

John Amster on why his new IP business could be a lot bigger than RPX

By Richard Lloyd

Over the last couple of years more details of RPX co-founder John Amster's next move have emerged as his vision for a new play in the IP-focused legal services industry has slowly taken shape. Last year we revealed that his new company would be called Rowan TELS (the last part stands for technology enabled legal services). Its patent piece is divided between a services arm that to begin with is focused on preparation and prosecution work, and a consulting operation to advise on patent deals.

But the firm is about much more than just patents, with an anti-counterfeit focus being a key part of the offering. In December 2019, news emerged that Rowan had worked with Cisco to target a group of high-volume counterfeiters which were flogging knock-off networking equipment under the tech giant's brand.

While he was at RPX, Amster spoke of his vision for the business being about more than just a platform for clearing patent risk. Rowan is clearly an attempt to build that out. While there are currently three planks to the business, in an exclusive interview with IAM, Amster made clear there is more still to come.

"There are all these little products out there, siloed in the legal space and no one has really figured out how to pull them all together in a meaningful way," he said. "So a big part of our thesis is that by having multiple services you're going to get a better level of engagement – if you're going to have an element of service in your business having more elements is better."

As he has focused on building the business and bringing in clients, Amster has opted not to speak on the record about his new operation. But last week he agreed to the IAM interview and went into detail on his vision for Rowan.

Our conversation started with the state of play with legal tech in general, which the RPX co-founder points out still fails to attract significant investment. A venture capital firm might have an expert on the fintech space, Amster highlights, but none have a specialist looking at how technology could disrupt legal services.

"From an investment perspective no one is investing in legal tech as a discipline – they don't look at it as an area that's ripe," he claims. The main obstacles, according to Amster, boil down to a chicken and egg problem: a start-up may have some great technology but there needs to be a catalyst for it to be adopted.

"If you don't have that you're not going to have major adoption and if you don't have major adoption you're not going to have major investment and if you don't have major investment you're going to have poor technology," he commented.

He agreed that there is plenty of buzz around how technology might disrupt the legal industry, not just in IP, but that investment has so far not been sufficient to develop what he described as "really kick-ass technology". This is where Rowan is designed to come in.

One of the initial planks that Amster and his team have zeroed in on is patent preparation and prosecution. It is, he said, an area that is clearly ripe for change. "Why is it that tens of billions of dollars is being spent on outside counsel, to pay them to write and prosecute patents?," he asked.

Many law firms may have abandoned prep and prosc as not being sufficiently profitable. However, it still represents the bedrock of many IP practices, with work billed either by the hour or on a fixed fee basis.

That led Amster to a start-up called Turbo Patent which has developed software that combines the fairly simple task of drafting claims with the more complex prospect of turning out the technical drawings. The Rowan head made an initial investment before acquiring the business outright in late 2018. It is, he insisted, far ahead of anything else on the market.

While part of his motivation for focusing on preparation and prosecution was the lack of cutting-edge technology in the space, Amster also said he is focused on whether companies can change a dynamic which leads to 80% of most portfolios being worth relatively little.

For most readers of IAM, and for anyone who knows Amster's deep roots in the patent space, this may all seem like a fairly logical, if ambitious, play. In the process of building Rowan he has pulled in plenty of familiar faces, including RPX alums such as Henri Linde and Neal Rubin, and several other well-known industry figures, such as former AST and Provenance Asset Group exec Linda Biel.

Where things start to look very different, though, is on the anti-counterfeiting side. According to Amster, there's a strange imbalance in the IP world where the scale of the counterfeiting problem, which has been projected to hit \$1.8 trillion this year, dwarfs most companies' patent risk but rights owners still tend to focus far more on the latter. That might be because some are in denial.

"I have talked to a ton of companies and heard very similar things," he revealed. "They said: 'Yeah we know that it's out there but we don't think it's that big of a deal and our business is still growing so even if this a percentage of our sales we're still doing ok, I can't prove that I can stop it but I do what I can; I take down 5,000 websites a month'."

The former RPX head said that in researching the market around counterfeiting he was struck by the parallels that companies faced with the challenge posed by NPEs. Some brands look at the scale of counterfeiting and throw their arms up, wondering where to begin and are put off by the likely cost of putting infringers out of business.

“That was kind of the light bulb moment for me because it felt like the NPE problem,” Amster explained. “You know, there’s just so many, how could you buy patents, what do you know what to buy?”

As with Turbo Patent, his research of the counterfeit threat led him to acquire a software platform which helps to identify infringers. However, rather than simply finding websites selling infringing products, Rowan attempts to unmask the companies behind such sites. This typically leads to a much smaller group to target.

“You can see when you look at a list of say 1,000 sites, 800 may be controlled by five entities and so it makes sense to focus on those five,” Amster explained. Those entities are referred to as high-volume counterfeiters or HVCs.

Simply identifying companies that are infringing is “about diagnosis, not cure”, according to Neal Rubin, who has been heavily involved in the counterfeit business since he joined Rowan. Where the new operation tries to stand out from the crowd is by turning to the courts to force online marketplaces such as Amazon or Alibaba to take down infringing sellers and prevent them from reappearing, maybe under a different guise, at some point in the future.

In the case of Cisco, Rowan identified four groups of foreign companies selling infringing products on thousands of websites. In late November, armed with that research, the tech giant filed a suit in the Eastern District of New York and within days was able to secure a broad injunction against the offending businesses.

“Litigation is not the solution to every problem,” Rubin conceded. “But a court order that precludes Amazon or Alibaba from selling counterfeit products, not just asking those sites to take a product down, proves to be much more effective.”

While that initial case involved just one plaintiff, the ultimate aim is to take a collective approach to the counterfeit problem, much like RPX brings multiple companies together to address the NPE threat.

“If we can get a similar group of companies with the same counterfeiting problem to take action then we can change the economics of counterfeiting,” Rubin explained. “If an entire industry does it then you’ll have counterfeiters saying I have to get out of the router business or ath-leisure clothing sector.”

While many IP owners don’t dedicate the same kind of resources to the problem as they do to minimising their patent risk exposure, Amster insisted that the sheer size of the threat means that anti-counterfeiting could drive a significant part of Rowan’s business.

“My expectation is that this business could be a lot bigger than what we did at RPX because it’s a much bigger addressable market,” he said. “This is not an area where people necessarily have massive budgets so there should be a very nice ramp to the business - but it won’t be quite as steep as RPX.”

Despite Amster’s own history in the patent deals market and the long track record of several on the Rowan team in the space, he said that the deal advisory side of the business is unlikely to grow significantly. So far he estimates that they have advised on a little over \$100 million worth of deals, but “the goal is not to have 100 people running around doing that”.

Instead the next area for expansion might be invention disclosure. Amster believes this could help rights owners develop much more valuable grants. After years of overturning some previously accepted norms in the IP space, this market-shaping pioneer is clearly not done yet. **iam**