

# Coming off the bench

Intellectual property benchmarking evaluates I.P operational costs and highlights a company's strengths and weaknesses, amongst other things. **Catherine White** explores the many benefits available from I.P benchmarking.

**H**ow do you keep up with your competitors? How do your intellectual property policies measure up to others? What do MIRA<sup>1</sup> and Nielsen<sup>2</sup> have in common?

Whilst these questions may seem random and appear to have no immediate link, the surprising answer is that they are joined by one common factor, IP benchmarking.

IP benchmarking is designed to:

- Evaluate IP operational costs eg, external expenses for law firms, agents and researchers;
- Evaluate operational practices eg, patent and trademark strategies, software tools, IP asset management and strategy development; and
- Evaluate the health of the IP programme eg, relative to peers and best practice.

Leading companies including Google, Pfizer and the Dow Chemical Company have established IP benchmarking projects to assess the capability of their IP programmes. In aggressive competitive markets, where intellectual property sits at the core of every business strategy decision (or should do), benchmarking has created an edge for these firms because it allows them to:

- Achieve continuous improvement;
- Determine best practice and create reforms and internal credibility; and
- Achieve results that lead to better organisational skills, improved IP usage, improved value creation and reduced costs.

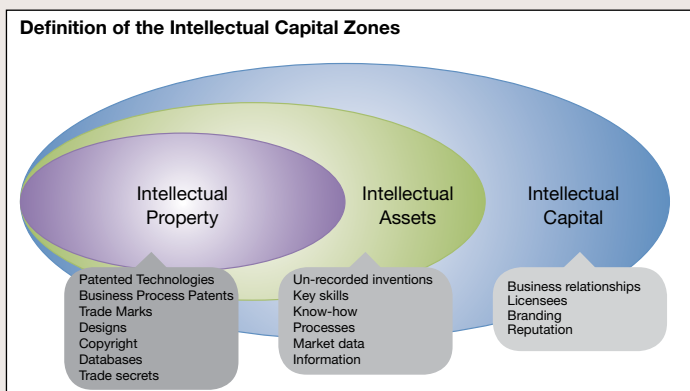
These reduced costs have proved highly valuable during the financial downturn; benchmarking consultants have witnessed a slight increase in IP benchmarking despite all the belt tightening, specifically in operational cost evaluations.

## Intellectual Property Benchmarking for beginners

Consultancy firms, such as ipPerformance, have long been aware of the benefits of IP benchmarking and have been striving to share this knowledge with businesses.

ipPerformance was drawn to this specific field after realising the technique was limited to few very sophisticated companies and the broad benchmarking that existed in the market was inadequate. As a result, ipPerformance formed the ipLeadership Exchange, which is a peer-to-peer annual meeting, with the aim of giving companies the tools to share best practice and learn from each other.

IP benchmarking within a company examines financial performance



## STEP-BY-STEP IP BENCHMARKING

With a consultant...

- Step 1 – Desk research and planning – this is a review of previously published literature and surveys on IP.
- Step 2 – Opinion leader sounding – the conduction of interviews and discussions with 10 opinion leaders: from business support organisations, institutes, journals and trade associations.
- Step 3 – Qualitative research – this is face-to-face interviews with 11 firms reflecting company activities and approaches to managing IP.
- Step 4 – Quantification – surveys and web-based self completion questionnaires.

Going it alone...

- Step 1 – Companies should assess their current situation in terms of revenue, profit, competitors and management.
- Step 2 – Review what scope there is for raising internal awareness of the subject and its importance.
- Step 3 – Adopt a more proactive stance with top-level commitment.
- Step 4 – Highlight areas of activity/intellectual asset which are likely to benefit from a more assertive and strategic approach.
- Step 5 – Engage your members and supporters in an active discussion on intellectual property. Business support organisations and service providers are keen to see the profile rise too, so there is plenty of scope for partnership approaches to be used.
- Step 6 – Move the company closer to 'best practice' to capture and exploit the firm's intellectual capital. The review may confirm if a company is simply on the right tracks. However, for many, a review is a chance to make a more assertive stance.

and intellectual property management. Benchmarking raises awareness of IP amongst staff, identifies and records disclosures to supporting inventors, protects innovation and commercialises intangible assets in each business.

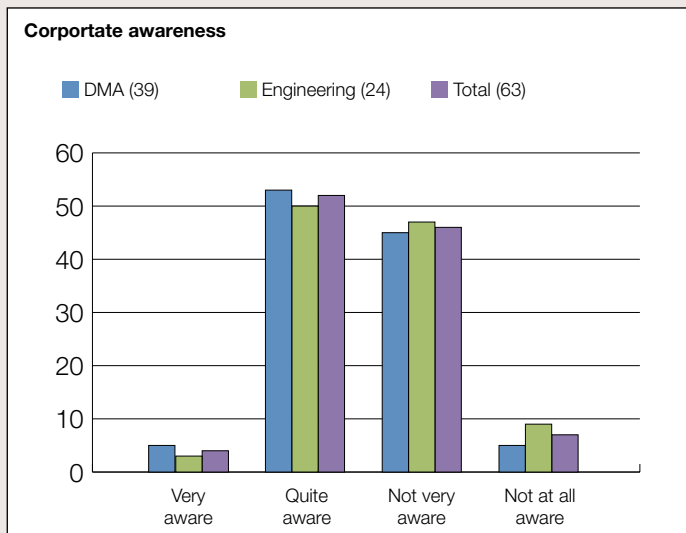
As with other forms of benchmarking, IP benchmarking focuses on how to identify strengths and weaknesses and ways to move forward and improve. It is used to see if a business is managing IP in an efficient manner and to see if they are actually getting maximum value from their portfolio and its management.

Extracting value from IP is increasingly important, building profit and the strategic strength of a company. One factor in maintaining this is examining a group's IP portfolio to create a better understanding of the technical, legal and business issues surrounding rights and identify hitherto undetected opportunities.

IP Portfolio benchmarking works by studying business objectives, patents and other forms of IP and competitors. The portfolio is then scrutinised to exploit its commercial value by reviewing:

- Difficult business data;
- Finances – reducing overheads and maintenance fees;
- Identifying new sources for licensing opportunities; and
- Organisation – creating better communication between board members and staff.

IP benchmarking also looks at administration within a firm – this includes recordkeeping for protecting and tracking relevant IP rights



and the maintenance and updating of records or innovations.

IP benchmarking is a valuable process for maximising success. Major players who dominate the market do so in part because of their expertise in managing, maximising and understanding IP value – by extension improving value for shareholders. They tend to have widely disseminated knowledge of their IP strategy, which itself is structured to capture much of the firm's intellectual capital. As a result, the IP strategy is supporting the business plan eg, locking out competitors and maintaining a market lead.

Through exercises including workshops and meetings, the business is guided to a better understanding of what protection is needed and how to handle risks from other industry competitors. The result is that accurate investment decisions can be taken with a better understanding of the business.

Todd Messal, patent counsel at Boston Scientific Corporation, is an advocate for strategic management and IP benchmarking, after working with ipPerformance. Messal said he found the *Strategic & Operational Management of IP Report* to be very helpful. "It is one of the most concrete and definitive reports of current IP practices and views that I have seen,"<sup>3</sup> he noted.

The report studies the role of IP strategy, technological development, IP operations, trade secrets, resources and licensing management. Audit exercises categorise and assess a portfolio and strategic metrics focus on performance control, a measurement system, IP portfolio and exploitation and the collection of data and recommended action.

The final reports produce qualitative information, metrics and valuable benchmarking which can be implemented by management. One company that benefited from such metrics is Praxair Technology: "With the mounting pressure on IP Leaders there is a pressing need to provide management with statistical information on the effectiveness of our departments. The comprehensive ipPerformance studies provide IP Leaders with the detailed metrics required to establish meaningful best practice baselines to better manage their departments,"<sup>4</sup> Sam Pace, chief IP counsel at Praxair Technology, explained.

Internal benchmarking is used mostly for IP asset management activities eg, looking at growth strategies, collaborations between IP creators and decision makers and automating workflow between employees and departments.

Cross industry benchmarking is of particular value. It plays a key role for a firm in helping to establish best practice and pave the way for positive changes. The objective is only fulfilled if the participant targets potential benchmark partners and groups both outside and inside the industry, who appear to have developed better practice in key areas associated with the business.

When a benchmarking exercise is set up, a target group and participant is identified (intra-company, cross-industry, industry and general.) A method is then determined to meet the company's particular

needs. ipPerformance offers a range of techniques, such as face-to-face full scale benchmarking (which is carried out in an informal meeting to exchange information), survey conducting - either broad or industry based - conferences which allow networking and discovery, and they also use telephone benchmarking. In addition, they use collaborative means to explore benchmarking in-depth and publish reports.

### Consultants and benchmarking case study

Coller IP Management comprises a multidisciplinary team of legal and business experts who have developed a range of IP services, allowing their clients to realise their full intellectual capital, whilst protecting it legally.

Coller IP described one client, who delivered key innovations to its customers worldwide as a result of their benchmark study, which added value to the business. As with any large company, the client was managing a large patent portfolio and was seeking to establish whether or not new commercialisation opportunities existed for its inventions.

The business was especially keen to understand which parts of its portfolio had wider applications. Coller IP commissioned a review of the firm's patent portfolio and assessed which technologies had unrealised potential licensing opportunities. Coller IP was able to identify the most promising inventions and identified several patent clusters that might lead to licensing opportunities. The report included company and market information, which enabled the client to better understand the markets they existed in and identify new licensing opportunities.

ipPerformance has been involved in best practice benchmarking since 2003 and is central to their business model.

Robert Williamson, from ipPerformance, has been involved with IP best practice benchmarking since 2001. When he was at Delphion (now Thomson) he initiated a couple best practice benchmarks. He formed a lead user group to study IP asset management best practice and investigate how leading companies in the various industries captured, managed and used their intellectual property. After observing variants, based on factors linking to company business model, culture and sophistication, he then designed a comprehensive survey that studied the IP life-cycle and partnered with Intellectual Property Owners Association (IPO) to study a wider population of companies

Since then, Williamson stated that he is "learning new and intriguing approaches," which are applied to methods, tools and techniques, that firms later use to achieve their business value results, eg, increasing profit margins and profitability, increasing income and establishing a sustainable competitive advantage.

Coller IP looks at ways to develop benchmarking within a business and then implements an IP strategy plan. The study builds up a picture of best practice within the firm, and then cross-checks this with previously published surveys/literature.

Through this study, common themes are normally exposed, which are then analysed and evaluated under four broad headings of: Knowledge, Strategy, Processes and Resources. Coller IP then monitor these categories by indentifying activities and signals that indicate how far a company has progressed towards achieving best practice.

The benchmarks used by Coller IP are varied and have been tested in a wide range of businesses such as engineering and motorsports.

Each year, the UK Motorsport and High Performance Engineering industry undertakes development programmes to produce leading edge technologies, yet little is protected for wider commercialisation. Coller IP undertook a programme of work that was designed for small to medium businesses within the UK Motorsports sector to improve the capture and commercialisation of IP. The scheme was grant-funded by Motorsport Development UK. The work carried out included:

- Organisation and delivery of five training workshops;
- IP Audits of twenty seven companies and the subsequent development of IP action plans;

- Benchmarking of each company's approach to IP Management; and
- Development of training material on intellectual capital and its value in underpinning commercialisation.

The results showed that the programme made a difference to the participants. For example, 11 companies noted 'significant change' and 3 noticed a 'major difference'.

Coller IP looks at a company's approach to IP – how they capture IP resources and the company's understanding of IP matters. They then make an informed judgement on the company eg, if they need improvement. A decision is then made on how the company manages its overall IP.

For consulting firms like Coller IP, implementing benchmarking is relatively straightforward. A simple benchmarking exercise will only take a couple of days, but if the exercise in question is valuation, then this can take longer, however, the overall time span depends on the condition of the firm involved.

The challenges faced by consulting agencies are wide and varied. Coller IP for example estimates the complexity of the project by the relative size of the company involved; the larger the firm, the more complex and challenging the project, despite the greater grasp of IP niceties.

According to Williamson, mistakes are easily made. Common mistakes include not understanding the context of the benchmark data, not developing a targeted action plan to achieve the desired results, not budgeting the time or having the resources to analyse and apply the benchmark insights, and finally, approaching benchmarking as if it were a competitive intelligence activity.

Coller IP has also come across errors. Awareness and recognising IP importance within companies is often surprisingly low, even in patent – rich industries. For example, when asked in an IP survey, over 40% of companies in the engineering and the defence/aerospace sectors said their company was either not very, or not at all aware of the issues surrounding the commercialisation and protection of IP. In addition, the confidence and skill to exploit it was also low. Lack of leadership and rating other priorities more highly was also a frequent obstacle.

One way to begin addressing this problem is to produce an exercise which creates an understanding of what is valuable to the client's company and then reform the portfolio to move forward.

MIRA was one of these clients. MIRA is an engineering design, development and information service and also operates a world leading automotive testing facility. They approached Coller IP to help identify ways it could capture and protect the value in the innovative solutions being developed by its researchers.

Coller IP developed an intellectual capital commercialisation and management process that allows its clients to understand the value of intellectual capital and to assess and track the commercial potential of their products and services at different stages of development. Decisions on how and whether to protect the underlying intellectual capital were also addressed.

The exercise was a group workshop to benchmark the level of understanding of IC commercialisation, to identify key opportunities for development and to provide initial training. The workshop was able to highlight actions on marketing strategy and identified where developments and ideas were not protected in commercial deals.

MIRA now has a management reference tool and a basis for building a business future around a differentiated and focused range of products and services.

The ultimate aim of IP benchmarking is for the business to acknowledge its IP strengths and weaknesses at board level and take action. Benchmarking means that a client can understand where IP value lies and highlight and protect their strong points whilst taking steps to recognise the gaps in marketing, eg, operational procedures, policies and gaps in the company's IP portfolio.

A scorecard report is another benefit of IP benchmarking. The scorecard presents an assessment of the company's current practices

versus best practice. For background, consultant firms develop and prepare articles that discuss how they can link the company's IP competencies to financial benefits.

There are many benefits to IP benchmarking and the negatives are minor. In the benchmarking world, publicity can be an enemy. According to Jackie Maguire, from Coller IP, benchmarking is not "negative overall" but some companies are hesitant to enlist the help of consultants because they fear bad press will result if they fall short of industry standards. However, a confidentiality agreement can easily guarantee that their position is not made public by the consultancy.

Another concern over IP benchmarking is that it can be time consuming and a firm needs to put extensive effort into the exercise to see the fruits of their labour. It is also crucial that the business carries on benchmarking continuously to see maximum benefit.

However, Gene Potkay, senior vice president, Intellectual Property at The Nielsen Company, commented that IP benchmarking is fundamentally worthwhile: "Nielsen has committed itself to extend its base of Intellectual Property and leverages ipPerformance's comprehensive benchmarking data and insights on IP Management trends and best practices stacked up against our operations dashboard to gauge our evolving organisation, policies and practices,"<sup>5</sup> he noted.

### Analysis

Despite these criticisms, IP benchmarking is on the increase due to growing pressure within IP departments and the fact that IP is increasingly central to business strategy and decision making, more companies are looking to cut costs, so they benchmark to measure these expenses and seek best practice to improve an IP programme.

A benchmarking exercise can identify the status of the firm's IP competencies eg, scorecard, relative to peer businesses, they can learn from experienced companies – specific or best practice, a business can locate operational cost savings or provide change, and lastly, increase patent procurement efficiencies.

The results of IP benchmarking mean that clients gain a unique insight into the running of their own company and they can reorganise their IP operational expenses, including: third party services (law firm, foreign agents) to procure IP; maintaining IP portfolio (local annuities); developing staff IP department; using third parties to investigate patent landscape and competitive intelligence; and using law firms/attorneys to provide external opinions.

The chance to move forward is liberating for the business involved, as it allows them to get maximum value out of IP. For that reason alone it is incredibly important and as Maguire, stated, the exercise "can be enlightening."

### Footnotes

1. Coller ipmanagement
2. ipperformance
3. Robert Williamson, ipperformance
4. Robert Williamson, ipperformance
5. Robert Williamson, ipperformance

### Author



Catherine White is a sub-editor and staff reporter for Intellectual Property Magazine. She previously worked as a writer and editor for Only Group.