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## Creating a Patent Market

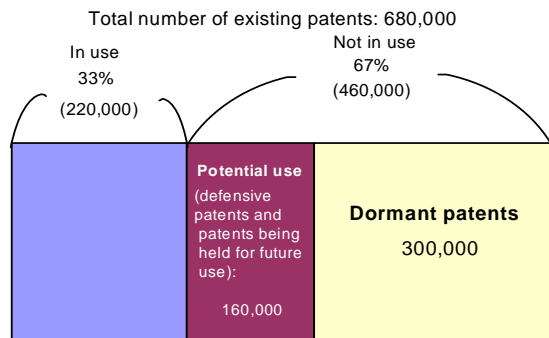
### 9.1 Promoting Patent Use

Once it is understood that patents represent property, it stands to reason that they should be tradable. And it would be convenient if there were a market for them, as there are markets for fish, vegetables, and other products. Just like the real estate market or the job market, there should be a patent market. Creating such a market and facilitating the trade in patents will contribute to their more effective utilization.

There are currently 680,000 patents in Japan. Of these, 220,000 are actually being used, 160,000 are scheduled for use and some 300,000 are lying dormant. What a waste! Not long ago, patents were seen as a form of recognition for researchers, and companies made an effort to obtain patents for the sake of obtaining them. But given the need for companies to use their people, capital, and other resources to maximum efficiency, it is extremely wasteful for them to spend a lot of resources obtaining patents that they do not then use. This is also true of universities and other non-corporate research institutions. Even though they do good research, they then shut the results up and do not let anybody use them. This research ends up contributing nothing to society. It is clearly essential that better use be made of Japanese patents. (*Chart 9.1*)

Just as there are companies with wastefully dormant patents, there are also companies that would be interested in using these same patents. What then can be done to encourage the more efficient use of Japan's patent stock? Because patents are assets representing intellectual property rights, it is only natural that there should be a market where would-be buyers and would-be sellers could come together. Yet there are many people in Japan who have obtained patents, not to use them, but to keep other people from using the technology. In fact, 41% of all Japanese patents fall into this defensive 'I'm not going to use it but neither is anyone else' category. Yet given that the crux of good management is to use the

**Chart 9.1 Need to Create a Patent Market**



Dormant patents are those that the company is not using and would be willing to license to another company

Source: Report on Unused Patents, Japan Technomart, 1996

company's assets and other resources most efficiently, there is an emerging need to use patents more efficiently.

Japan also needs more start-up venture firms. In fact, this issue of encouraging greater industrial activity to revitalize the economy is one of the main issues facing Japan today. It has been estimated that Japan needs about 100,000 new companies. The United States seems to have no trouble encouraging start-ups, and the start-up rate of 14% in the U.S. is much higher than in Japan, where the start-up rate is only 4%.

What do people need to start new companies? An inventor can go ahead and start a new company with his own technology. Other people will need to find technology or start-up ideas from elsewhere. This trend has been especially pronounced in the United States, particularly since the 1980s. Increasingly, university students have started new companies using technology developed by their universities, while private individuals and SMEs have started new companies utilizing other people's patents. Japan needs the same thing. The Japanese government is promoting a program to create 100,000 new start-up companies, but this will not be possible unless more efficient use is made of creative technology developments, and many people are thus calling for the establishment of a patent market.

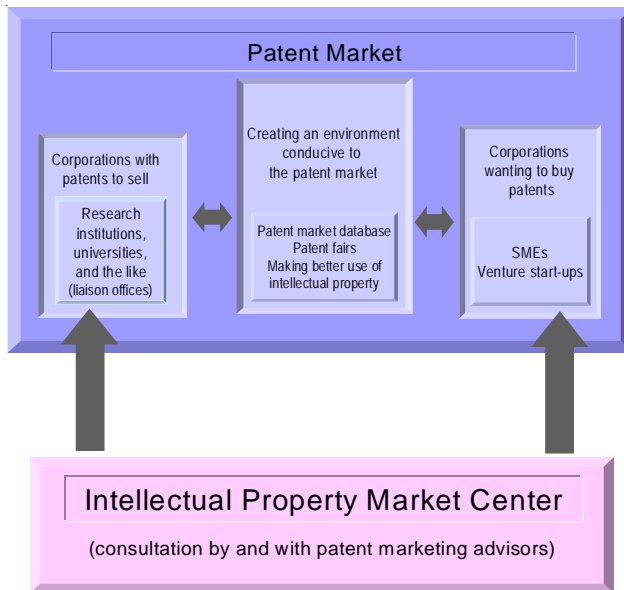
## 9.2 Establishing a Patent Market

What needs to be done to establish a patent market? For university-generated patents, the passage of the Law Promoting Technology Transfer from Universities to Industry has made it possible for university researchers to obtain patents and to

transfer them to new companies through the university Technology Licensing Office (TLO). Yet because the universities do not have patent expertise, patent advisors have had to be sent to the universities to support the TLOs in advising researchers and administrators on patents and patent licensing.

For dormant patents held by private-sector companies, the first thing to do is to make that technology accessible to other people. Only then can we talk about licensing and effective use. (Chart 9-2)

**Chart 9.2 Development of the Patent Market**



### Patent Fairs

The first thing to be done is to hold Patent Fairs, where would-be patent users can actually talk with the people who hold the patents. These have been held nationwide in Japan since 1997 and have been very well received. They are opportunities for patent-holders to show their technology, to attract interest from people who might be able to use the technology, and perhaps even to negotiate licensing agreements. Yet because it is impossible to hold Patent Fairs all year long, Japan also needs a system of patent advisors to bring patent holders and would-be patent users together.

## A Patent Cybermarket

Second is to use electronic networking, computer networking, and other cybertechnology to create an e-market for patents. Patent information is technical information, and it should be possible to make it widely available over ordinary information networks. The Internet should make it easy for people who want to sell or license patent rights to post information about the technology involved, and for people wanting to use the technology to respond with buy offers, again using the Internet. In effect, it should be possible to create a virtual market in patents. In this spirit, Japan Technomart has made its computer system available and called upon companies to post information about their patents. Happily, a large number of companies have responded and there is a strong listing on the site.

Someone accessing the Japan Technomart Website can see the sell offers and the buy offers on the patents listed there. Because there is also a sophisticated search function, it is possible to locate what patents you might be interested in and simply to look at the buy and sell offers on these patents. Japan is slowly developing a patent market appropriate to the computer age, and it is hoped this will be widely used.

## Patent Brokers

Third is the need to encourage brokers to facilitate the trade in patents. Because patents typically involve leading-edge technology, they are often difficult for most people to understand. Thus, we need people who can spot the unique selling points and can offer the technologies to companies that might be interested, explaining what is entailed and the possibilities which are opened up. There is a definite role for such patent brokers.

There are already about 500 in the United States, and they are active across the nation, identifying new technologies and bringing would-be sellers and would-be buyers together. This is not an easy job, but it is an essential one. As a first step toward the emergence of such patent brokers in Japan, it is necessary to develop a set of case studies that people can use to develop a feel for what this or that patent might be worth.

Can the patent technology actually be commercialized? Is there a market for the new product? This is more than technology, and it also involves a keen understanding of the economy and the various markets involved. There are many factors that have to go into assessing a patent's overall value, and the brokers will have to develop a methodology that both buyers and sellers can trust.

Such skills can come only with experience backed by theory, but there is no reason it should not be possible to set a fair price on a patent and to develop a patent market. The 500 or so patent brokers in the United States now have a decade of experience, and the United States is gradually developing a regular market in patents. While this has much in common with pricing software and other intangibles, a market should develop as trading increases. Rather than be intimidated by its theoretical complexity, it would be better to plunge right in and develop the trading methods through actual experience.

It might help to compile a list of patent brokers, so that anyone wanting help in this area could access the list by computer. Likewise, it would make sense for the patent brokers to make their records public, since it is only their actual performance that will translate into trust and credibility. Because patents are often confidential and are important corporate assets, companies are not about to hand over their trading to people they cannot trust implicitly. It is imperative that a system be put together in which the patent brokers, the patent-holders, the companies wanting to use patents, start-up companies, and everyone else can trust each other.

## Patent Mapping

Fourth is patent mapping. Just as it is often said that patent information is a gold mine of technology, it would be helpful if people wanting to use patents had a map of what is where. In the United States, this is referred to as patent mapping and mining - mining used in the sense that the mountain of patents has to be mined to get at the buried treasure. The patent map helps people to find out where to dig. Patents are classified by technology, and it takes a while to get used to the system. But a map can make things much easier. Thus the Japanese Patent Office has made a patent map available since 1997. This is a good start, although this patent map needs to be further improved, since better maps will encourage more people to go treasure-hunting.