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**WORKING WITH VALUERS,
INSTRUCTIONS AND DUE DILIGENCE**

**STARTING AT THE TOP AND TRYING
TO BUILD DOWN.**

**THE LAWS OF PHYSICS
AND VALUATION
SUGGEST THAT THIS IS NOT
POSSIBLE.**

DEFINITION

&

IDENTIFICATION

ACCOUNTING STANDARDS

The US FASB has created a list of what it considers to be a firms intangibles:

Market-related

Trademarks, trade names, service marks, trade dress, newspaper mastheads, internet domain names.

Customer-related

Customer lists, customer contracts, customer relationships, customer agreements.

Artistic related

Ballets, books, plays, articles, other literary works, musical words, opera, pictures, photographs, video and audiovisual material.

ACCOUNTING STANDARDS CONT...

Contract-based

Licensing agreements, advertising or service contracts, lease agreements, construction permits, operating and broadcast rights, employment contracts.

Technology-based

Patented technology, computer software, unpatented technology, databases, trade secrets, secret formulae.

DUE DILIGENCE AND THE VALUER

- **Legal protection – barriers to competitors.**
- **Coverage, products, ‘the boundaries of the plot of land you call yours’.**

These attributes relate to the effect intellectual capital may have in a business context.

INTELLECTUAL PROPERTY

THESE ASSETS WHOSE ESSENTIAL CHARACTERISTICS ARE DERIVED FROM THE LEGAL SYSTEM. IN THIS CASE THE UK.

- **PATENTS (PATENT ACT 1977)**
- **COPYRIGHTS (COPYRIGHT DESIGNS & PATENTS ACT 1988)**
- **TRADE MARKS (TRADE MARK ACT 1994)**
- **REGISTERED DESIGNS (REGISTERED DESIGNS ACT 1949)**
- **UNREGISTERED DESIGN RIGHT (CDPA 1988)**

THE WORLD'S MOST VALUABLE IP ASSET IS MISSING??

REASONS FOR VALUATION

- **Management and institutions need to know the value of the crown jewels**
- **The process of evaluation for commercial purposes**
- **Licensing in and out**
- **Identify under-utilisation**
- **Create stronger barriers eg IP holding companies and tax**
- **Create better exploitation strategies (securitisation and tax)**
- **Distress**
- **Accountancy and auditors**

VALUATION AND DEFENCE

- **Mostly concerns infringement by you or others.**
- **IP valuation can play an important role in influencing decisions on what kind of IP strategy an enterprise follows e.g. defensive, offensive or competitive.**

IP LICENSING AND DUE-DILIGENCE

- **Many factors affect a valuer's licensing and royalty rate advice.**
- **Deal structure (cash, profit etc).**
- **Exclusivity.**
- **Relative risks.**
- **Investment rates of return.**
- **Commercial relationship between parties (fair value is not fair market value).**

Market and Technology Due-Diligence

- **The legal strength of IP is only a beginning.**
- **Large/small/niche market and where.**
- **State of market and price volatility.**
- **Required investment.**
- **Close to market technology, or not.**
- **Development time and R&D expense.**
- **Economic and technology life.**
- **Market drivers and potential.**
- **Manufacturing depth.**
- **Comparable technologies**

MONTE CARLO

- **Effectively a DCF multiplier**
- **Numerous DCF calculations accounting for various scenarios, say of revenue, market share, costs, internationality and other risks**
- **With just 4 scenario changes of the stated assumptions above this means 256 models!**
- **That is 4 values for each of income, different market share, costs, international penetration i.e. $4 \times 4 \times 4 \times 4 = 256$**

REAL OPTIONS

- **Probability trees = snakes and ladders, develops the Monte Carlo analysis**
- **Develops terminations (snakes) if a route identifies problems to suggest failure**

THE VENDOR & PURCHASER

Four Calculations or Steps – ‘can Kelvin count’

- 1. Intrinsic value of Vendor**
 - 2. Intrinsic value of Purchaser**
- PLUS**
- 1. Intrinsic value of Vendor**
 - 2. Intrinsic value of Purchaser**