

## ***PATENTS - THE NEED FOR SPEED!***

Cloaking new technology in a protective veil of patent rights is a very high priority for technology companies today, second only to creating the technology itself. The U.S. may at some point soon adopt a "first to file" rule for competing patent applications, consistent with the rest of the world. For companies that depend on having superior patent rights, there is clearly a need for speed in obtaining legal title and patent protection for their new technology.

How is this need for speed to be satisfied? Simply stated, each step in the process must be examined to see what can be done to improve speed without compromising quality.

The first steps are the drafting and submittal of the invention disclosure, and the management evaluation of the patent question. These steps are often an exceptional event in many companies, rather than a standard procedure. However, this first stage activity is where a company has the greatest ability to affect the timing, quality and cost of its patent portfolio. *A company policy of constant invention capture, understood and practiced by the technical staff and middle management, is crucial.* Early recognition and action on inventions also reduces the possibility of public disclosure or sale prior to a first patent filing, which can jeopardize future patent rights.

A company-wide policy of documenting technical advances and supporting inventive efforts motivates timely submittal of invention disclosures. With a reliable invention reporting mechanism in place, a patent committee can then quickly evaluate invention disclosures against a yardstick of technological merit, commercial value, compatibility with corporate goals and objectives, and budget, to decide which ideas should be selected for first stage patent protection.

A 5 year cost model for filing a new case is a useful planning tool for making the patent decision. Every case in the portfolio, at every stage of patenting, should have a current status and updated 5 year cost plan so that the committee has a total portfolio perspective and a comparative basis of the cost impact of adding new cases and paring old cases. Patents are expensive, but because the cost is distributed over time and can typically be terminated at any time when patent protection is deemed to be of no

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further benefit, there should be little hesitation to file an initial application if an invention meets other objective criteria.

Of course, the need for speed does not end with the patent decision. Continuous cooperation, instructions, and oversight of the company's patent counsel are the best insurance that patent applications will be well drafted, timely filed, and strongly prosecuted.