

WHY YOU NEED TO THINK LIKE A TECH COMPANY

Australia

Legal Briefings - By **Rebekah Gay**

Innovation and disruptive technology are constant themes across all sectors in the Australian economy - no sector is immune.

For the mining, oil and gas, and energy sectors there are a range of disruptive technologies that have the potential to transform, and are transforming, the ways in which companies operate and the markets in which they do business: automated vehicle control, big data collection and analytics, smart meters, virtual power plants to name just a few. And these new technologies are bringing new players into the sector, many of whom have a very different mindset when it comes to innovation.

That means that companies who have traditionally thought of themselves as mining companies, oil and gas companies, power companies, now need to think more like technology innovators and disruptors, as technology becomes such a major focus of their business. But what does that mean?

In its recent report, *The Most Innovative Companies 2016*, Boston Consulting Group confirms that tech companies dominate the list of the world's most innovative, which , "highlights the impact of the digital revolution". ¹

Those tech companies include the likes of Apple, Google, Microsoft, Tesla, Amazon and Cisco, who have a long-standing corporate culture of innovation, and are extremely sophisticated in the ways in which they capture, protect and leverage innovation. Among other things, they:

- have well defined goals and processes that foster and focus innovation;
- have commitment from the top down to innovation, and a recognition of the value it brings to the organisation;

- actively seek out external partnerships through which to collaborate, and have the mechanisms and strategies in place for maximising value from those partnerships;
- actively recognise and incentivise contributions to innovation;
- continually invest in innovation, both in terms of R&D spend and human capital;
- have metrics that incentivise the right type of performance; and
- know what their competitors are doing.

For many resources companies, there is a seismic shift that is required to go from the relatively ad hoc approach to innovation that has historically been seen within those companies to embedding innovation in the corporate DNA.

There is also a shift required in terms of their approach to intellectual property. All of the most innovative tech companies have a clear and rigorous intellectual property strategy in place. They actively protect their intellectual property and see it as a core business asset. It's no coincidence that most of the companies who appear in BCG's list of the most innovative companies, which is based on a survey of senior executives, are also some of the biggest patent filers in the world.

Their approach to intellectual property enables them to leverage the value of their innovation in any way they choose. That may be by keeping the innovation to themselves and securing a competitive advantage over others, collaborating with others on further innovation, monetising an innovation through commercial arrangements, accessing third party innovation through cross-licenses or acquisitions, or simply making the innovation available to others. But critically, their IP strategies give them the flexibility to choose the right approach for their commercial goals.

Their clear intellectual property strategies also mean that they are not left behind or exposed to unforeseen risks. A company that takes the view that it's not interested in filing patents to protect its innovations, for example, needs to understand the long-term implications of that decision - where does that leave it with respect to its competitors or third party suppliers - is its strategic and commercial position potentially weaker as a result of that decision? And all companies nevertheless need a strategy in place to ensure that they do not fall foul of third party intellectual property rights. It is a common mistake for a company to think that because it does not wish to file patents or has no interest in leveraging its own intellectual property rights that it does not need to think about IP at all.

The more that sophisticated technologies become a feature of the ways that resources companies operate, the more essential it is for those companies to think about intellectual property. While, as a baseline, this should be seen as essential from a risk management perspective, resources companies need to think like tech companies do. Intellectual property is an important business tool that gives companies the flexibility to control and leverage their innovation, and to maximise its value in whatever way works best for each company.

This article first appeared in National resources review magazine.

ENDNOTES

1. [Boston Consulting Group, The Most Innovative Companies 2016: Getting Past, 'Not Invented Here'](#), (accessed 24 January 2017).

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