



[Law.com Home](#)
[Newswire](#)
[LawJobs](#)
[CLE Center](#)
[LawCatalog](#)
[Our Sites](#)
[Advertise](#)

CAL LAW
 CALIFORNIA'S LEGAL NEWS SOURCE

This Site |

[home](#)
[decisions](#)
[recent stories](#)
[subscribe](#)
[find a job](#)
[advertise](#)
[contact us](#)
[announcements](#)
[free limited access](#)

Home > Patent Attorneys Go for Brokerage

Font Size: [+](#) [-](#) | [Print](#) | [Email](#) |

Patent Attorneys Go for Brokerage

The Recorder

By **Zusha Elinson**

January 29, 2008

The increasingly hot market for intellectual property is creating a new kind of player — IP lawyers who have fled their firms to start brokerages for patents.

IP has become more valuable in recent years and more volatile as a market. Companies have been buying up patents beyond what's necessary for their products to reinforce their position in IP fights with competitors, and "trolls" are continually buying IP without using it, looking for a chance to sue for infringement.

As the marketplace grows, patent lawyers have begun setting up "IP investment banks" that buy and sell patents, and advise companies on new ways to monetize their IP portfolios.

"It's such a unique and really cutting-edge area," said Stephen Knauer, a former in-house attorney who joined San Mateo's Ipotential last year. So cutting-edge that even figuring out the value of the patents being bought and sold is far from a developed science, he said. "[It's] really interesting and exciting, but at the same time it really takes professionals to run this kind of business."

While these companies offer varying and sometimes exotic services, such as spinning off a set of patents as its own company, most maintain a patent brokerage that functions pretty much like a real estate agency, setting up buyers and sellers. It's a role that lawyers at law firms, who are more used to negotiating the terms than the price, have usually shied away from, leaving a market open to a hybrid of businessman and lawyer.

By all accounts, business is booming for these investment shops. Two local companies, Ipotential and Inflexion Point Strategy, report that since their founding about four years ago, revenue has grown quickly and doesn't show signs of slowing.

"It's better than my wildest dreams," said Ronald Laurie, who left Skadden, Arps, Slate, Meagher & Flom to found Inflexion in Palo Alto in 2004.

Ipotential, co-founded by former Intel Corp. lawyer Ronald Epstein, reports that it advised on patent deals



Steve Knauer, IPotential
Image: Jason Doiy / The Recorder

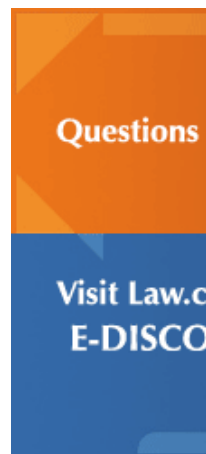


Fabio Moreno, Skjerven
IMAGE: Shelley Eades/The Recorder



MOST VIEWED ON

1. Munger Avoids
2. Forbes Lauds 'M
3. Appointment Li
4. Outsourcing Fu
5. Sidebar



worth around \$100 million in 2007. The shop has done work for such giants as Motorola Inc. and has also brokered patent sales for individual inventors and failed tech companies. It sold the IP portfolio of Legerity, a struggling AMD spin-off, to **Altitude Capital Partners**.

Fabio Marino, an IP partner at Orrick, Herrington & Sutcliffe, says these IP investment banks won't take the place of law firms, which actually end up getting more work from the deals drummed up by the IP investment banks.

"I don't think they're competition," Marino said. "In some sense they create additional business."

John Amster, a former managing director at pioneering patent auctioneer **Ocean Tomo**, said advising on deals can be profitable for the advisory shops.

"The volume of transactions is such that you can make a lot of money on the transactional side," said Amster.

While the patent market is expanding, the young industry still has a number of kinks to work out. Determining the right price for a patent is one area that can baffle professionals and frustrate buyers and sellers. The lack of clarity already has led to a few disputes.

"We now have a liquid market," Inflexion's Laurie said. "Whether or not you're getting a fair value is the next problem that has to be solved."

Laurie said he's working with an intellectual property organization, Gathering 2.0, to develop a database that would make valuing patents easier. The database would be similar to real estate listings that agents have access to, he said, showing how much certain patents were sold for to give a buyer or seller some expectation of what a similar deal should be worth.

The nature of the patent market, however, makes setting the price a difficult task, says Ipotential's Knauer, because a patent may be more valuable in one situation than in another. "One party may have a perceived threat, and they may want to have a patent as a bargaining chip," Knauer said. "They may be very inclined to pay a lot of money for it."

At Ipotential, patents or portfolios are put out for informal bid and the market determines the price, Knauer said.

Another issue facing the young patent market is the specter of patent reform in Congress, which could limit patent holders' rights and make patents less valuable.

Orrick's Marino says that even if Congress stamps out the "patent trolls" that don't make any products but sue for infringement, broker services will still be needed.

"Trolls are not really the reason that patent brokerages should be successful, because they [are] at the low end of the marketplace," Marino said. A broker's expertise really matters in a bigger arena. "The kinds of disputes that can most benefit from the strategic use of patents are the ones among competitors."

Even with some uncertainties facing the industry, IP investment banks aren't having trouble recruiting talent from top law firms and companies. Aside from Knauer — who worked at now-defunct IP boutique Flehr Hohbach Test Albritton & Herbert and in-house at Gemplus — Ipotential recently hired a Kirkland & Ellis IP partner, Zachariah Higgins.

Observers say there's still a lot of room for more IP advisory shops with the industry still in its nascent stages.

"There's still room for the Goldman Sachs of IP investment banking," Amster said.

PATENTS PENDING



Read our latest coverage of patent law and intellectual property issues, from Silicon Valley to the U.S. Supreme Court.

[Terms & Conditions](#) | [Privacy](#) | [Advertise](#) | [Help](#) | [About Cal Law](#)



[About ALM](#) | ,

Copyright 2008 ALM