

Insurance Industry: Poised to Generate Significant Value from Patenting

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We predict that, in the near future, many insurance companies will be taken completely by surprise when one innovative leader captures large expanses of Intellectual Property (IP) space in the insurance industry. Currently, the majority of large insurance companies are at the early stages of patent processing, which includes capture, strategy, documentation, and leveraging of patents in their business. These companies appear to own fewer than 10 patents each. Liberty Mutual seems to be the only large insurance company that has developed a regular practice of patenting; it has 33 openly issued patents and applications. Relative to other industries, this is a conservative effort.

It also looks as though the majority of patenting in the insurance industry is being done by small companies and individuals, which is particularly dangerous to large companies that will be unable to protect their IP. Because these small inventors would probably not have the means to service a patented business model, it can be assumed that their intention is to generate revenue by selling or licensing those patents to large insurance companies or by providing services to those companies. It can be safe to say that, in today's environment, investors may be looking to support plausible litigations. Therefore, if insurance companies don't take action today, they may find that they need to purchase expensive licenses in the near future, in order to continue to grow and improve their business.

Today's Situation

In the past decade, there has been a shift in focus within the insurance industry regarding IP. Historically, insurance companies' IP was limited to trademarks and copyrights. This is no longer the case, as patenting activity within this industry has flourished since the 1998 State

Street Bank decision that upholds the validity of business methods patents. In the five years following the 1998 decision, 408 insurance-related business model patents were applied for, compared with only 121 applications in the previous 10 years. The decision encouraged the industry to realize that much of its output is patentable and that significant opportunities and threats may result as IP is introduced into the marketplace.

Primarily, insurance business model patents fall into two categories: *new types of policies* and *new types of processing policies*. *New types of policies* mediate risks brought about by new concerns such as security, innovative technologies (such as nanotechnology, biotech, new medical devices, and new industries, including DNA applied to food science), and ever-changing business environments, such as Internet identify theft coverage. *New ways of processing policies* involve claims administration, enrollment, underwriting algorithms, and customer interfaces. In either case, business model patents will stop competitors from implementing efficiencies or improvements and will provide the opportunity to license the patents and generate income in traditional cost centers, such as operations, IT, and customer service.

Insurance Companies Need to Learn How to Use Patents Effectively

Insurance companies that are aware of IP wrestle with two questions related to patenting: 1) What should we patent? and 2) What do we do with our patents? Regarding the first question, it is important for companies to use IP to support their business strategy. Therefore, they should first look at their strategy, determine which products and services they are developing to implement their strategy, identify the competitive advantages they have to support their strategy, and look to see whether their patents can be used to support and protect these products, services, or competitive advantages.

The second question is a matter of business and competitive strategy. Best-in-class companies understand that an IP strategy links IP activities with business strategy, to ensure alignment and effective use of IP. These companies use IP to prevent others from copying products, sending a signal to competitors or to the industry, expanding brand, gaining leverage in a contract negotiation, and generating licensing revenue.

Licensing of Patents in the Insurance Industry is Expected to Increase in the Future

It is likely that the primary value derived from patents in the insurance industry will be realized by licensing the patent, rather than by excluding others from practicing the invention. As there is a tradition of copying new policies and practices in the insurance industry, and as the industry is relatively new to IP protection, companies that are excluded from using an invention protected by a patent and are not given the option to use it legally through a license may violate the patent and gamble that the patent holder will not litigate.

If a company is interested in licensing, it may license to direct competitors. The benefit to the owner is market growth and additional revenue generated from the invention. Licensees may include companies in the industry that are not direct competitors or companies outside the industry, where generating revenue is the business driver. For example, insurance company patents that assess risk of health measurement devices, roof inspection devices, and automobile testing devices would benefit those outside the insurance industry.

Beyond deriving additional revenue from licensing, companies may use licensing as a way to influence the industry to move in a desired direction. For example, a national company licensed a software package to its partners in the industry, with the hope of raising industry standards and deriving additional revenue to offset the costs of package development.

Insurance Companies Should Follow a Strategic Process, to Learn How to Create Value Through Patenting Activities

Without proper education, leadership, and direction, an insurance company can spend a significant amount of money on patenting and reap little value from it. The development of an effective Intellectual Asset Management (IAM) practice within a large insurance company needs to begin with leadership. The company's senior executives should publicly support and demonstrate commitment to the development of an IAM practice. This will motivate employees to devote time and other resources to the practice development. Buy-in should be developed from all levels of the company, by educating employees on the importance and the value of developing a strategic IAM practice. Finally, the company needs to develop a leadership team that has the requisite skills to implement and determine the direction of a successful IAM practice. It is likely that this group will start out as an external team and have support from outside legal and IP strategy advisors. Eventually, the team will become part of the organization, once patenting and licensing activity reach a level that can justify the cost of developing an internal team.

The companies that expedite this process and are successful in developing a repeatable IAM practice will reap the rewards, through licensing revenues and associated benefits of leading a transformation that results in a more effective and efficient industry.

IP, while not prominent in the insurance industry up to this point, will be a key factor in developing and sustaining competitive advantage in the future. Therefore, insurance companies not only need to be aware of what their competitors are doing regarding IP, but also need to start protecting their current and future direction proactively, through the use of IP. This will pay off, not only in maintaining the status quo, but in allowing these companies to protect new innovations and obtain additional revenue through licensing.