By Paul Belleflamme, 13 October 2011

LEGO: Dr. Jekyll and Mr. Hyde?

Regarding intellectual property management, LEGO may seem to suffer from some form of personality disorder. Over the years, the company has indeed been oscillating between very open and very closed attitudes.

On the "open side", LEGO appears nowadays as a champion of crowd-sourcing and of user-based innovation. LEGO's recent Cuusoo project is a nice example of crowd-sourcing design, whereby the 'crowd' (i.e., anyone) is invited to submit LEGO models that the company may later consider (see other examples of crowd-sourcing designs in this Digitopoly post). This new initiative follows previous similar projects, like LEGO Factory (launched in 2005 and now dubbed 'DESIGNbyME').

Still on the "open side", LEGO showed in the past a very permissive attitude towards hackers who cracked the operating system of its robotics kit Mindstorms.

Now, on the "closed side", LEGO played hardball with its rights on the bricks for a long time. Since the expiration of its last patent in 1978, LEGO has indeed attempted to "build a wall around its bricks" by invoking other IP rights (such as trademark and copyright). LEGO lost its battle in 2005 in Canada and in 2010 in Europe. As the Canadian Supreme Court put it:

> *"(Lego) is no longer entitled to protection against competition in respect of its product. It must now face the rigors of a free market and its process of creative destruction."*

In view of these contrasting attitudes, should we conclude that something goes wrong at LEGO's IP department? My interpretation is quite the opposite: LEGO seems to adapt its IP management to different realities in a rather clever way.

On the one hand, the open strategy makes full sense when it comes to enhance the brand image of the company and to capitalize on the complementarity between various products:

- Crowd-sourcing design is perfectly in line with LEGO's general mission: "Inspire and develop children to think creatively".

- Letting hackers crack and develop a software that makes LEGO's bricks become robots turned out to be very profitable for LEGO: the company saved on software development costs and greatly benefited from the increased quality and popularity of its Mindstorms kits.

On the other hand, the closed strategy may be tempting when it comes to protect LEGO's core business, i.e., the bricks. The keyword here is *compatibility*: what has made (and still makes) LEGO successful is the almost infinite number of ways of combining the little bricks. As long as the competitors' bricks were incompatible with LEGO's bricks, LEGO's users had no incentive to switch brand as they would have lost the benefit of being able to combine the newly purchased bricks with the ones they already owned. In economic terms, incompatibility generated switching costs and it is easy to understand that these switching costs insulated LEGO from competition, thereby allowing the company to charge a premium on its bricks. A competitive advantage that was probably worth fighting for…

In a nutshell, LEGO does not suffer from any personality disorder. The company simply adjusts its strategies to try and maximize the value of its IP portfolio.

(You can find an older French version of this post, as well as a slide presentation, in English, of the whole case.)