KILPATRICK TOWNSEND

## 5 KEY TAKEAWAYS

# Patent Monetization: Options in Patent Sales

Kilpatrick Townsend's Jeff Gendzwill recently gave a presentation on the topic of "Patent Monetization: Options in Patent Sales." Patents rights and protections are an important part of any company's IP portfolio. But even after they have been acquired, patents can be costly in light of the various maintenance fees due in most countries. Because such fees can quickly add up, it may be worth considering selling one or more patents when the technology protected by them is no longer valuable to a company.

**The following are options available for the sale of patents:**

1

Although they can be pricey, **patent brokerage services** may provide the best option for selling patents. Patent brokers seek out buyers specific to the patent(s) to be sold, which often results in a higher selling price. But this personalized service comes at a cost of both money and time. Furthermore, patent brokers often lack the legal and technical training needed to fully analyze the value of a patent. Nevertheless, patent brokers are a good option for those who are in no rush to sell.

**Live patent auctions** work much like any other live auction: a seller submits patents and the patents are auctioned to third parties. The patents are presented at a pre-set date and time to potential buyers. The drawback of live patent auctions, however, is a lack of publicity/advertising – the best buyer for the patents may not hear or know about the sale, which can result in lower selling prices.

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**Online patent auctions** are slightly more fluid. Potential buyers may browse options and bid for a price during a time window. The nature of an online auction allows for more visibility for the patents. Similar to live auctions, however, the right buyer may not be able to find the patents, which may result in lower selling prices.

**Online patent marketplaces** are the cheapest and most straightforward option. The seller simply registers with a website and submits patents for sale. Many online marketplaces are free or require minimal fees, making sale through online patent marketplaces especially affordable. The primary drawback of these marketplaces, however, is that the sale time varies based on website traffic and interest by website users.

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Some private companies offer **private purchase programs.** Typically, these programs look to invest in patents that may turn into lucrative business opportunities, e.g., via licensing, litigation, and/or subsequent sale. The nature of these programs may cause the patents to be undervalued, however, as would-be purchasers often attempt to minimize their own spend.

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