HOW MUCH IS MY PATENT WORTH IF I SELL IT?

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Whether a large company owning thousands of patents, or an individual owning a single patent, the question inevitably arises – how much is my patent (or patent portfolio) worth if I sell it?

According to some pundits, less than 80 percent of patents worldwide are commercialized or utilized. Worse yet, most of the patented technologies are worth less than their registration and maintenance fee. What this might suggest is that from a patent owner’s perspective, the value of their patents is perhaps exaggerated.

But that does not answer the question – what is my patent worth? There have been at least three well recognized methodologies to gauge the value: 1) cost, 2) market, and 3) income.

The cost approach seeks to determine the cost of replacing the patented technology with another technology. In a simple descriptive way, the cost approach calculates the total costs of developing the patented technology and then determining its present value.

Looking at the cost is relatively simple, but perhaps oversimplified since it only accounts for one variable.

The market approach looks at recent transactions involving patented technologies of a similar nature and function. It is akin to the real estate broker looking at comparable sales in the neighborhood.

However, the market approach is premised on one having access to similar transactions when, in fact, most of these transactions are private and confidential. Another limitation is that there may only be a few similar transactions, and even the few transactions may have been motivated by different factors that affected the price.

The income approach may be viewed as a more modern approach in terms of historical time. It is premised on the amount of future income that
can be derived from commercializing or utilizing the patented technology. The future income is then recalculated to a present value.

Under the income approach, one may view the world of patents as falling into one of three categories: 1) existing licenses, 2) known licensing potential, and 3) unknown licensing potential.

In the first category of existing licenses, the amount of the future royalty stream can be discounted to the present value. That is relatively straightforward, but probably not a common occurrence. If a patent owner is already receiving a royalty stream, the owner might not likely be selling the patent.

In the second category where there is known licensing potential, the forecasted royalty stream must be calculated. The obvious difficulty here is being able to not only identify potential licensees, but then determining the probability of actually signing a license based on some hypothetical negotiation. A complicating factor here is that in order to realize the licensing potential, litigation may be necessary which includes a significant cost and risk.

The more common scenario is one where there is unknown licensing potential. Here, a number of factors may be considered to determine the value:

- Claims – how broad or narrow are they
- Forward citations – by whom and how many
- Patent term – how many years left
- Foreign counterparts – where and how many

But even when one considers those factors, it does not automatically equate to a dollar number. Hence, there is the use of computers to take formulas to make such a calculation.

Still, the foregoing approach is of no real help (at least in a quantitative sense) to answering the question of – how much is my patent worth if I sell it? But when used in combination with other valuation approaches, one might start to find the quantitative answer.