

# INTERCAP M&A, LLC

## NEWSLETTER

SPRING 2006 NEWSLETTER

EXPERTS IN THE SALE OF PRIVATELY-HELD COMPANIES

### The Top 10 Costliest Mistakes Owners Make When Selling Their Company

*Each issue of our newsletter will present one of "The Top 10 Costliest Mistakes." The entire list may be viewed on our website at [www.intercap.us](http://www.intercap.us).*

## MISTAKE #3:

### Selling at the Wrong Time

Timing is key to maximizing the sale price of a company. The time when a business enters the market can determine how quickly it sells and at what price. Selling when the market is right presents an opportunity to maximize proceeds. On the other hand, entering a market that may be less than ideal could substantially erode value. One of the costliest mistakes is to allow factors such as age, unplanned retirement and other similar considerations to dictate timing.

Taking control of the process means being ready to act when the time is right. This means being proactive, preparing documentation, watching the market, testing the market and constantly reassessing exit strategy objectives in terms of external factors and changing market cycles.

## THINK DIFFERENT – INTELLECTUAL PROPERTY AND THE VALUE OF A FRESH PERSPECTIVE

WHEN APPLE COMPUTER COINED THE PHRASE "THINK DIFFERENT", THE MESSAGE was that when you view the world from a new perspective, new possibilities emerge, new innovations are developed and we benefit in ways we might not have imagined possible had we stuck to our old ways of thinking. So what does that have to do with intellectual property? Paradoxically, although intellectual property (IP) is by definition about new innovations, the way people think about intellectual property is remarkably stagnant. My goal here is to share some thoughts on how a fresh perspective about IP can unlock tremendous value that is currently not being realized.

When I tell people I work with intellectual property, four out of five will ask if I'm a lawyer. While I'm not a lawyer, the question is interesting because it reveals the mind-set that most people bring to discussions of intellectual property. To a large extent, IP is viewed as something the lawyers analyze and review then file away in dusty folders. Since IP rights are, after all, legal rights, expert legal counsel is obviously a critical component of your overall strategy. If the goal is to maximize the value of your IP, however, a legalistic perspective is not sufficient.

Other, more forward thinking companies will take it to the next level – what I call a "tactical" perspective. That is, they're more proactive about intellectual property and might assert their rights against competitors and infringers or they might seek to generate revenue by licensing non-core innovations to third parties. That's better, but still not enough. In my

view, companies need to take a "strategic" view of intellectual property. By that, I mean that innovation and the economic exploitation of that innovation need to be woven into the firm's DNA. Marketing should deeply understand the value represented by the company's IP and clearly articulate that value to customers in the sales process. Finance should understand how the company's IP translates into a more valuable company and make sure that value is leveraged. You get the picture.

Still not convinced you need to care about intellectual property? Consider this: Intangible Edge has studied over 400 middle market companies, looking for signs that IP matters. We looked at companies in industries ranging from Paper & Allied Products to Industrial/Commercial Machinery & Computer



MARC LUCIER

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## BRINGING WALL STREET RESOURCES AND EXPERTISE TO MIDDLE-MARKET PRIVATELY-OWNED COMPANIES

THINK DIFFERENT – INTELLECTUAL PROPERTY  
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Equipment to Business Services. Roughly half of these companies have revenue of less than \$300 million. What we found is that having IP correlates to higher gross margins in a range of industries – some that you might expect, like computer equipment and programming, and others that you might not expect, like Rubber and Plastic Products. The point is that intellectual property does matter – even if your company isn't located in Silicon Valley.

Clearly, intellectual property helps create value, but what else can it do for you? I would argue that viewing the world through the lens of IP can provide valuable strategic and competitive insights. For example, patent filings are publicly available through the US Patent and Trademark (PTO) office web site and can be mined for clues to what technologies or products your competitors are focusing on and where you stand relative to them in the quest for sustainable advantage.

Intangible Edge recently did an analysis for a major private equity firm in which we benchmarked the level of innovation at one of their portfolio companies against its competitors. The company in question, which was focused on filtration, had made

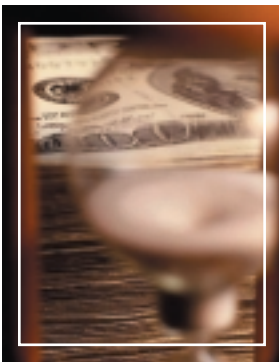
little effort to innovate while its competitors had been actively developing and patenting new technologies at an increasing pace in recent years. Their competitors' innovation, moreover, was focused in areas where the portfolio company's own aging IP was centered, which suggested a weakening competitive position. This company, in its inward focus, had failed to appreciate that its position was eroding, but an IP-based perspective was able to identify problems and suggest action items.

Besides using intellectual property to identify threats, IP can also be used to identify potential buyers of your company or division, as well as companies that might be potential acquisitions or JV partners for you. Clearly, CEO's of companies know the players in their industries, and I'm not suggesting that IP analysis would ever supersede that real world perspective. What I am saying, though, is that it's another arrow in your quiver, which can be useful in identifying companies that may not compete directly in your industry but that may be pursuing complementary innovation and development. This sort of landscape analysis can be done with the US PTO's web site, or using services such as Delphion's, which start with the government data but add a more user-friendly interface and helpful analytics.

## CONCLUSION

To paraphrase an old orange juice commercial, "Intellectual property isn't just for lawyers anymore." Everyone in your company should be focused on IP – from the CEO to the most junior analyst, and from the business development department to the finance department. Why? Because IP drives value in a wide range of industries from computers to business services... Because IP can give you a fresh perspective on what your competitors are doing, and where you stand relative to them... Because IP can help you identify potential buyers for your company or potential acquisitions and JV partners... Because your competitors are increasingly focused on IP... Because private equity firms and other potential financial buyers of your company are focused on it. *Marc Lucier*

*Marc Lucier is Founder and President of Intangible Edge, LLC, a Greenwich, Connecticut based firm that helps companies maximize the value of their intellectual property. That help takes four main forms - research & analytics, valuation, raising capital and arranging licenses. Prior to forming Intangible Edge, Marc was a Vice President at JP Morgan where he focused on financings of intangible assets. Earlier in his career, Marc was an engineer at GE Aircraft Engines.*



**Considering entering the M&A market... late July and early August are notoriously slow months for M&A, with many buyers enjoying summer vacations. Once Labor Day hits, M&A market activity resumes full speed until Thanksgiving. The summer months are ideal to prepare, analyze, and package a company for sale. Use the time wisely by developing proper materials and M&A marketing plans for an early September launch. The time to start is now.**