

The Use of IP Assets to Access Funding for SMEs

Overview of the Study



The realisation of a guide about the use of Intellectual Property Assets by the SMEs to get access to funding, special scope statement
N°2021/71372/E3/IPASSETS

PIERSTONE  **UCLouvain**



FPS Economy, S.M.E.s, Self-employed and Energy

Rue du Progrès 50 – 1210 Brussels

Enterprise no: 0314.595.348



○ 0800 120 33 (free number)



○ SPFEco



○ @spfeconomie



○ [linkedin.com/company/fod-economie](https://www.linkedin.com/company/fod-economie) (bilingual page)



○ [instagram.com/spfecoe](https://www.instagram.com/spfecoe)



○ [youtube.com/user/SPFEconomie](https://www.youtube.com/user/SPFEconomie)



○ economie.fgov.be

Responsible publisher:

Séverine Waterbley
Chair of the Board of Directors
Rue du Progrès 50 – 1210 Brussels

Internet version

277-21

Table of Contents

Introduction	4
1. IP as Access to Funding	4
1.1. IP Valuation.....	4
1.2. Use of IP as Collateral for Debt Financing	5
1.3. Use of IP as Security for Equity Financing	5
2. Policies and Regulatory Framework	6
3. Challenges of Using IP Assets for SMEs to Access Funding.....	7
Toolbox for SMEs: Practical Steps and Recommendations.....	8

Introduction

Over the last decade, intellectual property (hereinafter “IP”) assets have increasingly contributed to the market value of companies, including small and medium enterprises (hereinafter “SMEs”). This has primarily been driven by the emergence of a new economy, known as the knowledge (or data) economy, in which the core capital of companies takes the form of intangible assets such as patents, processes, know-how, customer reach, data or workforce talent rather than physical assets.

This report examines different ways to use IP as access to funding. The use of IP as collateral for debt-financing or its use as an insurance policy, as well as the different legal and fiscal tools available for SMEs to encourage innovation are briefly presented below. This report also provides a series of recommendations on how SMEs can facilitate the use of their IP assets to access proper funding.

In addition, this summary proposes a Toolbox composed of practical and easy to use information to the attention of Belgian SMEs so as to enable them to best manage their IP portfolio and to define an adequate IP strategy.

1. IP as Access to Funding

Making intangible assets bankable in Belgium seems promising. Belgium is considered as having an advanced legal regime concerning the securitisation of IP assets. Its New Pledge Act provides for greater flexibility and paves the way for a greater use of intangible assets as collaterals, and this has been welcomed by businesses. This new regime allows to obtain security rights on all types of IP rights. However, there is still room for improvement.

There are two main challenges that SMEs face when they use IP rights to obtain or secure funding:

- the lack of a clear connection between the security and the underlying asset;
- the complexity and lack of transparency in the IP system, which often results in distrust.

Using intangible assets to raise financing has some drawbacks or limitations:

- the risk of diminishing value of the IP asset over the long term;
- the difficulty to license while such rights are pledged;
- the current dissymmetry caused by the registration requirements of the pledge which involve the general national pledge register and the specific IP rights registers.

The following paragraphs succinctly present the different mechanisms which make it possible for SMEs to obtain financial advantages from their IP.

1.1. IP Valuation

To be evaluated, an IP asset needs to, inter alia:

- be easily identifiable and adequately described;
- be supported by some tangible evidence;
- have a clear date of creation and duration;
- be legally enforceable and transferable, and separately from other business assets;
- generate a specific income stream.

All in all, a proper IP valuation is fundamental and necessary to use IP rights as an instrument to obtain credit and/or financing, as well as for catching the attention and interest of potential partners, including funding entities.

There are three main valuation methods applicable, and each of them can lead to different results: the revenue method, the market method, and the cost method¹.

The standards used for applying these methods, as well as the alternative valuation methods, are detailed in the report.

1.2. Use of IP as Collateral for Debt Financing

Belgian law considers IP rights to be movable and intangible assets, and as such, they can be subject to the security rights available for such assets. Indeed, Article 7 (6) of the new Belgian Pledge Act specifically allows for the pledge of IP rights. They may become potential collateral as long as they comply with other provisions governing such pledges.

There are various options for using IP as collateral for debt financing, such as:

- **IP (royalty/licence) securitisation:** in the case of IP securitisation, the company assigns a portion of its future revenue from licensing its IP portfolio in exchange for an upfront, lump-sum funding. The creation of a security right in royalties is possible without any registration in Belgium.
- **IP license-backed transactions and IP-backed loans:** a company can sell its IP to a third party (the back-licensor) in exchange for immediate funding and purchase the license for its IP assets (the company becomes the back-licensee). On the other side, IP can directly be pledged as collateral in a loan agreement.
- **IP collateral enhancement:** the IP assets can be used as an addition to a broader collateral package, thus improving the overall credit profile of a borrower and possibly lowering interest rates demanded by the lender.
- **Non-fungible tokens (NFTs):** they represent a new tool for raising funds and have already been used as collateral in decentralised loans. When NFTs are used as collateral and the borrower fails to pay back the borrowed amount, the assets tokenised as NFTs are transferred to the lender.

1.3. Use of IP as Security for Equity Financing

For new and innovative SMEs, which have a high risk-return profile, equity finance can be a good (alternative) solution to provide adequate funding. Equity finance notably encompasses funding by business angels, joint venture and venture capitals, and structural alliances.

The availability of equity financing for SMEs is often influenced by national authorities, in particular through the taxation position of investors and enterprises. Belgium belongs to a group of countries that have fiscal incentives specifically available for venture capital, private equity and start-up angels. It has recently changed its corporate law in a way that might ease SMEs' access to equity finance.

¹ Concrete examples of such methods are provided in the toolbox below;

2. Policies and Regulatory Framework

The study examines the regulatory framework allowing the use of IP as a movable property and as an intangible asset.

The new Pledge Act strengthens the validity of the security, including on unregistered IP rights, by expressly providing the right to grant pledges over IP rights. This is especially due to the fact that dispossession is no longer a validity requirement, but only one potential way of giving a proprietary effect. Therefore, the Pledge Act now provides for two different means to make a right of pledge effective towards third parties: dispossession or registration in the pledge register.

In either case, the registration of the pledge, and the formalities linked to it, are therefore especially important.

Article 7 (6), however, states that the Pledge Act applies to IP rights only if they are not incompatible with the rules specifically regulating those IP rights.

This new legislative framework is a big step towards making IP-backed securities more accessible and makes the Belgian system particularly forward-looking.

In addition to the new pledge regime, the report also comes back on the financial regulations that may apply to SMEs.

The study also highlights several policies implemented at the federal or regional level. Belgian SMEs may benefit from grants to finance their innovative projects or from preferential tax regimes linked to their IP or innovations.

Amongst them, we present certain public funding initiatives, both at the EU – notably with the Horizon 2020 Program – and national level. Each Belgian region provides for different financial grants, also for SMEs, and some of them cover, under specific conditions, services related to IP.

Belgium also implemented several specific tax regimes that may reward the innovative actors².

² Detailed in the Toolbox below.

3. Challenges of Using IP Assets for SMEs to Access Funding

Belgium is currently paving the way for a better environment favouring the use of IP as access to funding for SMEs.

Yet, the day-to-day practice still is at a very early stage. The practitioners and professionals in the field are often still not familiar with many of the valuation methods. Other obstacles reduce the attractiveness of those tools for accessing funding and more should be done to improve the situation of SMEs.

Therefore, it is still difficult to argue that IP may be considered as main collateral for Belgian SMES, for different reasons that may be summarised as follows:

- IP is often regarded as having low to no capital weighting for the lending institutions;
- IP is difficult to value and even harder to monetise and often requires a specific, case-by-case analysis for proper valuation;
- IP is still often used as a top-up, i.e. as a component added to the lending package rather than as the primary asset.

Toolbox for SMEs: Practical Steps and Recommendations

SMEs and other relevant stakeholders should consider the following steps and measures to facilitate the access to IP and to IP-backed funding:

1. Are you familiar with the subsidies and public grants available in your region?

Each Belgian region provides different financial grants available for SMEs, and some of them also include services related to IP. Some professionals specialise in consultancy oriented towards the grant of subsidies specifically for SMEs.


The table below provides an overview of different public subsidies available by region

	Support provided	Available for	Amount
BRUSSELS-CAPITAL			
PATENT FILING AIDS	Financial intervention in patent procurement procedures, including official fees	SME with innovative activities in the Brussels-Capital Region	50% of the application and procedure cost.
INNOVATION VOUCHERS	Financial intervention for services supporting the SME's innovation strategy	SME's with innovative activities in the Brussels-Capital Region	Max of €10,000 per year and max of 75% of the expenses
CONSULTANCY PREMIUM - Legal analysis	Financial intervention in legal consultancy	SMEs located in the Brussels-Capital Region	Basic level of 40%, up to 60% in specific cases. Max €10.000 per year
SUBSIDIES FOR IP ADVICE on trademark filing, registration and certification abroad	Subsidies for part of the consultancy costs for this procedures abroad	SMEs located in the Brussels-Capital Region	50% of the fees with a max of €10.000 per year
FLANDERS			
KMO PORTEFEUILLE: IP Advice	Subsidies for advice on IP	SMEs located in Flanders	
KMO PORTEFEUILLE: IP Trainings	Subsidies for IP trainings and workshops	SMEs located in Flanders	Small enterprises: Support of 30% with a max of € 7.500 per year Medium sized enterprises: Support of 20% with a max of € 7.500 per year
WALLONIA			
IP VOUCHERS	Subsidies for services to strengthen the innovation strategy of the SME	SMEs with innovative activities in Wallonia	Support of 50% with a max of €45.000 for 3 years
PATENT FILING SUPPORT	Subsidies for costs related to patenting procedures	SMEs with innovative activities in Wallonia	40% to 50% of First filing 50% Territorial extension 50% Opposition (PATOP)
VOUCHERS FOR DIAGNOSTIC OR GROWTH SUPPORT	Subsidies for services supporting growth and development	SMEs with business activities in Wallonia	Support of 50% with a max of €25.000 for 3 years


2. Do you make use of the fiscal incentives?

If your SME invests in R&D and is innovative, make use of the existing comprehensive regimes to support SMEs' R&D programs and innovation: the Innovation Box, the wage tax incentives, the R&D tax credit and deductions.

1. R&D Wage Tax:

<div> <div>R&D WAGE TAX</div> <div>Partial exemption professional withholding tax</div> </div>		
WHAT	HOW	SUMMARY
<p>The objective of this measure is to attract and maintain R&D profiles in Belgium. The tax incentive is for the benefit of the employer</p>	<ul style="list-style-type: none"> •The tax incentive can only be applied as of the moment the R&D project or program is notified to Belspo; •The employer should be able to demonstrate the R&D nature of the activities of its employees and the time spent on R&D projects/within an R&D program; <p>It can be combined with R&D tax credit/investment deduction and patent income deduction</p>	<p>80% EXEMPTION OF WITHHOLDING TAX R&D ACTIVITIES + QUALIFYING DIPLOMAS BELSPO NOTIFICATION REQUIRED UP TO 25% REDUCTION OF SALARY COST</p>  <p>■ Salary costs ■ Net saving</p>

2. R&D Tax Credit

<div> <div>R&D TAX CREDIT</div> <div>Art. 68 and 69 (art. 48 RD/ITC 92)</div> </div>		
WHAT	HOW	SUMMARY
<ul style="list-style-type: none"> Companies that invest in R&D can benefit from an R&D investment deduction or an R&D tax credit. The R&D investment deduction/tax credit applies to R&D investments capitalized in BE GAAP (tangible/intangible fixed assets); 	<ul style="list-style-type: none"> Option between one-shot or spread R&D investment deduction/tax credit; Requirement: a regional certificate confirming the absence of any negative impact on the environment of the new products or prospective technologies resulting out of the R&D activities has to be obtained; 	<p>R&D INVESTMENTS & PATENTS</p> <ul style="list-style-type: none"> 13,5% - 20,5% DEDUCTION REFUNDABLE TAX CREDIT <p>SEVERAL CONDITIONS (R&D CENTER, CERTIFICATES, ...)</p> <p>4 TO 6% NET SAVING ON R&D INVESTMENTS</p> <div>  <div> <ul style="list-style-type: none"> Investment costs Net saving <ul style="list-style-type: none"> Investment costs Net saving </div> </div>

3. Innovation Income Reduction

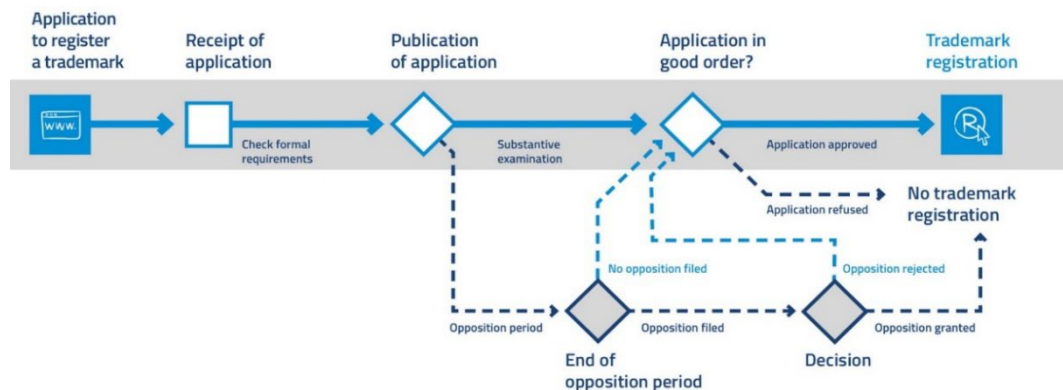
<div> <div>INNOVATION INCOME REDUCTION</div> <div>Art. 205/1, ITC 92, subsection III bis</div> </div>		
QUALIFIED IP RIGHTS	QUALIFYING IP INCOMES	SUMMARY
<ul style="list-style-type: none"> Patents Supplementary Protection Certificates (SPC's) Plant Variety Rights <ul style="list-style-type: none"> Orphan Drug Data or market exclusivity granted by a public body Computer programs protected by copyright; upgraded software included 	<ul style="list-style-type: none"> License fees IP income embedded in sales product or services IP income embedded in production process Compensation for damages of IP rights infringements Capital gains (if certain conditions are met) 	<p>85% NET INCOME DEDUCTION ON INNOVATION INCOME</p> <p>IP RIGHTS OR IMPROVEMENTS OF ACQUIRED PROTECTED TECHNOLOGIES AS FROM THE FILING OF THE IP RIGHT</p> <p>4,4% EFFECTIVE TAX RATE (BEST CASE SCENARIO)</p> <p>! KNOW-HOW, TRADE SECRETS, TRADEMARKS, TRADENAMES, BRANDS, DESIGNS AND MODELS ARE NOT QUALIFYING IP RIGHTS</p>

3. Have you registered your IP?

In order to protect your IP and start monetising it, registration is the first and foremost step you need to take. In the ToolBox below you can find the simplified and graphically presented registration procedure for some IP assets you might want to register, as well as the estimated costs for doing so.

Registering a trademark:

- **Where?** Benelux Office for Intellectual Property (or EUIPO for registering a EU trademark (EUTM), and WIPO for the international registration of trademarks, including of EUTM)
- **Under what conditions?** To be registered, a sign must be **distinctive, lawful, available** and susceptible to be depicted in the register.



Source: Benelux Office for Intellectual Property

Application for individual Benelux trademark registration, including one class (valid for 10 years)	€ 244
• Second class	€ 27
• Per class from the third	€ 81
Application for collective or certification trademark registration, including one class (valid for 10 years)	€ 379
• Second class	€ 42
• Per class from the third	€ 126
Supplement for accelerated registration, including one class	€ 196
• Second class	€ 21
• Per class from the third	€ 63
Supplement for the description of distinguishing features	€ 41

Registering a design:

- **Where?** Benelux Office for Intellectual Property (or EUIPO for registering a Community design, and WIPO for the international registration of designs)
- **Under which conditions?** To be registered, a design has to be new and must have an individual character.



Source: Benelux Office for Intellectual Property

Filing of an application for 1 design (valid for 5 years)	€ 150
• 2nd to 10th drawing or design	€ 75
• 11th to 20th drawing or design	€ 38
• 21st to 50th drawing or design	€ 32
Supplement for adding characteristic features, per design	€ 42
Deferment of publication	€ 40

Registering a patent:

- **Where?** Belgian Office for Intellectual Property (or EPO for registering a European patent, and WIPO for international registration of patents under the Patent Cooperation Treaty)
- **Under what conditions?** For the patent to be granted, an invention has to be new, inventive and industrially applicable. It also has to be lawful.

Procedural fees for Belgian patent application (valid for up to 20 years)	
Filing fee	€ 50
Additional fee for late payment of filing fee	€ 25
Fee for correction or addition of a priority claim	€ 50
Fee for drawing up a search report	€ 300

Annual maintenance fees for Belgian patents (applications) and European patents validated in Belgium					
3 rd annuity	€ 40	9 th annuity	€ 165	15 th annuity	€ 360
4 th annuity	€ 55	10 th annuity	€ 185	16 th annuity	€ 400
5 th annuity	€ 75	11 th annuity	€ 215	17 th annuity	€ 450
6 th annuity	€ 95	12 th annuity	€ 240	18 th annuity	€ 500
7 th annuity	€ 110	13 th annuity	€ 275	19 th annuity	€ 555
8 th annuity	€ 135	14 th annuity	€ 320	20 th annuity	€ 600

Source: Belgian Ministry of Economy

Information on registration, treatment and publication processes for patents can be found in the [online Belgian Patent Register](#). In addition, the Federated Register of the European Patent Register of the EPO contains information on the current status of European patents in Belgium.

en fr nl de

Other official information and services: www.belgium.be

economie | BPP - eRegister

[About eRegister](#) | [Help](#) | [Contact](#) |

Quick search | Advanced search | My patents (0)

Every night, the online Belgian patent register ('eRegister') receives an update with public data that were entered or generated the preceding day on the Benelux Patent Platform, the computer application with which the Belgian Intellectual Property Office handles the registration, treatment and publication processes for patents and supplementary protection certificates.
Currently, some updates are spread over consecutive nights due to the large, weekly volume of data concerning European patents designating Belgium.

Search for: ☒ Patent ☐ Document

Number: ? IP right type: ☐ Certificate ☐ European patent granted for BE ☒ National patent

Title: ?

IPC code: ?

[More search criteria](#)

Search

Clear

List of search results

Export list RSS

Action	Publication no.	Publication date	status	IPC code	Applicant	IP right type
10 ▾	⏪ ⏩	Page 1 of 1	⏪ ⏩	Displaying 0 to 0 of 0 items		

The Belgian Office for Intellectual Property (OPRI) - FPS Economy, SMEs, Self-Employed and Energy
Copyright © 2012 Belgian Federal Government

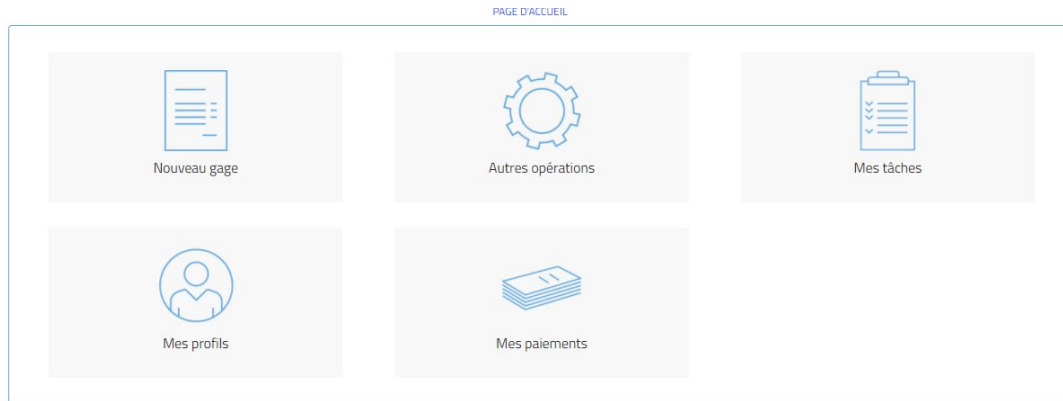
[Disclaimer](#) | [Privacy and cookies](#) | [Compatibility](#) | [Re-use](#)

4. Are you familiar with the new Pledge Register and its advantages?

The 2013 pledge law reform introduced a **non-possessory pledge on movable property**. From now on you can pledge movable property without having to physically hand it over to the lender. It was precisely in **order to make the pledge enforceable against third parties** that a pledge register was introduced.

The Belgian Pledge registry is available online to any Belgian resident on this website:

[FOD Financiën / SPF Finances / FOD Finanzen / FPS Finance \(belgium.be\)](#)



What is the Pledge Register?

The Pledge Register is an application that allows you to register, modify, renew, assign, de-register or consult a pledge or a reservation of title. You can also make an assignment of a registered pledge.

Anyone who has a Belgian electronic identity card or the *Itsme* application can use the pledge register.

To become a registered user, you must conclude a user agreement with the FPS Finance.

You must register your personal/company information, and you may handle any tasks or payments related to your business pledged assets, including your intangible assets.

How can you use the Pledge Register?

One may accomplish three types of actions:

- Manage a new pledge;
- Manage a retention of title;
- Consult the registry database.

The register displays the identity of any party to the pledge contact and keeps track of the precise contractual relationship of the pledged asset. You are also able to see who consulted your pledges. This serves as a certificate for each pledged asset and allows you to account for the pledge and its value.

More precisely, the information concerns:

- the identity of the pledgee or the representative,
- the identity of the pledgor,
- the designation of the pledged assets,
- the designation of the secured claims,
- the maximum amount up to which the claims are secured and which is the subject of the registration,
- the declaration of the pledgee (or its representative) that it is liable for any damage that would result from the registration of incorrect data.

CAUTION: The pledged assets subject to registration must be sufficiently "identifiable", as they form part - together with the identity of the pledgor - of the search terms for the register. If you do not provide comprehensive information on the pledged assets, it may be harder to use it to obtain funding in the long term.

The screenshot shows the 'RECHERCHE DE GAGES' section of the Service Public Fédéral FINANCES website. The header includes the logo and name of the service, navigation icons (G, R, magnifying glass), and a list of icons representing various services. A link 'AUTRES OPÉRATIONS' is visible. The main form area has a title 'RECHERCHE DE GAGES' and four search criteria: 'Identifiant unique du gage', 'Numéro de référence', 'Mes gages (créancier gagiste)', and 'UUID'. Below these, there is a section for 'Identifiants' with a text input field and a checkbox for 'Historique des gages'. A blue button labeled 'RECHERCHE DE GAGES' is at the bottom.

The register may be used for two main different purposes, which may differ depending on the situation of the consultant:

1. As a **certification provider** for a pledged asset: If you own registered assets on the registry, you are able to obtain the official information relating thereto.
2. As a **database**: If you are aware of the reference of a specific pledge you would be able to verify the current status, scope, and object of the pledged asset referenced.

The screenshot shows the 'RECHERCHE DE GAGES ET/OU DE RÉSERVES DE PROPRIÉTÉS' section. The header includes the title and five search criteria: 'Constituant', 'Numéro d'entreprise', 'Identifiant unique', 'Numéro de référence', and 'Mes gages et réserves de propriété (constituants / acheteurs)'. Below this, there is a section 'Qui a consulté mes gages et réserves de propriété?' with a dropdown menu for 'Personnalité juridique' set to 'PERSONNE PHYSIQUE AVEC UN NUMÉRO D'ENTREPRISE'. The form includes fields for 'Nom', 'Prénom', 'Code postal', 'Localité', 'Pays' (set to 'BE - BELGIQUE'), and 'Nationalité' (set to 'CHOISISSEZ LA NATIONALITÉ'). There is also a field for 'Désignation du bien grevé ou du bien meuble vendu'. A checkbox for 'Historique des gages et des réserves de propriétés' is at the bottom. A blue button labeled 'RECHERCHE DE GAGES ET/OU DE RÉSERVES DE PROPRIÉTÉS' is at the bottom.

Access and limitation:

Access to the register is in principle open to all. Each user has to authenticate himself/herself by means of his/her identity card and the code.

However, **several limits** have been set to curb unlimited consultation of the register, including the prior payment of a fee and the registration of the identity of persons consulting it, so that each search is detectable.

These limits are intended not only to prevent misuse of the register, but also to protect the privacy of the persons concerned.

5. Have you identified a portfolio of profitable IP rights within your company?

Keep a list of all the assets on which you hold IP rights, as well as those which are being exploited by yourself or by third parties, e. g. through licensing, royalties, lump sum payments etc.). It should facilitate the obtention of funds from lending institutions.

6. Have you considered asking for a proper valuation of your IP assets?

If you are not sure how to do that, please have a look at the description of the various valuation methods below and try to find the one that is adapted to business.

The key to a successful analysis for the valuation of intangible assets is to develop a comprehensive plan of action.

First question: *Why do you need to know the value of the assets?*

- A **third party** may be interested in the value of your assets for the following purposes:
 - Financing and funding
 - Tax authorities
 - Bankruptcy reimbursement
 - Accounting
- It may be for **internal purposes**:
 - The purchase or the sale of those assets
 - Research and development processes
 - Royalties and licensing fees

Second question: *What is the main determinant of value for IP assets ?*

- An important element is **the business context** around the specific asset: the same IP assets may have a **different final value** depending on whether they are considered within a large company or a SME, because of additional factors such as the presence of skilled labor, abundant capital, effective marketing programs, proven distribution channels, etc.
- To determine which assets need to be taken into account, **a bundling approach is adequate**: IP assets must be considered in their **relation to one another** as related assets tend to reinforce each other.
 - E.g. for a valuation of the intangible assets employed in the marketing process, the following items must be put forward: the brand name, logo and worldwide trademark registrations, secondary trademarks and logos, trade dress, websites, and any other assets that contribute to the promotion of the company, the brand or the products.

- Here is a table presenting IP bundles for proper valuation:

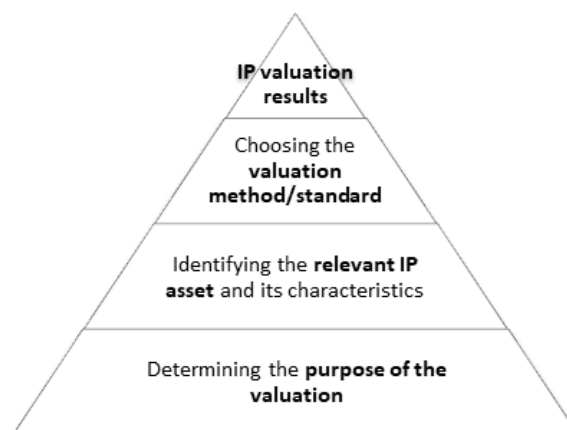
Marketing Bundle	Technical Bundle	IT Bundle
Primary Trademark	Key Patents	Operating Systems
Corporate Name and Logo	Trade Secrets	Enterprise Solutions
Marketing Umbrella	Formulae	Custom applications
Sub-brand Names	Packaging Technology	Data Warehouse
Global Trademark Registrations	Manufacturing Technology	Data Mining
Copyrights	Product Specifications	Mailing Lists
Secondary Trademarks	Product Shapes and Sizes	Domain Names / URL's
Packaging Design	Proprietary Test Results	Third Part Software Tools
Trade Dress	Technical Designs	Certifications
Product Names	Drawings, Manuals	Source Code

The next step to properly evaluate the bundle value is to determine the **standard of value** to be employed; the standard is also driven by the context of the assignment.

Main Standards of Value
Fair Market Value: The price at which an asset changes hands between a willing buyer and a willing seller, when both have reasonable knowledge of all relevant facts and neither is under compulsion to act
Fair Value: The price at which an asset changes hands between a specific buyer and a specific seller, when both have reasonable knowledge of all relevant facts and neither is under compulsion to act
Historical Value: The value of an asset at a specific point in time-based on the circumstances in place at that time. Often useful for infringement or tax-related analyses

Once the assets to be valued are isolated, the appropriate timeframe determined, the proper measurement of the value selected and the context of the valuation identified, it is time to consider which valuation methods to use, as described in the section below.

IP Valuation may be seen as a pyramid, where each level supports the analysis generated at the next level. Any valuation process can be divided into 4 different steps:



STEP 1: Determining the purpose of the Valuation

e.g. securitisation/financing, transaction strategy, financial reporting, tax, litigation, bankruptcy. In the case of securitisation/financing, the target *audience* will be investors and creditors.

STEP 2: Clearly identifying the relevant IP asset, and its legal, business/strategic and financial characteristics.

In this phase, consider how the asset will be exploited in the future and the different capabilities of the type of asset:

e.g. trademarks are related to brand equity, patents can give a competitive advantage, copyrights can produce derivative works and downstream revenues

STEP 3: Choosing the valuation method:

Income method

Based on the ability of the asset to generate future revenues, it considers the present value of the asset by adjusting the period cash flows to account for variations caused by the passing of time.

Therefore, this method has **three components**:

1. Projected cash flows
2. Economic life of the asset
3. Discount rate

PRO: the revenue method is the most commonly used, therefore it is well documented.

CONS: it does not accommodate all options and can lead to discussions when applied.

Market method

Based on the actual price paid for a similar intangible under similar circumstances, a key feature of this method is the comparability between the internal asset and the evidence gathered on similar transactions. This method can be divided into **two steps**:

1. Screening - the selection of third-party transactions with sufficient information;
2. Adjustments - quantifiable change in the valuation due to a specific rationale.

PRO: if applicable, it is considered to be the most reliable method.

CONS: the difficulty in retrieving good and comprehensive transactional data and the uniqueness of entrepreneurial IP assets.

Cost method

The cost method considers the cost of creating the IP and can be applied through comparison, by looking at the cost of similar IP assets.

The cost method can either take into account:

1. the reproduction cost: the cost to produce a copy of the subject IP or of generating the same kind of innovation;
2. the replacement cost: the cost to recreate the functionality or utility of the relevant IP. It should be based on the current costs to create the asset and incorporate obsolescence or the current state of the asset.

PRO: it is especially useful if the legal protection is weak or the asset is relatively well-known, and the IP does not produce revenues yet.

CONS: it does not account for wasted costs and can fail to consider all relevant characteristics of an asset.

STEP 4: Using the IP valuation's results to properly leverage your IP as an intangible, but determined, asset³.

7. Do you know how to reflect the state of your IP in your financial report?

Once the IP assets are valued, make sure this is reflected in your financial reports (banks and lending institutions will always consult these documents when deciding whether to provide a loan or other forms of credit to SMEs). If your company is investing in IP or innovative R&D, highlight this because such information could be a sign for lending institutions that you take your IP seriously, and it could convince them that you will be able to generate profit and pay back the loan.

³ P. FLIGNOR, D. OROZCO, *Intangible Asset and Intellectual Property Valuation: a multidisciplinary perspective*, 2006, ipthought.com



FPS Economy, S.M.E.s, Self-employed and Energy

Rue du Progrès 50
1210 Brussels
Enterprise no: 0314.595.348
economie.fgov.be