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Home ► All Journals ► Economics, Finance & Business ► Industry and Innovation ► List of Issues
► Volume 27, Issue 1-2 ► The valuation of patent-trademark pairin

Industry and Innovation >

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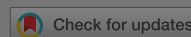
Articles

The valuation of patent-trademark pairing as IP strategy: evidence from the USPTO

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KEYWORDS:

- Patenting and trademarking
- cross-national renewal decisions
- combined IP strategy
- patent-trademark pair

JEL:

- G32
- M31
- O31
- O32
- O34

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Disclosures

No potential conflicts of interest were disclosed by the author.

Supplemental Material

Supplemental material is available for this article.

Correction

There is no correction to this article.



Notes

¹ Moore ([2005](#)) documents that at the USPTO about 16 percent of utility patents are never renewed after they have been granted, and only 46 percent of them provide full-term statutory protection.

² With respect to the prosecution costs at the USPTO from start until patent issue, in 2000 Lemley ([2001](#)) estimated a lower bound of \$ 10 thousand and upper bound \$ 30 thousand in current values, which in terms of 2015 prices amount to \$ 13 thousand and \$ 40 thousand respectively. In 2015, the USPTO issued about 300 thousand utility patents, which means an overall range in prosecution costs of between \$ 4 and 12 billion.

³ In the marketing literature, brand equity encompasses not only its value but also the brand meaning and strength (For a fuller discussion on the concept of brand equity see the survey by Srinivasan, Hsu, and Fournier [2012](#)).

⁴ For recent empirical evidence on the importance of brand equity for financing, see [Brand et al. 2013](#).

⁵ Furthermore, we find that the most prominent VCs who control the largest share of the first round of financing are also the most prominent VCs who control the largest share of the first round of financing (see [Brand et al. 2013](#)). Although the first round of financing is the first round of financing, the first round of financing is the first round of financing.

⁶ An analysis of the first round of financing shows that the first round of financing is the first round of financing. The first round of financing is the first round of financing. The first round of financing is the first round of financing.



⁷ See Landes and Posner ([1987](#)) and Beebe and Fromer ([2018](#)) for a discussion on different types of trademarks.

⁸ The AIPLA survey (2015) estimated that the attorney's fee for a typical trademark application in 2010 amounted to \$ 3,050. Other costs involved in design search could increase this expenditure. In terms of office fees, the 2010 USPTO schedule included trademark application and statement of use fees of about \$ 475 per international class, which means \$ 665 for a typical trademark with 1.4 international classes. However, these are lower bound procedural fees at the PTO, and other costs would be incurred for 'intent-to-use in commerce' applications or more complex trademark filings. Hence, on average, trademark attorney and office fees could amount to \$ 4,000-5,000.

⁹ Another criterion for approval of the registration of a mark is that the application should not be deceptive and contrary to law or morality.

¹⁰ It is noteworthy that the assumption of monotonicity of non-increasing benefits R – given the non-decreasing fee costs C – is sufficient but not necessary for the validity of [Equation \(2\)](#), which is required to hold solely in the neighbourhood of the optimal renewal age. In particular, there is a time \bar{T} for which $R_{tj} - C_{tj} > 0$ for $t < \bar{T}$ and $R_{tj} - C_{tj} < 0$ for $t > \bar{T}$, where \bar{T} is the last age which the patentee pays the renewal fees. Hence, the net revenues may be increasing in some periods before \bar{T} .

¹¹ See L... ([2007](#)) for Belgium

¹² At the ... and under strict co... For fuller details s...

¹³ Limiti... sample cover... market to attract t... respect to the abov... ave designat... Stat [2016](#)). Furtherm... period in the largest E... at [2016](#)).

¹⁴ This y... tent legislation fees in PPP U.S. dollars.

¹⁵ The empirical investigation assessed the robustness of the results by considering a GDP deflator at the national level instead of for the service sector alone.

¹⁶ As a robustness check, I relaxed this depreciation assumption and used higher levels of the depreciation rate.

¹⁷ Given the importance of the United States as a locus of R&D activities, I do not think that limiting the analysis to the patented inventions owned by U.S. patentees is a serious drawback.

¹⁸ The direct priority links were garnered from the PatStat ([2016](#)).

¹⁹ The Maintenance Fee Events File is accessible at www.google.com/googlebooks/uspto-patents-maintenance-fees.html .

²⁰ A complete list of sources for the historical fee cost schedules is available upon request to the author.

²¹ While strict equivalents are patent filings including exactly the same priorities or combination of priorities, an INPADOC patent family constitutes a self-contained and consolidated group of priority links including any direct or indirect priority link. For more information on the patent family definition see Martinez ([2011](#)).

²² See L

²³ See L

²⁴ At the Madrid P... under the
Madrid P... application,
without... date.
Foreign... he
popu... t al. [2013](#)).

²⁵ See L

²⁶ For a... marks and
federally

²⁷ This d... erse of U.S.
federal r... d priority,



description of a mark in terms of goods and services, sectoral classification, and other procedural information (Graham et al. [2013](#)).

²⁸ During the time period covered by the analysed dataset (1982–1998) 95.7% of the registrations include textual information and 68.3 relied only on text.

²⁹ An extensive discussion of the string similarity J^w index, matching methodology and related implementation in the case of patent and trademark documents is presented in Appendix A of the Supplementary Material.

³⁰ For a battery of examples see Appendix Table 3.

³¹ Several visual inspections revealed that the textual similarity across the portfolio of patents and trademarks originated from: a) discriminating token(s) in the patent title and wordmark; b) combination of non-discriminating tokens from a patent title, that could appear in one single wordmark or in combination of wordmarks in distinct trademarks (within the same portfolio); c) one single and non-discriminating token from a patent title repeated in many trademarks from the same portfolio, which can be assimilated to umbrella branding.

³² This assumption is broadly consistent with the time lag between a firm's first patent and its trademark, as shown in Appendix A of the Supplementary Material: seven out of ten of the trademarks were registered within three years of the first patent (within a year) of the first patent.

³³ As the trademark is registered within three years of the first patent, the deposit of the trademark is on or after 13 May 2013. The trademarks filed before the first patent of the process.

³⁴ This patent is a trademark or a trademark.

³⁵ In addition, the trademark must provide drawings in order to obtain a patent.

³⁶ For 42 patents invented by the U.S. business patentees, I could not identify bibliographic information or patentee demographics.

³⁷ In terms of the renewal fee payment, I computed the present value rule starting with the application year both for the U.S. and EPC patents and did not consider the application and grant fees in the value computations. See section 3 for a fuller presentation.

³⁸ The continuous indicators were detrended for time and technology effects, using the geometric mean method.

³⁹ Twelve dummies of the year-technology interaction effects computed at the two digit classification could not be identified, and hence they were aggregated to the left-out category in the regression analysis.

⁴⁰ Although according to the Trademark Manual of Examining Procedure (TMEP § 1202.01, available at tmep.uspto.gov) trade naming does not constitute a demonstration of the use requirement of the Lanham Act, it is suitable for trademark protection through the common law system, when it is also employed as a product or service name in the marketplace. Thus, a patent titled with the trade name could be indicative of a common law trademark owned by the patentee. In fact, this protection strategy is often employed by firms with a limited number of product lines (See [Cameron and Trivedi \(2010\)](#)).

The findings on the patent valuation are consistent with the federal research by Dinlersoz et al. (2010) that trademarks are significant determinants of product value.

⁴¹ For example, the principle of non-functionality interpretation of this principle.

⁴² This approach is based on methods relying on the method. For a fuller presentation of the methods see Cameron and Trivedi (2010).

⁴³ Furthermore, I executed a pairwise correlation analysis of the patent-trademark pairs computed as binary variables at different thresholds of the similarity distribution of the J^w index with the log number of forward citations, and I confirm a positive Pearson's coefficient even at a one percent level of significance.

Related Research Data

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