

Innovative Corporate Counsel: Douglas Luftman

By **Ian Thoms**

Law360, New York (October 03, 2011, 9:54 PM ET) -- CBS Interactive Inc.'s Douglas Luftman is not your typical in-house attorney. He encourages outside counsel to work directly with one another and eschews the role of meddling middleman. He minds costs but doesn't consider them the end-all, be-all of his job. Oh, and he builds billion-dollar patent portfolios. All of this and more makes him one of Law360's Most Innovative Corporate Counsel.

Luftman, whom Law360 selected from more than 120 nominations for its inaugural Most Innovative Corporate Counsel series, joined CBS Interactive as chief patent counsel and vice president in July 2010, after serving as head intellectual property attorney for Palm Inc.

At Palm, he developed a highly sought-after patent collection that sold, along with the rest of the company, to Hewlett-Packard Co. in April 2010 for \$1.2 billion. HP reportedly beat out Apple Inc., Research In Motion Ltd. and others, with most observers pointing to the target's patent portfolio as the prize over which the suitors were fighting.

"He and his legal team created, I'd say, at least \$800 million worth of IP value in five years," said Julian Potter, a partner at W.P. Thompson & Co. who has worked with Luftman in the past. "He's quite visionary."

Luftman stocked Palm's library with more than 450 patents and 400 patent applications, most of which dealt with mobile technology. He started developing, buying and protecting such intellectual property early in his tenure at Palm, before the rest of the industry caught on and made it standard practice, according to attorneys who have worked with him.

"We had to be ahead of the curve, and we were ahead of it," Luftman said. "And it's what everybody is doing now."

Luftman has now brought his skills to CBS Interactive, the online media division of CBS Corp., which operates popular websites including CNET, GameSpot, TV.com and others. Once again, he's using his team of in-house attorneys and outside counsel to develop new intellectual property and expand on existing patents.

"Doug is a big proponent of mining old patent applications for new claims that can be filed in a continuation or a broadening reissue application," Foley & Lardner LLP partner Steven Becker said.

To execute his strategies, Luftman often turns to outside counsel like Becker. He tries to pick attorneys and firms that will work well together without constant supervision, and he challenges them to come up with alternative ways for strengthening CBS' patent holdings.

"We pick good attorneys, and we don't necessarily pick them based just on the name of the firm," Luftman said. "And part of my role is to have my ear to the ground and find out who are the heavyweights in a given industry."

Once he has the attorneys on board, Luftman does not want to spend his time acting as supervisor, making sure everyone is doing exactly what they're supposed to be doing and minding what their counterparts are doing. So, he turns to a software program produced by Lecorpio Inc. to help his team coordinate.

"We look at information system tools as another piece of the puzzle," Luftman said. "We basically scoured the industry to find one of the best tools, and what we were looking for were tools that could adapt to the way we do business, not tools that we would have to adapt to."

Though not the only in-house attorney to use the Lecorpio software, Luftman was one of its early adopters, and outside counsel said they appreciated the program he tailored for CBS. The application allows attorneys to see what others are working on, gives them access to key documents, and updates them on the status of a given case or project.

"The infrastructure he creates really gives attorneys the freedom they need to develop and protect the IP," Marc Kaufman of Reed Smith LLP said. "It helps everybody understand what everybody else is doing."

Luftman shuns strict line-item cost restrictions, opting instead to share overall budget information and goals with outside counsel so they understand limitations and can prioritize within those funding restrictions.

"What a lot of in-house counsel do is say, 'Look, you have to do this task for X,' and then they set a really low number and they say if you want to work for us, that's what you get. But with everything, you get what you pay for," Kaufman said. "Doug is conscious of cost, but he has never said you have to get this done for X."

Intellectual property can be a murky, complex subject, but Luftman seems to relish the opportunity to teach someone about a topic and persuade them to see things his way, according to attorneys. Most of his corporate counsel brethren have preferred to stick to the tried-and-true argument of don't worry, I'm saving you money.

"It's sort of the easy way out to say I'm keeping costs down," Kaufman said. "The thing with intellectual property is it's difficult to understand. It's very difficult. A lot of companies, rather than going through that sort of analysis, they say let's get a lot of patents and let's get them cheap."

But that goes against Luftman's nature and way of thinking. Rather than a cost center, he believes patents can serve to strengthen a business and earn serious revenue down the line.

"Patent strategy is not about just buying a bunch of patents," Luftman said. "When you work in-house, it all comes down to it being a business, and you have to show a return on the investment."

Luftman views his role with CBS as more than a protector and purveyor of patents. He works to drive innovation, holding brainstorming sessions and coordinating between disparate departments.

"He's not going to take the path of least resistance," said John McNelis, chair of Fenwick & West LLP's patent group. "He's looking to make a difference in the company, and to do that you need to go out and take on additional responsibilities."

When Luftman sees separate units within CBS working on similar technology, without interacting with one another, he puts their managers in a room together to combine their efforts.

"By necessity, large companies, they're broken up into business units, manageable chunks. And communication between those manageable chunks is always a challenge for businesses," Kaufman said. "The legal department rarely thinks to be that bridge. But Doug has made it a priority."

Luftman has also advanced his company's interests in the political arena.

A few years back, during the patent reform debates, he was heading down to Washington. Becker said that when he asked Luftman whether he was going to represent a coalition of companies or a trade association, he replied, "No, I'm just going to make sure Palm's interest are presented and protected."

Luftman's approach simply mirrors his personality, attorneys said, adding that they didn't think he could ever work for an employer that did not give him the freedom to put his mark on more than its patent portfolio.

"I don't think he would get into a job where he didn't have the flexibility to do those kinds of things," Becker said. "I don't think he's wired that way. He's more interested in being creative and driving strategy and innovations within companies."

--Editing by Andrew Park.

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