



Organizational Excellence and University Intellectual Property Management Offices:

Without Competition, Is it Necessary to Pursue Excellence, and if Yes, then How?

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Competition among businesses has perhaps the greatest influence on how businesses operate—in fact, competition is arguably the core incentive for a business organization's pursuit of excellence, as well as its corresponding practices used to motivate employees. Therefore, it's peculiar that university intellectual property offices (UIPOs) perform revenue-generating functions found in the competitive world of business (i.e., marketing, licensing, and managing properties), but UIPOs aren't subject to the competition (and related incentives) of the business world.

This combination of attributes can create a quandary for UIPOs: In the absence of competition, what motivates UIPOs to strive for excellence, constructively assess themselves, and look for opportunities to improve? Maybe the absence of competition makes the pursuit of excellence—and all of the difficulties that go with that pursuit—unnecessary? Maybe good enough is good enough in these organizations, and the way things have been done is the way they should stay?

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Why pursue excellence? Merely posing the question can shock some UIPO managers and staff—especially those with prior positions at for-profit companies. So it is

these provocative questions that are the impetus for this article. In exploring these questions, this article will clarify what organizational excellence means in UIPOs and why it's difficult to pursue in these offices. Then the article will present a case for why (despite those challenges and the absence of competition) UIPOs should strive for excellence and also highlight some advice that UIPOs can use to achieve this goal.

But first, a clarification is in order. This article is not intended as an indictment of UIPOs. Many are well-running operations that are staffed by skilled, ethical, hard-working professionals. For example, the UIPO at the University of California, Berkeley, where I work, has a track record of success that includes spearheading socially responsible licensing, establishing intellectual property (IP) rights agreements with hundreds of startups and large companies, as well as building strong rapport with many faculty. Nevertheless, even (or especially) UIPOs that have been successful need to be vigilant against falling into organizational complacency and mediocrity.

What Is Organizational Excellence and Why Is it Challenging?

Organizational excellence is a broad concept with many facets, but in the context of this discussion, it's defined as the ongoing process of improvement (including making small refinements as well as big changes) based on rigorously establishing objectives, measuring results, assessing performance, identifying current problems, anticipating future problems, and looking



for opportunities to improve.

While many UIPOs might aspire to achieve excellence in practice, organizational excellence is an ongoing endeavor, and, consequently it's challenging to implement and maintain. These challenges include the following:

- Organizational excellence adds workload to the office—and this work is above and beyond the core functions of a UIPO (i.e., administering disclosures, patenting inventions, completing IP rights agreements, negotiating the IP provisions of research agreements, and managing licensees). Even though UIPO management might shoulder much of the work, organizational excellence also impacts the workload of staff—and as many UIPOs have lean operations, more work can lead to morale problems (as well as a dilution of focus on core functions).
- Organizational excellence results in periodic changes to the office. The world in which UIPOs operate is continually evolving, and, consequently, if UIPOs want to stay in synch with the world, then UIPOs have to change too. But change can be troubling for some UIPO employees that prefer consistency and certainty or have become comfortable with the routine of their office.
- Organizational excellence leads to greater transparency of the office—and with transparency comes the potential for heightened scrutiny and, ultimately, accountability. UIPOs with cultures that aren't accustomed to this level of transparency and accountability might encounter a backlash from some staff.
- Organizational excellence can instigate higher performance expectations—i.e., results and productivity—but without commensurately higher compensation levels. This also might result in disgruntled employees.

Given these challenges, it's easy to understand why it can be difficult to promote organizational excellence without a com-

PELLING reason. In the absence of a compelling reason (e.g., looming competition or apparent problems in a UIPO), it's perfectly reasonable for a UIPO's employees to question the purpose of changes—especially additional work. If there's nothing broken with the office, then what is this change trying to fix?

However, while top-down mandates can make the pursuit of excellence more salient within a company, it's the company's competition that fundamentally drives excellence and punishes complacency in the business world.

Proactively addressing these rational sentiments is key to the successful pursuit of organizational excellence because even the staunchest executive mandate and best plans for achieving excellence are likely to fail if the employees involved with implementation don't understand or accept the reasons for the plans.

Why Pursue Excellence Instead of Complacency?

For-profit organizations (including companies that license IP) have corporate structures in which organizational excellence can be mandated from top-level executives down through middle management. However, while top-down mandates can make the pursuit of excellence more salient within a company, it's the company's competition that fundamentally drives excellence and punishes complacency in the business world. Those businesses that outperform their competitors thrive and enrich their employees (and shareholders, etc). Conversely, those that are overshadowed by their competitors can encounter customer defections, employee reductions, financial problems, and, ultimately shut-down.

Likewise, universities have management structures by which organizational excellence can be mandated from the top-down to UIPOs. However, in contrast to for-profit companies, most UIPOs don't have compe-



tion to motivate them, in that most UIPOs aren't vying with other organizations to manage disclosures from their campus and license the associated IP rights. Moreover, most UIPOs don't have compensation systems that are tightly linked to performance (instead they're often linked to seniority).

Furthermore, many UIPOs are performing adequately in that they don't have any apparent operations problems or urgent financial crises. These conditions can make UIPOs conducive to organizational complacency and mediocrity—even when they are admonished by university leadership to pursue excellence.

Note that UIPO management should be cognizant of a potential pitfall when the avoidance of crises is its primary incentive for organizational excellence. This can lead to a risk-averse culture that can dominate decision making such that the organization only pursues improvements that address risks, and, consequently, the organization systematically ignores improvements that leverage opportunities.

So what, if anything, can take the place of competition or a crisis to drive organizational excellence in UIPOs? For well-run UIPOs, sufficient motivation might come from the substantial risks from latent problems and potential crises. These risks include lawsuits by jilted licensees or irate inventors; the loss of key staff; a dramatic unfavorable change in revenues or expenses; or even the development of a reputation problem that is hard to repair and hinders the university's efforts to attract top faculty, students, or companies that sponsor research.

Should a UIPO be proactive or reactive to those plausible large risks? If the former, then the most comprehensive approach for the organization is to adopt the concepts embodied in the pursuit of organizational excellence.

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However, regardless of the situation, excellence can't be reliably pursued without monitoring key metrics of the organization, and excellence is often hard to implement unless changes are made methodically and progressively.

How to Pursue Organizational Excellence in a UIPO

Now that a motivation for UIPOs to pursue excellence has been established, let's move to a discussion about how to achieve excellence in the office. There isn't a simple, standard recipe for achieving organizational excellence in a UIPO—as every office is comprised of a unique and evolving mix of attributes, issues, priorities, and people.

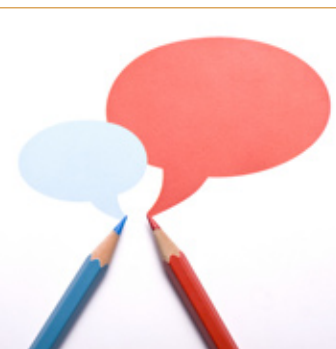
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MONITORING KEY METRICS

Monitoring key metrics is a fundamental mindset embodied in the pursuit of organizational excellence—because only through measuring a UIPO's activities can it:

- address ignored problems,
- expose latent problems,
- foresee emerging or potential problems (before they become disastrous),
- identify new opportunities, as well as
- make changes and subsequently assess their impact.

Many UIPO managers might think that they know what's happening in their



organization, but some might not reliably know whether their office is—for example, always making justified patent decisions, leveraging all licensing opportunities, consistently establishing reasonable license terms, regularly satisfying the faculty, or currently meeting financial expectations.

Note that most UIPOs are service organizations—not revenue centers—and, accordingly, they perform lots of work that doesn't result in remunerations directly back to the office. Therefore, in measuring metrics, it's important for UIPOs to monitor the key efforts of the office, not just the key results (e.g., income).

Most UIPOs have some data about their operations, but that information might be anecdotal rather than statistically significant, it might be old (i.e., as of the last fiscal yearend) instead of up-to-date, and it might be just data without the context of comparisons to UIPO norms and historical patterns. However, high-performing organizations know that: (1) anecdotal data can be imprecise or even misleading, (2) old data can quickly become irrelevant, and (3) analysis tools are needed to make the raw data useful. Access to comprehensive, up-to-date data and analysis is what's necessary to pursue organizational excellence.

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IMPLEMENTING CHANGES METHODICALLY AND PROGRESSIVELY

Change is practically an inherent characteristic in the pursuit (or maintenance) of organizational excellence in UIPOs because the environment in which these offices operate is continually evolving. However, because UIPOs don't have competitors and typically aren't in the midst of a crisis, UIPO

staff can be recalcitrant to implementing changes—especially changes that are (a) abrupt and dramatic or (b) oriented to addressing an alleged opportunity instead of solving an acknowledged problem.

Therefore, implementing changes methodically and progressively often facilitates excellence. In this way, feedback can be used to refine recent changes and influence future changes. Because this feedback is important, employees need to be involved in the assessment process, so that they can stay informed as well as provide input. Otherwise, even great strategies can fail during their implementation.

This methodical, iterative approach to improvements can conflict with the sense of urgency that often accompanies the drive for organizational excellence. Consequently, it's challenging to manage the optimal speed of change. Moreover, it's hard to know when change is occurring too quickly—until the change is implemented too quickly and consequently leads to some employee dissatisfaction. This could be metaphorically characterized as the inevitable growing pains of pursuing excellence—and if it's acknowledged as inevitable, then it should not be a surprise and it can be addressed quickly.

Examples

An example of pursuing organizational excellence through the use of metrics and progressive changes occurred in the UIPO at University of California, Berkeley, over the past few years. In order to maximize service to the campus, as well as office productivity and workload balance, the UIPO needed to identify, track, and analyze activities that it was performing for the campus—beyond the (already tracked) management of invention disclosure cases (that include assessing, patenting, marketing, and licensing IP).

In 2007, the office reflected on its activities and identified the negotiation of the IP provisions of sponsored research agreements as a service to the campus and a



significant load on the office that was not being tracked. Accordingly, the office began tracking “research agreement cases.”

In 2008, further reflection revealed that the office was providing a variety of sundry support to the campus at the request of faculty and senior administrators. Examples of these requests range from modifying the IP provisions of employment agreements and faculty consulting agreements to advising on the terms of service and copyright issues of Web sites, manuscripts, digital photos, and art. Therefore, the office began tracking this significant amount of work as “campus cases.”

By 2009, metrics from the past two years indicated that the office’s quantity of research agreement cases was steadily increasing and projected to overwhelm the workload. As a result, the office made a key change to how research agreements were allocated. Additionally, by 2009, metrics on campus cases enabled the office to provide tangible, compelling evidence to the university that the UIPO was a vital resource to faculty and senior administrators above and beyond its traditional role of managing invention disclosures.

Summary

UIPOs operate in a peculiar context that

can make even the best UIPOs susceptible to organizational complacency and mediocrity. The peculiar context is that UIPOs perform conventional revenue-oriented business functions, but they don’t have the competition (as well as associated employee rewards and penalties) that for-profit businesses operate under. Consequently, UIPOs don’t have the competition-driven motivation to pursue organizational excellence and corresponding improvements.

However, UIPOs contend with a variety of substantial risks. Recognizing the need to proactively and comprehensively manage those risks can be enough of a motivation to pursue excellence. Unfortunately, that type of motivation can result in a risk-averse culture that prioritizes changes to address problems, but ignores improvements to leverage opportunities.

Finally, striving for organizational excellence requires a mindset of monitoring key metrics; and excellence is often best achieved by making progressive changes that allow for iterative feedback and refinements as well as some organizational growing pains. ▽

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