



Protecting Your Profits

Google's decision to enter the navigation market by announcing the launch of turn-by-turn satellite navigation software at the end of October must have come as a shock to many in the industry. The potential impact on this market is huge as the software will be supplied for free.

This illustrates the danger of the leviathan corporation to all but the very largest concerns. They have the clout and resources to enter a market with their own business model that blows the smaller guys out of the water. The impact upon your sales, revenue and ultimately jobs is clear.

Here we look at why patent protection is not just preferable in many technical fields, but essential to protect your company from the threat posed by very large corporations, as well as to provide you with options for business development and growth.

To hear a patent attorney suggest that patent protection is not necessary and possibly a hindrance to a free market is, as the old saying goes, like turkeys voting for Christmas.

Certainly this turkey will not be voting for Christmas, but I will say that, in some instances, there are better alternatives such as trade secrets and self-publication to protect yourself, but these mechanisms are reserved for special circumstances.

However, in general the risk to which a company is exposed as a result of being unprotected far outweighs the benefits of any cost saving gained from not going to the expense of applying for patents, an argument that is often put forward. The case

for patents is justified by the above example of Google entering the turn-by-turn navigation market.

No doubt the big players in the navigation business will be watching Google very carefully, but also eyeing their patent portfolio in order to see if they have some patents that can be asserted should the going get tougher as a result of Google's activities.



If you don't believe me, just take a look at Nokia's recent patent lawsuits filed against

Apple who, no doubt, were and still are eating into Nokia's market share with their iPhone.



If I were a manufacturer of satellite navigation equipment or producer of navigation software, I would be hoping that there is something in my patent portfolio that could be used to stop Google in their tracks. Without the patents, there is very little you can do other than compete on price, quality and/or slick marketing.

Taking these in turn, it is not exactly easy to compete on price when the competition is giving the goods away for free. In many areas of technology, it is difficult for buyers to differentiate on quality, especially software. Indeed, the difference in quality between a product, such as a healthcare product, sold by a new market entrant and your product may initially not be obvious.

And, I would certainly not want to stake my future on slick marketing unless I had a world-class brand or fantastic reputation, and/or my product was one of those few must-have products. For both, a very large

marketing budget is necessary to maintain the brand.

The ability to defend your market share is therefore essential, but only one example of where patents are of use to a company.

Typically, you are developing technology products with a view to making money. A patent is a document that gives you a monopoly on an invention that is used in a product. You may however not want to manufacture. With a patent though, not only can you exclude others (as suggested above), but you have something that you can license if you choose. If you don't protect your invention with a patent, you may be in the realms of licensing know-how and that is only of value while it remains confidential.



A patent can be ascribed a value and this can be of particular use when you are trying to find capital or a business partner. Indeed, some investors look for a strong patent position to offset the risk that they are taking by investing in a technology, particularly when the company developing it has not yet gone to market.

Obviously, from a business perspective, there are other reasons that you may want to have a patent. If you ever decide to sell the business or a business unit, the fact that you have patents covering at least key technology is attractive to potential buyers

who view the existence of the patent as providing a degree of protection to the business being purchased.

Taking all of this into account, the use of patents to protect your market and your business is essential for many technical areas. Also, the financial benefits that patents bring to the table are worth bearing in mind when deciding whether or not to apply for patent protection in relation to a piece of technology.

If you would like to find out more about what can be done to protect your future profits using Patent Law in the UK and overseas, Ross Kay can be reached at ross.kay@laudens.com or on 0207 830 9619.

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