

INTELLECTUAL PROPERTY PORTFOLIO MANAGEMENT

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Welcome friends. In our last few sessions, we discussed about various aspects related to budget, cost, how to minimize the cost of our portfolio. But at the same time, it is also very important to earn revenue from our portfolio. Now, when you are talking of revenue, you have a product with you; how much you will charge for that product from your customer, target customer, is only possible when you know the value of your product.

without knowing the value of your product, what price you will charge? Now, there can be one answer, we charge as per the paying capacity of the customer, yes, but we can also decide some kind of price on the basis of the cost of the product. So, in various other tangible products, your car, mobile, computers, garments, and watches, you have a very the specific cost of production, and then you add some profit margin on that, and you can decide this is the price of my product. But when your product is intangible like in the case of IP which is an intangible product it becomes difficult that how will you price your product, how will you value your product and that is what we are going to discuss in this particular session

How are you going to value and create some kind of method for the valuation of your IP? So, in this particular session, we are going to discuss why there is a need to conduct IP valuation? What are the different type of prerequisites for conducting the IP valuation? What are the factors that can be impacting your valuation of IP? then, what are the different types of methods and approaches for valuing the IP? we will finally see that we are doing this IP valuation for some sort of commercial exploitation.

So, we are going to cover all these things in this particular session. Now, first, let us understand the concept of value of the IP portfolio from where this concept of value is

coming in the IP portfolio. It is coming because of two very important things. One is exclusivity and second is future benefits. When I say exclusivity, we all know now, after going through so many videos, that IP gives you some kind of ownership of a particular type of asset, and this ownership actually excludes competitors from using your IP.

So, this is the exclusivity and for being this exclusivity IP asset to have a quantifiable value that it is going to generate a measurable income that is the economic benefit and it enhances the value of other assets with which it is associated. For example, you have a patent now because of that patent you are going to make a product And when you are going to make a product, you will get some kind of economic benefit, you will get some kind of revenue profit that is a direct thing. But sometime it is possible you have a product with you, you have this pointer with you. Now, this pointer does not have any name.

Now, you put the name of some prominent company on this pointer, which is, let us say it is a pointer coming from Apple. which has a huge brand value now all of a sudden this pointer becomes a very very valuable pointer before apple's name it has some x amount of value and when it puts apple name on it it becomes 50 x value so that enhancement of value because you have put some kind of IP into this It is the other kind of benefit because now it is an exclusive product. So, that is one type of value creation because of your IP portfolio. And particularly the second point is very very important for all trademark related portfolios.

We see all the fashion garments. You are wearing a t-shirt when there is a logo of a company on that t-shirt. it becomes a very valuable t-shirt. Without that logo it has a very low price in the market. So, that is how by attaching IP to a particular product to a particular asset, it becomes more and more valuable.

The second important reason for IP valuation is future benefits. Because of that also, value comes to IP. That potential future economic benefit to the IP owner and those who are authorized to use it. Now, how value can be derived through future benefits? One is direct exploitation of the IP by integrating it within the product.

You are already using a motorcycle, you are making a motorcycle. Now, you used DTSI technology in that motorcycle. And then you can see that if I improve the motorcycle engine with DTSI technology, it is going to give me extra market, or I can increase the price of my product. So, that is the possible future benefit because you are integrating it

within your available products. Sale or licensing of the IP to a third party is mostly done by educational institutions, R&D institutions that develop IP.

But they are not using IP on their own. They are licensing, selling IP to a third party. That third party may be a business enterprise. So, possible future benefit will come because of your IP. And there can be other means also.

So, A, B and C. Other means also such as raising barriers to entry or reducing the threat of substitutes. Now, because you have IP and you are anticipating that there may be some competitors who can come to your market now by because of IP you have created blocks for them that they may not come to your market and you are creating a safe passage for yourself and all these are the future and exclusivity are the two main reasons because of value is there in your IP assets. Once we have understood that there is IP, there is value in the IP, let us also understand what is the need for conducting IP valuation. Value is there, it is understood, it is proved also. Now, let us see what are the different actions for which IP valuation is a

very very important. As I said in the beginning of this session, I want to sell a product. Now, without knowing the worth of that product, I have a piece of wood with me and if I do not know the piece of woods value, I may sell that wood at a rate of let us say Rs 20 kg, but then somebody told me that dear it was a sandalwood. Now, sandalwood should cost me, let us say, Rs 1000, but because I was not aware of the value of that product, I sold it at Rs 20 kg. So, the same thing is possible in IP. also, without knowing the proper value of IP, I may be giving the value of the product to anybody without knowing what the right price I should charge.

Whenever you are going to have a licensing deal, it is very important for the case of patents or even designs also. Franchising IP related to trademark is very important that you should know if you are giving your franchisee business. at what rate should you charge your royalty from the companies to whom you are giving your trademark? Transfer pricing in the case of copyrights is very important. You transfer your copyright to your publishers, and you transfer your copyrights to producers. So, when you are seeking funding in that case patents value is very important because generally

Investors give you funding on the basis of your patent portfolio. When you are selling a business, in that case, trademark and patent both play important roles you should know the value of your trademark, what people are giving respect to your name and mergers and acquisitions is also same that trademark and patent. because in our business, we are

doing all these types of activities, and all these types of activities are not possible without knowing the correct value of your IP assets. Therefore, we say that IP valuation is important for all these important things. Now, when we are doing this IP valuation

There are few prerequisites which you should be having only when you have all these prerequisites you can do a proper IP valuation. So, you should be able to distinctly identify, accompanied by a clear and recognizable description. So, the IP assets you should clearly know what type of IP assets I have and what their uniqueness is with their complete description. if you do not have this in black and white it will be difficult to do IP valuation. So, for all your IP assets you should make a list 1, 2, 3, 4, 5 and then you should have a clear description of those IP assets.

Second is tangible evidence or indications of the IP asset's existence are necessary, such as contracts, licenses, registration documents, physical storage media, procedural documentation, customer lists, or financial requirements. It means the entire documentation related to your IP assets also need to be kept properly before starting the process of evaluation. All the documents which you have that need to be properly available in a systematic manner.

So, documentation is also very important. Then your IPs which you have should be legally enforceable and transferable. That means, you should know that your IP are live. If your IP is already dead, it is abandoned, there is no meaning of IP valuation. So, you should ensure that all your IPs are enforceable and transferable.

For example, if IP is you are going to transfer IP in some other country and you do not have your IP protection in that country, how will you transfer your IP in that country? So, you should need to know that all those conditions are already met or not. Then further the income generated by the IP asset should be separable from the revenue generated by other assets within the business. You should know that there should be a separate stream of income which is coming because of your IP assets. Particularly if you are a franchisee business and you are giving your trademark to your franchisees.

So, there will be a royalty component coming. from them and there will be a income from business also. When you are giving your trademark to your franchisee, there may be two streams of revenue, which are coming from royalty because of the use of the trademark and then income from the business. So, these two are separate sources of revenue and therefore, tax implications are also separate. So, therefore, you should have these things also very much clear in your mind.

IP asset should be capable of being sold independently without requiring the sale of other business assets to the same buyer. If your IP asset is integrated with some other kind of asset, you will not be able to sell that IP independently. If I want to give you one particular type of IP asset, can I do it independently or not? If there are so much paraphernalia which also needs to be transferred with that IP asset.

It will not be a good thing for IP valuation because you will always be including the cost of those things. I am a research scholar at IIT, and I have developed a patent, and I want to transfer that patent to a particular organization. that transfer of patent requires my transfer also. I need to go to that organization, then only that IP can be used there, then it will be very difficult to value that IP. If me, the inventor and my patent, if these two are separable, then only you can do a proper evaluation of your IP.

The IP asset should be susceptible to destruction or termination at a specific time or as a result of a particular event that can be identified. You know that almost all IPs have a particular life and not only life to maintain those IP you have to go for annual maintenance charges also, renewable charges also. So, we know that to maintain IP how much cost is involved and we know that by this time you will not be having those exclusive rights because IP will not be available after this particular time.

So, that is also a important prerequisite that you should be aware of that what is the remaining life of this particular IP. Now, after understanding these prerequisites what are the different factors which are impacting your IP valuation. Now, obviously, the most important one is what is the basis of your value? The valuation of IP asset is on the basis of in which context you are evaluating the value.

The meaning is it is very much in line with the business objective of the organization. I develop one type of IP And I think that it should be used by the business organization or it should be used by the social organization. Now, these are two different contexts and based on that, the value of IP will also change. Objectives or motives behind the valuation.

I am valuing it for my balance sheet or I am valuing it for some kind of licensing deals. or some kind of transfer deals, we discuss that there are multiple types of actions, merger, acquisition, and so on. So, what is the action for which we are doing the valuation that also plays an important role? Timing or date of valuation situations are very dynamic; business has different types of fluctuations. So, sometime you are in the rising scenario some rising industry is there.

And if your IP belongs to that sun rising industry, it must have a higher value. If you are in a declining industry, then obviously, even if you are doing a very good research, the value will be low. So, your timing also plays an important role in the valuation of IP. Availability, reliability of pertinent data and information. How much information data about the market?

you have access to that you have that also plays an important factor in IP valuation. Many a time we are surrounded by bounded rationality that we have only limited data available with us and we want to work with that limited data only. So, our valuation will also be incomplete, but that is a limitation I think it is with the largest organization. it will be a limitation that you may not have a perfect information about this word. Valuation method, there are different types of valuation methods we are going to discuss.

Which valuation method you are using, that is certainly going to have an impact on your IP valuation. And obviously, the country in which you are where what is the legal, tax, financial and other kind of regulatory activities that will also affect your IP valuation. The standard of valuation that is also one factor that is going to play an important role like understanding the concepts of fair market, fair value which are generally the standards of value like fair market value G1, and fair value, the fair price system is G2.

Fair market value is the price at which an asset or service passes from a willing seller to a willing buyer. There is a perfect situation, there are so many willing sellers, so many willing buyers. So, any buyer can go to any seller that has the perfect or fair market value. In this case, we are assuming that both buyer and seller are rational and a reasonable knowledge of relevant facts. They have entire knowledge of the other things that are happening in that case.

But many times in the IP dominant market, you may not have many buyers, you may not have many sellers. So, fair market value may not be very much applicable in this case. The second thing is fair price. appropriate for use in post-transaction purchase price allocation, and in this case, fair value is used on the assumption that market participants would use it when pricing the asset. So, when you are trying to find some kind of price of your asset at that time you use this fair value option in deciding the value of your IP assets.

Now, there are different types of acts like we mentioned already where we are going to have the importance of IP valuation. So, like in the case of transactions, there can be different types of transactions, licensing, sales, mergers, acquisitions, JV, or you want to

give a donation of IP for some NGOs or social work. Then enforcement of IP. I am a computer license computer making company, I am making softwares for example, I am making photoshops, I am making some kind of adobe reader. Now, I have come to know that one particular institution is using my software, the pirated version, without my permission.

So, this is how to charge damages from that that is also one important area where IP valuation is needed. for internal purposes, also that we were continuously talking about a budget for IP. that is for internal purposes and then other purposes also because you may expect some kind of funding investment in your organization for financial reporting in your balance sheets for liquidation, etcetera. So, these are some other purposes also for which you may take the help of IP valuation. There are different types of methods which is I think the most important part of this discussion that how are we going to value our IP.

Three very important methods are there, cost, income and market. And then we can have a combined method also which is known as hybrid method. But, theoretically speaking we use three important methods cost, income and market based approach. Now, when I am talking of an income-based approach, this is one of the commonly used methods for IP valuation, and the basic premise is that on the basis of the amount of economic income that your IP is going to generate on the basis of present value. you are actually going to determine the future cash flows and future positive cash flows because of this IP that okay today is 2024 and what are the my future cash flows in 2025-26

2027 and as we discussed during the prerequisite session that okay my IP will work let us say for the remaining 5 years. So, in 2028 and 2029. So, you know that in these 5 years what will be the cash inflows? and based on some discount rate you are going to see what is the net present value of these future cash flows. So, this becomes the income-based approach and you should know with some degree of reliability for the future period and you should also consider

some factors of risk also because whatever estimations you are doing for future cash flow these are not going to be perfect there will be a risk component also. So, you can see that how to evaluate that risk. So, you can take some proxy approximations for the purpose of getting a suitable discount rate. So, that you can get the net present value of your IP assets. The second method

after this income, the second method is a market method. Now, market method is based on a comparison with the actual price paid for the transfer of rights to a similar IP asset

under comparable circumstances. I developed a technology for electric vehicle batteries that and I wanted to give that because of this technology. Now, I am able to recycle batteries. This is how the charge in the battery can be completely discharged so that the recycling of battery becomes easier.

So, I have done this type of technology development, and I found that there is a battery manufacturer who is interested in recycling the battery. I want to give that technology to that battery manufacturer. Now, there can be a benchmark. that some other researchers developed some technology related to battery manufacturing, and some other battery manufacturers purchased that technology. Now, that becomes a kind of a market method that whatever the deal amount in that case, I also consider that since my technology is also related to battery, I am also going to give to a battery manufacturer.

So, they are similar kinds of IP assets because both these are in the battery manufacturing So, maybe I can take a reference from that and I will consider value of my IP asset according to that particular comparable circumstances. This is very simple, but the only thing is that you need to have perfect market information, and many a time, this perfect market information may not be available, which may be a challenge in this particular case. However, in case of books etc. when we are talking of copyrights, this can be a very good method of valuing your IP because if I am writing a book

and some other colleagues are also writing a book. So, I know that there is a particular publisher and that publisher already promised, let us say, a 20 % royalty payment to my other colleague. So, I know that there is a standard of 20 % when I am going to transfer my copyright to that publisher I will also expect 20 %. So, this is market-based kind of approach where I am looking for a similar kind of example, and accordingly, we see what is the value of my IP.

Third method is cost method. and in the cost method, we say what the cost of a similar type of IP asset, and this is more useful when you are going to have that type of IP that can be easily reproduced. So, you should know that, okay, I have developed a machine and this machine can be easily reproduced. So, I know that if this machine can be easily reproduced by my competitors, it is very difficult to assess the economic benefit of the IP asset.

And in that case, the cost method is a good method of determining the IP value because you are not going to know how much IP infringement may take place because anybody can easily reproduce your IP, and therefore, whatever the cost of developing that IP, that

method can be the way of using the value of your IP. Generally, if I find the same kind of IP and use these three methods, Maybe I will always see that the value of my IP comes to a minimum using the cost method, and generally, I will anticipate the highest IP value by the income method because I sometimes inflate I am maybe slightly giving extra income to my IP. I am having some kind of attachment. Then the second value comes from the market approaches.

And third comes because of the cost. So, what happens? If I am the creator, I will like to use income method. If I were the customer, I would like to use the cost method because of the value of the IP. So, this is again a matter of negotiation that how to bring buyer and seller at the same platform with respect to IP value.

And that, as I said, generally, we use hybrid approaches. We discussed three different approaches to determining the value of our IP assets. But we generally use a hybrid approach based on market size, market share of the said technology, annual turnover generated by the IP. So, these are all related to income. Absolute profit after applying all taxes that is also part of income.

Discount factor is based upon the risk assessment of the patent and IP, as well as income. Product factor which evaluates how important the patent is to overall product. So that is somewhere related to market. So, we have a combination of income and market approaches for basically used in the IP valuation when I am the creator. When I am a buyer, at that time, I will use the cost approach because it will give me the lesser value of the IP of the creator.

An important thing to note is that the value proposition can change as per the business strategy of your organization. If your organization feels that I have to create a barrier so that others do not enter the market, I will keep a very high value so that nobody can come for transfer licensing of that IP. But if I want to go for licensing of my IP, I will go with a more market-based approach because that creates a reference point for me, and that market-based approach is suitable for the licensing type. So, what is my business strategy or business plan? accordingly, the value proposition may change.

Then patents or new technologies these are generally given higher value as compared to older technology. So, because you see that market is moving in that direction. So, right now, if I talk 6G related patents, their value will be much higher as compared to 4G related patents. New technologies will always give you special advantage. So, that is also a factor which affects your IP proposition for commercial exploitation.

And to understand the full value of IP, the entire IP portfolio should be considered. Because one or two patents, one or two IP may not give you that competitiveness or the completeness of the product. So, until you offer a portfolio or a bouquet, then, only it will give you the real value to your IP efforts. And brand and you can say that trademark is very very crucial for determining an organization's IP worth. if one IP is coming from MIT and one IP is coming from a low ranking institution.

Anybody is going to give higher value to the IP that is coming from MIT as compared to low-ranking institutions. In India, some IP is coming from IIT versus IP coming from a NIRF, let us say 500 institutions. or if some IP is coming from an NAAC A++ institution and some IP is coming from an NAAC B institution. So, the branding of the institute also is a very differentiating factor about the IP's worth. And with respect to trade secrets, we need to understand that their commercial potential is only when you are keeping them secret.

If you are making them open, thus, the value of trade secrets will also go away. So, to keep the commercial exploitation of trade secrets, it is very important to know how to go into the deal related to trade secrets. If you start explaining what your trade secret can do it means you have diluted the value of your trade secret. So, with this, we have understood what are the different techniques of IP valuation,

Why should we do IP valuation, and in what different scenarios is IP valuation very important? what are the different types of issues you need to keep in mind while you are going for commercial application or commercial exploitation of your IP? With this, we come to this particular video. Thank you very much.