

## **PLAYERS IN THE IP MONETIZATION INDUSTRY**

This memo identifies companies involved in the array of activities collectively grouped under IP Monetization (valuing and extracting value from IP). The memo is organized according to categories of activities drawn from those defined by Raymond Millien in an IP Watchdog posting (Jan. 23, 2013), “Landscape 2013: Who are the Players in the IP Marketplace?” It cites some of the same players identified by Millien under each category, though the list could be revised/augmented based on further information and response to the industry’s constant evolution.

Many players appear under several categories, since most are not defined by a single activity and all are opportunistic. If they believe that an adjacent market could be lucrative, they attempt to participate. In this sense, the listing is kaleidoscopic: the industry changes shape as players move in and out of various activities. Some firms claim to be “full service,” providing a wide spectrum of monetization services under one roof.

**Patent Licensing and Enforcement Companies** – These own one or more patent portfolios, attempt to license them through targeted letter-writing campaigns and then file patent infringement suits against those letter recipients who refuse to enter into non-exclusive licenses. These are the infamous “patent trolls” or, more politely Patent Assertion Entities (PAEs). They generate revenue both from license fees and from the annual \$4.6 billion IP awards market. (Players include Acacia Research, Patriot Scientific, InterDigital, Tessera, Rambus, Epicenter IP Group, and Round Rock Research).

Many Operating Companies (i.e. “practicing entities”) have active licensing arms that generate huge sums, and these are in fact the most successful “licensing” companies.

**Institutional IP Aggregators** – These typically operate as general partners of a limited partnership, and raise money in the capital market or from large tech companies. Investors achieve returns from targeted patent purchases with the goal of establishing licensing programs and/or employing various arbitrage strategies. (Players include Coller IP Capital and Intellectual Ventures).

**Defensive Patent Pools, Funds and Alliances** – These seek to selectively acquire portfolios of patents for defensive purposes. Often, various IP-owning companies join together to create an independent entity to acquire potentially problematic patents, and license them to anyone willing to share the costs associated with acquiring and administering the patents. Variants on this model include the so-called “catch and release,” where a consortium buys patents that have been put on the market, licenses them to members, and then sells the patents (ideally at a profit). In another variant, a group of corporate investors will buy patents known to be of interest to other companies that are aggressive in asserting patent claims against competitors. If one or more in the alliance is threatened or sued by one of these aggressors, the

affected member(s) can deploy the patents to use in a counter-attack. (Players include RPX, Open Invention Network, Constellation Capital, Allied Security Trust).

**Technology/IP Spinout Financing** – Like venture capital or private equity firms, these specialize in spinning out promising non-core IP that has become “stranded,” e.g. on account of an M&A transaction. They also create joint ventures between large tech companies to commercialize the technology and monetize the associated IP. (Players include Altitude Capital, Inflexion Point, New Venture Partners, Real Capital Analytics).

**Licensing Agents** – These assist IP owners in finding licensees, though the wide range of activities under this head can in some cases come close to those of an enforcement company. (Players include Fluid Innovation, General Patent Corp., ipCapital Group, ThinkFire, and IPValue).

**Litigation Finance/Investment Firms** – These raise money from large institutional investors, but their goal is to acquire a financial interest (ownership or debt) in patent portfolios for assertion. (Players include Altitude Capital, IP Finance, Rembrandt IP management, NW Patent Funding, and Oasis Legal Finance).

**IP Brokers** – These function like Licensing Agents, but seek to assist patent owners in finding buyers rather than licensees. Also, they operate on both the buy- and the sell-side of a transaction. (GTT Group, Players include Inflexion Point, Epicenter IP Group, and Pluritas).

**IP-Based M&A Advisory Firms** – These operate like traditional investment bankers, advising tech companies on their M&A activities. However, whether operating on the buy- or sell-side, they focus on the IP component of the deal. Hence the IP investment banker will assist companies in identifying potential acquisition targets or acquirors with complementary IP assets. (Players include GTT Group, Inflexion Point, Pluritas, Real Capital Analytics).

**Royalty Stream Securitization Firms** -- These counsel, assist and/or provide capital to patent owners engaged in IP securitization financing transactions (not unlike mortgage-backed securitizations). The resulting notes, which are backed by expected future royalties on the underlying IP, are generally higher-rated commercial paper than that which is issued based on the company’s overall creditworthiness. (Players include Global Franchise Group).

**Third-Party Litigation Funders** – While these firms underwrite the litigation costs for a vast array of suits – securities fraud, antitrust, bankruptcy, contract disputes – they play a large role in one of the costliest areas of litigation: patent infringement disputes. Such disputes can, in some instances, cost as much as \$10 million to prosecute, although the payout can be in the billions. Such funders are thus instrumental in helping patent owners continue to realize value from their IP, especially where “hands on” support is provided to enhance a suit’s payout and likelihood of success. (Players include Fulbrook Capital Management, Burford, Juridica Capital, IMF, Calunius, Harbour Litigation Funding and Woodsford Litigation Funding).

**IP Transactions Exchanges and Trading Platforms** – These are exchanges where commoditized patent licenses are listed and traded. For a discussion, see recent article in *IP Prospective* (originally in *IAM Magazine* 2011) “The Value of IP as a Commodity,” [http://www.ipprospective.com/wp-content/uploads/2011/06/iam\\_47-value-of-ip-21.pdf](http://www.ipprospective.com/wp-content/uploads/2011/06/iam_47-value-of-ip-21.pdf). (Players include IPXI, and American Express IP Zone).

### **Sources for information about IP Monetization**

*Intellectual Property Expert Group*, <http://www.ipeg.eu/tag/ip-monetization/>, has information on an array of topics related to IP monetization. Blog, <http://www.ipeg.eu/>, is great and has links to most other important IP blogs worldwide. This is a good one-stop shop for IP monetization developments.

*IP Prospective*, <http://www.ipprospective.com/>, is another well-informed source for information on IP monetization.

*IAM (Intellectual Asset Management) Magazine*, <http://www.iam-magazine.com/>, is an authoritative source, as its blog, <http://www.iam-magazine.com/Blog/Default.aspx>.

*IP Watchdog*, *IP Kat*, and many other IP blogs all have articles on monetization, but are not dedicated to the topic. They can be accessed through the IPEG blog, above. Patently O blog, <http://www.patentlyo.com/> is another very good blog on developments in patent law.

Maya Steinitz’ blog on “A Model Litigation Finance Contract,” <http://litigationfinancecontract.com/>, includes discussions on third-party litigation funding