

**BVR's Guide to Intellectual Property Valuation  
Second Edition**

**Author/Editor:** Michael Pellegrino

**Publisher:** Business Valuation Resources, LLC

**Published:** February 2012

**Table of Contents**

Acknowledgments

**CHAPTER 1: ABOUT THIS GUIDE**

The Growing Importance of IP

Why Is This Guide Needed?

What This Guide Is Not

**CHAPTER 2: IP VALUATION OVERVIEW**

About Patents

The Advantages of Patents

The Disadvantages of Patents

About Copyrights

The Advantages of Copyrights

The Disadvantages of Copyrights

About Trademarks

The Advantages of Trademarks

The Disadvantages of Trademarks

About Trade Secrets

The Advantages of Trade Secrets

The Disadvantages of Trade Secrets

**CHAPTER 3: ABOUT IP VALUATION**

Applying the Science

Practicing the Art

The Science-Art Continuum

**CHAPTER 4: USING VALUATION APPROACHES**

The Cost Approach

The Market Approach

The Income Approach

The Assignment-Approach Match

Common Pitfalls of the Various Approaches

Reconciling Several Valuation Approaches

Valuation Method Selection Summary

**CHAPTER 5: GENERAL DUE DILIGENCE**

Performing Initial Interviews

Analyzing Historical Financials

Understanding the IP

Verifying IP Ownership  
Commissioning Independent Counsel Review  
Reviewing Enforcement History and Ability  
Performing Market Analysis  
Evaluating the Regulatory Environment

## **CHAPTER 6: PATENT DUE DILIGENCE**

The Invention Status  
Current Art  
Patent Utility  
Patent Quality  
Patent Age  
The Administrative House  
Blocking Patents  
Status of Active Administrative or Legal Actions  
Outstanding Contractual Provisions Affecting Value

## **CHAPTER 7: COPYRIGHT DUE DILIGENCE**

Nature of the Copyrighted Material  
Verifying the Nature of Rights to Value  
Administrative Issues That Can Impair Copyright Value  
Registration  
Factual Works  
Fair Use Value Erosion  
Work Made for Hire  
Copyright Notice  
Ease of Duplication  
Mechanical Rights for Nondramatic Musical Works  
Termination of Transfers  
Public Domain  
Visual Artists Rights Act of 1990  
Special Considerations for Computer Software  
Easier to Avoid Infringing Activity  
Disclosure  
The Rule of Doubt  
Special Considerations for Semiconductor Designs or Masks

## **CHAPTER 8: TRADEMARK DUE DILIGENCE**

What Is Trademark Due Diligence?  
Maintenance Fees  
Owner of Record  
Pending Trademark Challenges  
Continued Use  
Public Notice  
Durability  
Incontestability

Interference  
Standards of Use  
Trademark Strength  
Dilution  
Counterfeit Risk  
Market Dynamism  
Fair Use Value Impacts

## **CHAPTER 9: TRADE SECRET DUE DILIGENCE**

Trade Secret Value Sources  
Trade Secret Floor Value  
Factors That Prolong Trade Secret Value  
Factors That Kill Trade Secrets  
Litigation Effects  
Inadvertent Disclosures  
Trade Secret Agreement Terms  
Publication as Patent or Copyright

## **CHAPTER 10: DISCOUNT RATE DEVELOPMENT**

Accounting for IP Risk  
Deeper Analysis of Current Methods  
An IP Discount Rate Estimation Model  
Target Rate of Return  
Holding Period  
Success Rates  
Target Returns  
Investment Expenses  
What About Empirical Evidence of Support?  
Proving the Model  
Model Extensions  
Back to the Roots  
Real-World Examples

## **CHAPTER 11: DETERMINING ROYALTY RATES**

Royalty Rate Considerations  
Royalty Rate Magnitude  
Common Royalty Rate Determination Methods  
Analytical Royalty Rate Determination Process  
Calculating the Value Proposition  
Determining Licensor and Licensee Contributions  
Analytical Method Attack Points

## **CHAPTER 12: CASE STUDY IN IP VALUATION**

A Poor Example of Celebrity Valuation  
A Credible Approach to Celebrity Valuation

## **CHAPTER 13: MANAGING AN ENGAGEMENT**

Project Preparation  
Initial Due Diligence  
IP Analysis  
Market Analysis  
Valuation Modeling  
Valuation Reporting  
Project Support

## **CHAPTER 14: AUDITOR'S REVIEW GUIDE**

Analyzing the Analyst  
Analyzing the Due Diligence  
Report Boilerplate  
Economic Conditions and Nature of the Industry  
IP Utility  
Government Protections  
Functional Realization  
Demand Analysis  
Financial History  
Chronology  
Royalty Rate Analysis  
Income Approach Using Reasonable Royalty Method  
Consideration of Cost Approach  
Use of Market Methods for IP Valuation  
Use of Valid and Reliable Inferential Statistics  
Repeatability