

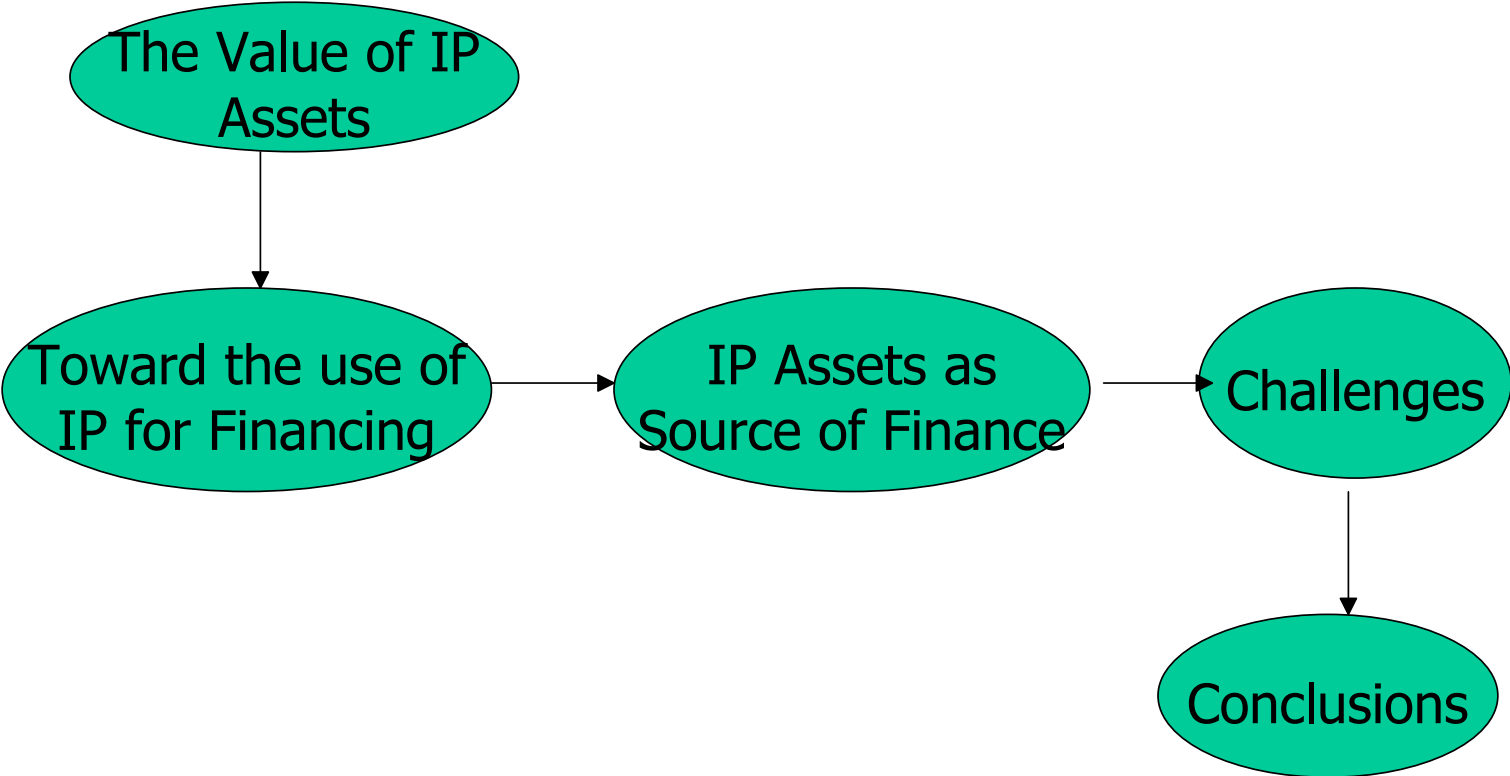
WIPO-MOST Intermediate Training Course

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Role of IP in Raising Finance

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Overview



The Value of IP Assets

- IP has value e.g
 - Qingdao Double Star Group brand value estimated at five billion yuan (US\$ 600 million) the footwear producers started as a small company about 19 yrs ago
 - In 2003, Coca-cola and Johnnie Walker brands are valued at US \$ 70.45 billion and US \$ 1.72 billion respectively

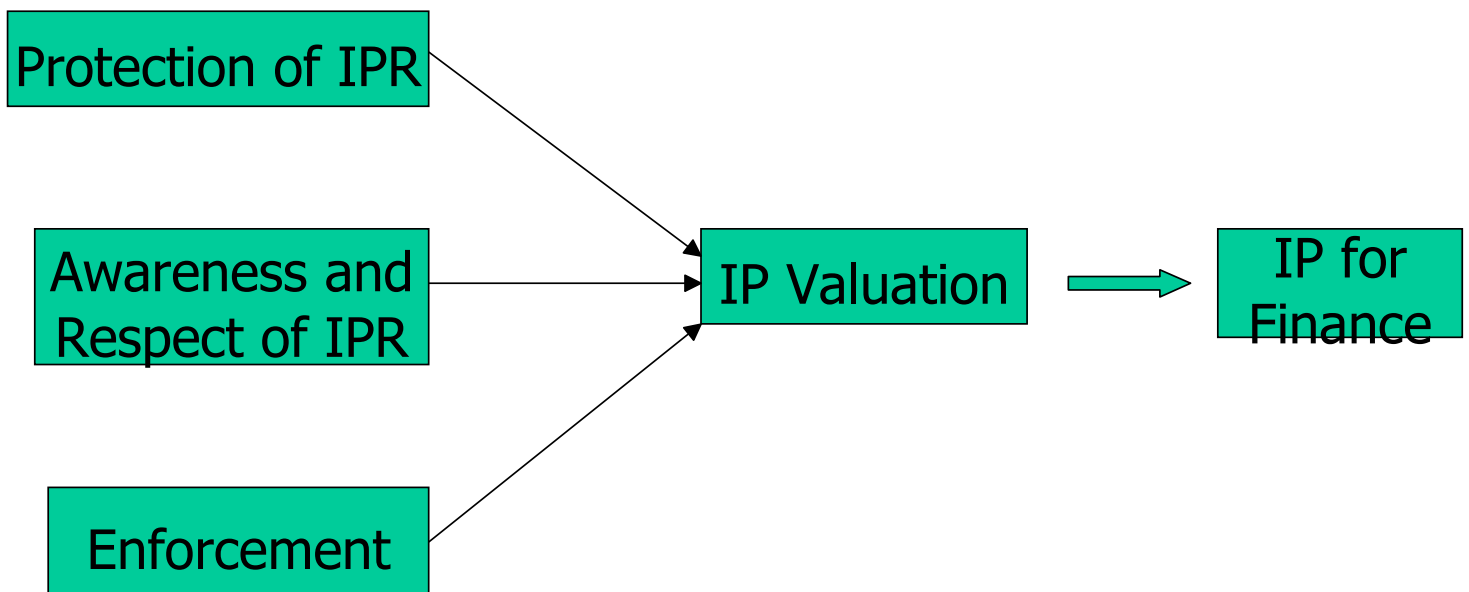
The Value of IP Assets

- The extension of Zantac (the anti-ulcer drug) patent life from December 1995 to July 1997 resulted in Glaxo shares jumping 23p to 663p on the UK stock market

The Value of IP Assets

- Why,
 - Can be separately identified from other intangible assets
 - Can be legally protected
 - Potential future earnings
 - Can be valued

Toward the use of IP for Financing



Toward the use of IP for Financing

- Protection of IPR
 - IP Audit
 - Important to identify existing IP
 - Decide on the best form of protection
 - Clarify on status of ownership
- Awareness and Respect of IPR
 - Ensure there exist internal IP awareness
 - Measure community/market IP awareness

Toward the use of IP for Financing Contd.

- Enforcement
 - Check on the existence of IP enforcement mechanism
 - Institutions
 - Regulations
- Undertake IP asset valuation
 - Decide on methodology

Toward the use of IP for Financing Contd.

- Financing
 - Check existing laws
 - Identify IP assets would provide sufficient coverage
 - Identify the best source of finance

Toward the use of IP for Financing Contd.

- Financing
 - Identify institutions which could accept the use of IP assets
 - Present your business plan to potential investors/sources of finance

IP Assets as Source of Finance

- IP assets as source of finance is attracting a lot of interest
- innovative IP valuation methods facilitate the use of IP assets

IP Assets as Source of Finance

Contd.

- Have clear understanding on,
 - Identity of IP assets involved
 - Whether the assets are legally protected
 - Ownership status (e.g. absence of litigation proceedings)

IP Assets as Source of Finance Contd.

- Potential of the underlying IP asset to maintain its value e.g. absence of clear challenge to its competitive edge

IP Assets as Source of Finance

Contd.

- Conventional forms
 - **Assigning**
 - The price may be affected by availability of potential buyers and in a case of a patent whether it is a primer technology

IP Assets as Source of Finance

Contd.

- November 2000, Eastman Chemical Company (NYSE: EMN) assigned its IP rights for a polymer pellet-conversion technology to German-based Bruckmann & Kreyenborg Granulierteknik ("BKG")
- November 2001, Be Incorporated the creator of the BeIA and BeOS operating systems, sold its IP and technology assets to Palm, Inc. the purchase price was US \$11 million

IP Assets as Source of Finance Contd.

– **Licensing**

- Licensing can be a useful revenue generating activity. Licensing may include a combination of upfront license fees, royalty payments based on future sales by the licensee and guaranteed royalty payments

IP Assets as Source of Finance

Contd.

- New forms,
- **Donation**
 - Where relevant, patent donation can lead to tax rebate
- **Collateral**
 - ability of the borrower to use the underlying IP asset as security i.e not tied-up in other commitments like licensing, joint venture, merger and acquisition negotiations e.t.c.

IP Assets as Source of Finance Contd.

- Example of use of IP assets as collateral
 - GIK Worldwide a San Francisco based company used its patents as collateral thus raising US \$ 17m

IP Assets as Source of Finance Contd.

- **IP asset-backed security**
 - Asset-backed securities are marketable debt securities collateralized by financial assets like mortgages, leases, account receivables and installment loan contracts
 - Asset-backed securities are created by a process called securitization

IP Assets as Source of Finance Contd.

- From 1970s there has been an increase in the type of asset-backed securities
- Major “breakthrough” was made in the mid 1990 when for the first time IP asset was used as a form of asset-backed security
- IP backed transaction is a form of future cash flow transaction

IP Assets as Source of Finance Contd.

- IP securitization has taken a variety of forms which include,
 - music royalties
 - future films
 - trademark licensing receivables transaction (royalties)

IP Assets as Source of Finance Contd.

- IP securitization is a growing financial area
- Estimated that so far the value of business done is around US \$ 6 billion
- Analysts say this is just a fraction of the potential of IP securitization market

IP Assets as Source of Finance Contd.

- Examples of IP-backed securities,
 - 1997 David Bowie raised US \$ 55 million.
 - Ashford & Simpson (songwriters and performers) raised US \$ 25 million.
 - James Brown raised US \$ 30 million

IP Assets as Source of Finance Contd.

- Benefits of securitization of IP assets
 - It provides immediate liquidity in the form of tax-free cash infusion
 - The IP holder diversify his/her assets
 - The IP holder maintains total control over his/her IP i.e. when the bonds are paid (mature) the underlying IP rights revert to the holder

IP Assets as Source of Finance Contd.

- Challenges facing potential user of “Bowie Bond” securitization, especially SMEs
 - Importance of having a good documented track record
 - Necessity of having existing catalogue of work
 - Importance of ownership of underlying IP assets (copyright)

IP Assets as Source of Finance Contd.

- Other forms of IP assets have also been used as security
 - **Trademark:** In 1999 the Bill Blass trademark was used to issue investment grade bonds (fashion industry)
 - **Patent:** Yale University was able to raise US \$ 115 million. The university used its patent on d4T.

IP Assets as Source of Finance Contd.

- **Venture capital (VC)**

- Most SMEs have difficulties in accessing finance from conventional sources
 - lack of reputation (track record),
 - low collateral,
 - high risk,
 - asymmetric information (i.e entrepreneurs have superior knowledge on the future prospects of the project than investors)

IP Assets as Source of Finance

Contd.

- SMEs deciding to use VC must ensure that their IP assets are well protected in the event that VC move to replace the original entrepreneur
- VC in China started in mid 1980s
- A boom of SMEs activities and an increase of high-tech industries, contributed to the increase in the number of VC

IP Assets as Source of Finance

Contd.

- Basically lending decisions of venture capital are influenced by several factors e.g.
 - learning (prospect of the project)
 - asymmetric information (on exact use of funds. This would lead to different posterior probability over the likelihood of success)
 - moral hazard (the possibility of the entrepreneur not using the funds efficiently due to costs associated needed efforts to attain efficiency)
 - private benefits of entrepreneur

IP Assets as Source of Finance Contd.

- Well protected and commercially viable IP assets have positive impact on VC lending decisions

IP Assets as Source of Finance Contd.

- VC are also attracted by new business with IP assets which promises high
 - potential of future income
 - market control or strong market position, or competitive advantage stands a greater chance, other things being equal, of attracting venture capital fund.

IP Assets as Source of Finance Contd.

- Venture Xchange Network Ontario based company with a network of over 350 active venture capital
- Upon request Venture Xchange provide quantitative assessment report on how a company ranks against other venture capital seeking companies in specific business sector

IP Assets as Source of Finance Contd.

- Assessment is based on
 - Management structure
 - Competitive technology
 - Market growth
 - Potential alliances
 - Financial requirements
 - Forecast on the number of investors interested in the company

IP Assets as Source of Finance Contd.

- **Business Angels**

- Family, friends or close associates with money and in most cases have business background
- Expects returns on their investment
- IP knowledgeable business angles would favorably consider investing in enterprises with IP assets

Challenges

- Challenges in the use of IP assets for financing include,
 - Inadequate IP awareness (SMEs do not seek to extend the boundaries of IP potentials)
 - Difficulty in assessing potentials of IP assets as a source of future cash flow
 - Conventional source of finance are ill equipped to make the assessment

Challenges

- Possibility of surrendering ownership/equity to VC
- SMEs support institutions have not been able to adapt to the new trend
- Legal systems need to accommodate the expanding use of IP tools
- IP system itself must be able to address the evolving nature of IP use

Conclusions

- Traditionally IP rights were mostly used for preventing others entering the market
- Some enterprises have realized the potential of IP assets
- Few SMEs have tried to consciously use IP assets to overcome financial constraints

Conclusions

- Policy makers and SMEs support institutions should be made aware of new strategic ways of benefiting from IP assets

Finally

- **THANK YOU FOR YOUR KIND ATTENTION**