



IMPACT OF THE GLOBAL ECONOMIC CRISIS ON PATENTING STRATEGIES

Facing tight economic conditions many companies throughout the world and different sectors find themselves in need of promptly revising their short- and long-term development plans to reduce the negative impact of the crisis or even keep their business afloat.

For the IP departments of companies who wish to protect their valuable technology this often means finding innovative ways of spending reduced budgets and adapting their patenting strategies to the uncertain economic environment or to the new company's longer-term business strategy.

CUTTING EXPENCES FOR FILING AND MAINTAINING PATENTS: WHY?

Globally, and according to WIPO (World Intellectual Property Organization) survey on patenting strategies in 2009 and 2010, companies that actually experienced a decline in patent related expenses during these years attribute this decline mainly to budgetary decisions unrelated to the management of patent rights, for example, organization wide budget cuts, which had to be shared equally across all departments, and to a re-assessment of likely returns resulting from the acquisition and maintenance of patent rights, in the light of the uncertain economic environment associated with the global financial crisis. Others indicate that the decline in expenditures reflects a longer term business strategy, and fewer suggest insufficient cash flow, lack of access to credit and competitors seemingly filing fewer patents as reasons for reducing expenses for filing and maintaining patents.

Interestingly, a large share of companies have seemingly not experienced a decline in expenses for filing and maintaining patents in 2009 or in 2010. This indicates the resilience of companies' patenting strategies in face of the economic down-turn and reveals a broad recognition that it makes good business sense, whatever the economic conditions, to continue to protect commercially valuable technologies.

At a country level the reasons for a decline in expenses for filing and maintaining patents vary. While in the US and Europe the main reason for an expenditure decline has to do with budgetary decisions unrelated to the management of patent rights, in Japan and the

Republic of Korea a re-assessment of likely returns for acquiring and maintaining patent rights, in the light of the uncertain economic environment associated with the global financial crisis, is emphasized.

The reasons for the decline in expenses for filing and maintaining patents also vary across industries.

Re-assessment of likely returns resulting from the acquisition and maintenance of patent rights is the primary reason for reducing patent related expenditures in 2009 and 2010 for the biotechnology and chemical industry.

In turn, the energy and the machinery and equipment industry refer to budgetary decisions unrelated to the management of patent rights as the main cause for declines in patent related expenditures. The same reason is shared by the IT industry, reflecting the seeming necessity in this sector to cut costs vigorously in response to the adverse economic conditions.

The pharmaceutical industry cites that the decline in expenses reflects longer term business strategies, and though budgetary reasons are not at all considered as a main cause for experienced declines in the this industry, they became more significant in 2010.

Contrary to expectations, insufficient cash flow is not mentioned as an important reason for expenditure declines in any industry, except to a minor extent by the biotech, the IT and the machinery and equipment industry. Lack of access to credit only seems to have been a minor issue in the case of the IT industry.

A large share of companies in the biotechnology, chemical, pharmaceutical and energy industry indicate that they have not cut their patent filing and maintenance expenses. This fact is not shared by the IT and machinery and equipment industry, showing that companies in these sectors have probably less resilient patenting strategies under critical economic conditions.

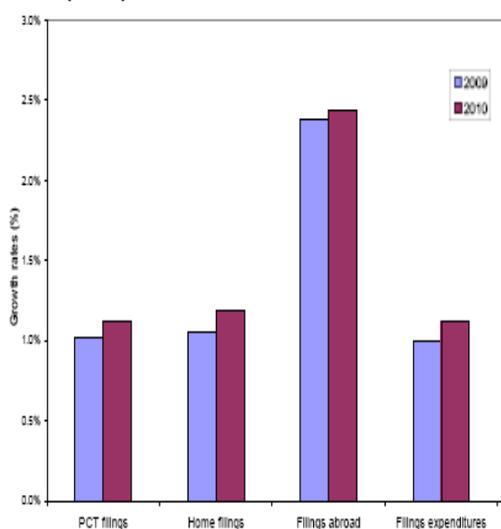
At the firm level, it is shown that companies are seeking greater efficiencies with regard to their patent filings. Some companies are more eager to cut costs relating to outside law firms, by bringing the patent process in-house, and appear to be more strategic about the patents they file. Others tend to adopt a more conservative position towards filings abroad or towards a geographic re-orientation of

patent filings, i.e. away from Europe to the USA, Asia (outside Japan) and new markets.

OPTIMISTIC TREND IN 2010

Along with the incipient economic recovery in 2010, the global trend in growth rates for patent filings, as well as filing expenditures is positive, revealing a greater optimism in 2010 compared to 2009.

Figure 1- Global trend in 2010 compared to 2009 (in %)



adapted from WIPO survey on patenting strategies in 2009 and 2010

After a fall of 4.5% in 2009 (not shown), international filings under the Patent Cooperation Treaty (PCT) in 2010 registered an increase mainly driven by faster growth rates of PCT filings from Japan and Republic of Korea in 2010 as compared to 2009, but more moderate increases in the growth rates in Europe and unchanged or declining ones in PCT filings in the US over the same period of time. Similarly, an increase in the growth rate of home filings and filings abroad (direct filings abroad via the Paris Convention route) is also observed in 2010.

At a country level, US is showing a conservative picture keeping the growth rate for filing abroad unchanged and even decreasing the growth rate of PCT filings as compared to 2009. A slight increase is only observed in the growth rates of home filings. In contrast, Europe registered an increase in the growth rates of PCT filings, home filings, as well as of filings abroad, the last one registering the more significant increase. Japan is largely increasing the growth rates of home filings and to some extent also increasing the growth rates of PCT filings in 2010, but declines in the growth rates of filings abroad are observed. Finally, like Europe and Japan, Republic of Korea is signaling an increase in the growth rate of PCT filings in 2010.

It is also registering an increase in the growth rates of filings abroad, but a decrease in the rate of home filings.

A breakdown by industry reveals small increases in growth rates of PCT filings in 2010 for the biotechnology, pharmaceutical, and machinery and equipment industry. For the chemical, IT and energy industries the growth rate of PCT filings remains essentially unchanged from their growth rate in 2009. The growth rates of home filings remain constant between 2009 and 2010 for the biotechnology, and the machinery and equipment industry, while the rest of the industries: chemical, IT, pharmaceutical and energy show only modest increases in the growth rates of this type of patent filings in 2010. As to the growth rates of filings abroad the pharmaceutical industry stands out with a significant increase in the growth rates of these filings in 2010. However, for the biotechnology, IT, energy, and the machinery and equipment industries the growth rates of filings abroad remained unchanged between 2009 and 2010, while for the chemical industry there was even a small decline in 2010.

REFERENCES

WIPO survey on patenting strategies in 2009 and 2010;