

Integrated Intellectual Asset Management

A Guide to Exploiting and
Protecting your Organization's
Intellectual Assets

Steve Manton



A **Gower** Book

Integrated Intellectual Asset Management



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Organization's Intellectual Assets

STEVE MANTON

First published 2006 by Gower Publishing

Published 2016 by Routledge

2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

711 Third Avenue, New York, NY 10017, USA

Routledge is an imprint of the Taylor & Francis Group, an informa business

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British Library Cataloguing in Publication Data

Manton, Steve

Integrated intellectual asset management: a guide to
exploiting and protecting your organization's intellectual
assets

I. Knowledge management

I. Title

658.4'038

ISBN 9780566087219 (hbk)

Library of Congress Cataloging-in-Publication Data

Manton, Steve.

Integrated intellectual asset management: a guide to exploiting and protecting your
organization's intellectual assets / by Steve Manton.

p. cm.

ISBN 0-566-08721-9

1. Intellectual capital--Management. I. Title.

HD53.M36 2005

658.4'038--dc22

2005024898

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FOREWORD

This book is not short on ambition; it seeks to unify the management of knowledge and intellectual property, by providing a framework that will enable organizations to integrate the management of all intellectual assets into their existing business processes and practices.

The methods and tools underpinning this integrated approach to intellectual asset management (IAM) evolved over a number of years. However, the basic concepts can be illustrated using a case study, in which an intellectual asset plan was prepared to assist in the development of a large waste treatment plant. At the time of this review the plant's outline design had been completed and detailed engineering drawings were in preparation.

The generation of an intellectual asset plan follows a fairly standard process, involving one, or more, workshops convened to:

- identify the project, service or product's key intellectual assets (for example: know-how, data, software, and so on);
- identify those intellectual assets regarded as commercially sensitive, and the actions necessary to prevent unauthorized third party use (for example: patenting, secrecy, and so on);
- identify any threats to business-critical intellectual assets (for example: loss of key staff, blocking third party patents, and so on) and any actions necessary to quantify or mitigate risks;
- identify any actions that should be taken to exchange knowledge within, or outside, of the organization.

During the course of this review it became clear that:

- While many features of the design were potentially patentable, and a business case existed for the associated expenditure, such protection had not been sought. Further, because the project was perceived as innovative and ground-breaking by senior management it had been used as a show-case, with a number of potential customers given detailed information on these inventions.
- Many of these design features clearly had application across the organization. However, although well developed, these had not been shared with other internal projects – even though an organization-wide database had been established for sharing reports, and further a capability manual existed intended to capture and disseminate designs of this type.
- In general the project's most valuable "asset" was judged to be the close working relationship established with its customer, with this relationship likely to be critical in winning follow-up work. Unfortunately, a range of sub-contractors had been used on the project, and these had not only been given access to all aspects of the design, but they had also been allowed to develop their own contacts with the customer. It was clear that the project had not been given any guidance on which capabilities the organization as a whole regarded as commercially sensitive, and hence where contractors should, and should not, be used.
- The business process used to approve and manage the project had demanded that the project submit an intellectual property plan – but neither the project manager, nor those sanctioning the project, knew what such a document should contain; further, neither held any formal accountability to ensure a fit-for-purpose plan was developed and followed.

Ultimately, the blame for these mistakes mainly lay outside of the project:

- No strategic guidance had been provided to help the project identify those intellectual assets it could share, and those it needed to protect.
- The organization's system of accountabilities did not define responsibilities for the management of its intellectual assets.
- Training was inadequate and neither the project manager, nor those sanctioning the project, knew enough about intellectual assets to identify challenges and key actions.
- The organization's knowledge management systems were clumsy and inefficient, with their use neither encouraged nor incentivized.

- The poor quality of the organization's intellectual asset management was invisible to senior management and the Board.

In conclusion, intellectual asset management was not properly addressed within the organization's existing policy, strategy, accountabilities and management processes. However, outside of the intellectual asset arena its management framework was sound; a clear accountability framework existed, systems were in place to check the robustness of the project's business plans, the quality of the services provided to customers was routinely monitored, the technical competency of staff was checked, and so on. All these systems could, and should, have been extended to address intellectual assets, but for some reason these critical assets were being ignored.

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INTRODUCTION

Whether you define documents, designs, know-how, software, data, patents and trademarks as intellectual property (IP) or more accurately as intellectual assets (IAs) the commercial success of most organizations will depend on their exploitation and protection. These assets may be called upon to fill a variety of roles including: reducing competitive pressures, helping to control the supply chain, generating license income and improving productivity.

It is therefore clear that both the quality, and commercial success, of an organization's products and services will depend on how well these underpinning intellectual assets are being managed. Despite this dependency most organizations seek to manage their intellectual assets using a range of stand-alone business processes that are, to a lesser or greater extent, divorced from the processes they use to manage their products and services.

Organizations using these “bolt on” business processes cannot hope to align their intellectual asset portfolio to business strategy. In practice, an organization can only succeed in developing, protecting and exploiting its intellectual assets when their management is fully integrated into existing business processes and culture. Similarly, if the responsibilities for managing the different forms of intellectual asset are fragmented then an organization will inevitably fail to take full advantage of its intellectual asset portfolio. A fully integrated approach to intellectual asset management (IAM) is required, focusing on the six areas shown in Figure 1.1 and discussed overleaf.



Figure 1.1 The six facets of integrated intellectual asset management

DECISION MAKING

Existing decision-making bodies and systems (such as project approval and bid-no-bid tools) should receive information on, and take due account of, both the sufficiency of the available intellectual assets and the quality of their management. The submission of this information, in the form of an intellectual asset plan, should be mandated in exactly the same way as is the case with financial data. If the preparation of fit-for-purpose intellectual asset plans is not the accepted norm within an organization, then decision-making systems may need formalised inputs; whereby strong guidance is given on the information any submission should contain. Further, the organization's system of accountabilities should define responsibilities for preparing, challenging and implementing these plans.

STRATEGY

A top-level intellectual asset strategy should define the role of intellectual assets in the organization and, in so doing, both assist in their management and guide decision making. Such an intellectual asset strategy should therefore address issues such as:

- how intellectual assets underpinning the organization's key differentiating and enabling capabilities are to be managed;
- whether the organization will seek to generate revenue from its intellectual assets via licensing, and if so, how opportunities are to be realized;
- how the organization will use trademarks to protect, develop and exploit its brand.

POLICY AND ACCOUNTABILITIES

Whereas strategy provides guidance to help decision makers, policy can be thought of as providing constraints by defining actions that are either mandated (such as respecting third party intellectual property rights) or prohibited. In addition to listing such actions in an intellectual asset strategy, it may also be appropriate to identify those accountable for ensuring the organization's compliance. However, in developing an intellectual asset policy, care must be taken to strike the right balance between management freedom and mandated policy.

PEOPLE AND BEHAVIOUR

Intellectual asset management should concern and involve almost everyone in an organization. Unfortunately, in most organizations, intellectual asset management is perceived as a task that can, and should, be delegated to a stand-alone function. Changing this perception, and creating an educated workforce, is often the rate determining factor when seeking to improve intellectual asset management. Any drive to improve awareness must not only have visible top-management support, but also be supported by a mixture of initiatives including: training programmes, highlighted examples of good practice, and the inclusion of intellectual asset skills within both job descriptions and the organization's competency framework.

TARGETS AND CHALLENGE

To help strengthen intellectual asset management senior management, or the corporate body, should routinely challenge both how effectively intellectual assets are being managed by the operational businesses, and the health of the intellectual asset portfolio. This should involve the use of both key performance indicators (KPIs), and metrics capable of showing the

health of the intellectual asset portfolio, so that targets can be set and trends monitored.

MANAGEMENT PROCESSES

In addition to those described above organizations will use a vast range of detailed processes designed to manage their knowledge, information, patents, trademarks, and so on. These range from processes designed to ensure know-how is shared, to the way in which the costs associated with filing patents and trademarks are recovered. It is clear that these detailed processes must operate seamlessly with, and provide support to, the other facets of intellectual asset management as described here.

BACKGROUND

DEFINITIONS

The term **intellectual property** (IP) is used to describe a range of intellectual assets including documentation, drawings, databases, software, procedures, patents and trademarks.

Intellectual property rights (IPRs) are rights, granted by the State, restricting unauthorized use of intellectual property. Some IPRs are granted automatically; whilst some must be won, and maintained, by an often expensive legal process. These are described more fully in Appendix 1.

The term **intellectual asset** (IA) is used to describe the sum of an organization's IP and IPRs, together with intangible assets such as know-how and reputation.

An organization's **intellectual asset strategy** should articulate the role of intellectual assets in the business and in so doing give clear guidance to assist decision making.

An organization's **intellectual asset policy** should clearly define those actions that are either mandated or prohibited.

An organization's projects, products and services should have fit-for-purpose **intellectual asset plans** identifying the actions that must be undertaken to manage the intellectual assets they will either generate or access. While addressing the interests of the project, product or service it supports, an intellectual asset plan must also comply with the organization's intellectual asset strategy and policy as described above.

THE GOALS OF INTELLECTUAL ASSET MANAGEMENT

PricewaterhouseCoopers have described **intellectual asset management (IAM)** as an ongoing, structured management process that enables businesses to take full advantage of their patents, trademarks, copyrights, trade secrets and proprietary know-how to create opportunities that will ultimately increase shareholder value and improve competitive position.¹ As such, integrated intellectual asset management (IAM) should seek to:

- minimize third party access to, and freedom to exploit, key intellectual assets;
- ensure ongoing access to, and freedom to exploit, key intellectual assets;
- raise the visibility of, and ensure full exploitation of, key intellectual assets.

Each of these objectives can be broken down into a number of tasks as described below.

Minimizing third party access to, and freedom to exploit, key intellectual assets

This involves:

- developing internal systems to maintain the confidentiality of trade secrets and proprietary information;
- winning intellectual property rights, such as those afforded by patents and trademarks;
- monitoring commercial activities of third parties to ensure they are respecting your intellectual property rights.

Ensuring ongoing access to, and freedom to exploit, key intellectual assets

This involves:

- ensuring externally and internally sourced intellectual assets will continue to be available as required;

¹ D.A. Spieler, PricewaterhouseCoopers, *Intellectual Asset Management Practice*, Boston.