

DIACHRONIC PATENT VALUE AND THE SOCIOLOGY OF CONTENTION

*Daniel R. Cahoy**

*Raghu Garud***

ABSTRACT

Because the rights of exclusivity accompanying a patent do not axiomatically result in value, the legal and management literature have constructed a variety of valuation measures. These measures — actually proxies of true patent value — are limited in the sense that they do not adequately describe the diachronic process of discovery and definition of patent value. In the context of individual inventions, a patent's value is the outcome of various decisions made by several actors at discrete points in the prosecution and enforcement of the patent right. These decisions are the result of "contention" events — interactions between individuals that have the effect of expanding or narrowing patent value. Understanding how contention points play a role in this process is essential to effective patent portfolio management. The goal of this research is to investigate and describe how social dynamics form and modify the value of a patented invention over the lifespan of the property right. It focuses on the significance of negotiation or contention points in value formation, and identifies common instances in the life of a typical patent at which value is defined and adjusted. It is expected that this research will add perspective to the current literature and inform intellectual property management and investment practices.

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* Associate Professor of Business Law, Smeal College of Business, The Pennsylvania State University.

** Professor of Management and Organization, Smeal College of Business, The Pennsylvania State University