CEO MINI-BRIEF #3
EFFECTIVE STRATEGIC RELATIONSHIPS

By Dan Wasserman

Strategic relationships have far-reaching implications for any company. On the up-side there is the perceived acceleration of reaching important corporate goals while on the down there is at least some loss of control. However, when striking strategic business relationships although there are risks, the anticipated rewards usually significantly out-weigh the down-side.

To be clear, I define "Strategic Relationship" as the joining of two corporate entities, or subsidiaries of two corporate entities, who engage in a non-acquisitive relationship to so as to exploit a business opportunity that is best achieved by their combined resources, rather than individually.

Although there are many ways of structuring these types of relationships, to show the extremes, this paper concentrates on two different types; ones of like size versus ones that are "asymmetrical." In the former, the two participants are relatively the same size of corporation while the latter reflects what can be done between a David and Goliath. However, in both cases it was only because there was a consultative catalyst that either took place.

Having headed a company deeply immersed in the use of technology for post-production in the entertainment industry, I came to the attention of a business unit of Bell Labs of AT&T in 1995. Over the years they had accumulated a significant patent portfolio that covered a wide range of applications that were used in day-to-day production operations. As such, they asked me to investigate the respective equipment and system manufacturers to determine if it was likely they were infringing.

Since I am not an attorney, nor an engineer, I concentrated on the specific processes used in the industry against how that use impacted the individual businesses. From this I prepared a report that demonstrated where the respective application(s) mirrored the patent claims and likely value. Thus, AT&T was able to engage their legal and engineering departments with a clear focus on companies and products "of interest."

As far as I was concerned, I had completed my task, however, a year later I heard from my contact at AT&T (now Lucent Technologies since AT&T had spun off Bell Labs over the ensuing year). At that time, they asked if I wanted to pick up the old project where I had left off and assist them in the enforcement phase. Naturally, I said "yes!"

For this I had to engage an independent electronics engineer and then map out a strategy to gain the attention of the potential infringers at a level that would ensure a successful outcome for my client. I was confident this would be successful, but never foresaw precisely how much so.

My re-engagement started in November 1996 and I felt the optimum opportunity where I could completely focus my client and the target companies' attention was the National Association of Broadcasters Convention in April 1997. That was an event where every participant in the field attended and Lucent's targets all ensured they had a high profile presence. This gave me six months to build an independent case for each product while using the time to work my way through the respective organization to the CEO level.

Of this there was one particular outcome that surpassed all the others. And, this is in spite of the fact EVERY company contacted over the six months both agreed to meet at NAB and they ALL wound up striking some form of deal with Lucent.

However, there were certain Lucent patents that covered a specific form of computer processing that was needed to accelerate the post-production process.

For those of you who are not conversant in entertainment terminology, any television or film goes through a series of processes once a script is approved, money raised, and casting completed. This starts with pre-production where the project is mapped out. It is followed by photography and preliminary editing. Finally, it goes through a number of post-production stages where the final story is compiled. In that era, it usually took eight times as much time for post-production as it did for the other two functions combined and it was the most technology intensive.

Therefore, anything that could speed up this phase was considered a boon to the industry and that is precisely where Sun Microsystems' super-fast small computers came into consideration.

Following the process I had developed with my client, Sun was treated no differently than any other target in spite of their order of magnitude revenue gap versus the other players. Sun was comparable in size to Lucent at the time but well ahead of any of the others. As such, I started my calling process and by the end of January had progressed to the office of the CEO.

At the same time as Lucent had been developing a new computer application language called "Inferno™" Sun was well into launching their first iteration of "Java™." Unbeknownst to me, the Lucent division who developed Inferno was extremely concerned about Java. However, I continued to proceed with my endeavors in the same manner as I was approaching the other companies I was pursuing on behalf of Lucent and when I landed at the CEO level of Sun was informed "we would be much more interested in cutting some type of deal with your client than fighting a patent infringement case." This was music to my ears!

Within weeks we had hammered out a broad-based outline for a strategic relationship and turned it over to the Lucent legal department. The target was to have everything finalized so that my client could fly from Las Vegas to ink the deal in San Francisco at the end of the NAB. Once that happened Sun re-launched Java which was now enriched by the incorporation of Inferno and the two never looked back.

One ironical outcome of this is that in 2004 Microsoft settled a patent infringement claim from Sun for the Java platform in the amount of $700 million. Although they say "hindsight is twenty-twenty," who knows how this subsequent battle could have turned out if Microsoft had been my client!

At the other end of spectrum are deals I structured for a start-up with two multi-billion defense contractors and a slightly smaller technology development firm.

After the events of 9/11 it was believed this company had technology that could help the emerging homeland security area in specific way. As such, the process started by briefing key government individuals and eventually working my way up to a very senior person in the National Security Council of the Office of the President (of the USA).

Having already delivered the same briefing to sitting members and their key staff in both houses of Congress, along with senior defense personnel, at that meeting, I came out and said "it's obvious that for a miniscule company like this to succeed in D.C., in spite of what ever breakthrough we may have, they have to partner with someone much larger. Who should I be speaking to?" He immediately shot back with Raytheon and Boeing.

I figured it made sense to get one of these industrial giants committed before tackling the other. What I didn't realize is that once all three were signed up, each deal would be different. However, because of confidentiality I can't reveal the deal structure by each of the three companies, I will attempt to define the deals and the process used to achieve them without identifying which belonged to the respective company.

Two were based on joint marketing agreements (JMA). However, the first was predicated on the partner developing a state-of-the-art demonstration lab where they would bring prospective customers to see an integrated technological solution. And, one of these companies actually developed one that included our technology as a key component for a major up-coming international event.

Another partner didn't have as sophisticated a marketing solution and was looking as much at us for sales leads as we were them. Unfortunately, the relative difference in size worked against this for both parties.

The third relationship was based on a joint development project that would then be jointly marketed. As such, they provided funds designed to cover the costs of fully integrating the respective offerings into a comprehensive solution for government buyers. Their belief was the more complete the initial solution, the easier for a customer to understand and ultimately make a commitment.

Although the agreements varied, along with the outcomes, the process used to achieve the three strategic relationships was exactly the same. It started with a review of the potential partners or a recommendation to that target company.

From there it meant having a concise statement of two things; a) what we had to offer, and b) what we wanted from the partner. This had to be delivered in a manner that irrespective of how low in the management structure it was received, the importance was seen to be critical enough it was passed UP to the next, or even higher, level.

The only real effort in structuring one of these relationships is working through the corporate hierarchy to the true decision makers. And, for these deals there are at least two to be engaged – 1) the leader of the specific division and 2) the head of the corporate business group.

There always needs to be buy-in with the former since they are the entity who directly interfaces with the customers. It is this group who has to understand the benefits while overcoming the traditional "not invented here syndrome."

At the corporate level, acceptance is often leveraged from the bottom up. However, many large organizations are structured so that the individual profit centers are relatively small and the benefits potentially derived from an outside relationship could translate to a significant increase in growth for the interested division. As such, the divisional head becomes the "champion" and often secures the necessary approvals from the corporate hierarchy.

The one caution stated at the very beginning is there is some risk in these deals and from my experience there are two. First is that they could under-perform while second, especially in an asymmetrical relationship where your company is the smaller one.

There are only so many things you can do when something doesn't deliver the expected results. But, in the latter case a CEO has to be comfortable working with a company that could easily crush any legal attempt they made to enforce intellectual property rights once their technology is integrated into the larger entity's product(s) and diffused through their marketing materials

Virtually anyone within a company can identify a potential opportunity while in my experience, senior management are the ones best placed to handle the negotiations. However, the greatest problems encountered are either not realizing the company has something of interest to a larger one looking for that particular solution or b) knowing you have something, but don't know how to proceed.

Therefore, having an experienced consultant who is able to both identify opportunities from within while knowing how to get the strategic partnership process consummated is critical. This frees up the management team to concentrate on their day-to-day responsibilities and engages them in the process when appropriate. As such, in this capacity, management are far better disposed to making the relationship occur and once struck achieve the desired goals.