

The Patent Jungle

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Recently, I was invited by a Belgian high-tech SME¹ to participate to a R&D² workshop. The goal was to produce a set of recommendations to help the international development of the company.

I quickly understood the strategic importance of the USA market and we started to focus on their US strategy. Then, we naturally came to discuss the protection of the Intellectual Property (IP). To my surprise, I discovered that this company already had filed a number of patents in the USA. I was impressed to see that they were already more mature than my own company, at the same stage of development.

I founded IRIS³ in 1987 and it took us much longer time before we decided to file our first patent. Initially, my view was simple: protect us by continued innovation. Our field was very specific (Artificial Intelligence), very few people in the world could compete with us, because the *“Reverse Engineering”* of our innovations was extremely complex. As engineer, I did not want to waste my money on patents and my priority was R&D.

But then, we had a hard landing in the USA. When IRIS became a bigger player in the USA, we started to be confronted to *“Patent Trolls”* (companies who own patents, do not do any development and make their money by suing the real entrepreneurs able to build real products). These tiring litigations started to cost IRIS significant money, every year. Then, we were dragged

into a major battle started by our biggest US competitor. And it was like being caught naked in the street. Our US competitor was using a complete portfolio of patents against us and our customers. It did not matter that their arguments were fallacious and that the patents used were poorly designed, it took me considerable efforts to get out of that mess.

Long story short, this experience radically changed my analysis and IRIS started a crash plan to get more than 20 patents granted in just a couple of years. A pragmatic decision to better protect our company!

Now, back to my R&D workshop: even if this company was already quite advanced, I have been able to help them to improve. There were some holes in the approach.

First of all, for a good IP protection strategy, it is always good to analyze the competition. Who are your competitors in each segment of activities? What is their patent portfolio? Are they likely to use it or not? Secondly, it is important to map your patents with your streams of revenue to assess if you are truly protecting your key assets.

The conclusion of our discussions was that the patents filed so far only related to part of the business (Actually, the most strategic part of it was not protected at all). One explanation: only part of the R&D had contributed to the

patent filing effort! Then, it appeared clearly that the company had little information about the IP strategy of the competitors. So, it was difficult to assess the specific risks for each product line.

These two observations will certainly help this excellent team to rapidly improve its plans. Is it worth the effort? Unfortunately, yes! If you cannot play the patent game by the US rules, it could be the end of your American dream!



When IRIS became a bigger player in the USA, we started to be confronted to “Patent Trolls”. These tiring litigations have cost us significant money!

¹ SME: Small and Medium Enterprise

² R&D: Research & Development

³ For the full story of IRIS, see *The IRIS Book* (www.iris-book.com)