Intellectual Property, Innovation and the World Wide Web

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Introduction

Companies that do not find ways to be innovative will not survive. How firms are coping with intellectual property (IP) rights, licensing, and a path to market are key elements to successful innovation. Today, innovation begins with creativity and technology. At the same time that our society and it's institutions are stifling creativity (Adobe, 2012), the rapid pace of technological change is forcing firms to choose between internal and external knowledge resources, thus blurring the line between sharing and theft . While internal innovation is becoming too costly and complicated, external resources are easily obtained and bountiful in supply. Today, people and firms can access intellectual property more efficiently and effectively than ever before.

More firms are leading the charge toward a pool of free resource sharing called open source (OS). It is a worldwide revolution stemming from a lack financial capital to take new products to market. Specifically, obstacles firms must overcome are expensive programming professionals, the rate of technological change, the lack of marketing knowledge, cost of licensing, patents and law suits. Firms with the financial and intellectual capital like IBM, Microsoft, Xerox, and Bell Labs, see this trend and are not only devouring resources for profit, but, in the case of Microsoft and ASP.NET, they are contributing back with a free web application frameworks to help OS programmers build new dynamic websites.

In the global environment of Intellectual sharing, how are innovators worldwide approaching all the unexpected twists of internal innovation versus external innovation that evade resolution? The definition of IP is becoming as diverse as the number of users that share online resources? It is a difficult problem and one we hope to further understand in this report titled, Intellectual Property, Innovation and the World Wide Web.

Intellectual Property Definition

Intellectual property was conceived to provide legal protection over intangible assets such as musical, literary, and artistic works, ideas, discoveries, and inventions, as well as words, phrases, symbols, and designs. IP can be protected by registering patents, trademarks, designs, and copyright with the relevant authorities. (Property, 2006)

Intellectual Property Crime

"IP crime involves: counterfeiting, and piracy of trademarked and copyrighted products and services. It defrauds consumers, causes billions of dollars in lost government revenues, foreign investments or business profits, and violates the rights of trademark, patent, and copyright owners." (Chesbrough, 2013) Currently, IP theft is not a crime and victims must sue to recover damages.

Protecting Your Intellectual Property Rights

Intellectual property rights can begin with subject matter, but most commonly require a lawful process of registration. There are different ways to license and register a new product, and they include the following:

- Patents: These are inventions that are new and industrially applicable.
- Trademarks: These include words, names, logos, product packaging, and shapes. Things that enable the consumer to distinguish one good from another.
- Industrial Designs: An industrial design consists of the creation of a shape, configuration or composition of pattern or color, or a combination of both. (Designs, 2006)

Registration: IP registration is done in a number of ways. The devil is in the details, but it almost always involves filing the correct papers, and paying a fee, in places like: (The Business of Patents, 2013)

- The U.S. Patent and Trademark Office
- Foreign patent and trademark offices

- State-level trademark office
- U.S. Copyright Office
- Domain name registrar
- Trade secrets - no filing requirements

The Registration Process

There are more than 200 countries, each with unique processes and fees of their own. The IP owner incurs all costs for the official fees, further amendments, and local professional representation during the process and challenges. Each of the 200-plus processes involves research and translation. The World Intellectual Property Organization (WIPO) facilitates a process where an applicant can apply for a Patent, Trademark, or Design in one step. Either way, the complete process can cost between 2 - 5 million dollars. Intellectual Property applicants can apply regionally or nationally, but without international protections, enforcement is nearly impossible unless challenged in the respective country's court.

With the rapid evolution of technology, the registration process is being severely criticized as too complicated, expensive, and draconian because new industry entrants can't afford licensing and the legal costs of representation that come with the risk of losing in court.

(Criticism, 2004)

Consequences of Failure to Register an Interest

Intellectual Property owners and applicants need to be aware that any challenge to a current patent must be addressed. If challenged, both parties are subject to legal costs and potential fines of any or all of the more than 200 international locations. In challenges of amendments, losers usually pay.

Strategic Value of a Registered Right

An intellectual property owner can consider successful registration a valuable advantage or liability.

Advantage: A certificate of registration is perceived evidence of ownership in a courtroom. This is particularly valuable in cases where losers of challenges are responsible for legal damages. Even if a patent is later held to be invalid, the fact that it is perceived valid can discourage competitors altogether (Chesbrough, 2013). The presumed ownership can last up to 20 years.

Liability: Although patents can last up to 20 years, most don't last more than 10 before they lose their commercial value. During that time, every patent in every country is subject to owner amendments and legal challenges. Every challenge must be defended by the owner. Professional representation in 200 different countries by thousands of patent attorneys could be a significant cost liability to its owner in addition to the 2 - 5 million dollar original cost of registration (Philips, 2013).

Open Innovation

Technology is rapidly changing the way businesses innovate. As fast as it is evolving, no longer can businesses accurately predict the length of time of their product positioning. How strong and how long an idea or a product will have a clear competitive advantage is an unpredictable risk. Even for large companies, in the division of research and development, it is becoming too expensive to innovate within.

At Western Oregon University, a Hewlett Packard (HP) guest speaker recently said that internal divisions are being externalized, and that Integration Management was the best field of study for Management and Information Systems (MIS) students. His example was Integration Management. He said, ”One person coordinating tasks between Indian programmers, and U.S. based HP Marketing divisions was more cost effective and efficient than the traditional "in-house" method. In addition to HP programmers, other examples in other industries that have been cannibalized by the evolution of open innovation are movie production and distribution companies (digitization and streaming),

traditional telecommunications (Cell phones and email) pharmaceuticals, and manufacturing.

Psychology of Theft

The following are the results of a survey taken from Adobe Company on The State of Creativity in Asia Pacific. The sample was taken from more than 5,000 adults, 1,000 in each country, in the U.S., U.K., Germany, France, and Japan. The research was designed to identify attitudes and beliefs about creativity and provide insights into the role of creativity in business, education, and society. What they learned was the following:

1. Unlocking creativity is seen as the key to economic and societal growth.

2. Despite this fact, less than half the people surveyed considered themselves creative.

3. There is near universal concern that our educational system is stifling creativity.

4. Globally, only 1 out of 4 people believe they're living up to their creative potential.

5. There is a "workplace creativity gap," i.e. people are feeling increasing pressure to be creative rather than productive at work.

6. Most people feel they spend only 25 percent of their time at work creating.

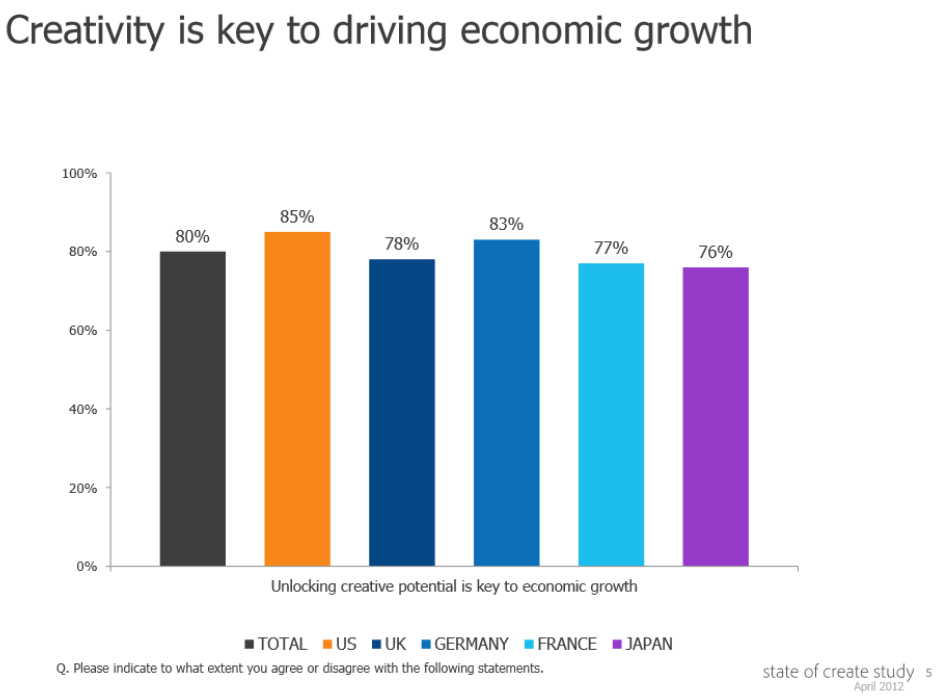
7. Globally, Japan is regarded as the most creative country (except by the Japanese).

8. But Americans express the strongest concern that they're not living up to their creative potential.

9. Yet—and despite the global preference for the Japanese—Americans still believe theirs is the most creative country.

(Adobe, 2012)

Graphic 1.1 Economy of Creativity



(Adobe, 2012)

This report's (Sloan) interpretation of the above Adobe results are that besides having a personal desire to be more creative, three out of four cases in the sample believed that to raise their incomes, they needed to be more creative. Logic and deductive reasoning suggests that if they couldn't create and it was profitable, a percentage of the sample might steal from those that were able to innovate.

Stealing IP is a substitute for creating your own effect. To steal a quote from Pablo Picasso, "Good artists borrow, great artists steal." The point is that plagiarism and

forgery are serious charges, but trying to copy the effect of someone else's work, without using their words, is the first step toward developing your own style. It is educational and healthy. Stealing words is plagiarism, stealing effect leads to a better version of yourself (Kotler, 2012).

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