

Power Prosecutors

THE FIRMS THAT PROSECUTED THE BEST PATENTS IN 2002

Small firms do it better. That's the inescapable conclusion of a recent survey of patent quality in six different areas conducted by PatentRatings LLC. The company's computer model measures the strength of patents and scores them with what it calls an Intellectual Property Quotient (IPQ). The IPQ is much like an IQ score—a 100 is average, scores above 100 are above average. In 2002 patents with the highest IPQs came from small IP boutiques, not their larger brethren.

One of the survey's highest-ranking firms is Minneapolis's Schwegman, Lundberg, Woessner & Kluth, a small 55-lawyer firm devoted solely to patent prosecution that finished with top-ten scores in five categories.

Los Angeles's Blakely, Sokoloff, Taylor & Zafman also brings in quality clients. The 100-lawyer IP firm finished with top-ten scores in both computer and electrical patent prosecution. The firm says that it writes patents for more than one out of every six companies on the Nasdaq 100, citing Intel Corporation as a big client. "We don't feel like we have

MOST MENTIONS*

Fitzpatrick, Cella	5
Schwegman, Lundberg	5
Antonelli, Terry	4
Blakely, Sokoloff	4
Dorsey & Whitney	3
Frishauf, Holtz	3
Adams & Wilks	2
Dickstein Shapiro	2
TraskBritt	2

*Firms mentioned in more than one category

METHODOLOGY: Not all patents are created equal. That's the idea behind PatentRatings, a Newport Beach, California, company that rates patent quality. The company, founded by a former partner at Irvine, California's Knobbe, Martens, Olson & Bear, evaluates patents with a computer model and a premise. The premise is that patent owners are more likely to pay maintenance fees to the patent office for a patent that is valuable.

The model predicts which patents will be maintained based on objective criteria that correlate with maintenance of older patents. The model examines, for example, the number of claims in a patent—the more claims, the higher the maintenance rates. Shorter claims, on the other hand, tend to make better patents, because fewer words translates to broader protection. The opposite holds true for the written specifications—longer is better. Finally, the model looks at a patent's forward citation rate—the number of times patents make reference to the patent in question. The more times a patent is mentioned by other patents, the higher that patent's maintenance rate.

BIOTECH PATENTS

Rank	Firm	# of Patents	IPQ
1	Schwegman, Lundberg	69	120.5
2	Licata & Tyrrell	86	120.2
3	Woodcock, Washburn	127	117.7
4	Cooper & Dunham	72	116.3
5	Frishauf, Holtz	33	116.0
6	Hamilton, Brook	101	115.8
7	Wolf, Greenfield	45	115.0
8	Fitzpatrick, Cella	53	114.4
9	Knobbe, Martens	139	113.2
10	Senniger, Powers	49	112.7

ELECTRICAL PATENTS

Rank	Firm	# of Patents	IPQ
1	TraskBritt	127	157.2
2	Schwegman, Lundberg	170	151.3
3	Fitzpatrick, Cella	852	148.2
4	Dorsey & Whitney	90	140.1
5	Dickstein Shapiro	140	139.6
6	Antonelli, Terry	381	135.0
7	Adams & Wilks	91	133.8
8	Blakely, Sokoloff	340	133.7
9	Myers Bigel	96	131.6
10	Parkhurst & Wendel	75	131.6

CHEMICAL PATENTS

Rank	Firm	# of Patents	IPQ
1	Mueting, Raasch	38	176.0
2	Wells, St. John	201	161.6
3	Schwegman, Lundberg	74	154.7
4	TraskBritt	131	153.8
5	Dorsey & Whitney	62	151.1
6	Amin & Turocy	53	148.9
7	Dickstein Shapiro	94	144.7
8	Antonelli, Terry	138	144.2
9	Beyer Weaver	52	144.2
10	Fitzpatrick, Cella	163	143.6

MECHANICAL PATENTS

Rank	Firm	# of Patents	IPQ
1	Fitzpatrick, Cella	263	131.3
2	Morrison & Foerster	144	121.8
3	Adams & Wilks	101	117.6
4	Antonelli, Terry	255	116.4
5	Sughrue Mion	1,073	112.2
6	Blakely, Sokoloff	149	111.7
7	Oloff & Berridge	646	111.4
8	McDermott, Will	282	110.9
9	Frishauf, Holtz	180	110.7
10	Oblon, Spivak	925	108.4

COMPUTER PATENTS

Rank	Firm	# of Patents	IPQ
1	Schwegman, Lundberg	181	157.4
2	Dorsey & Whitney	132	155.3
3	Fish & Neave	78	146.1
4	Wenderoth, Lind	127	140.2
5	Fitzpatrick, Cella	479	139.8
6	Antonelli, Terry	446	139.5
7	Lee & Hayes	65	138.6
8	Blakely, Sokoloff	586	138.2
9	Conley Rose	252	137.4
10	Banner & Witcoff	153	136.1

MEDICAL PATENTS

Rank	Firm	# of Patents	IPQ
1	Schwegman, Lundberg	87	146.0
2	Vidas, Arrett	48	140.9
3	Henricks, Slavin	17	133.4
4	Frishauf, Holtz	14	126.2
5	Coudert Brothers	15	125.4
6	Brinks Hofer	50	125.2
7	Ratner & Prestia	18	124.8
8	Crompton, Seager	46	124.0
9	Testa Hurwitz	41	123.4
10	Blakely, Sokoloff	14	123.3

much competition [in prosecution],” says founding partner Roger Blakely, who emphasizes the firm’s technology focus.

New York’s IP boutique Fitzpatrick, Cella Harper & Scinto, which was a top-ten firm in five categories, is known for representing Big Pharma. But the firm showed up in the computer and the electrical categories with the help of client Canon Kabushiki Kaisha. The Tokyo-based company was issued 1,893 U.S. patents in 2002—more than any other company besides International Business Machines—and Fitzpatrick, Cella prosecuted most of them, says partner Dominick Conde.

Patents from foreign countries often are just translations that U.S. firms process but don’t write. “We find that many foreign-originating patents are of low quality and this is generally reflected in lower IPQ scores,” says Jonathan Barney, PatentRatings president and cofounder.

However, as is the case with Fitzpatrick, Cella’s work for Canon, foreign-originating work isn’t always low-quality. Many firms prosecute original patents for overseas clients, Barney says. He cites his former law firm, Irvine, California’s Knobbe, Martens, Olson & Bear, and the patent work it does for Yamaha Corporation, as an example.

Foreign clients provide about half of the patent prosecution work at Arlington, Virginia–based Antonelli, Terry, Stout & Kraus, and the 22-lawyer prosecution shop scored high on four of the charts. The firm prosecutes patents for such clients as Hitachi Limited and Nokia Corporation.

In the nineties Antonelli, Terry prosecuted patents for a holding company called NTP, Inc. The patents allowed NTP to sue the maker of the BlackBerry pager. NTP won its suit in November 2002 and is seeking a permanent injunction.

Niche firms don’t have a monopoly in prosecution. Washington, D.C.’s Dickstein Shapiro Morin &

Oshinsky shows up on two of these lists. The 330-lawyer general practice firm has been building its IP group since 1986, when it brought in partner Gary Hoffman from LeBlanc, Nolan, Shur and Nies, an Arlington, Virginia, boutique. Today Hoffman heads up an IP group of 65 prosecutors and litiga-

tors. Last year the firm filed about 1,100 applications with the patent office. In March, Dickstein Shapiro hired two partners and three associates from Lieberman & Nowak, a New York boutique.

Minneapolis’s 750-lawyer Dorsey & Whitney, which is mentioned on two of these lists, received a prosecution boost last May when it absorbed 22-lawyer Silicon Valley boutique Flehr Hobbach Test Albritton & Herbert.

Many large firms don’t do patent prosecution for a variety of reasons, or they do it only reluctantly. They say that the work isn’t highly profitable and poses potential conflicts. Says Roger Blakely, “Prosecution is a mainstay of our practice, I don’t know that large firms can do it as efficiently as we can.”

—Emily Friedlander

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