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## Intellectual Asset Management Best Practices – Part 2



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In [Part 1](#), we looked at three important steps in starting an intellectual asset management process within your organization. “Intellectual assets” can include the know-how and intellectual capital within your organization together with registered and unregistered intellectual property (IP), inventions, trade-secrets, patents, copyright-protected works, trademarks, industrial designs, and other forms of IP.

As we reviewed in Part 1, intellectual asset management starts with (i) an internal IP audit, coupled with (ii) internal education about the strategic importance of intellectual property within the organization; and (iii) the organization should establish a screening process, to weigh the various factors that influence how to innovate through “make versus buy” decisions.

In Part 2, we take a deeper dive. An organization can be innovative without being commercially successful. In other words, there is often a gap between the creative process of innovating, and the successful commercialization of those innovations. By implementing the steps in Part 1, an organization becomes more sophisticated in its treatment and analysis of intellectual assets, and an organization will develop a culture in which IP is understood and valued. That helps close that gap. However, this does not necessarily mean that intellectual assets will become an engine of economic value. That requires the development of additional skills and competencies within the organization. Consider the following “next steps”:

1. *Strategic Alignment*: Let’s be clear. IP should not drive the organization. Rather, the strategic goals of the organization should inform the intellectual asset management strategy. Ensure that IP policies are aligned with the strategic goals of the organization. Consider the organization in question: is this a university? A government research lab? A medium-sized for-profit business, or maybe it’s a growing business with markets in multiple jurisdictions.

- How is success measured for this organization?

- Are there immediate goals of raising capital?
- Entering a new international market?
- Attracting investors?
- Making a strategic alliance or partnership?
- Should the IP policy reflect a defensive or offensive position?

All of these organizations will have different strategic goals and must ensure that their intellectual asset management strategy reflects and supports the overarching goals of the organization. IP is only one piece of the puzzle.

2. *Gap Analysis*: An IP audit is focussed primarily on taking an inventory of the organization's intellectual assets. A 'gap analysis' is the next step: it's an assessment of what's missing from the organization's IP toolbox. What does the organization need in order to achieve its goals? And how can the gaps in the organization's IP inventory be filled, considering the strategic goals involved. This internal analysis can lead to an external, "outward looking" review. What is available in the marketplace, either through acquisition, in-licensing or strategic partnership? See also the "make versus buy decisions" discussed in Part 1. In connection with the analysis of "gaps" in the IP portfolio, look at any gaps in the paper: How do employment agreements and consultant agreements deal with IP ownership issues and confidentiality? Do vendor or supplier agreements need to be bolstered to address IP issues? Perhaps standard-form end-user licenses or service agreements need to be reviewed to ensure that the treatment of IP is in alignment with the organization's overall intellectual asset management policies.

3. *IP Exploitation*: As mentioned above, an organization may be adept at innovating, and it may have a sophisticated process of cataloguing internal IP, and even assessing the gaps in that portfolio. IP commercialization and exploitation is the process by which an organization extracts value from its intellectual assets. This can be from product sales, or from out-licensing of IP-protected services and processes, as well as licensing relationships and franchise agreements, joint ventures and cross-licensing. An organization must understand the steps to market, whether through its own sales channels, or through distributorships or resellers. And the process of bringing innovations to market will be supported by a well-designed intellectual asset management system.

Richard Stobbe is an IP lawyer, trademark agent and Certified Licensing Professional. To discuss the importance of intellectual assets within your organization, contact [Richard Stobbe](#) in our [Intellectual Property and Technology Group](#).



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