PATENT SCORECARD™ 2010 | LAW FIRMS

BY TAMMY D'AMATO AND CHRISTINE WREN OF THE PATENT BOARD™

The Law Firm Patent Scorecard™ is a high-level evaluative tool for firms to gauge patent quality, technological strength and breadth of impact for the patents they prosecute. The Patent Scorecard is a rating of patenting innovation through the lens of patent representation and combines a series of industry-standard metrics to arrive at a Technology Strength™ ranking for the year ending December 31, 2009. The Law Firm Patent Scorecard™ is compiled with natively filed patents, excluding those with a foreign priority. Considering that many of the patent quality metrics are dependent upon the characteristics of the patent that may be strengthened or weakened during the drafting and due diligence processes, The Patent Board considers this methodology as an effective means of comparison, as patents with a foreign priority have usually been drafted according to the requirements of a specific foreign jurisdiction.

Rank	Law Firm	Technology Strength™	Current Impact™	Science Linkage™	Innovation Cycle Time™	Patent Count
1	KNOBBE MARTENS OLSON & BEAR LLP	2279	2.67	16.07	10.9	855
2	SCHWEGMAN LUNDBERG & WOESSNER PA	1784	2.21	9.82	8.5	808
3	BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP	1716	1.58	2.92	8.5	1089
4	FISH & RICHARDSON PC	1543	1.44	13.04	10.2	1070
5	LEE & HAYES PLLC	1511	2.13	5.09	7.7	711
6	TOWNSEND & TOWNSEND & CREW LLP	1423	1.47	12.94	9.7	967
7	MERCHANT & GOULD PC	1107	1.57	5.65	9.5	706
8	WORKMAN NYDEGGER	1072	1.53	3.35	9.5	700
9	STERNE KESSLER GOLDSTEIN & FOX PLLC	1034	2.02	15.26	10.5	512
10	BAKER & BOTTS LLP	992	1.81	5.42	9.7	548
11	VIERRA MAGEN MARCUS & DENIRO LLP	943	4.91	2.17	7.6	192
12	PATTERSON & SHERIDAN LLP	812	1.70	3.03	8.9	478
13	PERKINS COIE LLP	777	1.57	7.78	9.7	495
14	MEYERTONS HOOD KIVLIN KOWERT & GOETZEL PC	730	1.98	5.27	8.9	369
15	HICKMAN PALERMO TRUONG & BECKER LLP	675	2.47	2.14	7.9	273
16	CANTOR COLBURN LLP	641	1.00	2.84	8.2	642
17	WOODCOCK WASHBURN LLP	624	1.38	8.73	9.1	451
18	HARNESS DICKEY & PIERCE PLC	623	0.95	4.61	12.9	659
19	FOLEY & LARDNER LLP	606	1.17	15.27	10.8	517
20	FINNEGAN HENDERSON FARABOW GARRETT & DUNNER LLP	593	1.21	13.62	10.2	490
21	BRINKS HOFER GILSON & LIONE	592	1.30	3.21	11.7	455
22	FENWICK & WEST LLP	582	2.38	9.71	8.8	245
23	HAYNES & BOONE LLP	570	1.53	2.78	9.1	372
24	K & L GATES LLP	565	1.56	5.32	9.5	362
25	MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP	541	1.72	9.69	10.0	314

The **Patent Scorecard 2010 | Law Firms** includes U.S. utility patents represented by law firms that were natively filed, which is a subset of all U.S. utility patents they represent. This allows for analysis of patents that a firm actually prosecuted and removes firms that only provide local counsel. Firms with 75 or more natively filed patents in 2009 have been analyzed. All 2010 rankings and indicators are based on the data as compiled by The Patent Board™ for the 2009 calendar year. The leader within the top 25 in each indicator is highlighted in orange. The Patent Board™ continues to evolve its indicators as they advance the importance of Intellectual Property as the New Asset Class. To learn more about this Patent Scorecard please contact info@patentboard.com.

Patent Representation

What Patent Analytics can tell us about IP Law Firms

BY LINDSEY GILROY, TAMMY D'AMATO AND PERRY BASSETT
OF THE PATENT BOARD

In 2008 we introduced the Law Firm Patent Scorecard™ in response to an article on "How Law Firms Could Benefit from Patent Analytics", which started with the simple question "Why Use Patent Analytics?" The article garnered much interest and discussion on the topic and we heard over and over from readers who needed a way to understand the strengths and weaknesses of specific law firms' representation abilities. Building on indicators used in The Patent Board's seventeen industry Patent Scorecards, we developed the Law Firm Patent Scorecard™ in order to provide a ranking of law firms that used Patent Analytics and combined qualitative and quantitative analyses.

Both prosecuting law firms and their prospective or existing clients can use Patent Analytics to quantify and qualify the IP assets that a law firm represents. As patent attorneys move from their previously exclusive legal role of prosecuting and litigating patents into their expanding role of Intellectual Asset Management (IAM) business consultants, they must increase their IP sophistication to match growing client needs. Bibliometric tools that quantify and qualify IP assets are a vital aspect of providing IAM value. Law Firms can use Patent Analytics to determine their own firms' representation abilities, including in-house division audits, as well as assess their patent representation against other firms. Similarly, potential or current clients can use Patent Analytics to understand the overall strengths of a law firm's represented patents, gain insight into a law firm's industry-specific performance and measure a law firm's efficiency in both native and foreign jurisdictions.

In this article, we will look at the performance of firms in the 2010 Law Firm Patent Scorecard™, discussing changes from the 2009 Patent Scorecard and analyzing breakout performers along various indicators. Additionally, we will compare and contrast law firms that primarily specialize in native versus foreign filings, examining their client lists as well. Finally, we will take a deeper dive into Patent Analytics by looking at the industry specialization of the top 10 firms.

Indicator Definitions

Technology Strength™ is a ranking measure to indicate an overall strength of the company's patent portfolio holdings with a combined measure of quality and quantity.

Current Impact™ indicates the extent to which others are building upon a portfolio of issued U.S. utility patents as compared to the total set of utility patents.

Science Linkage™ indicates the degree to which a portfolio, or an individual patent, is referencing scientific publications.

Innovation Cycle Time™ indicates whether a patent or patent portfolio is building off newer or older inventions (art).

Patent Count equals the number of natively filed U.S. utility patents granted in a given year.

For more information visit www.patentboard.com

SCORECARD OVERVIEW

The 2010 Law Firm Patent Scorecard ranks 249 law firms, 50 of whom are new to the Patent Scorecard this year. 22 law firms that were present on the 2009 Patent Scorecard no longer appear in 2010 due to their lack of 2009 patenting activity. Overall differences between the 2009 and 2010 Patent Scorecards include a 13% increase in the total number of represented patents. However, there is only a very slight increase in the average number of patents represented by each law firm, which ties in with the addition of 50 new law firms with smaller patent portfolios. For law firms on the 2010 Patent Scorecard, the patents that they represent show a slowing pace of innovation, where the prior art is approximately six months older than on the 2009 Patent Scorecard. Another noteworthy change from 2009 to 2010, though, is the connection to science for the patents represented. Looking at how much each law firm's represented patents rely on scientific research, we see a 25% increase in the number of scientific references cited by patents represented by the top 249 law firms. Since there was also a rise in the number of patents able to reference science, therefore, it is more helpful to look at the Science Linkage™, which shows an increase of 8% in the average number of scientific references per patent. While not as impressive as the overall science count increase, it still shows that patents represented by top law firms are relying more heavily on core scientific research in their 2009 patenting activity.

A patenting entity's patenting success is closely connected to the representation abilities of its law firm(s). Almost 170,000 patents were issued during the 2009 calendar year, 75% of which were represented by mid to large-size law firms with an established record of prosecuting Intellectual Property. Just over 100,000 patents were natively filed and of them, almost half of the 2009 natively-filed patents were represented by the top 249 prosecuting law firms alone. Of those firms, two see the most action with over one thousand patents represented by each, where the average number of patents represented by each firm is just under two hundred: **Blakely Sokoloff Taylor & Zafman LLP** (BSTZ) and **Fish & Richardson PC** (Fish), who rank third and fourth on the 2010 Law Firm Patent Scorecard™, respectively. 29% of the patents represented by BSTZ in 2009 are on behalf of Intel Corp. alone. Fish represents twice as many clients, with the majority in the industries of Semiconductors, Information Technology and Electronics & Instruments.

The basis for the Patent Scorecard ranking is the bibliometric indicator Technology Strength™, a combination measure of quantity and quality that indicates the overall strength of a patent portfolio. **Knobbe Martens Olson & Bear LLP** (Knobbe Martens) maintains its top rank with the highest Technology Strength™, a score that is almost nine times larger than the average for the top 249 law firms. Additionally, several firms have shown remarkable improvements in their scores since the 2009 Patent Scorecard. **K & L Gates LLP** (K&L) more than tripled their Technology Strength™, moving up in rank from #113 in 2009 to #24 in 2010 – an 89 position climb! K&L owes most of its gains, though, to its 2009 merger with Bell Boyd & Lloyd LLP, who had a 2009 portfolio volume and impact nearly twice that of K&L. **Perkins Coie LLP** showed a 57% increase, bringing them nine spots up in rank to sit at #13. Finally, **Workman Nydegger** made its way into the top ten law firms with a 52% increase in Technology Strength™.

Looking at a patent portfolio's influence on the rest of the patent landscape, we see a mixture of top-ranked law firms as well as smaller, lower-ranked law firms. **Vierra Magen Marcus & DeNiro LLP** (Vierra Magen) ranks #11 overall, but has the highest Current Impact™ among the top 249 law firms, at almost five times the USPTO average. Vierra Magen almost exclusively represents companies patenting in the Semiconductors industry. In general, patents represented by the 249 top law

firms tend to have a slightly higher average impact score than the USPTO in general, indicating that hiring an established IP-prosecuting law firm may lead to more successful patents. **Van Dyke Gardner Linn & Burkhart LLP** and **Chapin IP Law LLC** both hold the second-highest Current Impact™ scores at three times the USPTO average and yet neither firm even ranks in the top 50 of law firms, mainly due to their small portfolio sizes. Although both firms are small, they are representing high-quality patents. The firm in the top ten with the highest portfolio impact is Knobbe Martens, whose represented patents are 2.7 times more influential than the average USPTO patent portfolio.

As previously mentioned, patents represented by the top 249 law firms show a strong connection to science research. Large firms such as Knobbe Martens and Fish rank well on scientific indicators that combine quality and quantity, but firms that show high concentrations of scientific research tend to represent smaller patent portfolios. **Goodwin Procter LLP** is one such firm and has an average of 42 references to scientific literature by each patent that it represents. Goodwin Procter represents seventeen patents that cite more than 100 works of scientific literature each – some citing as many as 400 scientific references even. Out of Goodwin Procter's client list, the top two that rely on core science the most heavily are Merck KGaA and Taiwain Semiconductor Mfg. Co. Ltd., who operate in the Pharmaceuticals and Semiconductors industries, respectively. Knobbe Martens, with a portfolio almost six times larger than Goodwin Procter's, represents thirty patents in 2009 that cite more than 100 works of scientific literature each, with three patents over the 400 mark, mostly in the Biotechnology, Chemicals and Pharmaceuticals industries.

Scientific referencing is one indication of a patent portfolio's innovation, but we can look at a patent portfolio's reliance on prior art as well. The average Innovation Cycle Time™ for the U.S. utility landscape in 2009 is approximately thirteen years, which means that patents issued in 2009 cited prior art that was on average over thirteen years old. The average Innovation Cycle Time™ for patents represented by the top 249 law firms in 2009 is three years shorter. **Park Vaughn & Fleming LLP** (Park Legal) stands out even further with an average Innovation Cycle Time™ of just less than six years, indicating that the patents represented by Park Legal are building off of newer, more innovative technologies. Additionally, Park Legal's represented patents are innovating at a more rapid pace than previously, since Park Legal's Innovation Cycle Time™ is almost one-fifth lower (faster) than its previous Innovation Cycle Time™ on last year's 2009 Patent Scorecard. Park Legal has a small number of clients, two of whom are represent 72% of Park Legal's 2009 represented patents: Oracle and Sun Microsystems (whose merger did not take effect until January 2010).

REPRESENTATION BY ORIGIN OF FILING

So far we have concentrated exclusively on natively-filed patents, U.S. utility patents that have priority in the U.S. and were not originally drafted for application in a foreign jurisdiction. We will now turn to a comparison of the top law firms by patent volume for natively or foreign-filed IP. Such a comparison can indicate whether a firm focuses its efforts on the drafting process or as legal counsel for a patent filed with a foreign priority – or even specializes in both.

There is little overlap of law firms between the top ten representing firms of natively-filed patents and foreign-filed patents. In fact, only one firm appears on both lists: **Harness Dickey & Pierce PLC** (Harness Dickey). While Harness Dickey holds the sixth-highest patent volume for foreign-filed patents, it holds the ninth-highest for natively-filed – and fifth-highest volume overall. This indicates that Harness Dickey, unlike many of its fellow firms, is able to spread out its representation to act as both drafting attorneys and local counsel for foreign entities without hindering either representation performance. The focus is still tilted towards foreign-filings, though, as a solid two-thirds of Harness Dickey's representation is provided as local counsel to foreign clients.

Among the top law firms by patent volume for the overall USPTO landscape, the top six by volume are all represented in the top ten by volume for the foreign-filed USPTO landscape. Thus, a substantial chunk of patent representation in the U.S. is driven by the needs of foreign corporations to have local counsel in order to gain patent protection for their products in the U.S. market. The implication, though, is that for many corporations, the U.S. market is secondary to foreign corporations' home markets. Considering that 56% of patenting entities in The Patent Board's Corporate Ownership Tree™ with patents issued by the USPTO in 2009 are headquartered outside of the U.S., it should come as no surprise that there is such a great demand for local U.S. counsel. Such an interpretation is bolstered by the percentages of the top six firms' represented patent portfolios that are foreign-filed. For **Oblon Spivak McClelland Maier & Neustadt LLP** (Oblon Spivak), 93% of the patents it represents are foreign-filed. Oblon Spivak's top three clients, with approximately 500 or more patents issued in 2009 represented by Oblon Spivak, are Toshiba, Ricoh and Sony – all of whom are headquartered in Tokyo, Japan. With the exception of Harness Dickey, the top six firms by foreign-filing volume have foreign filings from their represented patent portfolio hovering close to the ninety percent mark.

The ratios of foreign to overall filings for the top ten firms by volume of native filings is obviously much lower than the ratios for the top ten firms by volume of foreign-filings, but not as low as one might expect. Given the little overlap between top firms of native and foreign filings and the exclusive focus most of the top foreign-filing firms show, one might assume that there is a strong push towards a dichotomy of specialization between native and foreign filings – or to put it another way, a dichotomy between firms that specialize in drafting and firms that act as local counsel to foreign clients. This, however, is not the

Overall USPTO Landscape – 2009

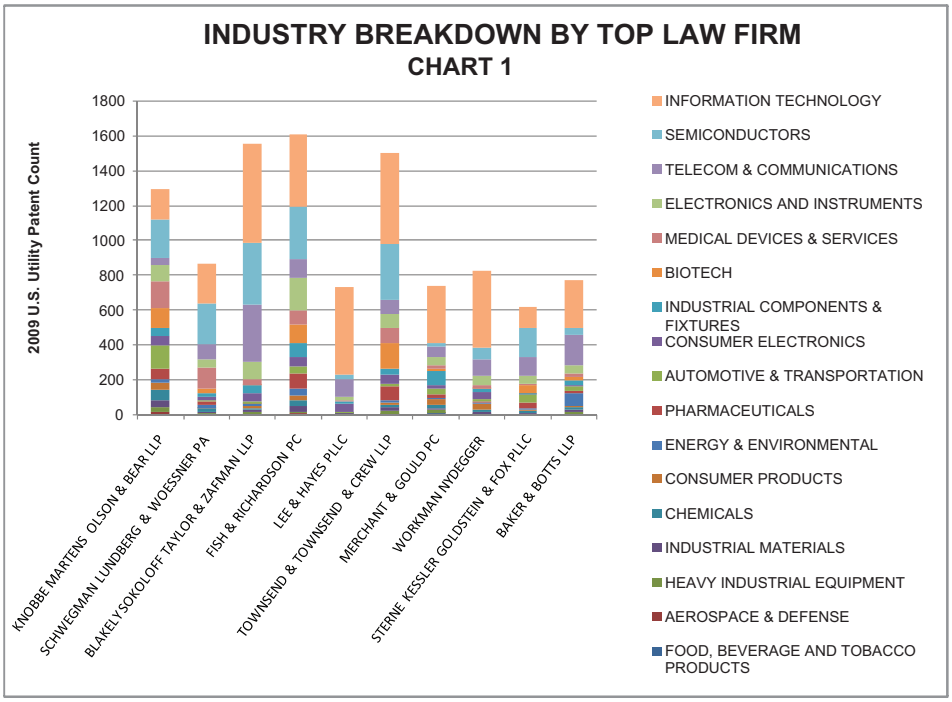
Law Firm	U.S. Utility Count
Oblon Spivak McClelland Maier & Neustadt LLP	4056
Sughrue Mion PLLC	2838
Birch Stewart Kolasch & Birch LLP	2490
Oliff & Berridge PLC	2413
Harness Dickey & Pierce PLC	1981
Fitzpatrick Cella Harper & Scinto	1601
Fish & Richardson PC	1554
Blakely Sokoloff Taylor & Zafman LLP	1514
Finnegan Henderson Farabow Garrett & Dunner LLP	1462
Townsend & Townsend & Crew LLP	1459

Natively-Filed USPTO Landscape – 2009

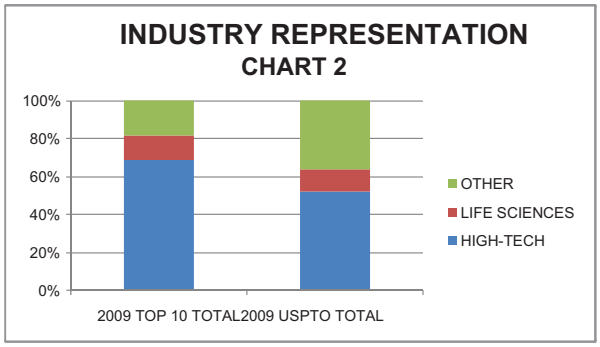
Law Firm	U.S. Utility Count
Blakely Sokoloff Taylor & Zafman LLP	1089
Fish & Richardson PC	1070
Townsend & Townsend & Crew LLP	967
Knobbe Martens Olson & Bear LLP	855
Schwegman Lundberg & Woessner PA	808
Lee & Hayes PLLC	711
Merchant & Gould PC	706
Workman Nydegger	700
Harness Dickey & Pierce PLC	659
Cantor Colburn LLP	642

Foreign-Filed USPTO Landscape – 2009

Law Firm	U.S. Utility Count
Oblon Spivak McClelland Maier & Neustadt LLP	3756
Sughrue Mion PLLC	2572
Birch Stewart Kolasch & Birch LLP	2210
Oliff & Berridge PLC	2107
Fitzpatrick Cella Harper & Scinto	1481
Harness Dickey & Pierce PLC	1322
Mcdermott Will & Emery LLP	1104
Nixon & Vanderhye PC	998
Finnegan Henderson Farabow Garrett & Dunner LLP	972
Wenderoth Lind & Ponack LLP	869



pattern that emerges. Instead, what we see is that foreign filings are a necessary component of business for all law firms. In fact, the top firms by volume of native filings have significant foreign filings as well. Of the four top firms by natively-filed patent volume that also appear on the top ten by overall volume, the percentage of foreign filings hovers just under one-third of their overall represented portfolios. Since 40% of the patents issued in 2009 were foreign filings – patents drafted primarily for a foreign jurisdiction and subsequently filed in the U.S. – it would make little sense for a law firm to forego the ability to act as local counsel for foreign clients and represent such a significant portion of the overall USPTO landscape.



INDUSTRY BREAKDOWN OF THE TOP 10 LAW FIRMS

Patent Analytics contains a diverse repertoire of analytics tools that can be used at varying levels. For a deeper dive into the 2010 Law Firm Patent Scorecard™, we will now turn to a breakdown of the major industries in which the top ten law firms are representing patents. In order to segment each law firms' represented portfolio into its respective industries, The Patent Board utilizes its proprietary Patent Industry Mapper™, a Patent Analytics tool that performs a rapid segmentation of patents into the seventeen industries tracked on a regular basis by The Patent Board.

Looking at the industry segmentation for the top ten law firms on the 2010 Patent Scorecard, it is clear that the Information Technology industry consumes most of their energy [CHART 1: INDUSTRY BREAKDOWN BY TOP LAW FIRM]. Whereas 21% of the overall number of patents issued in 2009 by the USPTO are in Information Technology, 45% of patents represented by the top ten law firms are in IT. Similarly, the Semiconductors and Telecom & Communications also show greater representation by top ten firms than by the USPTO landscape in general. In fact, taken together, the High-Tech Industries of IT, Semiconductors, Telecom and Electronics & Instruments show greater representation by top ten firms than the USPTO as a whole [CHART 2: INDUSTRY REPRESENTATION]. Discrepancies of patent representation among patents in the Life Sciences, such as Biotechnology, Pharmaceuticals and Medical Devices & Services, however, are relatively slim. One explanation for the representation discrepancies points to the interpretation that the top ten firms represent such influential patent portfolios because they represent a larger ratio of High-Tech industries. Such an explanation, however, relies on the assumption that patents in High-Tech industries are more influential than other USPTO patents. Alternatively, due to the complexity of innovations in the High-Tech industries, there is a greater need for specialized council. A third explanation could be that the top ten firms, as large, established law firms, could be self-selecting the industries they represent to focus on newer, cutting-edge industries such as the High-Techs where there is more opportunity for litigation.

Further, it is possible to take a deeper dive into the industry breakdown to discover substantial differences between industries and understand how to evaluate firms' representation abilities not just as the overall firm or even in-house division levels but by industry segmentation as well. Looking at the industries represented by the top 249 law firms, Life Sciences industries such as Pharmaceuticals and Biotechnology show Technology Strength™ scores in the bottom third of the seventeen industries tracked by The Patent Board. Such a ranking may present a biased view of the overall value of a firm's Life Sciences representation since Pharma and Biotech companies concentrate their attention towards patenting activity around scientific research references and concern themselves less with their influence on other patents. Unlike many consumer products or electronic equipment, Pharma and Biotech companies may need just one good patent around a marketable product like a prescription drug rather than the technology clusters and patent thickets required to protect most other products. For this reason and other such reasons, it is helpful to perform Patent Analytics at the industry level as well as the firm level in order to identify strengths and weaknesses and map out trends that make up a part of any good IP analysis.

SUMMARY

To return to the question "Why use Patent Analytics?", we have looked at several ways in which Patent Analytics tools can qualify patenting differences and help both prospective patenting entities and law firms understand the representation value that IP law firms possess. The 2010 Law Firm Patent Scorecard™ is a high-level analysis of the best-performing law firms. Depending on a firm's or client's needs, however, a deeper analysis may be more relevant around specific indicators, such as industry dispersion or scientific research. In this difficult economy, Patent Analytics offer a vital perspective that can help maximize return on investment for clients and law firms alike.

Comments or questions please email: info@patentboard.com. IPT