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# Assessing the potential value

Ensuring that your IP portfolio management contributes to the overall commercial success of the business has never been more important. **Joan Mills** explains

**The key word here is potential. For years the importance of the role of IP assets in holding and generating value has posed a number of challenges for companies and governments.** The question is, with this new-found fame how does a company assess the value of its IP assets in order to strengthen its portfolio?

This can be answered using two levers: first, why should a company value its IP assets? And secondly, how can a company manage its valued IP assets to derive more value?

The primary reason for valuing IP is to maximise and protect its current value and therefore the value of the company through validated management decisions. There are various scenarios where valuation is required, some of which are examined below.

## Company valuation

An accurate IP valuation is required for buying or selling a company, establishing joint ventures and executing mergers and acquisitions. In such transactions, all parties will need to know the value of the IP assets being bought or sold as part of the company. In the event of a company bankruptcy or a reorganisation, an assessment of the company's value will also be required and this will include the value of its IP assets. IP is a fundamental component of a company, especially when any of the above events occur.

## Litigation support and dispute resolution

Accurate IP appraisal and due diligence is required in the event of IP rights infringement or indeed, a breach of contract.

actual worth. Similarly, when negotiating a licence contract all parties must be clear about the value attached to the IP assets involved. It is often the case that a due-diligence report will be written outlining the details of the IP being purchased, sold or licensed.

In any of the previous situations, companies or governments use two valuation techniques. Quantitative techniques attempt to calculate the monetary value of the IP and include cost, market, income and option pricing approaches. The main factors considered are the historical, replication and replacement cost of the IP assets in question.

By comparison, qualitative techniques provide a value guide through the rating and scoring of IP based on factors that can influence its value. These factors are the auction potential after a bidding process, comparable market value and comparable royalty rate. It could be argued that no one technique is superior to the other but rather that a combined approach tends to be employed to get to the most accurate view of the potential IP asset value.

With regard to how a company can manage its IP assets, it is important to look at how its IP portfolio is assembled and managed. Most respected and lucrative companies face a number of challenges when it comes to managing their IP portfolios. Typically, the biggest is visibility.

How can executives make a decision on whether to sell or license part of their portfolio, merge with another company in order to benefit from their portfolio or license patents from another region in order to gain a footprint in that region? IP portfolio management has become one of the most important aspects of IP in recent years, as it enables executives to make key strategic decisions based on the current and future value of their IP assets.

The past 20 years have seen a marked increase in the number of companies that have become leaders through the effective creation, extraction and leveraging of their IP assets through efficient IP management. Enterprise IP management tools, including licensing, litigation and conflict resolution, can now enable IP practitioners to control the complete lifecycle of their IP (in addition to docketing).

The ability to effectively manage IP not only increases revenue, but also decreases costs and risks and eliminates duplication of effort and rekeying of IP data. In addition, it further facilitates collaboration between all actors in the IP lifecycle process, including R&D, inventors, IP engineers, external law firms and executives.

Carrying on with the value theme, analytics and competitive analysis have become increasingly important in assessing any outside threats to a company's IP portfolio and identifying what the company's next move should be with regard to monetising its current IP assets. Most companies are therefore in search of integrated IP applications that provide robust analytical capabilities for assembling and analysing the intellectual assets in their IP portfolio.

In this same vein, these applications must also be able to automate reporting of the most important and relevant information, thereby minimising laborious research, while providing advanced search algorithms so that no relevant patterns are omitted. This software should in essence analyse the contents of patents, for instance, and present relevant information to facilitate strategic business and investment decisions. This will aid in uncovering competitive intelligence used to steer the company's strategy and defence, identifying more patent and licence opportunities and reducing inadvertent infringement during the R&D stage to decide where to focus.

A look at the biggest trends in the IP industry for the past five years highlights a push to realign growth in the face of changing legal, economic and technological conditions.

The first key trend – cost – has been present for a lot longer than the past five years, but has had more of a spotlight shone on it recently. This pressure, coupled with uncertain market conditions, has caused executives to re-evaluate their strategies surrounding IP portfolio management. As such, additional or new investment is typically used to increase efficiency and automate processes. Rather than implementing stringent cost-cutting mandates, many companies are responding by making calculated investments to strengthen their position.

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The second trend relates to technology. There has been a gradual but required acknowledgement of the role that technology has to play in the IP industry. With its fast-paced nature and promise of automation, there has been an uptake in companies making investments in off-the-shelf IP applications. However, this uptake has arguably been slow considering the size and dexterity of some of the most prominent companies. This may be down to the comfort surrounding the use of legacy systems, the dilemma of where to start or even the lack of vision of some executives at the top. In any case, ensuring that your IP portfolio management contributes to the overall commercial success of the business has never been more important.

The valuation of your IP portfolio is not straightforward and definitely not a science. However, it is still vital. No one method will work in every situation, but the methodologies being used have been finessed and their application sharpened over the years.

Technology will continue to play a key role in IP portfolio management and is being steadily adopted by the IP community. This suggests the advent of trusting new ways of working, reliance on the cloud and benefiting from automated processes. The combination of these two levers – the why and the how – spell out where IP valuation and the management of these assets should be. As with any other asset, companies will need to protect, leverage and monetise their IP in the most effective manner – otherwise why have it?

**Author**


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