

Intellectual Property Assessment

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Abstract:

The paper overviewed the theoretical basis of intellectual property valuation, the situation of intellectual property valuation in Vietnam. Next, we evaluated the experience of intellectual property valuation in countries around the world from which to draw lessons for Vietnam. Finally, we offer solutions to help improve the valuation of intellectual property in Vietnam.

Keywords: Intellectual property valuation, Vietnam.

1. Introduction

Intellectual property is an intangible asset with great value and becoming increasingly important for every business as well as each country. Intellectual property can create market power and competitiveness for property owners. Therefore, valuing an intellectual property is a very important job, helping businesses know the value of their intellectual property, thereby making appropriate business policies, strategies and plans.

Intellectual property valuation can be interpreted as evaluating intellectual property in terms of its morphological value, i.e. conducting an appraisal and evaluation of the intraday price of the intellectual property entrusted to evaluate according to The standards and the order of evaluation are statutory and fair, applying the scientific, practical and reliable evaluation methods. Therefore, valuing an intellectual property is temporarily understood as determining the correct market price of that asset. Intellectual property is equal to the value sold at the time of sale, provided that the transaction is fair, the seller and the buyer are informed and neither party is compelled.

An enterprise's intellectual property is usually valued when it needs: Valuing the business to let shareholders know; Merger, acquisition of enterprises; perform the management of company purchase or stock purchase; privatization of a public enterprise; capital increase; equitizing enterprises; to make a financial report; transfer or purchase an intellectual property; transfer of the whole enterprise; to license an intellectual property; determination of mortgage interests; repayment when bankruptcy; Determine compensation for infringement of copyright infringement; investing in intellectual property (to continue developing intellectual property). For each of the different purposes, it is important to specify when valuation is related to an entire business, when pricing is related to the intellectual property main financial transactions.

In general theory, there are currently three methods of valuing intellectual property: the method is based on cost; Comparative method in the market and method of calculating economic benefits. In addition, a number of other methods are also used to evaluate intellectual property.

2. Current situation and approach of valuation of intellectual property in Vietnam

At present, the valuation of intellectual property is a very new issue in Vietnam, which has not been paid enough attention by enterprises, even with the state management agencies in this field, can achieve at two basic characteristics:

Firstly, the legal framework for intellectual property valuation still fails to meet practical needs.

In the past, when valuing businesses, we only concerned about the value of tangible assets, not the value of intangible assets, including intellectual property, in recent years the valuation of value Enterprises have been concerned about intangible assets through the calculation of enterprise advantages. The Ministry of Finance has prescribed a formula for calculating the business advantage value of state-owned enterprises (based on the book value of assets and the average profit rate of enterprises). However, this problem has just stopped by a hard

formula that is determined by the interest rates and interest rates of government bonds that are difficult to apply in practice.

Under the current policy, the principle of determining the value of intellectual property in particular and intangible assets in general is still based on the price. The cost of an intellectual property is reflected in the enterprise's accounting report at the price paid by the enterprise to acquire that asset.

From the principle of accounting recording, it is shown that only the actual intellectual property with incurred costs will be considered for recognition, if there is no basis for arising expenses, it is not allowed to record. Get into the accounting books. So with this calculation, there will be many other intellectual properties under the management, use and ownership of the business but have not been recorded.

On the other hand, in the whole system of policies on intellectual property in our country, there is a large lack of regulations on management and evaluation of intellectual properties such as inventions, industrial designs, trademarks, as well as No agency has researched and developed the method of pricing intellectual property in Vietnam.

Thus, legally, it can be said that Vietnam still lacks legal documents on intellectual property valuation, and at the same time, there is no agency to research methods of asset evaluation. wisdom. The Ministry of Finance is currently coordinating with the Ministry of Science and Technology to lead the drafting of a Joint Circular guiding the implementation of capital contribution and joint venture by the value of industrial property rights, in the content of the Draft Circular that mentions referring to the method of determining the value of objects of industrial property rights and the conditions for professional valuation organizations in determining the value of intellectual property. However, these are just some initial regulations, still incomplete and specific, many issues in the Draft need to be further studied, discussed and clarified.

Second, the awareness of businesses in particular and the society in general about the importance of valuing intellectual property is very superficial.

On the side of Vietnamese businesses nowadays they are gradually becoming aware of their intangible assets. The protection of intangible assets such as intellectual property has been paid more and more attention by enterprises, reflected in the increasing statistics of the number of trademark applications, designs, inventions, Useful solutions that businesses have registered exclusively at the National Office of Intellectual Property in recent years. Especially, there are businesses who are aware of this right from the beginning of their business such as Thang Long Joint Stock Company with Vang Thang Long trademark, which has been granted the exclusive certificate No. 798 since 1987, the company locked. Viet Tiep with the key brand Viet Tiep has been granted the exclusive certificate No. 406 since 1986 or the Vietnam Tobacco Corporation is now the owner of 143 brands ...

However, most Vietnamese businesses have just stopped at the registration step at the National Office of Intellectual Property to protect their intellectual property from being "stolen" without knowing how to commercially exploit it. Efficiency of his intellectual property. Therefore, businesses have not clearly seen the "need" to value their intellectual property. According to statistics of businesses in our country today, tangible assets such as factories, machines, vehicles ... are clearly and specifically priced. But items that list the values of intellectual property rights on trademarks, industrial designs, inventions, etc. are often "forgotten." Most businesses often overlook the valuation of intellectual property. This reduces the value of assets as well as the ability to develop goodwill through the intellectual property rights that the business acquires. Very few enterprises rely on the cost method to determine the price of assets, determine the original cost of intellectual property to put in the accounting books for depreciation purposes as well as capital contribution, purchase and sale purposes. However, this calculation will not fully reflect the value of this type of asset.

The cause of this problem is primarily the difference between the concept and the recognition principle of accounting on intangible assets and the concept of intangible assets in general and intellectual property in particular. On the other hand, issues related to intangible assets are still new to corporate executives, which are also embarrassing issues in the management of state agencies. Currently, Vietnam has no professionally priced businesses that can offer a fair price for the value of intangible assets, including the intellectual property that the

enterprise is managing, using, owned. In order to value their intellectual property, businesses now mostly hire auditing companies or a few well-known industrial property representation service organizations in Vietnam.

Moreover, the collection of intellectual property will make it difficult to determine the appropriate economic benefits for a particular intellectual property. For example, when pricing a patent granted in Vietnam and the product of this patent is registered as a trademark with a name FIXI. The value of this invention was initially highly appreciated, but was deducted gradually during the invention protection period. Meanwhile, FIXI products are becoming more and more popular and widely used, so the value of FIXI brand has increased very high over time. In fact, this situation is not entirely simple because the invention can be periodically revalued as sales of FIXI-branded products are increasing.

3. Experiences of countries in applying valuation methods of intellectual property

Literature review and surveys of countries show that, most of the countries based on the three main methods of valuation of intellectual property are the following:

3.1 Cost-based pricing method:

The basic idea: Use the measure of total costs as a tool to value intellectual property.

Concept: A method of determining the value of intangible assets based on the cost of intangible assets. The cost here is the replacement cost, that is, the cost needed to be calculated from the current price of the cost of materials, labor used and immediate consumption, or the cost needed. The device has similar function of current usage method.

Economic rationale: This approach is based on the replacement capacity shown in the willingness to pay limited by the cost of obtaining an alternative.

Method: This method focuses on comparing the benefits that can be obtained from the intellectual property with efforts / costs to get equivalent benefits. From there, the value of the intellectual property is determined in proportion to the maximum costs to obtain the corresponding benefits.

Types of expenses related to the creation of intellectual property: include direct expenses for intellectual property such as costs of filing, maintaining validity, protecting and enforcing intellectual property rights and indirect costs of acquiring intellectual property such as costs for research and development, publication, advertising, production, marketing, sales, etc.

Classification: Cost-based method, such as cost of creation or replacement cost, assumes that there is a relationship between cost and value and the non-binding approach to use. The method does not account for changes in monetary value over time and neglects maintenance. The cost-based approach consists of four small approaches:

1 / The method based on the cost of renewable: Is the method based on the determination of costs to create an exact copy of the intellectual property.

2 / An alternative cost-based method: A method based on the determination of the cost of acquiring an intellectual property that has similar functions to the assessed intellectual property. This method is often applied in cases where the labor force and the costs of easy replacement are determined as the field of computer software development where it is easy to compare labor hours and thus will be unsuitable for areas where labor capacity is difficult to determine, especially in biotechnology fields, future revenue is not shown.

3 / Method based on avoidable costs: A method based on intellectual property, without having to pay an additional fee in the past as well as in the future; avoid costs (energy, raw materials, ..) through internal use.

4 / Historical cost-based method (past cost): A method of determining present value from total past costs. The costs paid for product or process development and the filing, maintenance or protection of intellectual property. The value of the intellectual property is thus determined by the total development costs plus the cost of establishing the rights and the cost of maintaining the exclusive validity of such intellectual property. This method is usually applied in the case that past cost data and inflation rates can be easily determined and should be avoided in cases when future economic advantages are not yet available. express immediately and do not know if the determined value is reasonable, because in general, there is no correlation between costs and economic values, economic benefits are not corresponding to costs.

3.2 Market-based pricing method

The basic idea: This method is based on the basic idea of comparing the value of the valuation intellectual property to the prices achieved in equivalent transactions between independent parties.

Concept: A method of determining the market price of intellectual property by adjusting it to the market price. The market-based pricing method can be determined in the following four specific orientations:

Market orientation: A method based on comparison with equivalent transactions not controlled and controlled.

Price orientation: A method based on comparison with transactions in which the same price level is not controlled.

Profit-oriented: A method based on comparison with transactions in which the same profit is achieved.

License-based orientation: A method based on defining license contracts with equivalent licensing fees.

Method: The basic method is to accept a determined market price for patents or trademarks that are assumed to be comparable / comparable to the object of valuation, exchanged between non-affiliated parties, knowledgeable and well-intentioned in a similar transaction and then the value of the intellectual property is determined by the price paid for an equivalent intellectual property in a market transaction.

Classification: Market-based methods (determining values by comparison with similar transactions) consist of two small methods:

Compare similar deals / direct methods: Find price and remuneration for similar intellectual property with inventions and valuations. This method has the advantage of being easy to understand because of using market value data, but there are some disadvantages because each intellectual property has its own characteristics, it is difficult to value properly because even if comparable intellectual properties of the same technology area, their scope and content are very different; The corresponding ratios assessing contributions to intellectual property are not objective.

Compare similar transactions / indirect methods: Determining the value of intellectual property from the company's value based on stock market data, etc. This valuation method is highly subjective because of the use of stock prices. However, there are limitations because a similar company with the same technology as the one being priced does not always exist. The corresponding ratios that determine the contribution to the invention are not objective.

Advantages and disadvantages: The ability to apply simple if available transactions compared with the appropriate economic indicators and situations. Considered a reasonable complementary method along with other pricing methods, however, transparent, flexible markets are not always available for comparison. Along with appropriate indicators and economic situations, it is also necessary to consider the trading context and the additional assets.

3. 3 Model of income-based pricing

Basic idea: The basic idea of this method is to determine the future overall economic benefits of ownership by owning intellectual property.

Concept: A method of calculating the value of an intellectual property by taking the income generated in the future income period of the intellectual property into the present value based on a certain current capital loss rate. This is the most commonly used method in assessing intellectual property today in countries not yet industrialized.

Economic rationale: This method is basically calculated based on the present value of future cumulative benefits.

Method: This method is basically based on a comparison of the future economic benefits accrued from proprietary exploitation of intellectual property with risk-adjusted replacement investment (net present value). The present value of future income compares with a risk-neutral alternative investment. The value of the intellectual property is thus determined by the present value of the monetary benefit that the owner of the intellectual property derives from the expected exploitation activities.

Advantages and disadvantages: This method is widely recognized in the world and has also been applied by Interbrand and Business Week as well-known brand valuation organizations when ranking the world's top 100 brands. However, the basic drawback of this approach is the uncertainty of future earnings and risks; difficulty anticipating cash flow and determining discount rate.

Classification: Income-based method (how much cash can be made from a specific invention) consists of 5 small methods:

Discounted cash flow (DCF) method: A method based on the determination of discounted cash flows in the future after having exclusive ownership of intellectual property (net present value, NPV) .

Method of using actual options: The calculation of the value of a patent for intellectual property according to the rules of determining the value of actual options (European options) on Base models are below:

Analysis model of “Tree decision”: applying probability theory to calculate the value of an overall business plan by selecting decisions in the business plan as a time series in the form of decisions sorted by tree and estimate the probability of each option chosen;

Binomial model: Calculate using binomial probability distribution. Suppose after a period of time, the initial asset may increase or decrease in value, and calculate the cost of the choice with the hypothesis that the probability of an increase or decrease follows the binomial allocation.

Black-Scholes model: apply the Black-Scholes model (BS model), which is used to calculate financial products (called a "call option "), to calculate the present value of the invention or technology. Applying the value calculated by the income-based method, ie the method of "discounting the cash amount (DCF), ... to calculate the present value of the original asset according to the BS model.

As such, this practical option is quite suitable for valuation of intellectual property in both unpredictable value situations, while also allowing flexibility in management decisions, although However, it still requires the use of statistical distribution tables and special mutual understanding.

25% rule-based method: A method based on 25% of total pre-tax profits earned from licensed intellectual property. This method has been tested in practice for a long time so it can be applied, but the basis for deciding the rate of 25% is still weak.

Cost-effective licensing method: The license fee that the company will have to pay if the third party owns the patent, for example competitors based on the basic assumption that the pricing party has no talent. intellectual property and will have to pay a license fee to a third party to use that intellectual property.

Method based on technological factors: Dealing with economic, legal and technical risks by multiplying NPV without taking into account risks with coefficient of risk (Technology factor)

In addition to the aforementioned basic models, there are a number of derivative models derived from the market-based and income-based models such as (i) the superior profit method (value derived from capitalization). additional profits compared to profits generated by similar business activities; profits calculated over the life of the asset and amortized to the present time; considering the present value of the assets Tangible net assets are the basis for determining the expected rate of return in order to calculate the required returns to persuade investors to invest in those tangible assets. This is required so that the investment is considered an outstanding income due to intellectual property rights This method has difficulty adjusting to the various uses of the property); (ii) the high pricing method (used for valuing brands; the value of the additional income generated by brands is predicted through its life cycle, marketing network and costs. to support the brand, then be depreciated to the present time); (iii) cost-saving method (valuing assets through calculating the present value of cost savings that businesses can expect to create as a result of owning an intangible asset) ; (iv) the method of saving royalties (the value of the property is calculated based on the saving of paying royalties due to the ownership of the property, depreciated to the present value).

Above are the basic features of the 3 valuation methods that countries around the world often apply. In terms of legal regulations, very few countries have specific regulations on each valuation method, but mainly based on the experience of experts, professional valuation organizations of countries. Each country has its own application, depending on its legal basis and habits, such as in the US and European countries, intellectual property is usually priced according to the market method, While in countries such as Korea and China, the income method is the main evaluation method. In particular, for EU businesses, most of them value their own intellectual property by themselves, only about 12% of businesses use third party asset valuation services (DLA source). Here are some examples of applying basic valuation methods in the valuation of intellectual property of some experts from famous universities of countries.

4. Experiences of intellectual property of China

China is a country with a thriving economy, in which it is impossible not to mention the contribution of intellectual property in capital contribution, profit sharing, corporate consolidation ...

Intellectual property valuation is a category of property valuation prescribed for businesses. The purpose of this activity is to determine the present value and the value to be achieved in the future of the intellectual property. The value of intellectual property is aimed at the future benefits, and with the increasing importance of intellectual property of enterprises, the ability to profit from intellectual property has gradually become a source of ownership for enterprises. find the biggest profit path. Therefore, when conducting intellectual property valuation, it is necessary to understand intellectual property rights and methods of using intellectual property as a minimum requirement. The valuation of intellectual property should be based on the most potential use, not on the actual use of the enterprise.

The Chinese government, along with industry management associations, soon published normative documents for intellectual property valuation. Up to now, the State Council of the Ministry of Finance has issued legal documents such as: "Measures to manage the valuation of national assets", "A number of regulations related to the management of valuation activities. national property "," Measures to sanction violations of national property valuation "," Measures for management of the approval of property valuation organizations "," Basic principles version of the property valuation "," The basic principles of property valuation practice "," The standards for valuation of intangible assets - intangible assets ". The China Association of Asset Valuation also issued "Opinions that guide the valuation of businesses (temporarily)". Along with the gradual completion of legal documents, China's valuation of intangible assets has made significant progress. Currently, China has more than 10 offices specializing in valuing intangible assets. In addition, more than 3800 general valuation offices also carry out the valuation of intangible assets, with nearly 60,000 people doing this task, of which more than 20,000 people have been issued valuation practice cards. In terms of business practices, it is mainly about conducting small-scale pricing required by businesses, often with little mention of technical analysis and valuation of commercial intellectual property. .

In 2005, the State Council Department initiated the promulgation and implementation of the National IP Strategy. In 2006, central leaders demanded an increase in the commercialization of intellectual property. In response to this call, China has enacted a new Corporate Law. Prior to the issuance of this new law, the proportion of capital contribution to companies with intellectual property was only 20% of the registered capital. However, the new law has allowed this rate up to 70%. In developed industrial zones, the regulations are even more advanced, without limiting the rate of capital contribution with intellectual property. Law and practice have increased the importance of intellectual property, creating basic conditions for the development of intellectual property valuation activities.

More importantly, in April 2006, the Ministry of Finance and the Chinese State Office of Intellectual Property jointly issued "Notice on a number of issues related to strengthening the management of valuation of intellectual property". This document specifies the cases in which intellectual property valuation is required: Pursuant to Article 27 of the Corporate Law, cases of using intellectual property to contribute capital to limited liability companies or joint-stock companies , mortgage of intellectual property without reference price in the market, valuation is required; administrative agencies that sell, transfer, exchange intellectual property, non-business units, state-owned enterprises transform, merge, split, dissolve, dissolve, invest, transfer, exchange , trade, debt repayment ... have elements related to intellectual property; State-owned enterprises are purchased or exchanged for intellectual property from non-state enterprises, or receive capital contribution with intellectual property from non-state enterprises, state-owned enterprises want to give to companies, foreign businesses, economic organizations or individuals that use intellectual property, which the market has no reference value; proceeding activities in courts, arbitration agencies or at the request of involved parties related to intellectual property ...

The notice also stipulates that intellectual property valuation must be conducted by property valuation organizations approved by the Ministry of Finance. These valuation organizations may, during the course of their operations, invite experts on patents, trademarks, copyrights, etc. to provide technical support, but that

does not reduce liability. legal for officials who do the valuation. To enhance this activity, the Ministry of Finance and the Chinese State Office of Intellectual Property regularly organize professional training courses on intellectual property valuation, organize examinations and certifications and quality assurance. training, constantly improving capacity and qualifications for officials in charge of intellectual property valuation.

The demand for intellectual property valuation is increasing

China is now an important world market for intellectual property transactions. For example, in 2005, a total of 9,902 technical import contracts were registered, an increase of 15.1% over the previous year with a total turnover of more than 19 billion USD, of which technical use fee is more than 11 billion USD. . According to statistics, from 2000 to the present, the licensing fee of IP rights accounts for about 60 to 80% of the total technology purchase cost. In addition to IP rights, other IP objects are also imported in small amounts. For example, in 2003 to date, China spent a lot of money to buy the copyright, there are royalties up to billions of dollars. Or, for example, in 2006 through diplomatic commitments, China had to buy software from US companies for up to \$ 1 billion. At present, the trend of IPR transactions is growing rapidly, the market for intellectual property valuation services will accordingly develop.

From commercial and legal practice, it can be seen that intellectual property valuation activities mainly come from the following needs:

Firstly, intellectual property transactions require businesses to conduct valuation of their intellectual properties. Currently, the level of technical transactions has reached nearly half of the total value of global transactions.

Second, when using intellectual property to participate in the stock market, businesses need to conduct valuation of such intellectual property. For example, the results of the research on the disinfectant cleaning solution, which is exploited by Tian Na Pharmaceutical Research Office - Shanghai, are valued at up to 15,500,000 yuan. This intellectual property after participating in the stock market accounted for 51% of the new company's registered capital. The energy-saving technology in the water supply system has been granted a patent for invention by Beijing Technical Development Company of Haiphong Zone, which is valued at up to 64,720,000 yuan, accounting for 99.57 % of registered capital of the company.

Third, when using intellectual property as collateral for loans, companies need to go through the valuation of those assets. Article 79 of China's Guarantee Law states that intellectual property rights such as rights to inventions, trademarks and copyrights ... can be used as collateral for loans. In the lending and lending transactions between the rights owner and the bank, there must be an objective and accurate assessment of asset valuation organizations. For example, the brand "Star" has been priced up to 108 million yuan. Especially after being recognized as a famous Chinese brand, this brand has been revalued, up to 300 million yuan. Based on the brand valuation reports and mortgage contracts for the trademark, the Star Company borrowed a bank of 5 million yuan. By the end of 2008, the Beijing Municipal Intellectual Property Office established the "Thousand-Day Counter-Terrorism Program" - to promote projects to mortgage intellectual property rights for loans, through which the Program had 44 the project of 37 small and medium technical enterprises mortgaged their intellectual property rights to borrow capital from the Transport Bank, the total loan capital is 402,750,000 yuan. In August 2008, the Hai Dien Intellectual Property Division received a loan of 10,000,000 yuan from the mortgage of intellectual property rights. January 3, 2009 Hai Dien Intellectual Property Office was voted as one of the pilot units to borrow from mortgage of intellectual property rights. The Hundred Thousand Years Program has been officially authorized by the Chinese Government since August 2007, which can be seen as the support from the Government for the mortgage loan with intellectual property.

Fourth, when businesses want to use intellectual property for the purpose of increasing the registered capital of the company, businesses also need to conduct valuation of such intellectual property. For example Beijing Beijing YI WEI DE Electric Co., Ltd. originally had a registered capital of 4 million yuan, of which intellectual property accounted for a very small percentage. After that, Mr. Chen Ming Xiang invested in the technical system company that has been granted a patent for "Technical service network of continuous supply of industrial electrification products" with determined value. was 26,110,000 yuan, and was entered into the

company's registered capital. As a result, the company's total registered capital has reached more than 30 million yuan, of which the proportion of intellectual property accounts for more than 80%.

Fifth, when determining the cost of compensation in the proceedings should also conduct valuation of intellectual property. After China joined the WTO, the number of disputes related to intellectual property increased, the calculation of losses to intellectual property also need to rely on valuation organizations.

Sixthly, for large technologies and technical chains, the owners of such intellectual property often need to seek investment partners, so that venture capital firms can feel secure when investing in In terms of their lines and technologies, owners need property valuation reports for technologies developed by professional organizations. This makes it easier for them to attract venture capital, and risky companies are more comfortable investing.

It can be seen in activities from attracting venture capital, transferring intellectual property, equitizing the company, restructuring the capital structure, changing the way of doing business, merging or separating the company. , calculating bankruptcy, dividing assets, rewarding inventors, or distributing intellectual property, registration rights or other benefits in research and market research projects or the direction for creative research, the valuation of intellectual property plays a very important role, even a determining factor for the success of a company or an individual. If companies or individuals skip the valuation of intellectual property, there can be great losses. For example, LING NAM - Guangdong Biscuits Factory when transferring LING NAM brand or an enterprise in Hangzhou transferring brand XI HU did not conduct a valuation on their brand, so it was lost. a great profit. In contrast, a company in Zhejiang that transferred the DONG BAO brand along with its 19 Patents conducted a valuation, reported a valuation of up to 10 million yuan, resulting in a large revenue. for your business. In China, there were cases where three TCL Company employees in Guangdong stole a wireless model phone from the company, which actually cost only 680 yuan. But the intellectual property valuation report shows that the technology contained in that model phone is worth up to 6,880,000 yuan. And the court held that the true value lost here is the number shown in that technical valuation report, and that the defendant was prosecuted for criminal liability, the maximum penalty for this type of crime is 20 years in prison.

Factors related to intellectual property valuation

When conducting the valuation of intellectual property, it is necessary to consider the status of the rights holder: for example, LG Company, Philips has been sued by Taiwan's Hua Ying Company to infringe many US patents. The defendant, after conducting a search, discovered that many of the patents belonged to the defendant and filed a lawsuit against LG and Philips on the grounds of unfair competition, claiming 1 billion USD. In 1995, Beijing's No. 1 Intermediate People's Court ruled that the Disney Company was suing Beijing City Publishing House. In this case, Beijing Publisher did not know that the MAXV Company did not have the copyright or the right to license Disney's works, so it bought the right to distribute these works from MAXV Company. After MAXV Company went bankrupt, Beijing Publishing House was at risk of legal liability for infringement of intellectual property rights of Disney Company. In recent years, many Chinese companies have encountered many problems related to IPR infringements, these cases stemming from the failure to conduct analysis and assessment of subjects. IP is conducted for transaction.

Especially in the case of licensing of patents, if the search and evaluation process is not carried out, it is very easy for enterprises to spend a large amount of money to buy patents that belong to the public or not protected by intellectual property rights or inventions which are not stable. For businesses venturing into patented technologies, when conducting a technology assessment they always focus on the following three: First, adequate and key documents are needed. body; Secondly, analysis of the scope of protection requests and stability of inventions, analysis of scope of protection; Third, technical analysis, products, industry sectors related to the patent granted, cost analysis to maintain the monopoly and the term and benefits that can be received.

In addition, the litigant also collects information related to intellectual property rights that need to be assessed, assessed the duplication of many licensing licenses in the market, assessed technical competition, technical complementarity, legal status of rights, stability, validity period of intellectual property rights, life

span of products and services containing such intellectual property, rules of market up and down. In addition, some equally important factors such as the type and region will transfer or transfer the rights, legislative and executive level of the countries concerned, the mode of payment of transfer fees, see if there are technical tips attached, etc.

In China, as in most other countries, there is not a common formula for valuing intellectual property, but often gives general principles. The analysis and valuation of an intellectual property must be based on each specific case, based on the object to be valued and the purpose of the valuation to provide the most appropriate method. In addition, the content of the valuation report is always carefully considered to see which parts can be made public, which parts are not public to avoid disclosure.

Principles of intellectual property valuation

The valuation of intellectual property belongs to the category of property valuation, so this activity is also a service of social justice nature. The Chinese government soon laid down the basic principles of asset valuation, which must be truthful, scientific and feasible. Asset valuation activities in general and intellectual property valuation in particular must be conducted according to the legal order, from registration of valuation, property investigation, evaluation evaluation, verification, etc. Asset valuation activities in China are usually conducted based on the original value of the assets, net value, cost, profitability, often taking measures: current profit-taking measures, measures to reproduce finished products, measure market values, measure according to calculations and a number of other measures prescribed by law. However, compared with other cases of valuation, the intellectual property valuation of enterprises has some unique characteristics, that is, the valuation of intellectual property also needs to be based on the principle of purpose and principles of mechanism and effect of the evaluation content. The principle of purpose is the premise for making a fair and reasonable judgment, the principle of the mechanism and effect of the evaluation content is the premise to ensure that the evaluation is scientific, authentic and feasible.

It can be said that so far, China has laid the basic foundation for intellectual property valuation activities to help litigants and valuation organizations have the basis to maximize the use of intellectual property. investment and business activities. Practices also show that intellectual property has played an increasingly important role for businesses in China. As a result, more and more specialized intellectual property valuation organizations have been established and the Government attaches great importance to the training of experts in this field.

5. A number of recommendations to enhance the valuation of intellectual property for Vietnam

Through the assessment of the current situation of intellectual property valuation activities of Vietnam in recent times and through the survey of some experiences in the world on the application of methods of valuation of intellectual property, temporarily Proposing some solutions to improve the ability of intellectual property valuation for Vietnam as follows:

5.1 Solutions proposed to state management agencies

Regarding legal provisions: In the context that the country is integrating into the world, important economic activities such as trading, contributing capital to joint ventures, etc. of enterprises are taking place more and more vigorously and vibrantly. The country needs to have more specific and strict regulations on intangible assets, including intellectual property, and at the same time provide specific guidance on the classification and recognition of intangible assets in accounting books. Thereby creating conditions for enterprises to determine the value of intangible assets themselves to be recorded in the financial statements, in which distinguishing between the depreciated and non-depreciated values. At the same time, in order to accurately represent the value of these assets, businesses need to be re-determined by the valuation organizations each year.

The State needs to promulgate detailed and complete pricing standards, which should inherit the knowledge of developing countries. Just like in the accounting field, the audit also needs a set of standards to implement, especially standards on intangible asset pricing.

At the same time, to formulate an appropriate, consistent and synchronous policy between intellectual property valuation and accounting and auditing regimes to fully and accurately reflect the value of intangible assets in general and IP assets as stated. private.

Regarding training policies: The Government should have a plan to urgently train experts on intangible asset valuation and effective use of these consultants. At the same time, organizing courses on the theory and practice of valuing intangible assets to support and create good opportunities for interested business owners and economists to initially accumulate knowledge about this problem.

5.2. Group of proposed solutions for businesses

- It is necessary to be aware of the special importance of valuing intellectual properties in enterprises.

- Need to determine which types of intellectual property are valued: Many businesses are very confused in determining which intellectual property types should be valued. One of the valuable experiences of valuation experts shows that before you want to value an intellectual property, businesses need those intellectual properties to get:

- + Get to know from the other assets of a business
- + Create benefits for businesses
- + Protected, not free to use
- + Can be transferred from seller to buyer

For example, copyrights of books describing a chemical process are of no value without the patent rights protecting that process. The rights to an invention innovation are useless without the rights attached to the original invention. A license to produce a protected product under an invention may not be valid unless the manufacturing technology know-how is provided.

- Need to define parameters for the valuation of intellectual property: The valuation of intellectual property before selling is very necessary but also very difficult, and the value of an intellectual property is not recognized. same way between seller and buyer. Therefore, in order to be able to value the intellectual property it is important to clearly define the following:

- + What is the property being valued? (inventions, industrial designs, trade secrets ...)
- + To whom is the valuation made?
- + What is the purpose of pricing?
- + When is the valuation made?
- + Is the valuation method appropriate to the situation?

- It is necessary to select a method of valuation suitable to the purpose of valuing intellectual property: One of the requirements of the technique of valuation of intellectual property is that the enterprise needs to select and use a method of valuation so that it is suitable. in accordance with the purpose of valuation.

REFERENCES

- i. *Valuation of Intellectual Property and Intangible Assets*, Gordon V. Smith, Russell L. Parr, 1999.
- ii. *Valuation of Intellectual Property: What, Why and How*, WIPO Magazine 9-10 / 2003.
- iii. *Valuation of Intellectual Property Assets; Valuation Techniques: Parameters, Methodologies and Limitations*, John Turner, 2000.
- iv. *Industrial Property Rights Standard Textbook*, Japan Institute of Invention and Innovation (JIII), 2007.
- v. *WIPO Intellectual Property Handbook: Policy, Law and Use*, WIPO, 2004.
- vi. *American Society of Appraisers, Business Valuation Standards BVS-IX Intangible Asset Valuation, Appendix A to BVS IX: Intellectual Property Examples*, revised 7/2008.
- vii. *International Valuation Standards Council, Draft of Revised International Valuation Guidance Note No. 4: Valuation of Intangible Assets*, published for comments 1/2009; *Draft of Proposed new International Valuation Guidance Note No.16: Valuation of Intangible Assets for IFRS Reporting Purposes*, published for comments 1/2009.