Intellectual Property: Valuation & Commercialization

BY MOHAMED IKHWAN BIN SHAHDZUL BAKRI
IP VALUATION UNIT
BUSINESS DEVELOPMENT DEPARTMENT
12 MAY 2016
Presentation Structure

• Brief about MyIPO
• Basics of Intellectual Property (IP)
• IP Valuation
• IP Commercialization/Monetization
• Q&A
Intellectual Property Corporation of Malaysia

- Known also as MyIPO

- Statutory body under the Ministry of Domestic Trade, Co-operatives and Consumerism from March 3, 2003

- Main function is to establish a strong and effective administration of Intellectual Property Legislation in Malaysia
Unit 1-7 (Ground floor) & Mezzanine, Level 12, 12A, 13, 15, 16, 17, 18 and 19, Tower B, Menara UOA Bangsar, No. 5, Jalan Bangsar Utama 1, 59000 Kuala Lumpur, MALAYSIA.
Intellectual Property Corporation of Malaysia
What is Intellectual Property (IP) ?

Intellectual property (IP) refers to creations of the mind such as:

- Inventions;
- Literary & Artistic Works;
- Designs;
- Symbols, names and images used in commerce.

Definition by World Intellectual Property Organization (WIPO)
2 Categories of IP Rights:

**Industrial Property**

- Patents for Inventions
- Trade Marks
- Industrial Design
- Geographical Indication
- Layout-design of an integrated circuit

**Copyright**

- Literary Work i.e. books, computer programs
- Musical Work
- Artistic Work
- Films
- Sound Recording
- Broadcasting
- Derivative Works such as translations

Copyright examples:
- Literary Work: Books, computer programs
- Musical Work: Sheet music, recorded performances
- Artistic Work: Paintings, sculptures
- Films: Movie productions
- Sound Recording: Music tracks, audio recordings
- Broadcasting: Radio, television
- Derivative Works: Translations, adaptations
Intellectual Property Rights

- **Trademark right**: Protect marks used for goods & services (for 10 years after registration)
- **Industrial design right**: Protect a design of goods (for 15 years after registration)
- **Patent right**: Protect new invention (for 20 years from application)
- **Copyright**: Protect creative expression (for 50 years following the author’s death)
- **IC Layout designs**: Protect layout designs of integrated circuits (for 10 years from the date of its first commercially exploited)
Intellectual Property Laws in Malaysia

MyIPO
• Patent Act 1983
• Trade Marks Act 1976
• Industrial Design Act 1996
• Geographical Indication Act 2000
• Copyright Act 1987
• Layout Design and Integrated Circuit Act 2000

Ministry of Agriculture
• Protection of New Plant Varieties Act 2004
What is a trade mark?

- A trade mark is a sign which distinguishes the goods and services of one trader from those of another.
- A mark includes words, logos, pictures, names, letters, numbers or a combination of these.

Term of Protection:

- valid for 10 years from the date of application and may be renewed every 10 years (10+10+10...... years)
Patent

What is Patent?

• A patent is an **exclusive right** granted for an **invention**, which is a product or a process that provides a new way of doing something, or offers a new **technical solution to a problem**.

Term of Protection:

  – 20 years from filing date (Subject to payment of renewal fee every year)
Patent

Technical solution to a problem…

“Umbrella Cover”

US-A 5,135,017 (04 August 1992)
Tokyo Nagai Co. Ltd (JP)
Patent

Technical solution to a problem…
United States Patent

Jackson et al.

[54] METHOD AND MEANS FOR CREATING ANTI-GRAVITY ILLUSION

[75] Inventors: Michael J. Jackson, Los Angeles; Michael L. Bush; Dennis Tompkins, both of Hollywood, Calif.


[21] Appl. No.: 905,479
[22] Filed: Jun. 29, 1992

[51] Int. Cl. A43B 5/00; A43B 3/00
[52] U.S. Cl. 36/113; 36/1; 36/136; 36/80; 36/132
[58] Field of Search 36/1, 80, 103, 113, 36/114, 131, 132, 136, 482/70, 71, 105

[56] References Cited

U.S. PATENT DOCUMENTS
1,059,284 4/1913 Dennis ........................................ 36/114
2,114,790 4/1938 Venables ........................................ 36/132
2,473,099 6/1949 Hatch ........................................ 36/1


[57] ABSTRACT
A system for allowing a shoe wearer to lean forwardly beyond his center of gravity by virtue of wearing a specially designed pair of shoes which will engage with a hitch member movably projectable through a stage surface. The shoes have a specially designed heel slot which can be detachably engaged with the hitch member by simply sliding the shoe wearer's foot forward, thereby engaging with the hitch member.

13 Claims, 4 Drawing Sheets
What is an industrial design?

• An industrial design is the ornamental or aesthetic aspect of an article.

• The design may consist of:
  – three-dimensional features (3D) such as the shape and configuration of an article, or
  – two-dimensional features (2D) such as pattern and ornamentation
  – Combination of (3D+2D)

• The design features must be applied to an article by any industrial process or means of which the features in the finished article appeal to eye.

• Term of Protection: 5 + 5 + 5 + 5 + 5 years
Industrial Design

3D Designs
Industrial Design

2D Designs
Industrial Design

3D + 2D Designs

=
Copyright

• **What is copyright?**
  – Exclusive right that grants the creator of an *original work* for its use and distribution.
  – Based on Copyright Act 1987

• **Works eligible for copyright:**
  1. **Literary works** (e.g. novels, stories, books, letters, report, essays, articles)
  2. **Music works** (e.g. musical composition, lyrics)
  3. **Artistic works** (e.g. graphic work, work of architecture, work of artistic craftsmanship)
  4. **Films** (includes the sound embodied in any sound-track associated with a film)
  5. **Sound recordings** (e.g. music cd)
  6. **Broadcasts** (e.g. TV programs broadcast by TV3)
  7. **Derivative works** (e.g. translation, adaptations, arrangements, and other transformation of other copyright works)
• **How long does copyright last?**
  – Literary, Musical or Artistic Works: (the life of the author plus 50 years after his death)
  – Sound Recordings: 50 years
  – Broadcasts: 50 years
  – Films: 50 years
  – Government Works: 50 years
Geographical Indications

- Based on Geographical Indications Act 2000
- Definition:
  - **Indication** which identifies any goods as originating in a country/territory/region/locality;
  - where a given quality, reputation or other characteristic of the goods is essentially attributable to their geographical origin
- Term of protection: 10+10+10....... years
- Example: Sarawak pepper, Sabah Tea
Layout-Designs of Integrated Circuits

Based on Layout-Design of Integrated Circuits Act 2000

- **Definition:**
  - The three dimensional disposition of the elements of an integrated circuit and the interconnections of the integrated circuit

- **Term of protection:**
  - protected 10 years from the date its first commercially exploited in Malaysia; **but**
  - lapse 15 years after the date its created
IP Valuation
Important Terminology

Intellectual Property (IP) VS Intangible Assets (IA)
2 Categories of IP Rights:

Industrial Property

- Patents for Inventions
- Trade Marks
- Industrial Design
- Geographical Indication
- layout-design of an integrated circuit

Copyright

- Literary Work i.e. books, computer programs
- Musical Work
- Artistic Work
- Films
- Sound Recording
- Broadcasting
- Derivative Works such as translations
What is Intangible Asset (IA) ?

An asset that lacks physical substance and usually is very hard to evaluate. It includes patents, copyrights, franchises, goodwill, trademarks, trade names. (Source: Wikipedia)

An asset that is not physical in nature. (Source: Investopedia)

Intangible Asset definition according to Accounting & Valuation Standards....
Accounting Standards

• International Accounting Standards Board (IASB):
  – An independent standard setting body responsible for the **development and publication** of International Financial Reporting Standards (IFRS)
  – IFRS is an **accounting standards** used in more than 110 countries
  – Malaysian Accounting Standards Board (MASB) adopts IFRS i.e. change name to Malaysian Financial Reporting Standards (MFRS)
  – IASB produce **an accounting standard for Intangible Asset** i.e. IAS 38 *Intangible Assets* (in Malaysia: MFRS 138)
Valuation Standards

• International Valuation Standards Council (IVSC):
  – An independent, not-for-profit organization that produces and implements universally accepted standards for the valuation of assets across the world in the public interest
  – In Malaysia, the valuation standards for real estate, plant & machinery & equipment is govern by The Board of Valuers, Appraisers & Estate Agents Malaysia
  – The Board of Valuers have no standards for Intangible Assets valuation
  – Royal Institution of Surveyors Malaysia (RISM) (i.e. association for real estate valuers) is a member of IVSC.
  – IVSC produce a valuation standard for intangible asset i.e. IVS 210 Intangible Assets
## Monetary & Non Monetary Asset

<table>
<thead>
<tr>
<th>Monetary asset</th>
<th>Non-monetary asset</th>
</tr>
</thead>
<tbody>
<tr>
<td>• An <strong>asset</strong> where the amount is a <strong>fixed, stated amount</strong>.</td>
<td>• <strong>assets</strong> and liabilities appearing on the <strong>balance sheet</strong> that are not cash, or <strong>cannot be readily converted into cash</strong></td>
</tr>
<tr>
<td>• e.g.</td>
<td>• e.g.</td>
</tr>
<tr>
<td>• cash</td>
<td>• property, plant and equipment</td>
</tr>
<tr>
<td>• accounts receivable</td>
<td>• goodwill</td>
</tr>
<tr>
<td>• note receivable</td>
<td>• inventories.</td>
</tr>
<tr>
<td></td>
<td>• Intangible assets</td>
</tr>
</tbody>
</table>
## Intangible Asset Definition according to Accounting & Valuation Standards

<table>
<thead>
<tr>
<th>International Accounting Standards Board (IASB)</th>
<th>International Valuation Standards Council (IVSC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• An Intangible Asset is an identifiable <strong>non-monetary asset without physical substance.</strong></td>
<td>• An Intangible Asset is a <strong>non-monetary asset</strong> that manifest itself by its economic properties. It <strong>does not have physical substance</strong> but grants rights &amp; economic benefits to its owner.</td>
</tr>
</tbody>
</table>
Identifiable Intangible Asset

• Both standards i.e. IASB & IVSC agree that an intangible asset is identifiable if it either:
  – Capable of being separated and sold, transferred, licensed, rented or exchanged, or
  – Arises from contractual or other legal rights, regardless of whether they are transferable or separable from the entity or from other rights

• Any unidentifiable intangible asset associated with a business or group of assets is generally termed goodwill
**Principal Classes & Examples of Intangible Assets in International Valuation Standard**

<table>
<thead>
<tr>
<th>Marketing related</th>
<th>Customer related</th>
<th>Technology related</th>
<th>Artistic related</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Trade Marks</td>
<td>• Service or supply agreements</td>
<td>• Patented technology</td>
<td>• Books, literary works</td>
</tr>
<tr>
<td>• Trade Names</td>
<td>• Licensing or royalty agreements</td>
<td>• Unpatented technology</td>
<td>• Films</td>
</tr>
<tr>
<td>• Trade dress (Unique colour, shape or package design)</td>
<td>• Order books</td>
<td>• Databases</td>
<td>• Music</td>
</tr>
<tr>
<td>• Internet domain names</td>
<td>• Employment agreements</td>
<td>• Formulae</td>
<td>• Photographs, drawings</td>
</tr>
<tr>
<td>• Non-compete agreements</td>
<td>• Customer relationships</td>
<td>• Industrial designs</td>
<td>• Non-contractual copyright protection</td>
</tr>
<tr>
<td></td>
<td>• Customer Lists</td>
<td>• Software</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Processes</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Recipes</td>
<td></td>
</tr>
</tbody>
</table>
Types of Intangible Assets - IVSC

• **Marketing** related intangible assets:
  – Used primarily in the marketing or promotion of products or services

• **Customer** related intangible assets:
  – Arise from relationships with or knowledge of customers or suppliers

• **Technology** related intangible assets:
  – Arise from contractual or non-contractual rights to use patented technology, unpatented technology, databases, formulae, designs, software & etc.

• **Artistic** related intangible assets:
  – Arise from the right to benefits such as royalties from artistic works
# Examples of Intangible Assets in International Accounting Standard

<table>
<thead>
<tr>
<th>Marketing based</th>
<th>Customer based</th>
<th>Technology based</th>
<th>Artistic based</th>
<th>Contract based</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Trademarks</td>
<td>• Customer lists</td>
<td>• Patented technology</td>
<td>• Plays, operas and ballets</td>
<td>• Licensing and royalty agreements</td>
</tr>
<tr>
<td>• Trade Names</td>
<td>• Order or production backlog</td>
<td>• Unpatented technology</td>
<td>• Books, magazines, newspapers and other literary</td>
<td>• Advertising, construction, management, service or supply contracts</td>
</tr>
<tr>
<td>• Trade dress (Unique colour, shape or package design)</td>
<td>• Customer contracts and related customer relationships</td>
<td>• Databases</td>
<td>• Musical works such as compositions, song lyrics and advertising jingles</td>
<td>• Franchise agreements</td>
</tr>
<tr>
<td>• Internet domain names</td>
<td>• Non-contractual customer relationships</td>
<td>• Computer Software &amp; mask works</td>
<td>• Pictures and photographs</td>
<td>• Operating &amp; Broadcast rights</td>
</tr>
<tr>
<td>• Non-compete agreements</td>
<td></td>
<td>• Trade secrets, such as secret formulas, processes and recipes</td>
<td>• Video and audiovisual material</td>
<td>• Employment contracts</td>
</tr>
</tbody>
</table>

Source from Illustrative Examples on MFRS 3 Business Combinations
Intellectual Property (IP) is a part of Intangible Assets (IA)
International Valuation Standards for IA & IP

- International Valuation Standard Council (IVSC) – The Valuation of Intangible Assets
- International Standard (ISO 10668) – Brand Valuation
### International Accounting Standards for IA

<table>
<thead>
<tr>
<th>International Accounting Standards Board (IASB)</th>
<th>Malaysian Accounting Standards Board (MASB)</th>
</tr>
</thead>
</table>

- **Statement of Financial Accounting Standards No. 141 (FAS 141)** - US GAAP equivalent to IFRS 3
- **The International Public Sector Accounting Standards (IPSAS) 31** – *Intangible Asset* published IPSAS Board – Adopted by Malaysia – MPSAS 31
IPVM is a working document
To be a minimum benchmark, Malaysia-specific & widely accepted IP valuation method for lending purposes by taking IP as collateral

- To be used by Lenders (Banks/VC) and IP Valuers as reference
Reasons for Valuing IP @ IA

IP Financing – taking IP as a collateral

Reasons for valuing IP

- Merger & acquisition (M&A)
- Sale and/or purchase
- Licensing
- Identifying worth of IP portfolio
- Litigation/seeking damages in settlement
- Liquidation insolvency
- Franchising (initial franchise fee, royalty)
- Tax planning
- Joint ventures / alliances collaboration
- Seeking funding/financing
Reason 1: Merger & Acquisition (Due Diligence)

• Important to calculate the value of IP@IA before entering into a negotiation for acquiring a company especially technology based companies which are highly based on intangible assets and investment in knowledge, research and innovation.

• Example:

• On 11 June 2013, Google acquire Waze for USD966,000,000

• The acquisition includes Waze Patents:
  – U.S. Patent 7,936,284. System and method for parking time estimations
  – U.S. Patent 8,271,057. Condition-based activation, shut-down and management of applications of mobile devices
  – U.S. Patent 8,612,136. System and method for road map creation

Reason 2: Sale & Purchase of IP @ IA (Due Diligence)

• Organizations negotiating agreements to sell intellectual property rights commonly have to agree on a price. Knowing the value of the IP rights is essential to reach such an agreement, but also to make sure the parties are engaging in a good deal.

• Example:

• In August 2010, Facebook confirmed that it had acquired 18 patents from Friendster for **USD 40,000,000**.

• Friendster holds some **fundamental online social networking patents**:
  
  – **U.S. Patents 7,069,308** - System, method and apparatus for connecting users in an online computer system based on their relationships within social networks
  
  – **U.S. Patents 7,117,254** - Method of inducing content uploads in a social network

Reason 3: Licensing of IP @ IA
(Due Diligence)

• It's important to know the fair value of the target IP before any license agreement can be concluded.

• Example:

  LG Electronics and Nokia Technologies agree on smartphone patent license

• In 16 June 2015, LG Electronics has agreed to take a royalty-bearing smartphone patent license from Nokia Technologies.

• LG is the latest of more than 60 licensees for Nokia's 2G, 3G and 4G mobile communication technologies.

Source: Nokia Corp News Release
In 2013, a Florida jury ordered Qualcomm to pay USD173 million in damages to Jacksonville-based ParkerVision for infringing on patents related to semiconductors used in smartphones.

The amount was much less than ParkerVision had sought, mostly because the federal jury found Qualcomm had not willfully infringed on the four patents. ParkerVision had been seeking $500 million in damages.
According to IAS 38, intangible asset (IA) shall be recognized by the company and to measure the carrying amount of the IA and further report it in the **balance sheet**.

Intangible assets (including Goodwill) are **recognized on acquisition**.

Example:

- An acquired patent expires in 15 years (but management consider the technology will be obsolete in 10 years).
- The patent will be valued at cost (cost of acquisition) and being amortized for 10 years.
- The patent will be reviewed for impairment at the end of each reporting period.

**Internally generated** intangible assets are not recognized on a company’s balance sheet unless it complies to certain requirements (Refer IAS 38).

Internally generated **brands, mastheads, publishing titles, customer lists** and items similar in substance shall not be recognized as intangible assets.
Reason 5: Purchase Price Allocation (PPA)

- PPA is conducted when one company (the acquirer) purchases a second company (the target).
- PPA is a process of allocating the purchase price into various assets & liabilities acquired from the transaction.
- Example: A purchase price of $30B is agreed upon by both sides. As of the acquisition date, the target company reported net identifiable assets of $8B on its own balance sheet. A valuer is hired that reports that the Fair Value of the assets is $24B.

Reason 6: Financing

- IP Financing Scheme (IPFS) by MDV

- Financing of up to RM10 million or 80% of the **valued IP**, whichever is lower
- The RM200 mil fund was launched in Dec 2013
- Leverages on Malaysia Debt Ventures Berhad (MDV)
- 5 years financing tenure (inclusive of a grace period of up to 12 months)
- Annual interest rebate of 2% p.a.
- 50% guarantee, with discounted guarantee fee of 0.5% per annum
- Applicable for all MDV financing products

**Basic Requirements:**
- Registered & Valued IP
- Meets MDV’s product criteria
## Common Valuation Approaches

<table>
<thead>
<tr>
<th>Approach</th>
<th>Core Concept</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income Approach</strong></td>
<td>Determine value of economic income that the IP asset is expected to generate, adjusted to its present day value</td>
<td>Useful when IP assets generate stable or predictable cash flows</td>
<td>Subject to many assumptions: future cash flows and discount rate</td>
</tr>
<tr>
<td><strong>Market Approach</strong></td>
<td>Determine value by comparing with the actual price paid for similar IP asset under comparable circumstances</td>
<td>Simple and accurate if comparable data is available</td>
<td>Lack of comparability of IP; limited formal markets; lack of comparable data</td>
</tr>
<tr>
<td><strong>Cost Approach</strong></td>
<td>Determine value by calculating cost of developing a similar or exact IP asset</td>
<td>Useful indication when no income stream or economic benefits</td>
<td>Does not incorporate expected economic benefits or income generation potential</td>
</tr>
</tbody>
</table>

**Preferred Approach:** Income Approach as main approach & Market Approach as cross check/reasonable check
Market Approach

Comparable transactions
- Identifies similar transactions for comparable businesses or assets
- Provides direct evidence of perceived value

Comparable traded companies
- Identifies similar traded companies
- Information will be in the public domain
- Information will be current and reflect the current market

Comparable PPA allocations and other metrics
- PPAs can provide good evidence of IP value as they are based on extensive analysis
- Public companies are required to disclose material acquisitions

Business Value
Value attributable to IP

MyIPO
Income Approach

- Relief-from-royalty
- Incremental cash flow
- Income split
- Volume premium
- Multi-period excess earnings
- Price premium

Value of an intangible asset after excluding the proportion of cash flows attribute to the contributory asset
Relief from Royalty

Ownership of IP asset → Relieves Owner → From paying Royalty Rate

Royalty savings are the expected cash flows for the IP asset

Databases for royalty rates:

RoyaltySource®

ktMINE

ROYALTYSTAT®
Income Approach – Relief from Royalty

Assumptions
- Income Projections
- Future tax rate
- Royalty rate
- WACC
- Terminal growth rate

Discounted cash flow valuation model

Present value of future cash flows
Example: Relief from Royalty – Valuation of Patent

It is 31 December 2013 and you are valuing a patented process related to food manufacturing. Under Malaysian patent law, the 20 year term from the filing date of the application of the patent is the maximum period which it can be maintained into force. The patent expires 31 December 2018. The licence is granted to manufacturers in return for 6.0% of net sales revenue. Net sales revenue received for the year ending 31 December 2013 were RM 321,053.

The following growth projections are provided by the management:

<table>
<thead>
<tr>
<th>Year</th>
<th>Projected Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>36.0%</td>
</tr>
<tr>
<td>2015</td>
<td>38.0%</td>
</tr>
<tr>
<td>2016</td>
<td>26.0%</td>
</tr>
<tr>
<td>2017</td>
<td>20.0%</td>
</tr>
<tr>
<td>2018</td>
<td>20.0%</td>
</tr>
</tbody>
</table>

The weighted average cost of capital (WACC) is estimated to be 16.0%.

The average effective tax rate of market participants is 20.0%.

Required:

Conclude on the value of the patent as at 31 December 2013.
**Example Calculation**

**Required:** Conclude on the value of the patent as at 31 December 2013

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Projected growth</strong></td>
<td>36.0%</td>
<td>38.0%</td>
<td>26.0%</td>
<td>20.0%</td>
<td>20.0%</td>
</tr>
</tbody>
</table>

**Key information:**

- **Valuation date:** 31-Dec-13
- **Royalty rate:** 6.0%
- **Effective tax rate:** 20.0%
- **IP-specific discount rate:** 16.0%

**Relief from royalty calculation:**

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Net sales</strong></td>
<td>436,632.1</td>
<td>602,552.3</td>
<td>759,215.9</td>
<td>911,059.0</td>
<td>1,093,270.8</td>
</tr>
<tr>
<td><strong>Royalty rate</strong></td>
<td>6.0%</td>
<td>6.0%</td>
<td>6.0%</td>
<td>6.0%</td>
<td>6.0%</td>
</tr>
<tr>
<td><strong>Royalties payable</strong></td>
<td>26,197.9</td>
<td>36,153.1</td>
<td>45,553.0</td>
<td>54,663.5</td>
<td>65,596.3</td>
</tr>
<tr>
<td><strong>Tax on royalties</strong></td>
<td>20.0%</td>
<td>20.0%</td>
<td>20.0%</td>
<td>20.0%</td>
<td>20.0%</td>
</tr>
<tr>
<td><strong>After-tax royalties</strong></td>
<td>20,958.3</td>
<td>28,922.5</td>
<td>36,442.4</td>
<td>43,730.8</td>
<td>52,477.0</td>
</tr>
<tr>
<td><strong>Terminal multiple</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Terminal value</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Discount rate</strong></td>
<td>16.0%</td>
<td>16.0%</td>
<td>16.0%</td>
<td>16.0%</td>
<td>16.0%</td>
</tr>
<tr>
<td><strong>Time</strong></td>
<td>0.5</td>
<td>1.5</td>
<td>2.5</td>
<td>3.5</td>
<td>4.5</td>
</tr>
<tr>
<td><strong>Discount factor</strong></td>
<td>1.1</td>
<td>1.2</td>
<td>1.4</td>
<td>1.7</td>
<td>2.0</td>
</tr>
<tr>
<td><strong>Discounted royalties</strong></td>
<td>19,459.3</td>
<td>23,149.9</td>
<td>25,145.6</td>
<td>26,012.7</td>
<td>26,909.7</td>
</tr>
</tbody>
</table>

**Sum of discounted royalties - patent value** 120,677.1
Determine Valuation Approach

Primary Approach
- Main approach used for the valuation
- Dependent on characteristics of IP and information available
- Generally a RFR income approach

Secondary Approach
- Approach used to supplement primary approach
- Validates conclusion from primary approach
- Generally a market approach

Compare Results
Significant differences in the value must be understood and explained in report

Business Value
Value attributable to IP
IPVM Standardized Report Structure

- Introduction
- Executive Summary
- Lender
- Borrower
- Assets
- Background
- Fair value analysis
- Default sale value under orderly disposal
- Fair value analysis of the intangible assets
- Plan for protection and maintenance of IP rights
- Contingent sale process with potential purchasers
- Conclusion
- Appendices

Refer Sample Valuation Report in Appendix 7 of the IPVM
IP Monetization

@

IP Commercialization
Exploiting IP Assets

• Direct Use
• Indirect Use:
  • Outright Sale, license, franchise or merchandise
  • Joint ventures & strategic alliance
• Finance
• Others:
  • Defensive Patenting
  • Publication
Direct Use

• Direct Commercialization of the IP assets:
  – Manufacture the products & sell/use them
  – Reproduce the works on different types of products (Example LCD patents in smartphones, television, cameras, etc)
  – Enforce your IP Rights against infringers (Samsung vs Apple)
  – Exhibit the works in exhibitions, catalogs, etc

• Advantages: Total exploitation control
• Disadvantages: High cost & risk
Enforce your IP Rights against infringers

WARNING NOTICE
Notification of Patented Rights on an Apparatus for Sterilizing Oil Palm Fruit

THE TRADE AND PUBLIC are hereby informed that MINSEC ENGINEERING SERVICES SDN. BHD. (149833-M) (“MINSEC”) is the owner of Malaysian Patent No. MY-150048-A and Thailand Patent No. TH 43656 (“said MY and TH patents”) in respect of an apparatus for sterilizing oil palm fruit entitled: Apparatus for Use in Oil Palm Extraction. The said apparatus for sterilizing oil palm fruit is illustrated in the Figure 1 of the said MY and TH patents as following:

MINSEC is committed to enforce its Intellectual Property Rights in Malaysia and Thailand; and will not tolerate any infringement on the said MY and TH patents. MINSEC will enforce in full spectrum of the Intellectual Property Rights conferred to the said MY and TH patents.

TAKE NOTICE that MINSEC will institute legal proceedings, which may include raids on premises and/or obtaining injunction orders against any party involved in the exploitation of the patented apparatus for sterilizing oil palm fruit covered under the said MY and TH patents.

Any questions regarding the Intellectual Property Rights of MINSEC on the said MY and TH patents shall be directed to MINSEC’s Patent Agent:

MIRANDAH ASIA (MALAYSIA) SDN. BHD.
Suite 3B-19-3, Level 19, Block 3B, Plaza Sentral,
Jalan Stesen Sentral 5, 50470 Kuala Lumpur, MALAYSIA
Tel: +60 3 2278 8686 Fax: +60 3 2274 8677
Indirect Use

• Indirect Commercialization of the IP assets:
  – Exploitation of IP assets by third parties based on contractual agreements with the IP owner

• Examples:
  – Outright sale of IP/Assignment
  – Licensing of IP Rights
  – Franchising
  – Merchandising

• Advantages:
  – Low investment & low risk
  – Potentially high return

• Disadvantages:
  – Lack of control – require special attention to contracting
Outright sale of IP/ Assignment

• Transfer the ownership of the IP Rights (sale)
• Buyer becomes a new owner of the IP Rights
• Loss of potential future income-earning
• Example:
  – America Online (AOL) sold a portfolio of more than 800 patents to Microsoft in April 2012 for $1.1B
  – Kodak completed a transaction for the sale and licensing of its digital imaging patents for USD527 million to Intellectual Ventures & 12 other companies.

• Consider if:
  – No other alternative to exploit
  – Adequate price for the IP Rights
  – No interest for further technology development
In early 90s, Paul Brown from Michigan invented a valve that would allow ketchup/shampoo bottles to be stored upside down, without leaking. The valve will open when the bottle is squeezed and automatically close (with no leaks) when the squeezing stopped.
Outright sale of Patents - Example

• Brown filed several patents for the invention:
  – US Patent 5,033,655; US Patent 4,991,745 etc..

• Clients using his inventions:
  – Gerber, the baby-food manufacturer, use it for their sippy cups.
  – NASA use it to create cups that wouldn't leak in space for their astronauts.
  – Heinz & Hunt’s for their upside-down ketchup bottle
  – Cosmetic & Shampoo industry companies

• 4 years later (1995), he sold the patents along with his company Liquid Molding Systems, Inc., for **USD13 million**

Source: http://www.celebritynetworth.com/
How much should I offer for sale?

i.e. What is the value of my IP?
23 TRAINED LOCAL IP VALUERS
Licensing of IP Rights

• **Grant** of a right to use the IPRs to a third party under contractually agreed conditions (lease)
• To limit: Market; Geography; Time; Specific Application;
• Can generate lucrative fees and royalties
• **New markets**: Allows business to enter into new **product** categories or in **new geographical areas** in a relatively risk-free and cost-effective way
Licensing of IP Rights - Examples

- **IBM**, and Texas instruments were among the first to break **US$1B** in annual patent royalty revenues.

- **Qualcomm** has consistently generated industry leading patent licensing revenues currently running at more than **US$6.6B** per year.

- **Microsoft** and **Ericsson** have been reported at licensing revenue of more than **US$2B** per year.

- **Nokia** reported **US$643M** in patent licensing revenue in 2012 before divesting their handset business to Microsoft.

Source: Trends In Technology IP Licensing By Terry Ludlow, Founder and CEO, Chipworks
A cross-licensing agreement is a contract between two or more parties where each party grants rights to their intellectual property to the other parties.
Types of license

Exclusivity:

- **Exclusive**: One Exploiter – the licensee
- **Sole**: Two Exploiters – owner and the licensee
- **Non Exclusive**: Numerous Exploiters – owner and numerous ‘ees
Patent Licensing Concept

For example:

• Inventor A invents a table:
  – a table top and four legs
  – obtains patent

• Inventor B improves the table:
  – makes it into a folding table
  – obtains patent
Patent Licensing Concept

Example Continue:

– Patents ensure no one else can make, use, or sell table A or B during the respective patents’ lifetimes

• To make, use, sell table A:
  – must get license from inventor A

• To make, use, sell table B:
  – must get license from inventors A & B

*Question: Can inventor B make, use, sell table B?

*hint: Patent is a right to exclude others...
Further info for IPRs licensing

• Download from WIPO website
Any platform for outright sale and/or licensing the IP Rights ????
MyIPO’s IP RIGHTS MARKETPLACE
PORTAL FOR LISTING OF IP FOR SALE OR LICENSE

CREATE . PROTECT . COMMERCIALISE
Connecting individuals, businesses and investors in the commercialisation of Intellectual Property Rights and providing tools and resources to conduct IP trading on a global market platform.

iprmarketplace.myipo.gov.my
Franchising

- Specialized license where the franchisee is allowed by the franchisor in return for a fee to use a particular business model and is licensed a bundle of IP rights (Trademarks, patents, trade secrets, copyrighted works...) and supported by training, technical support and mentoring.
Franchising

- **Goals of franchising**
  - For the franchisor: geographically expand its business without taking financial risks
  - For the franchisee: benefit from the brand, experience and know-how of the franchisor
Merchandising

• Commercial exploitation of a name, symbol or distinctive sign which has acquired a certain brand recognition in a specific field(s) for the purpose of selling goods or services in other fields

• Often distinctive signs or characters themselves derive from television, film, toys, books, comics, and computer games

• Merchandising is based on licensing
Merchandising

• Goals of merchandising
  – For the IP owner/licensor: expand its business to other lines of products/services without taking financial risks
  – For the licensee: benefit from the brand recognition of the licensor’s products/services

• Examples:
Intellectual Property Academy (IPA)-
Services

• Trainings in Intellectual Property such as:
  – Basics of Intellectual Property
  – IP Registration Seminar
  – Patent Search Training
  – Patent Drafting Training
  – Etc.
IPA - Trainings

PATENT SEARCHING SERIES THE ART & MECHANICS
16 - 18 MAY 2016
(MONDAY - WEDNESDAY)

WHO SHOULD ATTEND?
Researchers, Academicians, Inventors, Engineers,
✓ Technology Managers, Patent Agent Wannabies,
Scientists etc.

WHY?
✓ To increase the chance of obtaining a patent
✓ To get information on the state of the art
technology
✓ To avoid duplicating research and
development work

FOCUS
✓ The Anatomy of a Patent
✓ Extracting research
information from patents
✓ How to search the credible
patent databases for free
✓ Evaluation of the invention
(Novelty and Inventive Step)
✓ Practical and Hands-on
Exercises

Further Enquiries:
Hanun / Rezal
Intellectual Property Academy, Level 12A
Tower B, Menara UOA Bangsar
No. 5, Jalan Bangsar Utama 1
59000 Kuala Lumpur
Tel: 03-2299 8963 / 8586
Email: ipa@myipo.gov.my

Course Fee: RM1050/person
Certificate of Attendance will be awarded
subject to terms & conditions
(F&B cost will be borne by MyIPO)

ONLY 30 SEATS ARE AVAILABLE
(FIRST COME, FIRST SERVE BASIS),
HURRY!!!

MUST ATTEND!!!
IPA - Trainings

Seminar Kefahaman Hakcipta (SIRI 1)
25 Mei 2016 (Rabu)
8.30 pagi - 4.30 petang

Akademi Harta Intelek
Menara UOA Bangsar

Yuran
RM100.00 seorang

DAFTAR SEKARANG
TEMPAT ADALAH TERHAD!!!

Pertanyaan:
Shafiza/ Shafawati
Akademi Harta Intelek, Tkt. 12A
Tower B, Menara UOA Bangsar
No. 5, Jalan Bangsar Utama 1
59000 Kuala Lumpur
Tel: 03-2299 8589 / 8590
Email: ipa@myipo.gov.my
IPA – Seminar & Training Room
# IPA – Seminar & Training Room

<table>
<thead>
<tr>
<th>Rooms</th>
<th>Seating Capacity (Classroom)</th>
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<tbody>
<tr>
<td>Camelia</td>
<td>60 participants</td>
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<tr>
<td>Lavender</td>
<td>50 participants</td>
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<tr>
<td>Tulip</td>
<td>50 participants</td>
</tr>
<tr>
<td>Cempaka</td>
<td>50 participants</td>
</tr>
<tr>
<td>Kenanga</td>
<td>38 participants</td>
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</table>

<table>
<thead>
<tr>
<th>Rooms</th>
<th>Seating Capacity</th>
<th>Area (Sq. Ft)</th>
<th>Setup</th>
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</thead>
<tbody>
<tr>
<td>IPA Ballroom</td>
<td>200 participants</td>
<td>3626</td>
<td>Classroom</td>
</tr>
<tr>
<td>IPA Ballroom</td>
<td>300 participants</td>
<td>3626</td>
<td>Theatre</td>
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</tbody>
</table>

**COMPUTER TRAINING LAB**

This computer training lab known as Kenanga Room provides a total of 36 computers with internet connection are provided for the use of participants.

**Computer Specification:**

Dell OptiPlex 9020 AIO, Microsoft R Windows 8 Pro 64-bit, Internet Connection
Dana Harta Intelek (Belia, Pelajar & Komuniti Setempat/Tempatan)

Objektif

- Dana Harta Intelek diperkenalkan bagi membantu golongan **belia**, **pelajar** dan **komuniti setempat/tempatan** yang tidak mempunyai sumber kewangan yang mencukupi untuk membiayai kos pemfalan harta intelek mereka.

Kriteria Kelayakan

Individu-individu yang menghasilkan harta intelek mestilah memenuhi syarat-syarat berikut:

- Warganegara Malaysia;
- "Belia" (berumur di antara 18 hingga 40 tahun) yang juga merupakan usahawan/pereka cipta/pencipta atau;
- "Pelajar" sekolah rendah/ sekolah menengah/ kolej/ insitiusi kemahiran yang diltitrif oleh kerajaan atau;
- "Komuniti Setempat/tempatan" (pertubuhan atau persatuan yang dianggotai oleh masyarakat/penduduk di sebebas kawasan) bagi permohonan petunjuk geografi sahaja.

Skop Pembiayaan

- Dana ini hanyalah untuk permohonan pendaftaran harta intelek:
  - Paten;
  - Perbaharuan Utiliti;
  - Cap Dagangan;
  - Petunjuk Geografi;
  - Reka Bentuk Perindustrian atau
  - Pemberitahuan Sukarela Hakcipta

- Pembiayaan merangkumi kos pemfalan fi kepada MyIPO (seperti yang disenaraikan di dalam Jadual 1) dan juga kos perkhidmatan agen paten berdaftar (pemilihan agen paten berdaftar adalah tertakluk kepada keputusan MyIPO).
- Dana terhad kepada satu (1) komponen Harta Intelek bagi selap penerima;
- Dana hanyalah untuk permohonan harta intelek yang baharu dan belum difailkan di MyIPO.
- Tidak mendapat mana-mana dana lain untuk pemfalan harta intelek bagi permohonan yang berkaitan.
- Dana akan diberi dalam bentuk baucer.
### Jadual 1: Fi yang dibiayai Dana

<table>
<thead>
<tr>
<th>Jenis Harta Intelek</th>
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<tr>
<td>Paten/</td>
<td>Fi Permohonan Pendaftaran Paten/Perbaharuan Utiliti; Borang No. 1/14</td>
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<td>Perbaharuan Utiliti</td>
<td>Fi Permohonan Pemeriksaan Substantif; Borang No. 5</td>
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<td>Fi Perlantikan Agen Paten; Borang No. 17</td>
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<td>Fi Penyataan Justifikasi Hak Pemohon Ke Atas Paten/Perakuan; Borang No. 22</td>
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<tr>
<td>Cap Dagangan</td>
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<td>Fi Permohonan Pengiklanan Cap Dagangan; Borang TM31</td>
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<tr>
<td>Reka Bentuk Perindustrian</td>
<td>Fi Permohonan Pendaftaran Reka Bentuk Perindustrian; Borang ID1</td>
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<td>Fi Sudut Pandangan (Maksimum 4 Sudut Pandangan)</td>
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<td>Hakcipta</td>
<td>Fi Pemberitahuan Karya; Borang CR-1 atau</td>
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<td>Fi Pemberitahuan Karya Terbitan; Borang CR-2</td>
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<td>Fi Pengemukaan Karya (Pembiayaan Maksimum: RM50)</td>
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<td>Fi Permintaan Sijil Pemberitahuan Hak Cipta; Borang CR-5</td>
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<td>Petunjuk Geografi</td>
<td>Fi Permohonan Pendaftaran Petunjuk Geografi; Borang GI 1</td>
</tr>
<tr>
<td></td>
<td>Fi Iklan bagi Pendaftaran; Borang GI 3</td>
</tr>
</tbody>
</table>
THANK YOU FOR YOUR KIND ATTENTION

ikhwan@myipo.gov.my
03-2299 8481