

DIN 77006 IP management system -

Success factor in the digital transformation

The Situation

The digital transformation has arrived in corporate reality.

Whoever wants to gain competitive advantages develops new business models, use cases and applications with considerable digital shares. Intelligent platforms change the interaction with customers, in production the use of new communication standards (5G), AI and digital data twins leads to more agility and higher efficiency.

Digitization and the resulting changes in **business eco-systems** are leading to a radical rethinking in the way intellectual property (IP) is handled. Leading companies have always tried to legally secure their own service offerings not only by patenting their technical developments, but also by creating patent portfolios specifically geared to customer benefit to gain exclusive market positions. Such IP strategies allow the enforcement of higher market prices and the expansion of the own market share. With new market partners and competitors from other industries making use of the opportunities and avoiding the risks is resulting in a complexity that even large companies with traditional processes and structures can no longer master.

With **the introduction of DIN 77006**, requirements for a voluntary standard for the design of a modern Intellectual Property (IP) management system in a company are specified for the first time. This standard offers important guidelines for the design of effective processes and the assignment of tasks, especially for SMEs, which have neither the human nor financial resources to compete against the top players of digitization such as Alphabet, Amazon, Apple, Microsoft, Huawei and others.

Seizing the opportunities - Exclusivity by Design

One of the key success factors in the creation of exclusive and legally protected unique selling points is the focus on the market and the customer.

Customers pay for customer benefits. This can be protected against imitation by the competition. Marketing and sales must know the possibilities of IP design, the design of IP geared to business objectives, and work closely with the technology side in deriving IP objectives from business objectives.

Ideally, in the innovation process, along with the development of the new digital use case, the core issues of IP design should be considered from the very beginning:

- Can I realize this (without infringing on the patents of others)?
- How do I implement this (and build up a strong IP position)?

- What do I not want to see in the competition (and therefore do I have to build a protective position for a solution that I do not bring to market myself)?

By answering these questions, IP design helps to describe and develop the use cases that are accessible to protection and can be executed. A conclusive IP strategy as well as the consistent consideration and mapping of the relevant IP processes according to DIN 77006 lead to improved productivity, error prevention and an increased degree of legal certainty.

Crucial for the correct protection of digital solutions is the management of the digital invention process as well as a corresponding awareness and further training of digital experts and software developers.

Among these employees, the opinion still prevails in many cases that the patent protection of digital solutions is not possible and therefore nothing is "invented". Therefore, in view of the rapidly increasing number of digital patent applications and the current court decisions on the enforceability of these patents, it is the responsibility of the management to ensure that the developers of cloud solutions, apps and platforms also understand their role as inventors, are supported in this role by an appropriate process and, last but not least, receive appropriate recognition through the legally regulated compensation for employee inventors.

Fulfilment of IP compliance requirements

Digital patents are different. They do not come from physical reality or technical functionality, but from the application, the solution or the use case. This also has an impact on the analysis of the competitive situation including the foreign patents to be considered. A classic freedom-to-operate search, which has the purpose of identifying all relevant patent information to exclude an infringement, is therefore very time consuming and costly, in most cases almost impossible.

Dealing with IP risks is one of the challenges for entrepreneurs in complying with their due diligence obligations. In the case of the infringement of third-party patents, the question of possible negligence and the resulting civil and criminal law consequences arises.

Conformity with DIN 77006 provides the framework for legally secure action. The standard describes the essential processes that are part of modern IP management. IP processes, such as IP strategy, IP generation and IP risk management, are integrated into an established process model and follow the systematic PDCA (Plan-Do-Check-Act) approach known from quality management.

Especially IP risks resulting from digitization can be systematically identified, quantified, formulated as a management task and reviewed with regards to the implementation of this task.

The introduction of DIN 77006 enables the company to integrate intellectual property holistically and systematically into the existing management system processes of its organization. This requires a rethinking of the handling of IP in terms of a cross-functional task, but ultimately ensures the IP compliance of the company.

Conclusion

Digitization offers companies, regardless of their size, opportunities to create customer value with innovative solutions. However, digitization increases the risk of infringing third-party property rights. For companies that want to proactively develop their IP portfolio and manage it in a legally compliant, target-oriented and consistent manner, DIN 77006 describes the requirements for adapting their IP processes and avoiding liability cases.

Further information, suggestions and case studies can be found at

<https://ipforbusiness.org>