

IP experts address valuation disconnect and how to build a robust IP strategy

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The shifting nature of patent valuation is prompting questions around transparency, prompting debates over whether companies should have to disclose their IP value on the balance sheet and how to communicate effectively with C-suite executives.

This year's [Strategy 300 Global Leaders](#) examines the nuances involved in determining IP value and emphasises that a strong IP strategy is vital, especially at a time when a rise in non-patented assets as subject for valuation is foreseen.

Balance sheet disclosure – helpful transparency or jumping the gun?

According to [Chris Donegan](#) of [Invention Capital Associates](#), many inventive companies already reveal the number of patents or trademarks they hold or their brand rankings in annual reports. The valuation of these assets, however, is most often presented as a cost in the R&D budget. “More generally, intellectual property is captured under the amorphous heading, ‘goodwill.’” These approaches avoid trying to claim a definitive or market valuation as a statutory matter, which Donegan thinks is “sensible” due to the highly contextual value of intellectual property.

“This is a very interesting area of discussion,” muse [Angela Quinlan](#), [Paul Riley](#), [Kapu Kumar](#), [Paul Seaman](#) and [Stephen Pomraning](#) of [Key Patent Innovations](#). They report that many European parties are looking at this issue in detail, including national patent offices and the European Patent Institute’s IP commercialisation committee. “While accurate evaluation of intellectual property is a non-trivial matter and will likely remain a specialist task requiring expert knowledge, standardisation of valuation tools may provide an opportunity for companies to leverage their assets to obtain funding to support growth and further investment.”

Intangible assets often make up a substantial portion of a company’s overall worth in today’s economy. However, the current gap in financial reporting leaves investors and stakeholders with “an incomplete view” of an organisation’s value and potential, says [Efrat Kasznik](#) of [Foresight Valuation Group](#). “Disclosing intangible asset values could enhance transparency and improve decision-making for investors.”

Donegan agrees. “I do think that companies that report their IP portfolios in more detail will benefit from an increase in transparency, since capital market analysts will gain better insights, and it will serve disclosers well in licensing discussions.”

However, how this is done is a “governance and strategy issue”. Intangible assets can be volatile and subject to regulatory and judicial changes, and companies may need to account for these through testing for impairment, Kasznik warns.

“The methodologically unstandardised nature of IP valuation actually reflects a much more fundamental issue in the economics of intangibles,” says **Jack Lu** of **IPMAP**. “I think the question of whether to disclose the value of intellectual property on the balance sheet would have to be answered based on the specific type of IP asset.”

Proactive C-suite communications

Ultimately, the key driving decisions come from the top, so it is imperative that the C-suite gain a proper understanding of the value of their assets in order to maximise investment opportunities, maintain a competitive advantage and ensure cohesion throughout the business.

“A core problem is the outdated way in which IP departments are viewed,” says **Bruce Rubinger** of **Global Prior Art**. “They are not at the table when the C-suite makes major decisions on corporate strategy, acquisitions, product planning or how much to spend on intellectual property versus R&D.”

According to **GLMR's Edward Genocchio**, there are “some C-suite executives who like intellectual property and some who don't”. **Ilya Kalnish** of **BCF** has 10 years' experience working in-house which taught him that the C-suite's “main focus” is on achieving corporate business goals. “What they do not care about (at least directly) is claim scope and the minutia of claim interpretation.” They tend to leave this to the attorneys and engineers or scientists to deal with, he says.

Our Strategy 300 Global Leaders maintain that solutions lie in strong IP strategies that enhance competitive edge. Kalnish suggests that the best way to show C-suite members the value of a portfolio is to “demonstrate how it will help them achieve their corporate goals”.

Gil Perlberg of **Perl IP Consulting** echoes this sentiment. “To attract funding, companies should ensure that their IP portfolio is well documented and aligned with their business goals.” He makes sure to demonstrate value by aligning portfolios with core business objectives to “highlight their potential for driving growth and securing competitive advantage”.

For Genocchio, “a well-thought-out IP strategy can block (or at least slow down) competition, leading to enhanced market position, more sales and positive financial outcomes”. Leveraging freedom-to-operate opinions and competitive IP landscape analyses can also demonstrate market position, reduce legal risk and build investor confidence, according to Perlberg.

“Everybody loves a successful case study,” Genocchio says. “Showing the C-suite a real-world product or service from concept to reality and the revenue generated is a simple and easy way to convince them of the value of intellectual property.”

For **Vinay Sharma** of **Iota Analytics**, presenting “data-driven actionable insights” that emphasise opportunities for generating additional value can provide a crucial competitive edge. “It's essential to articulate the strategic importance of intellectual property in mitigating risk and fostering innovation,” and for clients to adopt an “outside-in perspective” to effectively map opportunities and threats and identify any gaps in strategy, ensuring that they stay ahead in a competitive market.

Rubinger insists that reinventing the IP team's role to yield critical information for the C-suite while enhancing patent quality and portfolio strategy is essential. This requires a “proactive approach” that provides detailed analysis on the IP and tech spaces to drive competitive analysis. “Senior management is very receptive to this information,” he claims.

Building a strong valuation strategy

A robust IP valuation strategy hinges on several essential characteristics. For **Harish Daiya**, **Kalyan Banerjee** and **Deepak Patnala** of **Lumenci**, comprehensive asset identification, market-oriented valuation methodologies and assessing infringement potential are crucial – as is “forward-looking economic analysis”. Both **AnovIP's Amit Aswal** and **Manisha Singh** of **LexOrbis** agree, citing comprehensive assessment of the asset's nature, purpose and business impact, market-based valuations and understanding legal and regulatory risks as key.

Lu takes a similar stance. He maintains that an effective strategy should include a thorough understanding of major factors and their compounding effects, such as the nature of the assets, the economics underlying their contribution to the product's value, the financial performance of the business model, the technology's lifecycle and market dynamics.

Landon IP's Yosuke Miyoshi and **Kentaro Ito** of **TMI Associates** stress the importance of an "IP mix". "Do not regard every patent as separate," Miyoshi warns. "Always try to find a mutual correlation (or 'chemistry') between them." He adds: "Protecting a product with just one patent can leave it vulnerable to circumvention and invalidation risks." Combining patents, designs, trademarks, copyrights, trade secrets and data is a "vital approach", says Ito, and will enable broader protection and enhance competitiveness.

Predictions amid shifting nature of valuation practices

As more companies adopt this mixed approach, valuation practices will evolve to meet it. Looking ahead, Kasznik forecasts "a rise in non-patented assets as subject for valuation, as they are increasingly contributing to a company's IP strategy". "One such asset class is digital assets and data, which can be highly valuable and are protected by softer IP rights, such as copyrights and trade secrets."

Meanwhile, the current M&A landscape is hitting patent valuation practices in a whole new way – they are even likely to become "more conservative", according to **Derek de Laat** of **FIN IP Group**. With scarcer funding for deals and increased scrutiny, he anticipates that valuations will require "greater diligence and more refined assumptions". Decision makers will be "more selective" in choosing valuers, placing greater emphasis on experience and expertise.

Emerging technologies are also playing a major part in how practitioners can maximise IP value in transactions. Given the complexity of deals in the tech space, this will require "bespoke, creative solutions" to ensure that companies' most important assets are protected, says **Jonathan Ashtor** of **Paul Weiss Rifkind Wharton & Garrison**.

Indeed, Kasznik anticipates that the role of data-driven tools and AI to expand substantially – "especially as these tools are increasingly capable of handling at scale some of the time-consuming elements of IP valuation" – but she emphasises that maintaining a human element is necessary for robust IP analysis.

From a litigation standpoint, **Winstead's David Higer** notes several significant impacts on patent valuation in the United States – from the effective abolishment of injunctive relief for patent infringement to the Federal Circuit's anathema for large patent infringement damages awards and the uncertainty created by post-grant challenges. "I do not expect any of these to change for the better in the next five years," he laments.

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