

Entrepreneurship and IP Strategy
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Lecture 19
Patent Strategies - II

Welcome to the module four of week four of the course Entrepreneurship and IP Strategy. We have just seen the one that is a introduction about a patent strategies, we have seen potential enemies and then we have seen how you are going to handle that potential enemies. Now, we will see different technology strategies and patent strategies which are related to this.

So, here we go now. Now, patenting strategies and technology strategies both I am covering here because I cannot, I have to appreciate means, you also will appreciate, patent is outcome of a technology development, right? That innovation process goes for years and then your technology develops and that developed technology now, you are thinking of a IP protection.

So, I will keep whole track right from like a project selection up to the final enforcement of patent and considering that and if in unfortunate process, if you come across a litigation that also we have to consider. So, we will pick only six what we can see strategies here although I am saying it is a patenting strategies, it is a mix of a technology and a patenting strategy and again the litigation strategy also.

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So, six points which are we are covering is a technology acquisition, technology exploitation, product commercialization, patenting strategy, and then we are covering like a counter patenting strategy and then the litigation strategy, okay. So, these six strategies, we are going to cover here. Now, under this each point, there are various details are there what I have tried here is that I am giving you only three points under each of this strategies. So, let us see each of these three points one by one.

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So, this technology acquisition strategy, acquisition of innovative firm, joint R&D and a technology purchasing. So, I guess easily you can appreciate this, that in early stage, it is not possible for you to acquire firm, however, you can start with some small collaborative project, may be joint R&D It is always a good strategy. One example I can give University Department or any specific lab, any professor's lab is there and you are venture if you start collaborating in that way that will be a good joint R&D.

So, you can settle down with some equity sharing or some lump sum amount sharing or some what we can say the percent sharing and that way you can again the contract is important, so, do contract execution and you can start this joint venture.

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Now, technology exploitation, when we are talking about a technology exploitation, there may be internal exploitation, there may be joint ventures or there may be a technology selling. Now, technology is developed, how you should use it. So, either you can use it internally and this is the best way that develop your own product using your own manufacturing, what we can same facility uses apply your own supply chain, do your own marketing, that is one what we can say way but it is a what we can say very intensive activity it will be and you should have that much human resource and processes in place to handle whole lifecycle of a product right from R& D to that manufacturing to packaging to supply chain to market.

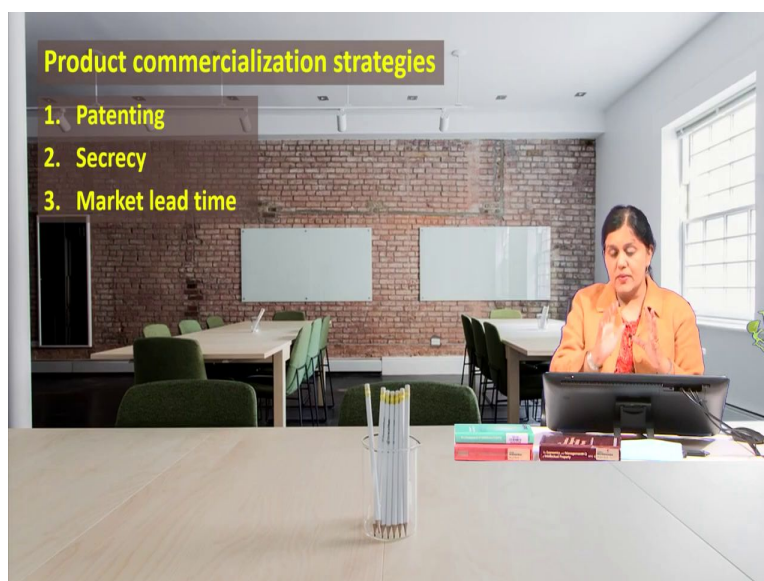
So, that is a big what we can say you have to do investment, that is a one way that is a best way but next is a like a joint venture.

So, what you can do here, you are not having say some skills or capabilities for example, you may not be able to do marketing or you may not able to do manufacturing or you may not be good in business development. So, only for that point, you can take help of some other organization and you can do the development.

Next is like a technologist selling simple example, I can give you that. Suppose I am a professor in academic institute, and or I am a individual and I am developing some technology, I will file a patent for that thing. And then I will sell it completely to some potential buyer. This is when I am saying it looks very easy, but it require a planning.

So, technology transfer is not that easy process. You have to plan that activity very well. And therefore I said that zero time is your technology starting that is a, when you start your technology development, your planning of marketing, or selling should start at zero time. So, if you do that planning that technology transfer is a very easy way, we will not go in details of technology transfer. This is again the big one subject four credit subject. So, I am just skipping but I am giving you that little idea about this three ways by which you can exploit your technology, next is like a product commercialization.

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So, patenting is mandatory, next is a secrecy and then the market lead time. Now here when we are talking about a product commercialization patenting, yes, that gives you the, what we can say a very competitive advantage. Now, it is very important to draft claims very carefully. Now, you will say whether that makes a difference, definitely that makes a very much difference when you are drafting claim or when you are drafting patent at that time also, you have to be very careful what will be your market, who is your potential buyer, and how broad I can capture different sectors.

So, I can give you a simple example here that one of my MSME client, I have handled that case so I am just giving that example, that his invention was related to waste management. So, you can imagine that waste management related invention is there. Now, when I was dealing with that drafting exercise, what exactly it is like a I ask questions, because I should know how exactly this particular invention is going on.

And first important thing I asked that explain your invention in four lines, because if he knows invention, very well, he will explain you in two lines also maximum, or four lines not more than that, because your invention is that small part, which you are adding into the knowledge domain.

Now, then, when we do conversation, we will just try to understand that what possible, how much broad I can draft the patent, because there is a limit, I have to follow law also and I have to keep in mind the interest of the client also. So, I have asked if it is a waste management related patent, if you are thinking can it be applied in a food industry, and then I explained how it can go into the food industry and then he realized oh, I have not thought about that particular thing.

So, I am giving you an example that when as a technology developer, you think of a problem in only one angle, you are considering that problem keeping into mind one scenario and your focus is always on that. So, it is generally if good patent attorney or patent expert is there, he will ask you questions do not hesitate with your the questions of a patent expert, because that will give you another what we can say line of thinking and probably you can, that may give you a different idea for the development of your technology and also this will help to draft claims very carefully.

So, when I am talking about a patenting strategy, I am talking about a drafting of a patent that should be very strategy and you have to define on the product, market, feature, quality your international market whatever your procedure or what we can say you are expanding your

business that you should think before you are drafting your patent, because once you drafted file pattern, it is not possible for you to change that. Ok. Now, the next is a secrecy, you can understand trade secret is a very important and that is a best way, just like processes are there or some what we can say additions right, if you are chemical related invention is there some additions that optimization that temperature related things. So, all these components, you have to keep secret and then the market lead time there is a you can understand that is a very important early movers or the people who are leaders probably they can capture market very easily. So, that way market lead time is a very important.

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Now, next that after concentrating on technology patenting, which strategies you will follow for a patenting. So, you may follow single or multiple patenting, you may follow fencing strategy or you may follow sporadic or continuous patenting strategy. So, what is the meaning of that? I will explain here.

So, single or a multiple patenting, what is the meaning of that, you know that when we are talking about a patent filing, it is a unity of invention is very important. Okay. If it is going a little bit heavy for you, you can take a pause, revisit and then again you can go further that will be better. Instead of you reading a video or that listening this video without understanding the previous concept that will be difficult for you to appreciate, so if you get at any point that okay, I

am not understanding that point, just rewind video and then visit it again and then come to the point.

So, single or a multiple patenting, what that it is, unity of invention is a very important you know that if unity of invention is not there in a patent examiner will ask you the query in the FER and you have to divide that divisional patent that kind of he will ask you to do the divide your patent.

So, after keeping unity of invention, there is a possibility of single or multiple patenting, yes, that is also possible. So, your patent expert will help you and then how it is important for you in two ways, if you have a sufficient fund and if you want to show that I have ten patents in short time, like a one year or a two year I have a big portfolio of sixty patents, this is a strategy for your business you will say that I am so technology driven that I am filing patent and my portfolio is building like very fast time very intensive R& D.

So, you will require many patents and that is a one view you may look into, another view will be like oh I do not want to invest much time on a litigation and much time on the patenting activity. As far as possible, I should make sure, I will be very sure that I will do complete protection, but I will try to reduce number of patents. So, that decision you have to take, you have to take and because in one patent claim is not a limit, ten patent for ten claims there is no fee after that every claim there is a fee separate fee that is in India.

So, but claim limit is not there, there are thousand claims also in one patents that also the way. So, because you have to give maintenance fee later. So, if sixty patents you file and if you want to maintain that sixty patents, you can imagine the maintenance costs you have to give. So, you have to think all these things very carefully before filing patents. So, you decide I want a single or multiple patenting that is one patent expert will help you in that next is a fencing. So, this is a wonderful strategy actually. So, most big organization they follow this fencing strategy. So, as name suggests, what is a fencing you are just covering something, protecting something, right?

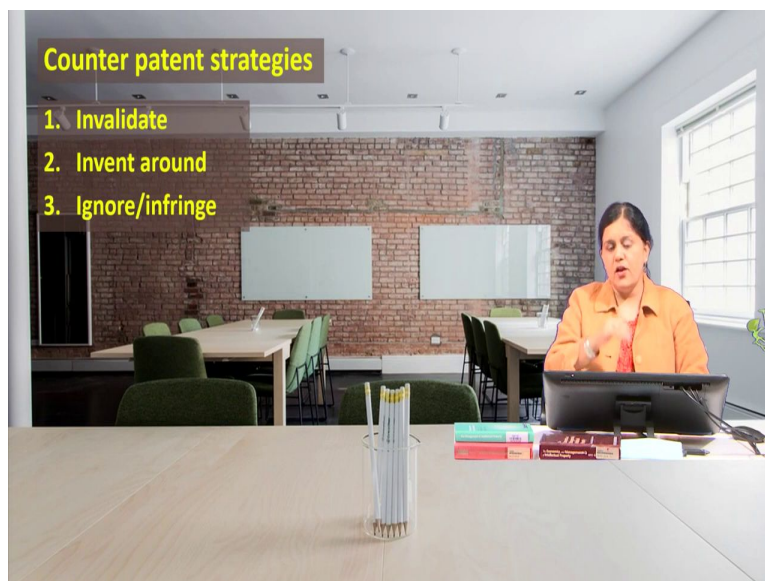
So, here what the thing is happening, that you are driven by one core technology. Your organization will be focusing on that core technology and there may be some ten very important patent, I am talking about a big organization, if there are some few core what we can say core patents are there, then it is very necessary that to avoid further competition, you keep on developing few patents around that particular core technology.

So, what happened automatically you are building a castle around your technology and you are protecting your technology so that your competitor will not enter there, got the point? So, this is what the fencing is.

nNext is a sporadic or continuous. So, I can give you a simple layman example here that there are actors like a one movie in a two years, but always a hit and there are a few like six movies in one year, you decide how you want to do you want many patents in single year or a very strong patent after a periodic time and you decide.

So, whether you will be a sporadic coming like a one patent in say, very strong patent in one and half year or two years or you are just like a continuously filing patent that is your decision how you want to project your business, okay. So, I guess you can understand this with analogy here that is a movie example and you can decide on that.

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Now, next is like a counter parenting strategy, what is that? So, either you invalidate or invent around or ignore and infringe? Yeah. So, you listen carefully means you have heard correctly it is ignore and infringe, okay. So, we will go in the details of that. Once you what we can say develop your venture and enter into the situation, your venture grow and now you are like in three, four years substantial what we can say settling down of your organization is there and if at that time only, you will think about the counter patent strategy till probably you will not think of

counter patent strategy, probably because you are very busy in developing or settling down your venture. So, this invalidation, so, what is the meaning of that? Invalidate competitor's patent?

We have talked about invalidity search somewhere, right? Use that and file the suit so many times what happened that your product is in the market. And if you come to know that, oh, I have infringed but ignore, I was ignore and I have in the fringe that particular patent. And if you are very sure that by some prior art search related activity if you able to give proper invalidity search report, probabilities that you can invalidate the patent which you have infringed ignorantly maybe and probably you can manage the market. So, that is a invalidity search and many organizations do that invalidity search.

Next is like a invent around, in one word block a competitor invent around is like a blocking a competition when I was a means in a industry, what was our six months every six months of what was our job, do competitive intelligence. So, we know who are our competitors. So, we use to create a competitive intelligence report for our competitors, because this is like a always necessary, you will do that as a entrepreneur or you will always keep watch on your competitor that is necessary. It is your what we can say it is necessary for you that what your competitor is doing, it is like what is the marketing strategy they are applying, where their R&D is going on?

Whether they are affecting my business. So, obviously means there are many other aspects are there. So, better that once you know that, okay, they are moving there, if possible block the competition and that how you can do you have to use a patent analytics and business analytics together to do or implement this strategy that is a invent around. Next is like ignore and infringe. So, here what the thing is happening, you can infringe willfully.

So, here what the thing happened that many big organizations knowingly infringe the what we can say patent of other, but they know what they are doing, right because there is some other motive every time they will not afford that particular thing. But few times, a very few times, they can afford that kind of strategy, there is a reason for that particular thing and you see so many big fights happen Apple- Qualcomm, Apple- Samsung, you know that fights.

So, motive is many times that motive is different. So, and the amount whatever you see in the litigation, it is many times a billion dollar only, but there is a reason for that kind of a what we can say infringement. So, you think reasons what probably that might be you are wise enough, I

have given you good enough, what we can say hint here, that the amount is big, big companies are fighting, I have given you the example and they are doing that willful infringement. You find out the answer. Now, if that unfortunate scenario happened with you that some litigation arises, what is the strategy you have to follow.

So, there is a litigation strategy, you know, that in the court of law, lawyers, counsels, they are using strategy very, that litigation strategies are very different subject if you work with what we can see if you see the way with which councils are handling the matter, obviously, they do the whole what we can study about the case, and then how to put forward and cross that particular what we can say the point that it is a very strategic move always.

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So, what that litigation strategies are? So, litigation strategies are like it may be a deterring, the other one is let the pig grow, I will explain you what it is and the next is like settle in or out of the court, best strategy okay. So, we will see that particular thing. Just I can give you a few examples here. As name suggests, you can appreciate deterring, deterring is like a sometimes there is no any. This is very important, you should know here, I can give you the example here that one of our client he is like irritated, rather, he got a fear that some of his competitor local competitor, he used to send emails to him that you are doing this wrong you are doing you are putting certain things on a product this is wrong. It is related to IP only I am not able to give you the details, I am just saying that they are putting that things, the certain things whatever the client

he was putting. Other competitor is just like sending emails, sending some notices that you are doing wrong client get what we can say a little bit disturbed that whether I am really doing wrong or I will enter into the litigation and all that thing.

So, this is the activity which is just to what we can say give you a fear that you are doing wrong. So, better consult with your patent expert so he or she may help you that whether it is a, he should take care or not or this is just a what we can see this competitor is using some what we can say willfully doing it just to give you some deterring what we can say effect or something like that, people are doing that kind of thing this is happening at a local level. In big organization this kind of effect is not there, team of lawyer is there, so they know what exactly the scenario is generally that is a scenario.

Next is like a settle in or out of the court, this also you can appreciate and this is a best way that if you initiate the action and if you prove that with the your competitor or whosoever infringer or imitator is that, if you prove that he has done wrong and you are capable now to win the case, he will automatically come for a negotiation and better negotiate and finish up give him license so, that he will be your what we can say lawful licensee and he will help you to develop your business.

Next is like a let the pig grow. So, here what happened, it is a very shrewd way actually allow the competitor to imitate especially, you can do it after eighteen months of publication your patent is in the public domain. After that you do before that if you do you will be in the trouble because before 18 months nobody knows whether you have filed patent or not. But after eighteen months, it is a duty of everyone who is like entering into that business to do a search report and then entered into the market.

So, what the thing you can do here like that, that let the competitor imitate let him invest his money and energy and let him develop that particular what we can say your product, is your patented product is that he is developing some venture based on that willfully he is infringing allow him to do all that thing. Now, whenever you feel okay enough investment is done by my competitor, if you come to that level and if you are sure about that and when you completely sure okay this is good enough now I can sue this fellow and then start the litigation against that competitor, it is a very shrewd way what you have done you have allowed the infringement you

are keeping watch on that thing, he has invested he has taken loan he has developed that manufacturing unit and now you have initiated the action.

A very shrewd way, but it is a very effective way because now he cannot run away from the field and you can license your patent to him very easily that is one of the way. But it is a very what we can say, you have to do it very carefully. Okay and this is knowledge economy we are fighting technology war, nowadays nobody is fighting like a war with a weapons and all that thing, we are fighting with the technology in countries if you see it is all economic driven and we are in knowledge economy.

So, this is going on this is going to happen we have to be very careful. So, let us what we can say after going through all this potential enemy then how to handle and six different what we can say strategies out of that few are technology strategy, few were like a patent related strategy, few were like a litigation strategy. For that six strategies, I have given you three examples under each category, okay.

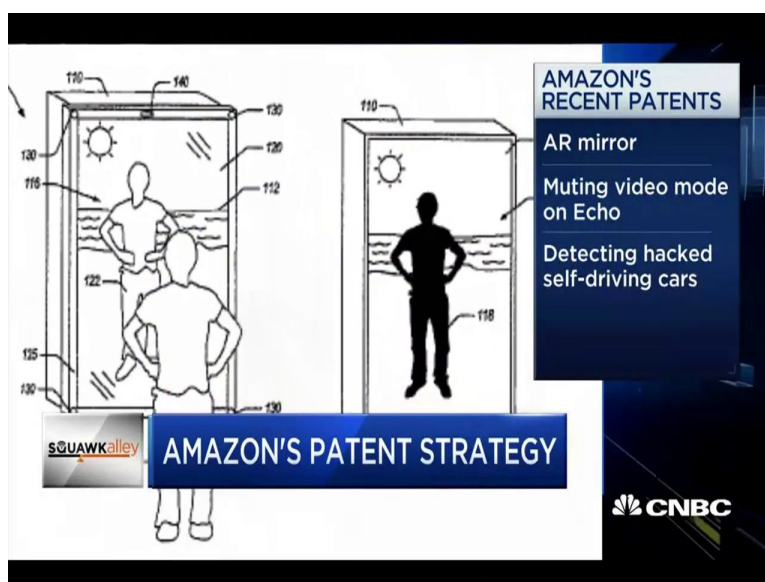
Now, we will take a break here, we will watch one video how Amazon is handling I have told you, it is a web world business, right? It is online business, right? But still Amazon have many patents, so they have a big patent portfolio, so how they are handling their patent strategy, just glimpse of that not we are not able to go in a detail, but just one incident about that particular thing.

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See, now Amazon has about five hundred patents pending of course, not all of them will come to fruition. But Amazon has had some very notable patent successes over the years, like -, one click shopping, and many of the technologies that have become the foundation of cloud computing, which is now its most profitable business. So, we looked at some recent patent issues to get into the head of Bezos, and see if we could find some clues about the inventions and technologies that Amazon might be looking at next.

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Now with the help of MCam. This is an analytics firm that measures company's IP, we found some ideas that could be straight out of Black Mirror like an augmented reality mirror technology that would mute the echoes video mode by pixelating the image and tech that would detect hacked self driving cars. Now the smart mirror would let users try and work. So, I hope you enjoyed this video.

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So, to summarize now that your potential enemies are a competitor, the fly by nighter, traders, your launcher, importer, and vendors, how you are handling potential enemies potential IP

inventor share, competitor, contracts, trade secret and insurance and what different patents strategies, patents and technology strategies, you are using technology acquisition strategy, technology exploitation strategy, patenting strategy, product commercialization strategy, counter patenting strategy and a litigation strategy.

So, with this, we come to the end of this session on patent strategy. I hope you enjoyed the session. If you have any queries or need help with reference to patent strategy, please do not hesitate to communicate with us. You can just rewind this session, I guess this may be little heavy, so rewind it, revisit it, just go through probably you will appreciate it and if you are really entering into the venture, this is very, very important session for you. So, see you in the next session. Thank you.