

The International Patent Licensing Method

Introduction

Approximately 2,900,000 patents are filed annually worldwide via various routes. In the Netherlands, approximately 75% of the granted patents are actually used for product development or in a production process. If the technical inventions on which these patents are based can also be used commercially by other companies and in other countries, a licence granted between a patent holder and a licensee can generate a lot of money for both parties.

At the Netherlands Enterprise Agency (RVO), the Netherlands Patent Office (NPO) and the Enterprise Europe Network (EEN) have developed an approach for Dutch companies and knowledge institutions to generate more economic value with their patents. Patent holders with granted patents, which have been applied in products and/or processes and which have led to successful innovations in the market, are offered the opportunity for international distribution via the International Patent Licensing Method.

The International Patent Licensing Method

For the selection of promising patented products we have a number of databases such as: 1) the Dutch Patent Register (<http://octrooiregister.rvo.nl>), 2) a Dutch marketplace for patent trade (<http://www.octrooilicenties.nl>) and 3) Espacenet (<https://nl.espacenet.com>). The Dutch patent register contains all patents valid in the Netherlands (approx. 160,000 in 2014). The patent licences database contains approximately 400 patents (mid-2015). This is a selection of Dutch patents for which the owner has given permission to make it clear to third parties that they are available for licences. Espacenet includes approximately 100 million patents from the countries affiliated to the World Intellectual Property Organization (WIPO). The above databases are accessible to everyone via the Internet.

The International Patent Licensing Method is carried out by answering 12 questions:

1. In which countries is the patent granted?
2. Is the patent applied to a product or process?
3. Is the application successful in the market?
4. Is the company willing to license his patent?
5. Is the company searching for new markets?
6. Has the company in that market got a granted technology?
7. Is there a dedicated ambassador in the company?
8. Is the company prepared that the RVO executes a patent market analyses?
9. Results the market analyses in company's in other countries with the same technology?
10. Is the RVO prepared to look after the contacts in the other countries?
11. Are there possibilities to match in these countries (fairs, conferences)?
12. Are there possibilities to participate in company missions?

In step 1 we analyse in which countries the patent is registered and granted outside the Netherlands.

In step 2 we examine whether the patent has been applied in a product or a process.

In step 3 we check whether the patent has been successfully applied or available on the market in a product or process.

The positive result of steps 2 and 3 are an essential condition for the next steps, since a patent that has not been successfully applied in a product or process is extremely difficult to trade. This would mean that the licensee himself must take charge of the development and market introduction.

Steps 1, 4 and 6 are carried out by the specialists of the NPO in consultation with the client. In cooperation with EEN the NPO creates a profile for each product or production process in which the patent is applied. This profile must meet the following requirements:

- 1) provide a clear description of the problem;
- 2) indicate the unique aspect of the solution;

- 3) the patented aspect (if applicable) and
- 4) provide the (remaining) duration of the patent.

In addition, it indicates which know-how the client can provide in order to be able to optimally implement the technology with the future licensee. Finally, an indication is given of the financial consequences of taking or granting a license.

In step 4 the patent holder is approached with the question whether it is interested to trade the patented product or process by EEN in other countries in the form of a license.

In steps 5 and 6, the patent holder determines in which countries it is possible and desirable to license the patented product or process.

The entrepreneur, organisation and/or patent owner is central in steps 5 to 8. In addition to the patent owner itself, a third party can also select one or more patents in one of the databases mentioned above.

After it is clear in which country a patent holder seeks licensees or patent holders, EEN can then search for companies working in the same sectors or technology areas.

In step 9, in the market analysis, the so-called patent classifications that are applied by default when classifying patent applications is used at NPO. This makes it possible to compile an optimal overview of companies (and people) with similar patents. This overview can be 'filtered': by country, continent, filing date, grant date and date on which the patent is no longer valid. This enables us, after consultation with the patent holder, to compile an overview of companies (or persons) that in a certain country or part of the world have valid patents in the same area of our 'client'. The 'client' then determines in which country he can and wishes to license his patent (s). These may be countries in which our 'client' has patents but does not intend to carry out activities itself.

In steps 10, 11 and 12, the EEN advisor contacts foreign colleagues in those countries where the selected companies are located. This EEN colleague is requested to approach the companies in the country concerned that have been selected on the basis of the NPO patent analysis carried out. These companies are known to work in the same sector as the client and, since they also have patents, they probably also invest in R & D. Approaching these companies by the EEN partner in the country in question is very efficient in this way!

It is essential that the questions posed in the schedule should be answered positively before there can be a successful license mediation.

The BAM case

With its research and development activities, the Royal BAM Group has built up a modest patent portfolio over the years. This portfolio is, as is often the case, largely used defensively. BAM thus protects its investments and uses the technological advantage to gain advantage over its competitors. Some technologies appear to be so progressive that they lead to interest from non-home markets. In the past, this has already led to a number of license agreements.

In this way, income is generated with licenses without specific activities being undertaken for this from BAM.

This was the reason for BAM to seriously address the valorisation of the patent portfolio. During the time that the BAM was looking for knowledge and experience to design a process, the BAM came into contact with the Netherlands Enterprise Agency. A fertile soil soon appeared: analysing the (state of) technology and protection, finding opportunities and then bringing the right people into contact are crucial steps in this whole. With a quick scan, it quickly became clear that all current leads would also be found on the basis of the NPO analysis, as well as 30 other potential leads ... Convincing the right management within the BAM of an activity that falls outside of regular processes can not be underestimated. After many presentations about investments in an uncertain (read: unknown) area you have to be confident to make a decision of the right people in the right place at the right time in a large organisation such as BAM. The International Patent Licensing Method has now led to a profile in the database of EEN and the interest of a number of companies in Europe and the Far East.

Benefits of the International Patent Licensing Method

For the patent owner, the International Patent Licensing Method offers the following benefits:

- an up-to-date overview of companies active in the same technologies;
- an up-to-date overview of companies that have indicated which technologies they are interested in purchasing licenses;
- a first exploration, via EEN, of the interest among companies for the patented products or processes;
- insight onto third parties that they want to do business with the patents applied in products or services.

For the patent searcher, the International Patent Licensing Method offers the following advantages:

- an up-to-date overview of companies active in the same technologies;
- an up-to-date overview of companies that have indicated in which technologies they are interested to issue licenses;
- the patented technology offered has already proven itself in existing products or services.

For the NEA, the International Patent Licensing Method offers the following advantages:

- through the linking of two departments or instruments more opportunities for SMEs in the Netherlands are used;
- A consultant can look specifically for companies in the different technology sectors for their activities;
- through co-operation with advisors of International Entrepreneurship, European subsidies can also be selected for the (European) partnerships.

The International Patent Licensing method is now offered to all Dutch companies with a patent position in one or more countries and is also presented to foreign government institutions.

This method can contribute to the European Commission's ambition to make Small and Medium-sized Enterprises in Europe more patent-aware and to convince them that there are many advantages to an international patent strategy.

About the author

Hans Kamphuis has been working as a consultant in the Enterprise Europe Network since 2015 (www.rvo.nl/een).

He has over 35 years of experience in the market of 'demand for' and 'supply of' ideas. He has been responsible for a number of initiatives aimed at bringing supply and demand of ideas together.

From 2008 to 2014, he was active as chairman of the Dutch Order of Inventors (NOVU) and from 2014 as committee member of the Netherlands Organisation for Scientific Research (NOW). In 2016 his book "Van Inventie naar Innovatie (From Invention to Innovation)" was published.

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