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Exploitation of Intellectual Property for Industrial Innovation



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SUMMARY			
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Abstract

The ‘Exploitation of Intellectual Property for Industrial Innovation’ (IPI) project aims at designing effective policy to encourage the exploitation by businesses, and in particular SMEs, of unused patented inventions. In its report, commissioned by the EU Commission, the authors developed a project model for the utilisation of unused ‘sleeping’ patents. Their model was further tested in a field trial involving several hundred SMEs. The authors propose a three-prong policy of supporting external IP acquisitions by SMEs, increasing awareness and enhancing the policy tools of SME support organisations, and raising the awareness of SMEs themselves.

Summary

The ‘Exploitation of Intellectual Property for Industrial Innovation’ (IPI) project examines the circumstances and the proper public policy under which under-exploited intellectual assets, and in particular ‘sleeping patents’, can be put to use to promote business development with a specific focus on SMEs. The aim of the project is not so much to increase the use of third party IP with a view to enhance licensing income, but to facilitate the use of already existing solutions to technical problems faced by businesses.

According to the authors, European SMEs focus mainly on the in-house development of their own technical solutions and IPRs. Use of third-party inventions and patents remains low, SMEs foregoing potential benefits. Plausible reasons for the under-exploitation of third-party intellectual assets are, among others, lack of awareness and effective IP strategy on the part of SMEs, budget constraints, and transaction costs.

At the centre of the study is the concept of ‘sleeping patents’. Sleeping patents are, according to a definition by Universitat Pompeu Fabra, ‘patents (or applications for a patent) that are consciously not being used by the patent holder, directly or through a third party, neither to launch an application to market, nor for strategic reasons’. According to a 2011 report from the European expert group on IPR Valorisation, 8-24 percent of all European patents are not used.

Sleeping patents may result from commercially unattractive inventions being patented, or duplication of inventive efforts that never reach the market. Policy makers in several jurisdictions, including EU member states and Japan, have already taken initiatives to increase the exploitation of sleeping patents. Japan, for instance, has created a dedicated fund for the exploitation of IPRs, and the French CNRS launched in 2011 the PR2 programme to assist SMEs acquire unused patents at a subsidised lump sum.

To examine the potential of policy measures in support of the exploitation of unused patented inventions, the authors, in cooperation with well-known intermediaries for IP search services, conducted an extensive field trial involving several hundred European SMEs. As a first step, the study identified specific IP demands of the participating SMEs. At a second stage, the SMEs' requests were handed over to two innovation intermediaries, who conducted the searches for relevant unused IP. At the third stage of the study, the SMEs provided feedback on the search results. At the fourth stage, the patent search intermediaries checked the availability of the IP for which interest was declared by SMEs. Finally, the innovation intermediaries provided assistance in negotiations for the acquisition of the relevant IP assets.

The field trials produced mixed results with regard to the potential of the exploitation of unused patented inventions by SMEs. Although most SMEs found the search results relevant and useful, only in very few cases were they willing to proceed to the next steps towards the utilisation of the identified invention. Reasons commonly cited were the availability of time and money.

A major issue revealed by the field study is the 'strong lack of awareness on how external patents, can be a source of competitive advantage of companies'. According to the authors, many SMEs seemed disinterested on third party unused IP because they were unconvinced that sleeping patents represented much benefit compared to in-house developed IP.

With regard to the cost-benefit ratio of the process, the authors conclude that it can hardly be viewed as efficient, given the time and resources spent and the unimpressive results.

To support the acquisition of third-party IPRs by SMEs, the authors advance the proposal of a patent acquisition voucher for SMEs. Beneficiaries would receive support from a SME support organisation to formulate precisely their technological needs, and from an IP search service provider to identify assets relevant to their needs. The voucher would cover 50 percent of the costs of the two service providers, the rest of the cost being carried by the beneficiaries. Furthermore, the authors suggest that existing SME support policy instruments, such as national and EU support schemes and the Enterprise Europe Network, should support efforts to raise SMEs awareness of external IP.