

Managing Intellectual Property in a Crisis (Part 3)

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(Note: This is Part 3 of a three-part series for protecting intellectual property during difficult economic times. You can [read Part 1 here](#) and [Part 2 here](#).)

Logically, it is necessary and desirable for a business to protect every piece of intellectual property it has. The reality, however, is that it's not generally feasible to obtain protection for everything.

In fact, protecting everything can be cost-prohibitive and cause serious budget issues. It's more appropriate to match products and services with what can be protected by intellectual property rights. You may find that you already have intellectual property rights in copyright material and trademarks used with goods and services. However, it may be necessary to take extra steps to register or procure those rights. If so, then you would want to perform a cost-benefit analysis to determine whether securing and maintaining intellectual property protection is warranted. Cataloging the types of intellectual property into portfolios provide further guidance when budgeting for protection. Companies can easily start this using a spreadsheet.

For more sophisticated analysis, a company can perform a global review of their intellectual property portfolio. This portfolio maintenance should be performed on a global basis, rather than an asset-by-asset basis. The key to success is being able to tie the intellectual property portfolio to those products/projects likely to bear fruit, or those which are required to keep competition from making infringing products.

The owner of intellectual property must become increasingly savvy about the value of its portfolio, and more educated about the best ways to identify and manage intellectual property. Armed with portfolio management and strategic decision-making processes in place, the owner will approach business, marketing, licensing, negotiating and litigation decisions from a position of knowledge and power. Failure to monitor an intellectual property portfolio may lead to waste and even compromise certain valuable rights. The most common danger of ignoring intellectual property is the loss of business opportunities, because the business owner was not attentive to whether those opportunities were worth pursuing. For example, an issued patent requires maintenance fees periodically through the life of the patent. Failure to pay a maintenance fee will cause the patent to expire. The business owner must make an informed decision as to whether or not maintaining that patent is in the business' best interests. On the other hand, the unnecessary payment of a maintenance fee may result in a lost opportunity to invest those funds in new projects or patents. It is therefore critical to maintain a portfolio of patents which is driven by the business' needs, strategy and long-term goals.

If you have questions about your own potential intellectual property portfolio, please [contact me](#) or any member of the [Barley Snyder Intellectual Property Practice Group](#).

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