

Intellectual Property

Developing new revenue streams through strategic management of IP assets



AudioFAX IP is a money-making Atlanta technology company born shortly before the infamous tech bubble started inflating. But don't go looking for its offices. It doesn't have any. It doesn't make anything. It has no employees, per se.

AudioFAX IP simply lives off its IP, or intellectual property. The AudioFAX operating company was sold in the late 1990s. Today, AudioFAX IP isn't a traditional company at all, but a confederation of attorneys, licensing specialists and Mark Bloomfield, holder of a series of patents covering technologies used in advanced faxing devices.

AudioFAX IP makes a living by licensing the use of its patents, which range from eight to 12 years old, to other companies. "We're busier than we've ever been," says Bill Ragland, an attorney at the Atlanta law firm Powell, Goldstein, Frazer & Murphy who works with AudioFAX IP.

The company did a deal in early January and two last year. And AudioFAX's "customer list" is studded with blue-chip names such as Cisco Systems, AT&T, Sprint, Cable &

Wireless, 3Com, Mitel, Captaris and FaxNet Corp. (now part of Critical Path.)

This isn't a bad living. You invent something once and can license it to many paying customers. Thus, adding customers doesn't cost much besides legal fees and other expenses from finding and striking deals with licensees.

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The crux of AudioFAX IP's operation is its approach. Starting in 1997, it took a friendlier, and more lucrative, tack to the traditional means of protecting intellectual property — basically tracking down other

companies using it without permission, threatening and then suing them.

As a company formed solely to pursue patent licensing deals, AudioFAX IP is still rare. But increasingly, companies large and small are taking a more strategic approach to managing and extracting value from their IP — patents, trademarks, trade secrets, copyrights and the look and feel of a brand.

"In essence, patents and other forms of intellectual property have become products unto themselves," the global accounting and consulting firm KPMG said in a report on intellectual property. KPMG and other IP pros say that companies that want to wring maximum revenue from their IP portfolios need to take a systematic, strategic approach to doing so.

This sort of thing's been routine at a few invention factories like IBM and Xerox, and a handful of elite universities like MIT and Stanford, for decades. But much of the rest of the world is far behind.

More companies than not, KPMG found in a 2002 survey of big media concerns,

still approach their IP the traditional way. They mainly try to guard copyrights, patents and other secrets from competitors, and measure R&D effectiveness with a simple tally of how many patents the company gets each year.

In many companies, there is no internal organization charged specifically with finding, assessing and making money from internal intellectual property, KPMG, IP lawyers and experts say.

That's a pity for their shareholders. These intangible "products" have become

more and more lucrative. Patent licensing deals generated about \$116 billion in 1998, the latest annual statistics available, up from \$18 billion in 1990 and \$8 billion in 1980, according to KPMG.

What's more, intangible assets, the largest parts of which are intellectual property and goodwill, have become increasingly important to investors. Today, intangible assets account for about 65 percent of the combined market value of the Standard & Poors 500, which is down from 73 percent in 1998 but way up from 46 percent in 1988

and a mere 20 percent in 1978, according to the Brookings Institute.

As interest in mining the profit potential in IP has grown, a Chicago-based investment bank, Duff & Phelps, has launched a \$1 billion fund designed to buy batches of patents and trademarks from large companies, then share revenue from future licensing agreements with the large companies.

Locally, BellSouth launched a concerted IP business in 1998. The telecom giant generates "tens of millions of dollars each year" from licensing arrangements, explains Scott Frank, president of BellSouth Intellectual Property Management and Marketing Corporations. He says BellSouth IP's revenues have increased every year, but he won't get more specific.

"Really, our No. 1 goal is to make intellectual property a part of BellSouth's culture," Frank says. "We think we've made tremendous strides. At the same time, as a company of 80,000 employees, it's a culture that did not grow up around intellectual property. So we're constantly trying to reinforce that message."

They do that with regular e-mails, and a system allowing any BellSouth employee in the company's nine-state territory to send a

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preliminary patent application to the IP company via the BellSouth intranet.

The work's starting to pay off. Frank says BellSouth IP secured 64 patents in 2002, up from 30 the year before. More importantly, Frank's 30-plus-person group has crafted "many dozens" of license agreements in its four years of work. Most are with other big phone companies and involve things like billing software that allows telecom companies to give big commercial customers bills that can be sliced and diced in great detail. These agreements have produced "many millions" of high-margin dollars for BellSouth, Frank says.

The billing software is the type of technology BellSouth uses in its main business. But experts say another reason to strategically manage an IP portfolio is to find uses for existing technology outside your line of work. For example, BellSouth recently licensed a trademarked technology to a home security company that now sells BellSouth security systems from Protection One.

That deal, Frank explains, put BellSouth in the home security business with minimal investment and trouble: Each time Protection

During the days of "drive-by" due diligence, an entrepreneur with a patented technology or copyrighted software could pretty much sell investors on anything he claimed the patent or copyright covered.

One sells a system and collects a monthly bill, BellSouth gets a royalty payment.

IP Fire Sale?

A single piece of IP is often the cornerstone of technology startups. But like many other things in the aftermath of the tech bust, intellectual property is subject to far more investor scrutiny than in the late '90s and 2000.

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that analyzes the economic value of intellectual property.

In many cases, he said, investors have found that IP they bought into is not as valuable as they first thought, that the protections afforded by particular patents or copyrights are less extensive than advertised. "The VCs nowadays," McLaughlin says, "are intimately familiar with the true value of IP versus the perceived or purported value."

The tech bust also has left a lot of intellectual property amid the rubble of defunct companies. This abundance has to some degree depressed the value of intellectual property. "I wouldn't say there's a flood on the market," McLaughlin concludes, "but patents are available at cheap valuations." **By B**



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