful to license?

#### Examples of IP Opportunities:

- ✓ Enhancing IP protection of new or key products
- ✓ Enhancing IP protection outside the United States
- ✓ IP training
- ✓ Strengthening trademark protection domestically or internationally
- ✓ Improving IP terms in contractor agreements
- ✓ Patenting key developments
- ✓ Improving licensing terms or conditions
- ✓ Patent acquisitions
- ✓ Landscape the IP for new product opportunities
- ✓ Savings by abandonment of unused patents or trademarks
- ✓ Registration of copyrights

#### Examples of IP Threats:

- ✓ Latent patent infringement incidents
- ✓ Copying of key products by low cost competitors
- ✓ Key employee dependencies
- ✓ Troll threats
- ✓ Undocumented ownership
- ✓ Piracy of IP rights outside the US