

An Exact Software White Paper



Leveraging Intellectual Property:

Why Corporate Knowledge and IP Are Critical to Your Business

*Part 1 of a two part series on intellectual property
by Plant-Wide Research*

Leveraging knowledge and intellectual property has become as important as money for accelerating the growth of business.

Executive Overview:

The biggest opportunities and threats to today's business leaders come from harnessing and protecting the power of corporate knowledge and the resulting intellectual property (IP). The catch phrase of the 1980's and 90's was "other people's money." This meant that the way to accelerate growth was to leverage external financing and gave rise to financial techniques like the leveraged buyout. The catch phrase for the new millennium is "other people's IP" and has given rise to creative financing options like IP backed collateralization. This shift illustrates how leveraging knowledge and intellectual property has become as important as money for accelerating the growth of business. It affects mergers, acquisitions, and joint ventures, forges cooperative R&D agreements, generates license revenue, and provides the basis for many company's market capitalization.

This white paper will look at the value of intellectual property and show how companies can use new technology, new business practices, and organizational alignment to reap the value of corporate IP. It assumes no prior familiarity with intellectual property concepts or IP management issues.

We begin by challenging the traditional definition of intellectual property as being isolated to components such as patents, trademarks, and copyrights. Because of this traditional view, most companies take a purely defensive approach and manage IP solely as a function of the legal or engineering departments. This paper will broaden your definition of intellectual property and show how a proactive approach to leveraging knowledge across the organization can allow leaders to outperform the competition and grow to new heights.

We then discuss how organizational structure impacts the way that intellectual property is managed. Once the organizational issues are understood, you can begin to address IP with technology solutions. This paper offers advice on how to define your requirements for an intellectual property management solution. The companion piece to this paper, "Leveraging Intellectual Property: How to Manage IP Across Your Organization" gives a detailed illustration of how an IP management system can help you address these issues.

What is Intellectual Property? Really.

Intellectual property can be a powerful tool for economic growth. While intellectual property is not a product or service itself, it is the idea behind an offering or service. Intellectual property is, then, the way a process, idea or business concept is expressed, and the distinctive way it is named and described. When it comes to the subject of intellectual property, however, most companies still think of it only in terms of legal definitions - patents, trade/service marks, copyrights, and trade secrets.

The traditionally narrow view of corporate knowledge and IP leads to a purely reactive and defensive approach. A much broader (and proactive) view of intellectual property includes all areas of the business.

Even the traditional definition is broader than you may have thought. When most people think of patents they think of physical inventions. However, it is possible to patent a way of doing business. It's called a "business method" patent and has been used by companies such as UPS, Amazon.com, and eBay. Progressive Casualty Insurance, for example, has a patent on a method for setting car insurance prices based on monitored driver characteristics. Overall, the number of companies applying for such patents is still fairly low at roughly 6,500 out of more than 380,000 total patent applications per year.¹

Although it's difficult to quantify the number of trade secrets in use, chances are they outnumber patents. Probably the most cited example of a trade secret is the recipe for Coca-Cola. If the formula for Coca-Cola had been patented, it would have expired in the early 1900's (patent protection lasts 17 years). Industry makes use of trade secrets to protect manufacturing processes and other technology where the details are not evident from an examination and analysis of the final product. Companies must have extensive systems in place to maintain trade secret protection.

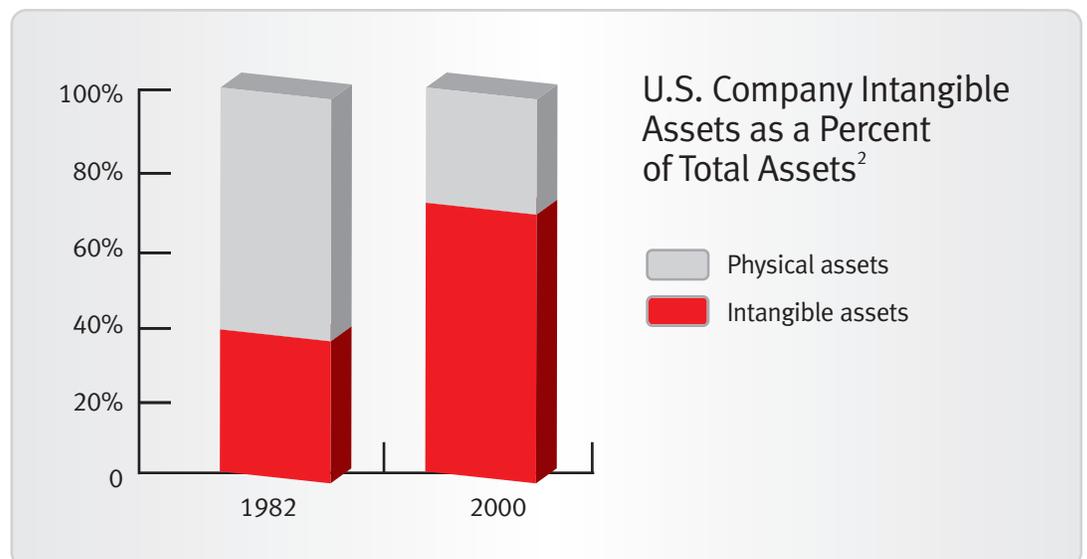
The traditionally narrow view of corporate knowledge and IP usually means that it is made a priority only by a select few in the legal or engineering departments. But this approach toward managing the company's most vital and sensitive data is a purely reactive and defensive one. A view of managing corporate knowledge and intellectual property in this way is isolated to managing company risk against patent infringement, trademark dilution, and proprietary innovation erosion. A much broader (and proactive) view of intellectual property includes all areas of the business. From this perspective, intellectual property is really any intangible asset consisting of human knowledge and ideas that has economic value, including:

- Industrial designs
- Formulas and recipes
- Product documentation
- Sales and marketing procedures
- Brochures and related collateral materials
- Business procedures
- Software source code
- Customer delivery and implementation procedures
- Employee work instructions
- License agreements
- Contracts
- Proposals, letters, and quotations
- Project documentation and project plans
- Policies and procedures
- Financial statements
- Employee records and skill sets.
- Any confidential information, employee ideas, or business transaction conducted.

All of these additional areas of IP are collectively referred to as “know-how.” Know-how often serves as a basis for consulting agreements or transfers of biological materials, engineering drawings, and other property. Fees often take into account the value of the cost and time that would have been otherwise expended in reverse engineering and other methods to accomplish the same objective. Company leaders would benefit from thinking outside of the old IP box. Intellectual property is really the sum-total of what makes a company uniquely competitive in a given market and is likely much more than you thought it was.

Why is Leveraging Intellectual Property Important?

If intellectual property is so much more than the legal definition, why do we call it “intellectual property?” Why not just call it “corporate knowledge?” The point is to highlight the fact that corporate knowledge is a precious asset. The graph below shows that intellectual property is actually a large and growing percentage of total corporate assets.



A separate study by Plant-Wide Research (PWR) examined the SEC filings of the Fortune 500 and revealed that more than 80% of their market capitalization is based on intellectual property. Market capitalization, often abbreviated to market cap, is a financial term that refers to the aggregate value of a firm's outstanding common stock. In essence, market capitalization reflects the total value of a firm's equity currently available on the market. PWR found that 20% of this equity value could be explained by the physical assets these companies own. The remaining 80% must be attributable to the intangible assets that make each company unique – the trademarks, patents, trade secrets, and know-how. So, investors are putting a lot of faith in the ability of this intellectual property to bring them future economic returns.

Intellectual property makes it possible for innovative small companies with few fixed assets to raise the money they need to grow.

Revenue Generation

Like all assets, IP can be leveraged to generate profits, it can go unused, and it can actually depreciate. The possession of a patent portfolio, for example, is not a guarantee of success. Typically, companies actively use only 10 – 15 percent of patent portfolios. Sometimes, this is intentional. For instance, Xerox has obtained hundreds of patents on copier designs it never intended to manufacture in order to block its competition. More often, however, it's a reflection of poor IP management.

Consider the case of IBM. In the 1990's, IBM changed its approach to its patent portfolio. Instead of seeing it merely as a defensive barrier, the company saw an opportunity to greatly increase its revenue through technology licensing. This strategy has yielded dramatic results. IBM now has annual licensing revenue of more than U.S. \$1.5 billion a year, compared to just \$30 million a year in 1990. This revenue is reinvested in the research and development process to facilitate the creation of new cutting-edge products that will keep the company ahead of its rivals.³ It seems to be working. IBM holds more U.S. patents than any other entity. By 1990, IBM had been in business for more than 100 years and had amassed a portfolio of 12,000 patents. Since then, the number of patents it holds has exploded to more than 42,500.⁴

The company that was once known only as International Business Machines has transformed itself from a product-centric company to an IP-centric company, as illustrated by CEO Samuel J. Palmisano's comments in the 2005 Annual Report "If you understand the broad economic and societal changes taking place, the transformation of our company to capitalize on them and the resulting mix of our business, it should be apparent that IBM in 2006 is neither a "computer company" nor a "services company." We are not even "an IT company." IBM today, perhaps more than any time in our history, is an innovation company."

Financial Leverage

Individuals and small businesses generate some of the most innovative intellectual property. Sometimes, this IP goes unused because the owner doesn't have the capital necessary to take advantage of it. GIK Worldwide is a small company based outside San Francisco. It holds the patent on a groundbreaking technology that delivers high-speed broadcast quality video conferencing over twisted copper wire. Like many such technology rich companies, it lacked the capital to commercialize its technology and either did not want to, or could not tap the venture capital markets. Taibbi Ltd, a Boston based boutique investment bank and IP management consultancy, put together a financing package that raised U.S. \$17 million in debt using GIK's IP portfolio as collateral. By doing so, the company demonstrated that it is possible for small companies with top-class intellectual property, but few fixed assets, to raise the money they need to grow.⁵

Companies are forging alliances with each other in order to heighten the value of their intellectual property and to obtain mutually beneficial competitive advantages.

It isn't necessary to hold patents in order to capitalize on your intellectual property. Copyrights are the source of a lot of IP wealth. In 1997, David Bowie made financial history by raising \$55 million through the issue of bonds backed by the future royalties from 25 albums that he recorded before 1990. Many other intellectual property holders have followed the "Bowie bond" example, by securitizing material from music to movies to the 2002 World Cup.

Strategic Alliances

Companies are forging alliances with each other in order to heighten the value of their intellectual property and to obtain mutually beneficial competitive advantages. Strategic positioning of IP enhances revenue through better deployment of R&D and market intelligence, and facilitates licensing income, as well as the potential for mergers, acquisitions, joint ventures, and cooperative R&D agreements. Often such alliances will give the companies involved substantially increased clout in their particular field of technology. Texas Instruments provides another compelling illustration. In 1997 the company shocked the market by purchasing Amati for U.S. \$450 million. Amati had run up losses of U.S. \$30 million on sales worth U.S. \$13 million the prior year. However, Amati owned a portfolio of key patents relating to digital subscription line (DSL) technology. This means that today any company producing DSL modems has to pay a license fee to Texas Instruments. This purchase gave Texas Instruments a substantial stake in a sector worth billions of dollars a year.⁶

Competitive Advantage

Not all of the intellectual property that generates this additional value fits into one of the legal definitions of patents, trademarks, copyrights, and trade secrets. Without a way to leverage intellectual property across the organization, employees in various departments will waste resources solving the same problems over and over again. Take for example a professional service organization that has multiple teams dedicated to individual types of accounts, possibly divided by vertical market or product category. One team may have developed new policies and procedures that enable their customers to receive benefit faster than ever before. By sharing that knowledge with their other teams, the company as a whole is able to complete projects more efficiently and more effectively. At the same time, the sales and marketing departments become aware of this new service methodology to bring greater benefit and at a lower cost than their competitors. They can, in turn, use that knowledge to create a new campaign and demand generation program based on that new process knowledge. Eventually, corporate council may decide that it is worth initiating a trademark process and begin to collaborate with sales, marketing, professional services, and management to file the necessary papers to protect their new idea.

*The most valuable asset
a company has walks out
the door every night.*

Where Does IP Come From?

If your company could fire every employee today, hire an all new workforce tomorrow and be back in business the next day without missing a beat, chances are you don't have much intellectual property to worry about. If that's not true for you, then it stands to reason that your company is highly dependent on intellectual property for nearly every aspect of your operations.

It's easier to see the influence of intellectual property on some businesses than others. An example of a company that is almost a pure IP creation is Walker Digital. According to its website, Walker Digital "develops, protects, and commercializes intellectual property." The company's inventors study human behavior and invent business systems that solve the problems they observe. Today, Walker Digital has a portfolio of more than 200 patents. Often, this intellectual property is licensed to unaffiliated operating companies. In other cases, the IP is used as the basis for innovative startups to which Walker Digital may contribute personnel, expertise and funding. The best-known example of their efforts is Priceline.com.

Within any industry that is service-based, like entertainment, accounting, and consulting, it is easy to see that most of the value is based on intangible assets. Within the manufacturing sector, it is easy to see the role of IP in heavy R&D industries such as pharmaceuticals. But even in the most commoditized manufacturing setting, intellectual property plays an important role. It is well known that Toyota created a series of innovations in the manufacturing process, collectively known as the "Toyota Manufacturing Process," that lead to new levels of quality and cost competitiveness and started the "lean manufacturing" revolution. Even though the company has made its techniques widely available, few companies have been able to implement these ideas as effectively as Toyota.

So, if every company relies on intellectual property, where does it come from? These assets are typically stored on network file servers, employee computers and file drawers, and more and more often in email. Several high profile lawsuits have recently highlighted the importance of email as an unmanaged, and often overlooked, source of corporate knowledge. Even harder to manage is all the knowledge stored in people's heads. It has been said by many chief executives that the most valuable asset a company has walks out the door every night. What they are referring to, of course, are the employees. However, in today's economy not everyone who works for you is an employee. Today more and more companies are relying on contract workers and outsourcing strategies. That, coupled with the influence of customers, vendors, and business partners, makes keeping track of intellectual property a much more complex issue.

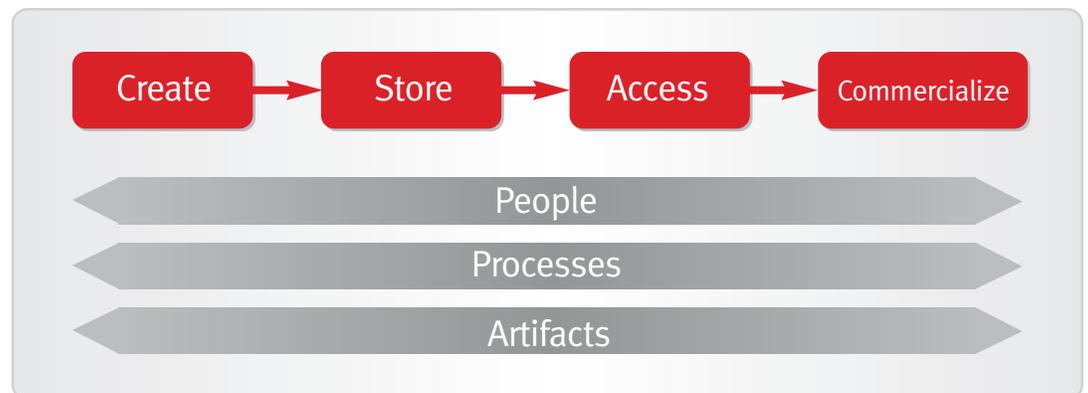
Many companies go to the extent of drafting employee agreements, stating that all employee-created materials, designs, patents, methodologies, and associated work becomes the property of the hiring company. This is again a defensive view of the corporate asset, knowledge, which protects the company from having ideas used or taken by those outside of the company. What companies stop short of focusing on is

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mandating or encouraging the effective documentation and sharing of corporate knowledge within the organization. Using the analogy of the organization which had previously managed customer relationships independently from one department to another, until CRM applications came along, it often takes new technology and new business methodologies to help transform an underutilized or poor performing function into one that can be leveraged for economic gains.

How is Intellectual Property Managed?

The lifecycle of intellectual property includes the basic stages of creating, storing, accessing, and commercializing. This is true whether the IP in question is documented and patented or copyrighted or if it simply exists in the minds of those who created it. Throughout the process, there are people, processes, and artifacts (project plans, reports, legal briefings, emails, etc.) involved.



The “typical” view of managing IP as a legal concern captures a fraction of all the people, processes, and artifacts. Much of it falls through the cracks. The creation process tends to be the least structured part involving several people or just one with artifacts from hand written notes to formal reports that can get lost in the process. Even with very formal processes in place, informal communications such as email can contain critical information that is never captured.

After the IP has been created, it must be stored. It is often stored in someone’s head, or in a filing cabinet, or on a computer network somewhere with varying degrees of documentation. Once it is stored, how is it accessed? How do the people who need to take it from idea to commercial reality become aware of the necessary artifacts and people involved? There may be formal procedures in place for who gets access and how, or it may be through word of mouth, or it may require a key to the right filing cabinet. How is the information published? It could be readily available from one source in multiple formats or it may require duplicating information over and over.

Organizations that make a difference in improving the effectiveness and performance of an asset typically create organizational positions and structures that give it the attention it requires.

Typically, it is between the creation and commercialization stages that legal counsel may get involved to determine the need and ability to seek legal protection. The way in which the people, processes, and artifacts have been managed will have a big impact on the effectiveness of legal counsel's efforts. It can also have a big impact on the ability to turn ideas into profits in the commercialization stage.

Who Manages Intellectual Property?

IP assets do not create, manage, sell or enforce themselves. Instead, people are involved at every stage in the development, registration, maintenance, and exploitation of IP assets. Since most organizations consider intellectual property to be isolated to those business components such as patents and trademarks, it is typically managed as a function of the legal department. In the event that a company's IP is challenged, all areas of the company will become involved in the defense. From accounting to human resources to marketing and product development, the company will have to produce a chain of evidence documenting the creation of the IP, including the dates and times of everyone involved in the creation, review, and usage. Without the appropriate systems in place, producing all of this evidence will be a monumental, if not impossible, task.

It's even harder to trace the creation of intellectual property once an employee has left the company. Back in the 1950's and 60's, it was common for employees, and employers alike, to remain loyal to each other for most of an individual's entire career. Today, the average employee will work for a number of different employers over the course of their career. Even long-term employees will eventually retire. With the workforce population aging, many businesses are faced with the prospect of the source of their experience and expertise leaving the company in the next decade. Businesses need to find a way to capture and retain this knowledge.

Organizations that make a difference in improving the effectiveness and performance of an asset typically create organizational positions and structures that give it the attention it requires. As information technology became more and more important to business success, the position of Chief Information Officer became more and more prevalent. With the rise of customer relationship management and the desire by many companies to be market driven, the position of Chief Marketing Officer was created. In the same way that companies have created customer service, manufacturing, engineering, finance, and sales departments, it stands to reason that a chief knowledge or intellectual property officer position, and department, be given consideration in order to move beyond simply monitoring and managing risk. Again, this new position/department can be a revenue generator and not simply an infrastructure cost.

The creation of a function or department to foster a more expansive view of enterprise collaboration and knowledge management could become the catalyst many companies need to make critical changes. Many large companies, such as Microsoft, Dow Chemical, and General Motors, have instituted intellectual property programs. In the case of Dow, its global IP organization is made up of researchers, patent management and copyright

Knowledge management and corporate IP are the business of the entire enterprise and know no boundaries of departments or business units.

professionals, lawyers and paralegals. After establishing the global director of intellectual asset and capital management position, Dow's licensing revenue increased from U.S. \$25 million to \$125 million and its IP maintenance costs went down by \$50 million.⁷

It is not mandatory, however, to be a Fortune 500 company with dedicated resources in order to give increased focus to the IP function. One place to start is by making IP a top priority for the CIO or business development staff. In fact, many companies have begun to move in this direction when it comes to new business development. Unfortunately, the focus has been more heavily weighed toward leveraging or acquiring external assets rather than developing the knowledge that exists within the organization.

Like most newly emerging initiatives, the responsibility of championing this effort ultimately rests with the CEO. Without top-down support, most new initiatives that seek to bring departments together will not happen. Knowledge management and corporate IP are the business of the entire enterprise and know no boundaries of departments or business units. Therefore senior management needs to make it a priority to bring together knowledge from every employee.

Again, technology becomes the vehicle that makes it possible to leverage this asset across physical and departmental boundaries. Typically collaboration systems are deployed to all employees, and not to selected departments. This reinforces the importance of top management support and for senior level accountability to ensure knowledge is shared and cultivated, not just stored in a database.

Implementing an Intellectual Property Technology Solution

A common mistake many companies make is trying to "eat the elephant" all at once which typically results in a longer time-to-benefit, and therefore a decline in enthusiasm and a lack of accomplishment. It is important for the effort to have intermediate milestones that show value and progress in order to keep the momentum going strong. Setting achievable project milestones will allow the team to gradually reach their goal through a series of wins rather than trying to run a marathon without the proper conditioning and experience. These milestones should be outcome-based, not technology based (ie. install the software) and give the CEO a method for evaluating the performance of the IP executive. If you select a tool which is flexible enough and plan your implementation so that you have some early success, you will find that, instead of resisting change, the users themselves will find new ways to use the system and will start requesting more and more participation in the project.

A reasonable place to start is with an audit of the current IP practices and a cataloging of all areas of the company that have IP assets to protect and leverage. This often leads to a clearer understanding of the distributed nature of these assets and the informality with which they are stored and managed. A proper audit should not only seek to capture the sources of the IP assets, but also what the typical creation and approval processes are, as well as all departments that should have access to them. This audit process should

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not only provide further justification for tighter management practices but will also provide valuable planning data for a future IP office implementation project. Once that is complete, you can begin the search for a technology solution with greater confidence.

The next step is to identify a short list of technology suppliers who have strong collaboration and knowledge management capabilities. There are specialty solutions available, such as patent management systems. However, companies often find that a niche solution solves one aspect of IP management and leaves them with fragmented systems that prevent them from seeing the big picture. A patent management system may do a good job of managing the discovery and patent application processes, but it typically won't be able to report on the accounting data such as all the costs and revenues associated with a particular patent. Nor will it interface with the HR system to allow you to find resources with the right skills and experience to work on a particular patent project. It certainly won't help you leverage all the non-patented sources of intellectual property throughout your organization. Innovations that span departmental boundaries and encourage collaboration typically yield the greatest gains and strategic value. Some of the areas that should be considered in a new system include:

People

- **What are your sources of knowledge?** You should identify centers of knowledge for each functional area. Marketing, for example, would have marketing campaigns, corporate identity standards, and press releases. Product development would have categories such as research initiatives, patents, product specifications, project schedules, product requirements, meeting minutes, test plans, etc. Accounting will have data about customer purchases and credit scores as well as vendor history. Your new system should be able to accommodate all the disparate sources of information.
- **How will you define work groups, access rights, and internal controls?** Even though you are implementing a new system to increase knowledge sharing, there will be many instances when you want to limit access to sensitive information. Also, what you consider restricted information will change over time. For example, new product information may be quite restricted while the product is under development but shared widely when you are ready to go to market. The system you select should allow you to implement security controls that match your organization and change with your needs over time. In addition to merely controlling access to information, it should give you increased visibility to the flow of information. There should be a record of who created a document, edited it, approved it, and viewed it, and when.
- **How will you share information outside of your organization?** Sometimes the best ideas come from your customers and business partners. A new system for collaboration and knowledge sharing will be less beneficial if it is limited to your employees. Internet portals are one great way of sharing knowledge and collaborating with other stakeholders.

Like most successful initiatives, the effort should not be viewed as a project with a start and an end, but rather as an on-going philosophy.

Processes

- **How does information flow between functional areas?** Take a look at how information flows in your current processes and what the ideal process would be. For example, you may want to expand the process of developing a new product or service to include customer service input. A system that automates workflows will help you institute new processes. Mapping out your core information flows before selecting a system will help to ensure you find a tool that's right for you.
- **How will you see the big picture?** Inherent in any system should be not only the ability to store information, but report on it, analyze it, and uncover important trends in a real-time setting. If you are using automated workflows to streamline information sharing and enforce business processes, you have simultaneously created a new source of data on who is doing what in your organization.
- **How will you promote the visibility of departmental knowledge that may be used by other departments?** To get the full benefit from a knowledge sharing system, you will need not only great search capabilities but a means of pushing information out to users as well.

Artifacts

- **How will the new technology solution be embedded into your enterprise business system?** Ideally, the new solution will not re-create data throughout the system, but will eliminate redundancy by storing the information once and referencing it in multiple ways. It should also eliminate any confusion over who is responsible for information and what is the most current version.
- **How will you capture email and other unstructured communication?** Again, the best solution is to utilize existing infrastructure in a way that leads to successful adoption while ending the “black hole” of email and making this unstructured communication available to those who need it.
- **How will users search for information?** Developing a well thought out method for categorizing and storing information is important and any tool you choose should be able to support your taxonomy. Beyond the descriptors you assign to a particular source of information, you should also be able to link it to key business entities such as customers, projects, vendors, employees, and even transactions.

Like most successful initiatives, the effort should not be viewed as a project with a start and an end, but rather as an on-going philosophy and method of how to work more strategically and proactively to continually innovate and create new ways to compete more effectively.

Perhaps the most important strategic initiative a company can embark on is to leverage corporate knowledge and intellectual property.

Conclusions

Today's business leaders must focus on a wide range of business issues to remain competitive and strengthen their position in a given market. With many organizations operating more efficiently and cost effectively and therefore freeing up more capacity for knowledge-based functions, the question becomes one of how organizations can act more strategically.

Perhaps the most important strategic initiative a company can embark on is to leverage corporate knowledge and intellectual property. As a leading competitor in your market, you need to protect and leverage what is uniquely yours: your ideas, your processes, and your knowledge worker assets. Managing intellectual property and corporate knowledge assets is part and parcel of management best practices. Breakthrough ideas will only create new value and revenue if you're able to capitalize on them faster than your competition. Speed requires that an organization is able to leverage those ideas through more efficient and proactive tools and practices.

In large corporations, all aspects of knowledge management and collaboration become tools for giving a global enterprise a competitive advantage. But the ability to leverage corporate knowledge and IP is not restricted to large organizations. Cost effective knowledge management and collaboration tools are available today to fit the needs of any size organization. Therefore, all companies should implement proactive policies to harvest, protect, and best utilize their intellectual property assets.

Organizations that are already on the path to leveraging this underutilized asset are distancing themselves from their competitors. In the future, it is possible that working in this highly collaborative and continually strategic fashion will migrate from being a competitive advantage to becoming a requirement of doing business, just as many of the operational best practices have become a requirement for competitive customer service, manufacturing production control and product and service delivery.

For more information on implementing an intellectual property management system, read "Leveraging Intellectual Property: How to Manage IP Across Your Organization."

About Plant-Wide Research

Plant-Wide Research is a leading research and industry analyst firm that provides industry benchmarks and commentary, competitive landscape analysis and end-user feedback in a variety of industry focused reports and services that incorporate both quantitative and qualitative aspects in order to provide a complete picture of the enterprise applications software market and industry. End-user companies and organizations use these products and services to assist them in planning, selecting, and maintaining IT investments as well as by the industry providers of applications software to remain competitive, current with competitors, focus on industry trends, and end-user needs. Visit www.plant-wide.com.

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¹ Source: U.S. Patent and Trademark Office

² Source: Brookings Institution.

³ Source: Joff Wild, "IP Value 2006 - An international guide for the boardroom" (Globe White Page) www.buildingipvalue.com

⁴ Source: U.S. Patent and Trademark Office

⁵ Source: David Edwards, "Patent Backed Securitization: Blueprint for a New Asset Class"

⁶ Source: Joff Wild, "IP Value 2006 - An international guide for the boardroom" (Globe White Page) www.buildingipvalue.com

⁷ Source: Plant-Wide Research Late Breaking News February, 2006

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