

Two-speed IP to keep pace with digital

A dual IP model for industrials under digital transformation – answering the digital business’ urgent IP needs with speed.

AT A GLANCE

Rebuilding your IP team to meet new needs posed by the rapidly evolving digital environment can be less of a wholesale teardown and more of a directed evolution.

- Intellectual property is essential to win in digital business – it is key to control critical positions, build trust and balance exclusivity and openness.
- Current IP organisations lack the agility to meet the needs of the digital environment, but rebuilding them could take too long and prove devastating for any company with digital ambitions.
- A two-speed IP model with a digital IP team, using its own digital-adapted logic, working side by side with the traditional industrial IP organisation may be the best solution.

Digital has changed the game for intellectual property. Value creation is increasingly driven by innovation in the technology stack adjacent to traditional products, while unlocking value at scale requires technology, know-how and data beyond the capabilities of individual companies. In this software and data-intensive environment, with new business models, new partnering models and new competition, intellectual property has a crucial role to play in every transaction and partnership.

Digital also drives the need for a multifaceted approach to IP protection and use. Patents are simply not enough any more. Data is becoming a key business asset for many, driven by its fundamental importance for the successful implementation of AI. While open source is being used to speed up development, it must be closely governed to protect differentiation and avoid cybersecurity risks. Operating models are also changing. Organisations built around a static, siloed hierarchy are being replaced by agile networks of cross-functional teams operating in rapid learning and decision-making cycles.

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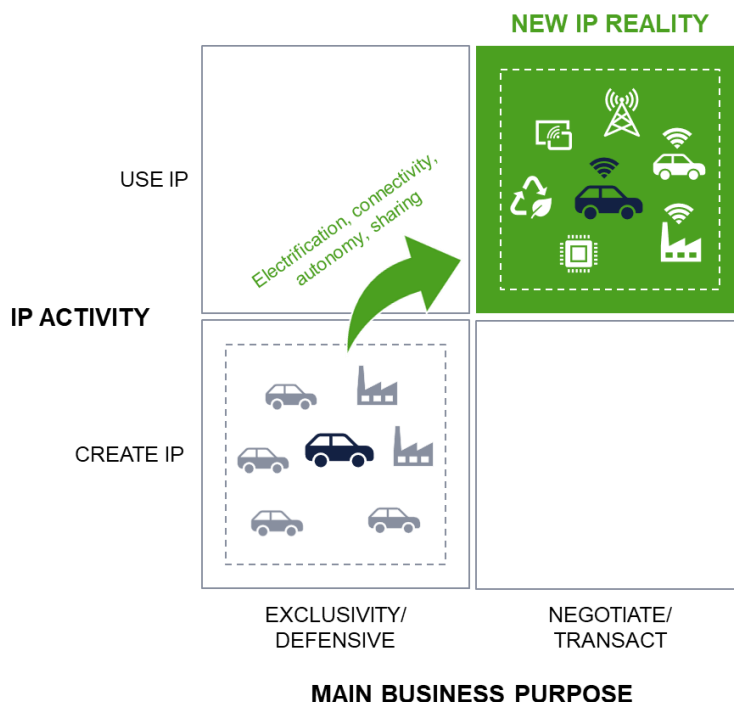
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However, industrial companies typically have reactive IP organisations that have been built over decades to support inventor-driven patent creation for the traditional business. Their organisational design and competence mix make it hard or impossible for them to fill this new strategic role. Consequently, they are failing to deliver the business value that they should, which could prove devastating for any company with digital ambitions.

Development in the automotive sector serves as a good example of this. For decades original equipment manufacturers (OEMs) had IP organisations that managed inventor-driven patenting for primarily defensive purposes. They were generally indemnified by their suppliers and few IP conflicts arose. However, electrification, connectivity, sharing and autonomy are leading to convergence and these OEMs have become more dependent on external technology while facing new competition.

Software-heavy electric vehicle (EV) producer Tesla is by far the world’s highest valued automotive player, while Alphabet’s Waymo and Amazon are the top names in autonomous driving and colossal manufacturer Foxconn Technology Group has launched an EV open platform together with more than 500 partners. In only the last few years Avanci has forced OEMs to enter licensing contracts for connectivity, Broadcom sued the Volkswagen group for €1 billion under threat of injunction, Sharp sued Daimler for infringement of its connectivity patents and American GNC Corp sued Toyota for infringement of its navigation patents – to name but a few. The patenting and free-to-operate-focused IP organisations of the OEMs are facing the IP licensing and transaction-savvy organisations of the tech world.

Figure 1 – The shift is clear in automotive



Digital requires a new operating model for intellectual property

No company embarking on a digital business journey can afford to have its IP organisation sit idle until it receives a request from the business. The idea of the hierarchical customer-supplier relationship must be replaced. Instead, the IP organisation – along with other business stakeholders – must work synergistically as part of the same team to increase the likelihood of achieving their joint mission: the overarching purpose of the company.

One Chinese-European electromobility and mobility services company has recognised this and taken the decision to build intellectual property into the very backbone of its agile model. Reporting to the head of strategy, its IP director interacts closely with all leadership levels – from product owners and product managers to solution managers and the executive team – to set the IP strategy, allocate resources and drive optimal use of the IP portfolio. IP priorities are managed side by side with business priorities, with each agile team accountable for its part of the IP strategy when reviewing its backlog items. There are also IP-specific requirements in the ‘definition of done’ for system and solution increments to ensure that nothing gets missed. Intellectual property is considered a part of the company’s common purpose, critical to its envisioned position in the market and as part of its efforts to reach the right terms with the right partners.

Digital business is often fast paced and data driven with quick pivots, while intellectual property is primarily a long game. Proactivity and close involvement in the strategic dialogue are therefore more important than ever.

The digital business division of a large Swedish diversified industrial involved intellectual property in every step of its strategic planning (see [Lessons from the frontline of digital manufacturing](#)). When conducting a situation analysis for new business development, it identified a domain where it could leverage its own knowledge and data to increase the productivity of its customers through software. An immediate IP mapping of the space identified multiple entrenched competitors with patents on legacy deployment and business models, along with white space for the adoption of cloud technology that could be developed to deliver the same solutions. In a rapid and highly focused cross-functional effort, they aggressively built up intellectual property to claim bottleneck technologies within the space. This intellectual property later evolved into key assets for attracting partners, negotiating with competitors from a position of strength and even turning some competitors into sales channels.

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Lessons from the front line of digital manufacturing.

Learn how Sandvik’s Center for Digital Excellence (CODE) was strategically built to codify the company’s core competence and win in digital manufacturing.



Making intellectual property a valuable part of the digital business goes beyond the design of the organisation chart and requires both different skills and a different culture. The IP team must actively partake in – and creatively contribute to – discussions and decisions that are outside their traditional comfort zone. This includes being able to understand the value chain for attractive digital-enabled use cases, as well as the key player types and their positions and expected moves. It also involves supporting the evaluation of which positions to take in the value chain, considering the company's ability to address and sustain those positions, where scalability and defendability can often depend on intellectual property. It may also include advising on what a certain desired position means regarding make-buy-partner decisions, the terms under which to engage with partners or how acquisitions could help to fill critical capability or asset gaps.

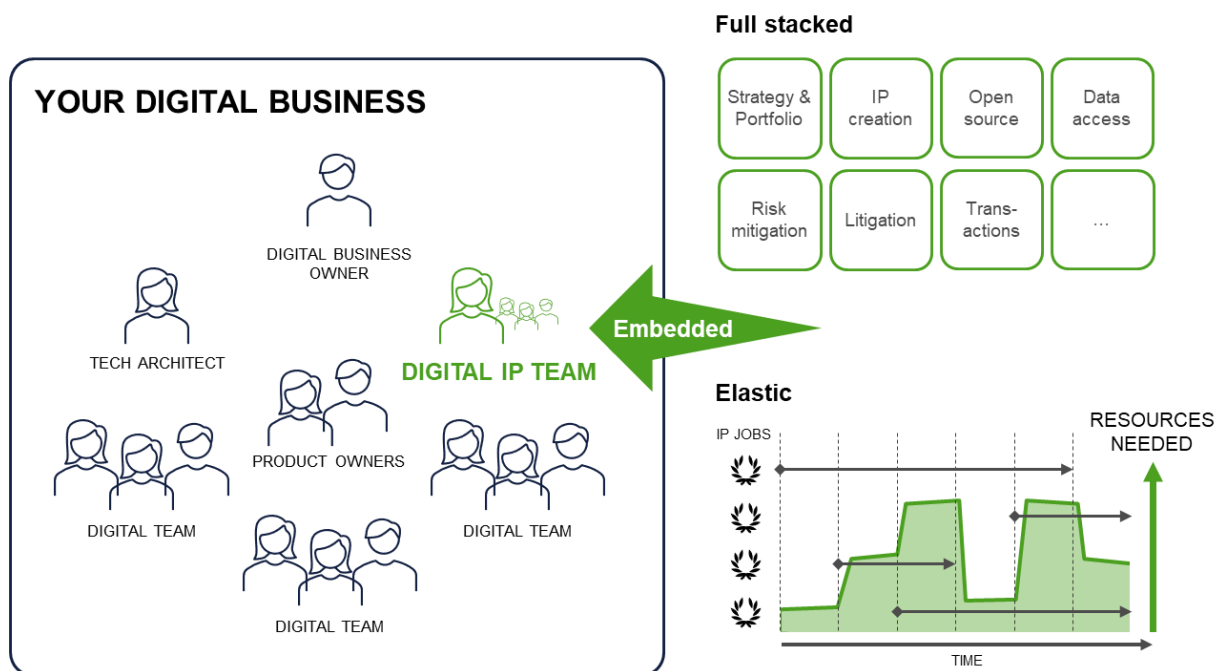
Consequently, IP units embedded within the digital business need a mix of skills that seamlessly spans business strategy, technology, law and intellectual property. Since it is near impossible to find people with sufficiently deep knowledge in all these disciplines, professionals should instead be carefully selected so as to work tightly as a team, rather than as a group of individual experts. Often it can be useful to recruit at least one team member whose skill set, network and experience lie in digital business, rather than intellectual property.

One Fortune 500 company mirrored its IP organisation to the business and built IP teams with the right resources led by IP directors with a mandate to partner with the business teams. Despite this, intellectual property remained mostly a reactive support function within the organisation. The recruitment of a new IP director to an emerging digital business area showed that investment far beyond the organisation chart was needed. In just a couple of weeks she had become a regular participant in leadership meetings, was contributing to the business strategy and had ensured that intellectual property was involved across business activities such as partnering, M&A, procurement, competitive positioning and R&D. The difference? She had the courage and competence to make herself a co-owner in the common business purpose, rather than waiting for intellectual property to be invited later in the process. She backed up her commitment by engaging the capabilities of her team to ensure that she was able to contribute in every interaction. The business team quickly recognised her value and gave her a place at the table.

The previous examples highlight the fact that in order for intellectual property to make the leap to being a true partner in digital business, the following skills and approaches are necessary:

- **Embedded** – a true partnership in a digital business setup can only be achieved by making all partners equally part of the team. For intellectual property to be positioned to access relevant data and information and to engage in two-way communication, it must be embedded as a natural part of the business team and partake continuously in its strategic learning process.
- **Fully stacked** – in the process of moving from a reactive support function for IP-specific issues to a co-owner in achieving the purpose of the company, the expectations on the contribution made by intellectual property increase dramatically. Intellectual property must cover a critical mass of competences to handle a broader mix of IP assets and the full range of relevant business-strategic IP issues.
- **Elastic** – building, scaling and operating digital business is a high-paced venture with fast cycles and high volatility. Thus, intellectual property must be able to both permanently partake in the strategic dialogue and learning process, and swiftly adapt the types and number of resources dedicated to a certain activity (eg, to pull in experts during delimited periods to prepare a large partner negotiation, be present in a series of sprints to capture expected key inventions or complement strategic planning with IP analytics-based conclusions).

Figure 2 – Solution: a full stacked and elastic IP team embedded with the digital business



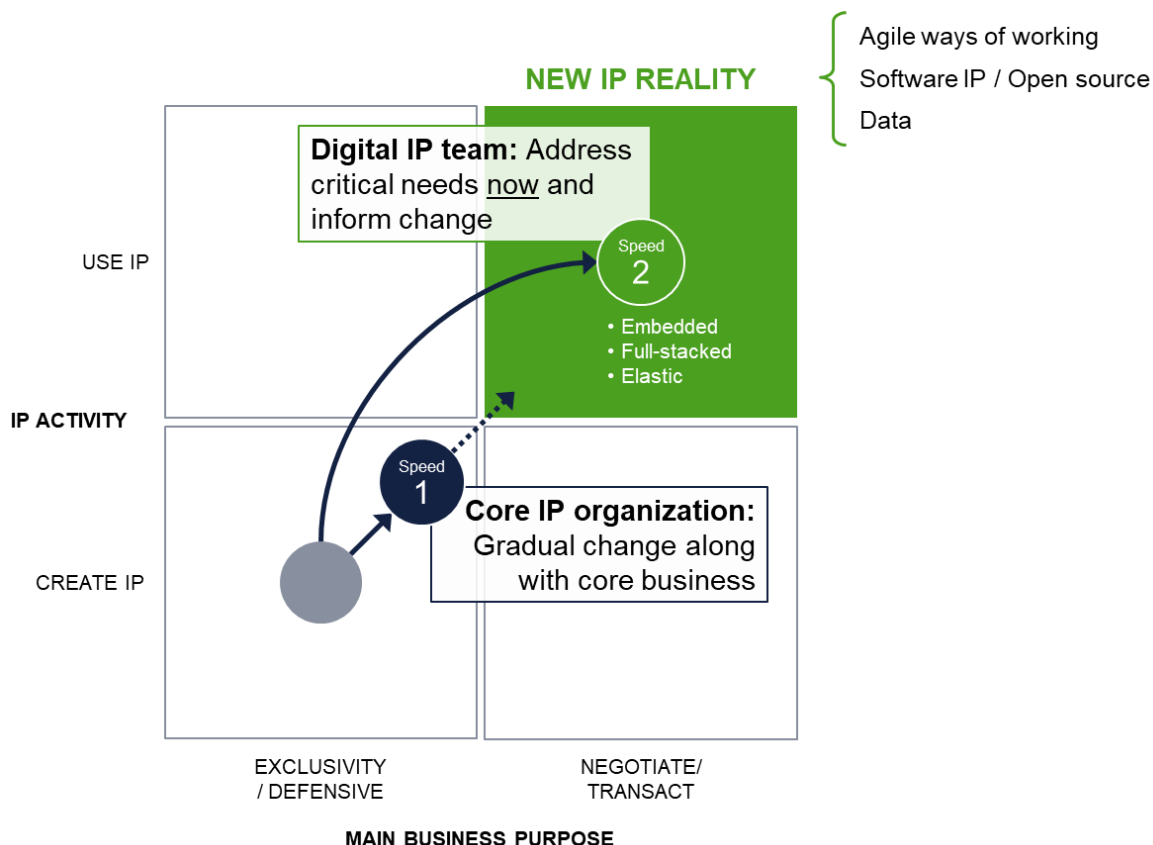
Two-speed intellectual property – how to get there fast

Realigning the IP operating model for digital business often poses a substantial challenge. IP departments are typically staffed with highly specialised and educated people, whose work is influenced by strong norms and routines tied to the administrative and legal processes of patent and trademark offices, as well as the judicial system. Combined with its historic role as a support function, this means that transforming to a fully stacked and elastic IP unit embedded within a digital business can be a significant and challenging step.

However, for industrial companies with a large remaining traditional business and a small but quickly evolving digital business, there are two needs to serve. As such, a complete makeover of the whole IP organisation may be unproductive. What is more, the fast-paced digital reality can leave little room for traditional transformation journeys that often span several years before the organisation is operating at full capacity.

There is a better and faster way forward. In our experience the best solution is to let a fast-paced, digital-embedded IP team develop alongside and largely independent of the current traditional business-facing IP organisation.

Figure 2 – Two-speed change to sync with the business



The advantages to this are many. First, such a strategy shortens the runway and can make a team operational within weeks or a few months, rather than years. Considering the important role that intellectual property plays in the early phases of building a digital business, this is critical.

Second, it allows the company to establish much clearer business accountability and associated business-anchored metrics on the new team in its embedded role, which would not work on the scale of the full IP organisation. This will ensure the value-focused and business-need-based development of its resources and operations.

Third, it is an elastic and more easily scalable model, which makes right sizing and cost efficiency easier and allows the new unit to adapt gradually in line with the needs of the business.

Finally, it provides an efficient vehicle for attracting and nurturing the new types of talent and skills needed in the digital business context, while continuously providing insights and learnings that are easily transferable to the entire IP organisation.

One leading tech multinational needed to improve how intellectual property supported a quickly developing and increasingly software-driven business area. Rather than initiating a redesign of its 100-plus IP organisation, a new IP core team with strategic, portfolio management, IP creation and litigation expertise was carved out from the business area under the leadership of a former business strategist. The IP core team reports into the IP department to ensure cohesiveness with the rest of the IP organisation and to draw on synergies, but is embedded and collocated within the business area. It is closely integrated with business area leadership and works with them to define business need-based IP objectives and activities. The IP activities are then executed by temporary squads, assembled and led by the core team. The squads include hand-picked resources from both a pool of experts within the IP organisation and anywhere else in the company in order to ensure that they are fully stacked for their mission. Less than six months after its deployment, the IP core team had weekly or even daily interactions with business area leadership and there was a growing pull from multiple product areas to further scale its resources as a potent new lever to grow the €10+ billion business.

Why dual speed is the right way forward

Intellectual property is essential to win in digital business. Working at two parallel speeds will enable the IP organisation to become a true, embedded partner to the digital business with minimum delay, while avoiding discontinuity in managing the traditional business.

To succeed, intellectual property must be embedded within the digital business, be fully stacked to handle the complete range of relevant strategic and IP issues, and be built on an elastic foundation, allowing it to quickly adapt its resources and competences to fit the tasks at hand.



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