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" Today's Asset, Tomorrow's Value "



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SEASONS GREETINGS AND HAPPY NEW YEAR 2014!

As we enter a new year, we wish all our friends and valued business partners a happy and prosperous 2014!

2013 had been an exciting year and challenging year for the intellectual property agenda all over the world and was no less the same for us at PINTAS-IP Group. We are proud to announce that one of our main achievements was that PINTAS—IP GROUP was recently presented with the Best IP Agent Award 2012 for the Industrial Design category.





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IP VALUATION

Malaysian Intellectual Property Office (MYIPO) Launches The Malaysian Intellectual Property (IP) Valuation Model in Nov 2013.

At the recent Global Intellectual Property Valuation Conference (GIPVC) from 6 to 7 November 2013 in Kuala Lumpur organized by MYIPO, Minister of Domestic Trade, Cooperatives and Consumerism, YB Dato' Hasan Malek has launched the Malaysian IP Valuation Model ("MIPVM"). The key objectives of MIPVM are to provide lenders in the financial sectors in Malaysia with a valuation methodology for IP assets intended for use in IP secured financing arrangements.

There are a number of methodologies generally used to value intellectual property assets including cost approach, market approach and income approach. In this regard, the one selected for MIPVM is the income approach, specifically the valuation on a relief from royalty (RFR) basis. Other methodologies may be used as cross checks to provide a reliable estimate of the fair value of the IP assets.

MIPVM will follow the standards set by the International Financial Reporting Standards (IFRS), International Valuation Standard (IVS) and International Organization for Standardization (ISO). MIPVM is intended to be a continuously evolving model, which will be reviewed and evaluated progressively, so that it can adapt to each unique situation and type of IP assets.

The launch of the IP Valuation model marks an important milestone in Malaysia for moving the monetization of Intellectual Property Rights to the next level.

IP MONETIZATION

Intellectual Property (IP) has long been acknowledged as an asset of any enterprise but how often has that asset been put to full use in terms of monetizing it? As a form of proprietary technology, IP is worth protecting and safeguarding, the same as any other valuable corporate asset. But protection on one's IP isn't enough, it is also important to profit from that patent, making it generate income as any physical asset one may possess

Operating companies can monetize their IPs by exploiting them via

IP MONETIZATION (continued)

licensing to other entities that may require the use of the technology in their businesses. A company with a sizable patent portfolio can generate large amount of revenue from this method even without actually making use of the patent itself. Companies that hold patents but do not actually produce anything with it are called non-practicing entities (NPEs). Though NPEs have recently come to be viewed in a bad light due to unscrupulous business enterprises that have target all and sundry with lawsuits for infringements, it is still a valid method of monetizing one's intellectual property.

Other methods of monetization include enforcement action against infringers of their IPs, either taking it through the courts or settlements. Some companies, notably practicing entities, find that as changes in their business initiative occurs, its IP becomes less valuable but potentially valuable to others. Thus it may be more profitable and practical for these companies to sell off those patents that no longer directed to their core-technology area. Doing so may generate income to further develop other business areas and possibly reduce operational cost in maintaining the patents itself.



It thus makes it apparent that with the different methods of monetizing one's IP available, it is for the individuals, the inventors and entrepreneurs; the researchers and developers to ensure their ideas, their creativity and innovations are suitably protected in the first place so that they may then monetize on their intellectual property. Ensuring a return on their intellectual investments.

ASPEC PROGRAMME

The first regional patent co-operation programme, the ASEAN Patent Co-Operation otherwise known as ASPEC, was launched in 2009 with the initial membership of Cambodia, Indonesia, LAO PDR, Malaysia, the Philippines, Singapore, Thailand and Vietnam. In 2012, Brunei Darussalam joined the ASPEC group further strengthening the programme. The ASPEC programme provides for the sharing of search and examination results among the participating countries IP Offices which serves to help reduce duplication on the work thereby allowing for obtaining corresponding patents faster and more efficiently. This benefits entrepreneurs, SMEs, inventors and universities in obtaining patents for their innovations within the region.

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ASPEC PROGRAMME (continued)

The search and examination work done on a corresponding application by a participant IP Office also serves as a valuable reference to other participating ASEAN IP Offices. Patent examiners are also able to access information and assessments of prior art found in specific technical databases, local databases, and databases in other languages which an examiner may otherwise not have access to previously. This is possible as ASPEC works in the English language in all its participating ASEAN IP Offices. This standard helps patent examiners develop their search strategy more quickly and efficiently furthering their understanding of the claimed invention.

With the objective of reducing complexity, improving the quality of search and examinations and the increase of time savings, this equals to substantial cost savings, and ASPEC has achieved a measure of that goal in the region. This serves and benefits anyone interested in filing regionally in ASEAN.

An ASPEC requests can be filed at any participating ASEAN IP Office. To qualify for ASPEC, an applicant must have filed a corresponding patent application for the invention at any participating ASEAN IP Office and/or have search and examination documents issued by any one of the other participating ASEAN IP Offices with at least one claims determined to be patentable. A request for ASPEC can be done by simply filing a completed ASPEC Request Form and attaching all required documents.

OF PATENT TROLLS

One of the headline making news that has caught the attention of industry experts around the world is the US Senate's rising interest in the proliferation of 'patent trolls' within recent years, and the criticism to the manner to which they seek to profit from the patents in their possession. 'Patent trolls' is a colloquialism that denotes what the patent holders rather prefer to be known as 'patent-assertion entities' (PAEs) or 'non-practicing entities' (NPEs). PAEs are companies, in some cases shell-companies, that hold the rights to various patents but do not produce anything from the patented technology. Instead they assert those said patents as their primary business model and it is whom they have targeted that has raised the ire of some high ranking US lawmakers.

This matter is serious enough that it is not only the US Senate that is looking to enact reforms to regulate the rise of these patent trolls but the European Union too has started to look into this issue.

Most NPEs demand a once off settlement or licensing fee from apparent patent infringers but there are others that demand more. Revenue sharing and equity stakes are among the most common demands especially from smaller entrepreneurship and businesses. NPEs target small or medium enterprises though some have gone after big name corporations like Microsoft and have walked away with settlements of undisclosed sums which range in the millions of dollars.

NPEs used to just target software and IT firms but what has caught the attention of the US Senate and a

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OF PATENT TROLLS (continued)

growing number of State Attorney Generals (AGs) is the increase of 'troll assertion' letters being sent to various businesses unrelated to patent law including a few charity organizations and in some cases individuals. If things have come to such a state, then action definitely needs to be taken to reign in what many of the recipients of patent assertion letters have called 'blatant extortion'. It is because of such reprehensible actions that US Senators Patrick Leahy and Mike Lee have introduced a Bill, the Patent Transparency and Improvements Act, to help reduce these frivolous lawsuits filed by predatory NPEs. The Innovation Act introduced by Rep. Bob Goodlatte has just been passed by the US Senate and though not "perfect", it does help to increase transparency in patent cases and reduce patent troll legality.

Many NPEs use poorly written and broadly defined patents that border on being vague in their harassment of their chosen targets. As most of the businesses and companies are too small to afford a lengthy investigation and challenge in court and thus choose to settle. This is how many NPEs, especially the unscrupulous ones, monetize their patents.



Litigation studies carried out by PricewaterhouseCoopers in 2013 has indicated that though not as prolific as in the US where patent trolls take advantage of a problematic patent system, NPEs do target Asian enterprises. Calculations from figures over the last several years show the annual average damages awarded range from USD1.9 M – USD16.5 M, a not so small sum for many Asian businesses.

Some NPEs, like Acacia Research and Intellectual Ventures, in their defense state that they are merely protecting their property rights and demand what is only fair. One of the two most successful NPEs, Acacia claims that they are providing a much needed service to inventors and patent holders to partner with them in assisting them to assert their patent rights. They claim that many inventors and patent holders are individuals and small companies that are unable to maintain a lengthy pursuit against larger enterprises that will just delay till the patent holders run out of money. For their support, Acacia splits the licensing and settlement fees with their partners. It has been pointed out however that most NPEs do not license and settlement fees with their partners. It has been pointed out however that most NPEs do not share revenue with the inventors. They prefer to buy the patents from often failing and financially distressed companies.

Many tech investors and entrepreneurs, including the cofounder of Twitter Evan Williams and cofounder

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OF PATENT TROLLS (continued)

of Facebook Dustin Moskovitz, have asked the US Congress to reform the US patent system for what is widely acknowledged as being "broken" and benefits PAs explaining in part to the rise of these patent assertion entities. New laws alone is insufficient to stop these NPEs from abusing the system, it needs to be fixed is the strong opinion of these technologists.

Right now time can only tell if the new Innovation Act and should it be passed, the Patent Transparency and Improvements Act will stem the rising tide of litigation and the abusive demand letters of patent trolls and assist in protecting innovation.

IP NUCLEAR WAR

One of the biggest IP developments of the year - being likened by some as the 'nuclear war' of IP - is the recent spate of lawsuits brought on by the Rockstar consortium against Google, Samsung, LG Electronics, HTC, Huawei, Asustek, Pantech and ZTE Corp for patent infringements. In 2011 the consortium, which is jointly owned by Apple, BlackBerry, Ericsson, Microsoft and Sony, had purchased via auction some 6,000 patents from Nortel. Under the name Rockstar Bidco, the group purchased the 6,000 patents for the whopping sum of USD 4.5 billion from Nortel when the Canadian telecommunications giant went bankrupt, outbidding Google's own bid of USD 4.4 billion. Industry experts expect that the fact that Google had made an unsuccessful bid for the Nortel patents will count against it as the case gets under way.

The barrage of patent lawsuits by Rockstar against Google, and essentially all of the major smartphone manufacturers that run on Google's Android operating system, are based upon several alleged infringements of the Nortel patents. Seven lawsuits are currently being brought against Google for willful and continuous infringement of the now Rockstar-owned patents, dealing mostly on associative search engines. These lawsuits challenge Google's core business model of covering technology that matches Internet search terms with paid advertising of its clients.

Needless to say, this is a major threat to the entire business structure and operations of Google. The other lawsuits target the various Android manufacturers based upon specific patents and devices manufactured by the said companies. Critics have speculated that this is nothing more than an attempt to stem the rise of the Android operating system smartphones which competes fiercely with Apple and Microsoft's respective operating systems, as well as the range of handheld communications devices released by other members of the Rockstar consortium.

Rockstar consortium itself does not produce anything of its own with the patents they hold. Legally

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IP NUCLEAR WAR (continued)


defined as a 'patent assertion entity' (PAE), in intellectual property jargon the consortium is what is termed as a 'non-practicing entity'. Referred to by critics as 'patent trolls', these PAEs have gained so much notoriety that a bill has been introduced in the US Senate by Senators Patrick Leahy and Mike Lee to make it harder for PAEs to file frivolous lawsuits. The lawsuits were filed in the US District Court, Eastern District of Texas; it is the favoured place for patent trolls to file lawsuits. This move has the general IP community questioning Rockstar's sincerity in the issue. The US District Court of Eastern District of Texas is notorious for being 'troll' friendly.

Google will find itself unable to file any counter-suits against Rockstar due to the fact that the consortium doesn't produce anything and has thus not violated any patent laws, even though its composite members may. The decision of these lawsuits, whether for or against Google and the rest of the Android ecosystem, is likely to shape the future of the smartphone in years to come.

PINTAS HIGHLIGHTS IN 2013 & 2014

SME Solutions Expo 2013. 5th – 7th September 2013 at Mid Valley Exhibition Center

JB ASEAN Expo at Persada Johor International Convention Center.

19th – 21st September 2013

Intellectual Property Financing (IPF) Seminar at the Crystal Crown Hotel.

Manufacturing and Industrial Trade Fair (MITF) on 9th – 12th October 2013 at PWTC

29th September 2013

UM IP Pitching Session on 11th October 2013 at University Melaya

MBIC Biomass Industry Hi-Tea Networking Seminar 2014 on 10th January 2014 at Carcosa Seri Negara.

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UPCOMING 2014 EVENTS WHERE YOU CAN FIND US

PINTAS IP Booth

20th – 22nd February 2014

Malaysia International Technology Expo 2014 (MTE 2014)

The Putra World Trade Center (PWTC)

PINTAS IP Booth

4th – 8th March 2014

Malaysia International Furniture Fair 2014 (MIFF 2014)

The Putra World Trade Centre (PWTC)

PINTAS IP Booth

19th – 21st March 2014

ASIA Water Expo

The Kuala Lumpur City Center (KLCC)



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The Management and Staff of PINTAS-IP Group
would like to wish everyone
a Happy and Prosperous Year of the Horse!
GONG XI FA CAI!

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Thailand



Vietnam

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