When It Comes to Intellectual Property, TGG Recommends: *Put it to Work to increase revenues and enhance value!*

Intellectual Property: *"Creations of the mind - creative works or ideas embodied in a form that can be shared or can enable others to recreate, emulate, or manufacture them."* The United States Patent and Trademark Office provides four ways to protect intellectual property**:** *patents, trademarks, copyrights and trade secrets*.
– Source: USPTO website

When someone considers buying insurance to protect an asset, such as a home, they typically begin by considering what the property is worth today and what it might be worth in the future. But when it comes to intellectual property, far too many business managers and technologists have an extraordinarily vague idea about what their IP is actually worth – either in terms of revenues that the IP produces or in terms of the value it might create for the firm in the future. Even more problematic in our view: many don't know how to measure, manage or grow that value over time.

As revenue strategist, we don't help clients with the legal aspects of documenting and filing for IP protections. We leave that to colleagues at law firms like Morrison & Foerster who specialize in IP. Similarly, we don't help clients decide what kinds of processes they should use to manage IP portfolios, which is what operational experts like the ipPerformance Group do for firms with large IP portfolios.

Instead, we help clients think about their IP from a business strategy perspective in order to **maximize the revenues and business value** they can derive from their Intellectual Property.

IP is a class of government-granted, temporary rights and protections that we would like to see more business managers and technologists think of as ***working business assets*** – not just rights they must acquire and then protect. A working asset typically refers to cash, accounts receivable, finished goods inventory, raw materials, and work in process – the assets that flow through a business to create sales and produce income and company value. How many people think of their IP this way – but shouldn't they?

At The Gendreau Group, we typically work with firms that already have existing IP to help them extract more value from that IP. This work always begins with questions like the following:

- **Is your IP helping you maximize revenues?** How are these assets currently performing in terms of contribution to your top line?

- **Is your IP helping you maximize firm valuation?** How are these assets creating value in the form of their contribution to the bottom line and their potential for future revenues and income – for your firm, key partners and potential acquirers?

Answering these questions requires an examination of what's going on inside of each clients business (e.g., strategies, marketing and sales programs, and current financial results) and investigations of what's going on outside of the firm (especially competitive forces and emerging opportunities).

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What we recommend to any given client depends on what we learn about their IP and their business, but, in general, the following are the kinds of recommendations we typically make to help them extract more value from existing IP:

- **Expanding the definition of what is protected** in order to open a greater range of revenue opportunities, not just to create barriers to competition.
- **Finding more uses for existing IP** – i.e., more opportunities to solve more problems for new classes of buyers or buying partners. (At TGG, we call this **repurposing** – and it's one of our specializations.)
- **Disposing of underperforming or non-performing IP** by licensing it, selling it out right, or identifying creative new ways to extract value from it.
- **Collaborating with partners or other third parties** to combine IP assets in order to open up new revenue opportunities and maximize the value each party can derive from those assets.

TGG Case Study Examples Where IP Was Especially Important

The remainder of this article includes mini-case studies of TGG engagements where IP issues were especially critical for improving revenue strategy, for assuring and enhancing firm valuation, or both. In each of these engagements, TGG's primary responsibility was improving revenues or maximizing valuation, and each required TGG to oversee the creation, enhancement, or sale of intellectual property. Clients discussed include:

- Awarepoint – a provider of RFID-based real-time location systems for use in healthcare
- CompuCredit – a provider of consumer credit solutions
- Mindport, Homeport, and Entriq – subsidiaries of a multinational media conglomerate
- HNC Software – a leading provider of predictive analytics solutions for fraud management
- NeoPath – a provider of technologies that automated the reading of Pap smears

Awarepoint: Expanding Patent Protection Definitions Enhanced Revenue Strategy

San Diego-based Awarepoint provides RFID-based real-time location solutions for use in healthcare. Despite the challenging economy and the demands of healthcare, 2008 was a year of robust growth for Awarepoint. This was due in large part to the efforts of Jason Howe, a first-time CEO who, shortly after assuming his role at Awarepoint in 2007, reached out to TGG for revenue strategy guidance and support. When Howe engaged TGG in 2007, Awarepoint's IP strategy was narrowly focused – with primary attention being paid to protecting the design of the company's RFID tags and the application of these tags for tracking physical assets such as wheelchairs in hospitals.

TGG helped Awarepoint understand why and how it needed to enhance its patents to more broadly protect the application of its Zigbee-based RFID technologies as these may be applied to the creation of solutions for tracking physical assets, processes, or people in healthcare settings. This along with other changes to its revenue strategy has enable Awarepoint to attract and establish lucrative strategic funding deals with major players; and, by being able to more effectively block the competitive movements even of major players like Motorola, Awarepoint has been able to compete more effectively in a market dominated by giants such as GE Healthcare. In addition, by November of 2008, Awarepoint was able to secure $13.3M in funding from Cardinal Partners – a significant accomplishment for this new CEO and for a firm that had previously been unable to gain market traction.

In June of 2008 at an event co-sponsored by the Licensing Executives Society (LES) entitled "Maximizing Value of Intellectual Property By Generating Revenues In Non-Strategic Markets", CEO Jason Howe publically acknowledged the

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contributions TGG has made to helping Awarepoint strengthen its strategy and its abilities to attract partners and drive sales.

CompuCredit Corporation: Creating and Protecting a New Business Concept

In 2006, CompuCredit Corporation (NASDAQ: CCRT), an Atlanta-based financial services firm specializing in consumer credit, was cash rich and looking to expand its portfolio of service offerings to include business as well as consumer services. After CompuCredit engaged The Credit Management Group (TCMG) to assist with this initiative, TCMG reached out to The Gendreau Group to work as collaborators on the engagement. In 1986, TGG's Timothy Gendreau, was developing the first real-time point-of-sale credit and decisioning application for use in retail telecommunications. For assistance with scoring engines, Timothy turned to Management Decision Systems (MDS) which at that time was providing scorecards for most of the wireless telephone industry. MDS, now part of the North American SCOREX unit of Experian, was founded by TCMG principals, Dr. John Coffman and Dr. Barbara Thornton.

Through comparative analysis of US and non-US markets, The Gendreau Group was able to uncover an area of unmet needs well-suited to CompuCredit's core competencies and strategic objectives. TGG and TCPG collaborated on the development and presentation of the business case to CompuCredit's decision makers. After evaluating the merits of the business case with input from a major global bank and potential underwriter, CompuCredit elected to move forward with next steps that included market testing the concept with potential buyers, developing a detailed business plan, and the preparation and filing of a provisional patent that would have given CompuCredit the benefit of the earliest possible filing date and protection for the concept, if it had been able to proceed and build out this new line of business. Sadly, by the beginning of 2007, the serious problems in US mortgage industry and signs of other serious weaknesses in the US credit markets were evident to the management at CompuCredit, and the company was forced to abandon the project.

Mindport, Homeport, and Entriq: Disposal of Non-Performing Assets Helped Entriq Survive

Between 1999 and 2002, TGG's principals were heavily involved in a wide range of business development activities for three operational units of MIH, a subsidiary of multinational media conglomerate Naspers Limited (LSE: NPSN, JSP:NPN). In addition to being a pioneer in pay TV and Internet services, MIH was also an early leader in the development and application of conditional access technologies used in cable set-top boxes and satellite television distribution systems around the world. Its subsidiary, Mindport, which no longer exists as a separate entity, was established to provide billing and back office solutions for cable and satellite TV operators, and primarily for those owned and operated by MIH. Homeport, a subsidiary of Mindport created in 1999, focused on the development of innovative set-top box marketing and settlements products. Entriq, which was founded in 2000 to develop a new generation of digital rights management (DRM) solutions, is now a provider of content management solutions to an impressive group of clients that includes media giants BSkyB, Sky News, CBS, Harpo Productions, BT, Viacom, ESPN and more.

In 1999, TGG chief strategist, Timothy Gendreau, gave a talk at an analytics conference in San Francisco on the use of analytics and the role intermediaries and advanced analytics solutions could play in shaping new service offerings for consumers. Many of the concepts discussed were popularized by McKinsey principals John Hagel and Marc Singer in a thought-provoking book titled Net Worth. Through his work at HNC Software and elsewhere, Timothy brought a practitioners and business strategist's perspective to the concepts discussed in this book. Among the attendees at the conference was MIH executive Steve Oldfield, then CEO of Mindport. After a follow-up conversation with Timothy,

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Oldfield expressed his interest in having him work with Mindport to develop a new service offering based on this concept, one that later became known as Homeport. Within weeks, Timothy Gendreau was engaged by MIH to create the Homeport concept, develop and test the business case for the offering, and to launch the business if the business case proved sufficiently attractive. This engagement would also require Timothy to be directly involved in and responsible for preparing and filing a business process patent on the Homeport concept.

In addition to Homeport, Timothy was also asked to oversee the transition of Mindport's operations from The Netherlands to Southern California. MIH wanted to offer Mindport's products and services in the US, and to restructure the company in preparation for spinning it out in an initial public offering (IPO) similar to the one it was preparing for another of its investments, OpenTV. Given the interactive TV platform that OpenTV was developing, its IPO was a smart move, especially in the hot IPO market that existed at the time. But, given the structure of the US cable industry, Timothy knew that an IPO for Mindport was not likely to happen unless the company could *radically* rethink its revenue strategy, and significantly enhance and reposition its products. Unfortunately, by the time MIH engaged TGG, it had already made the decision to move Mindport to the US.

In 2000, Timothy asked partner Susan Wayo to join him in California to assist with the transfer of Mindport's operations to Carlsbad, CA, and to help determine which of Mindport's products the company should keep, which it would have to discard, and what the company's revenue strategy would have to be for the company to succeed in the US. By 2001, however, the dot-com bubble had burst, and the market downturn that followed would contribute to the demise, not only of Homeport, an idea that was at least five years ahead of the market, but also, of Mindport, a company whose team and assets could not produce the revenues and corporate value the firm needed, especially in a troubled economy. Throughout 2001 it became increasingly obvious that Mindport could not survive, and by the end of the year, MIH had made the decision to actively wind down Mindport's operations.

TGG was then retained to manage the sale and transfer of all of Mindport's assets – both physical and intellectual. TGG settled more than $47M in debt for $6M in cash. Today, what remains of the IP created by Mindport and Homeport is now the property of Entriq.

HNC Software: Using Credit Card Services Technologies and IP to Solve Problems in Telecoms

HNC is one of San Diego's most well-known software company success stories. From 1986 to 2002, HNC was a world leader in the development and delivery of predictive software solutions in client/server environments. HNC provided predictive software systems for financial services, retail, insurance, electronic commerce markets, and telecommunications. HNC was also the major contributor to San Diego's becoming a major hub of analytics expertise. In 2002, HNC was acquired by Fair Isaac Corporation in a deal valued at $810M.

In 1992, HNC filed a patent application titled "Fraud Detection Using Predictive Modeling" that was subsequently approved in 1998. It was described as, "An automated system and method [that] detects fraudulent transactions using a predictive model such as a neural network to evaluate individual customer accounts and identify potentially fraudulent transactions based on learned relationships among known variables." The patent contained the following under "Description of Related Art": "…the techniques and principles discussed herein apply to other types of customer accounts, such as charge cards, bank automated teller machines and telephone calling cards."

This well-crafted statement of scope of applicability for this patent meant that, when HNC engaged TGG's Timothy Gendreau in 1998 to help build out a telecommunications division similar to what it had built for the financial services

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and credit card industry, important patent protections were already in place. This made it possible for HNC to immediately stymie companies that might want to offer competitive fraud solutions for telecommunications. But more importantly, this patent enhanced HNC's ability to quickly build the consortium of participating members it needed to rapidly penetrate the telecoms market, and begin processing and predicting fraudulent transactions for all the major carriers. By the end of its first full year of operations, the telecoms group that Gendreau built had an 80% market share and had generated $35.2M in new revenues for HNC.

NeoPath: Speed in Getting Patents and FDA Approvals Beat the Competition and Ensured Market Success

Founded in 1989, NeoPath was a medical imaging firm located in Redmond, WA. The Company's initial products were automated screening systems that integrated proprietary high-speed image processing computers, video imaging technology and sophisticated image interpretation software to capture and analyze thousands of microscopic images from Papanicolaou ("Pap") smear slides. In January of 1995, the company successfully completed its initial public offering (IPO) and in September of that same year, the United States Food and Drug Administration (FDA) cleared the company's first product, the AutoPap 300 QC Automatic Pap Screener System, for commercial use. During the first quarter of 1996, the Health Care Financing Administration officially allowed clinical laboratories to use the AutoPap QC in the quality control review of Pap smear slides that had been initially screened by cytologists as normal. The decision allowed AutoPap QCs to replace federally mandated rescreening requirements. As a result of these approvals, NeoPath transitioned from a "development stage" company to a commercial entity, with the Company's first product revenues recognizable in 1996. In 1999 NeoPath became TriPath Imaging when it merged with AutoCyte (another imaging company). In 2006, TriPath was acquired by Bechton, Dickinson & Co.

In 1994, TGG's chief strategist, Timothy Gendreau, was engaged by NeoPath CFO, John Stachowiak, a former telecoms industry executive with whom Timothy had previously worked. Timothy's original assignment was to assist NeoPath in determining what features the company should be considering for future products, and how future releases should be distributed. But shortly after his engagement began, Timothy realized the company faced two major hurdles: getting FDA approval for its current offering and completing and being granted critical patent applications. Without FDA approval, NeoPath would not be able to sell its new screening product, and without critical patents, it would not be able to stop its chief competitor, Neuromedical Systems, from becoming the dominant player in this market niche. Timothy immediately recommended that the company *stop everything* and focus solely on what it needed to do to assure that these critical success factors would be met.

As a result of this guidance and the management oversight Timothy provided during this period, NeoPath was able to get FDA approval for its offering several months sooner than it had thought possible. In addition, the team completed the filing of critical patent applications that were subsequently approved, thus solidifying NeoPath's market position and significantly increasing the company's ability to raise money during its second public offering in January of 1996.

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