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FINANCING INTELLECTUAL PROPERTY ASSESTS: AN EMPIRICAL ANALYSIS

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Abstract

Amplifying any property needs assessment to be marketable. This paper reads on the prospects of intangible property especially the Intellectual Property (IP) being evaluated in terms of financing by institutions to progressively grow more by widening their business and to make available advances based on IP. Arrangements engaging in the safety measures of intangible property encompassed and facilitated title-holders of IP privileges to comprise a loan of money as more undemanding and protected from passably secured lenders. IP property supported safety measures are nearly all widespread, taking into account the matters of how trademarks and brands are allied to novelty with respect to apps as an IP.

Keywords: **Intellectual Property, Novelty, Assessment, Brands and Financing**

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INTRODUCTION

Intangible property, together with Intellectual Property (IP) privileges, be capable of augment a company's property significance, and being indulgent and assessing these properties will smoothen the progress of apex administration to formulate conversant venture and advertising and promoting resolutions. Superior asset standards possibly will furthermore lend a hand in parley by means of a company's depository and smooth the progress of entrée to acclaim, or facilitate to confer discounted interest rates on acclaim. IP financing, otherwise the employing of IP property (trademarks, design rights, patents and copyright) to achieve entrée to acclaim, is reaching escalating concentration in IP spheres. Multinational Corporations (MNCs) and Small and Medium sized Enterprises (SMEs), are influencing their IP property in substitution for funding, and such advancing establishments across the globe are progressively further broadening their business to endow with advances on the basis of IP. Concomitantly, UN establishments are presently operational in the company of its member states to bring up to date protected financing practices, and thereby making it trouble free for IP title holder to realize right of entry to reasonably priced acclaim [1].

The theme of IP financing, introduced and which was later on extended by Jeremy Phillips' critique “10 Commandments for IP Finance” and the piece of writing by Lorin Brennan and Ben Goodger which investigates recent actions in international guiding principles improvement concerning IP financing at the UN Commission on International Trade Law (UNCITRAL). Corporate apex administration and the ones who sets the plan pursued by a government or business named policymakers worry regarding IP property, or be paying attention to the most up-to-date fashion in financing IP property for the reason that they will not be able to meet the expense of, or to do otherwise.

IP privileges are not only prized possessions but can in addition be imperative basis of financing. The aspiration to augment novelty is an extremely crucial matter for all countries, and entrée to financing is decisive for start-up companies and inventive SMEs [2].

Financing Practices

A large amount of readers are proverbial with conventional IP financing gizmo such as permit through royalties as well as direct sales of IP in case of patents or trademarks. Lately, nevertheless, companies have brought into being new-fangled approaches to hoist finances by means of intangible property [3]. One is by putting up on auction their IP. Auction houses, dedicated in this meadow embrace live and online auction proceedings bigger than a few times every year. An auction facilitates title-holders to put

up for sale their intangible property more rapidly to increase admission to swift liquidity and as well generates a souk for impending purchaser of intangible property which possibly will or otherwise does not subsist. IP auction are structured by means of companies, for instance, Ocean Tomo, IP Bewertungs AG and IP Auctions Inc. In addition to, are available online interactions for IP for example, the technology souk place maintained by Yet2.com and the technology trade switch over maintained by Tynax. An additional technique for exploiting the price of IP is to utilize it as security [4]. Tangible property for instance real estate, equipment and inventory are more often than not, utilized to shelter asset-based loans; however, the securitization of IP can also augment the quantity of accessible acclaim.

In situations where debtors pledge their patents, trademarks or copyrighted workings, the security pool amplifies in price and the prospective for a thriving advance is greater than before. Certain crediting financial institutions to employ IP property as a credit augmenter. The figure of these IP supported dealings is emergent and the augmented currency surge allied by means of the permits of IP is creating a center of interest on Wall Street and financing souks across the globe.

An above-board mortgage is almost certainly the out of harm's way appearance of protected business dealings, but it in addition entails that the IP be allocated to the creditor with a permit being established again to the debtor. The predicament that crop up in this milieu is that the creditor turns out to be the IP holder, and will be in command of over the IP rights [5]. This creates an impending menace for the enduring trade or commerce of the debtor, and moreover for the sub licensees too.

Ever wondered how David Bowie raised US $55 million from 25 pre-recorded albums and lyricist and producer Nickolas Ashford and Valerie Simpson made US $25 million from 247 of their songs. The former being a 10 year property supported bonds for potential royalties on privileges over publishing and master recordings; the latter by copyrights including the hit “Ain't No Mountain High Enough”.

For several years, arrangements engaging in the securitization of intangible assets have facilitated title-holders of IP rights to have a loan of money more undemanding and protected from passably secured lenders. IP property supported safety measures are nearly all widespread in the movie and music production, but the reality being put into practice is escalating in the biotechnology and software businesses. Various, towering profile instances of such dealings comprise the protected royalty group on the copyrights that are owned by eminent musicians.

David Pullman has collectively put these sorts of arrangements, a venture firm that fashioned analogous arrangements for James Brown, the Isley Brothers and also the province of Marvin Gaye. For his responsibility in crafting and promoting the debt security, Pullman was bestowed with an incentive payment of 10 percent of the arrangements' cost. The key buyers of the debt security were institutional patrons, similar as pension supports and insurance corporations as part of their broader horizons

investment portfolios. While it is extensively established that music asset-supported protections has an enormous pact of prospects, the precariousness of the souk and to be deficient of thoughtfulness of the music industry by the speculation population are until now challenges to be conquered sooner than the practice be converted into prevalent.

Asset-supported protection is also finely acknowledged in the turf of patents, in a situation where the patent can be delighted as a viable property on the foundation of the elite legal privileges it corresponds to. There are copious thespians in this souk, starting from accrediting bodies' tranquil of solitary creator like the Fergason Patent Properties LLC, an IP accrediting and expansion company initiated by Dr. James Fergason, an originator in the area of liquid crystal displays, to patent negotiator like the Pluritas, iPotential and IP Value and institutional patent agglomerator like the US-based company Intellectual Ventures [6]. In addition, IP is progressively more occupied in speculation fund behaviors. To illustrate, Altitude Capital Partners is a US $250 million private financing speculation agency which endows in IP property and IP concentrated corporations, casing patents, trademarks, copyrights and royalty area is the corporations vocation with individual IP holders, as well as small and large IP holding corporations.

Altitude, in February 2007, invested in a network security solutions contributor named DeepNines, with returns allied to settlement from the latter's IP earnings and protected by the company properties. Later Altitude harmonized with Goldman Sachs & Co. in April 2008, to put in US $11 million in Intrinsity Inc., an IP technology corporation, designing processor cores based from Texas. David Bowie in 1997 was able to raise US $ 55 millions from 25 pre-recorded albums by bestowing 10-year asset-supported bonds on the foundation of potential royalties on publishing rights and master recordings.

GENRE OF INTANGIBLE PROPERTY

Administration having interest in making use of their IP as an origin of security should get acquaintance with the following intangible property genre prior to negotiations with the credit philanthropist: Cash flow assets: Authorized IP privileges where percentages in the form of royalty expenses are unswervingly a comeuppance to the licensed properties, for example patents, trademarks and copyrights. This is the favored asset group for patrons looking for adequately precious security with ample cash flow for settlement [7]. Assets with hidden value: Non-licensed IP privileges or IP privileges wholly utilized on the inside, for example, lists of customer and database rights. Patrons in finances will wish for appreciating the significance of the IP utilized by the holder and its impending liquidation cost.

An Echelon Assessment

Assessment is an imperative instrument in the course of monetary support on IP properties. Technical assessments are obligatory of intangible property to provide a tip in the fullness of time value of the IP for the rationale of protection. The accessible schemes for IP assessment job are best with individual major patents [8] and brands [9]. Until now, no customary schemes have been urbanized that are normally pertinent to all IP large or modest, on the other hand, corporate sector reporting necessities and assessments for taxation may necessitate valuations.

Brands and Novelty

Taking into description the issue on the how and why of trademarks and brands being allied to novelty, beginning with WIPO on the upfront and down, the tune is that the nexus amid the two is vigorous [10]. The affiliation amid them is a long way from patently obvious. In particular, it is recommended that the various forms of novelty cultivated by brands are established simply in a tapered series of state of affairs, where a sturdy variety may be influenced to shore up a creation extension or, not as much of commonly, a fresh merchandise contour that grows to the altitude of a novelty. Furthermore, this is predisposed to take place most recurrently in the consumer products arena, departing a broad swath of product class unaltered. If this be factual, the accountability exhibited by brands in novelty may be of not as much of substance as over and over again avowed. A brand happens to support marketing and communication techniques that lend a hand in telling between companies from other competitors and method an enduring notion in the psyche of patrons. The chief elements that figure a brand's toolbox contain a brand's identity; brand communication, such as by logos and trademarks; brand awareness; brand loyalty; and various branding strategies. Even though brand identity is considered as the main elementary property to a brand’s equity, the value of a brand’s identity might go archaic devoid of ongoing brand communication [11]. Integrated Marketing Communications (IMC) associates with how brands broadcast a comprehensible reliable point to its stakeholders [12]. The five imperative mechanisms encompasses IMC are advertising, sales promotions, direct marketing, personal selling, public relations [13]. The efficacy of a brand's communication is gritty by confirming the accuracy of the customer’s perception of the brand's anticipated point through its IMC. Although IMC is a broad strategic concept, the main crux of brand communication components are identified to how the brand sends a communication and what important points the brand employs to unite with its customers and thereby building a direct relationship with customers and tailor communications based on app usage.

The Case of Health Apps

Now-a-days smart phones act as a portable global positioning by examining the information from a wireless sensor space on the body to caution on the subject of forthcoming health issues demonstrating blood sugar levels that have been

comprehended by contact lenses, and scheming insulin pump if a diabetic. Fitness following devices in concert with health apps installed on smart phones are the most up-to-date must haves. They are the center of attention of widespread research and progression efforts by tech companies of all types and magnitude, as well as foremost marketing campaigns. Of late, the introducing of smart watches by various manufacturers has drawn the interest worldwide. These devices are fixed with a variety of apps like support for workout and training to gathering information on the physical condition of the user. Such health apps, however, are not only offering tracking of fitness and leisure schemes, but are also likely to have a soaring innovation prospective for the healthcare industry. They may give out to recuperate patient services and might therefore propose enormous prospects in bringing down the costs. Many health apps are available in the market today. From a legal perspective, the marketing of health apps involves not only regulatory questions about their reliability and safety, especially their legal classification as medical devices, but also issues revolving around the advertising and use of health apps. The significance of health apps in medical treatment is rising noticeably. Many health apps are addressed specifically to consumers and often have a lifestyle focal point, for example, apps counting daily steps or giving dietary advice. Lifestyle apps, however, are only one of the possible categories of health apps. There are also health apps with a stronger medical aspect. This is the case when medicinal functions are executed or supported by the app, or where apps are intended for medical specialists, notably also in hospitals. By way of example, an app with a stronger medical aspect would be an app that is capable of reading and displaying a person's body temperature with a clinical thermometer connected to the smart phone. The app also authorizes storage and transmission of the information. Apps designed for medical conditions, such as diabetes, also have a medicinal purpose. Google has developed a contact lens for diabetics that is said to read the blood sugar level in the patient's tear fluid and then transmit the glucose levels in the tear fluid to the smart phone app. Unlike Europeans, people in the US seem to be less hesitant in using health apps, particularly physicians. Several clinical trial projects are already running in the US already, involving physicians monitoring their high risk patients via portable ECG devices that are integrated in the patient's smart phone. This allows the doctor to read and analyze the patient's heart rate and blood pressure at all times. As long as the apps follow the legal standards as mentioned, financing them as an IP is worth keeping in view the benefits and its success in growth rate. Some notable points to really consider and important is that whenever a medicinal product, medical device, procedures, treatments and objects dedicated to a particular disease or illness are obtainable or, in particular, advertised to the public, the necessities of the health apps law must come into picture. For example, it should not be permitted to advertise prescription drugs to consumers. Advertising must be controlled not only in relation to consumers but also advertisements addressed to professionals, such as physicians, pharmacists and hospitals which are subject to restrictions and content control as well. Breach may be subject to unfair competition law and in turn providing injunctive reliefs, an order for the removal of the breach and possibly damages against the advertiser. In addition, healthcare professionals must comply with professional regulations and codes of ethics; by way of example, physicians and pharmacists are subject to codes of professional

conduct that also provide for penalties. Another aspect to consider is that health apps may – like other apps – grant access to third parties in relation to the personal health data collected, either because the provider of the app has direct access to the storage or because, for example, the app is utilizing cloud computing features. When health data is stored in the cloud, certain legal questions arise. When private information is limited to patient secrecy, other things need to be taken into consideration, like the information which is subject to professional secrecy, for example, any communication between doctors, psychologists or other general practitioners and their patients whether can be disclosed or not to third parties. Considering the service providers acting within the practitioner's sphere, the regulators support that this shall not count for providers of IT services like cloud computing. Cloud computing providers cannot keep away from accessing data stored on their systems in the course of performing maintenance tasks. This type of access, however, would meet the criteria as a disclosure to a third party by the practitioner. One alternative to make up the mind in this issue is to implement encryption, which thwarts the cloud computing contributor from being able to view the inside of data stored in the cloud. Hence, for health apps that a patient installs and uses at the proposal of a clinic or instigation of a practitioner and where the app allows access by the app provider or utilizes third party cloud features, an encryption system should be put into practice.

Aligned with this milieu, what is more enthralling is an article titled “Things are Looking App” on March 12, 2016 in The Economist, which materialized. The consequence is that the affiliation amid brands and novelty may be of extra potential, principally when medical apps are concerned. In terms of unprocessed numbers, the medical apps arena is igniting. There are at the present over 165,000 health-associated apps that sprint on only two bigots namely IOS and Android. It is estimated that by 2017, health-associated apps will be downloaded over 1.7 billion times. Regardless of these extraordinary numbers, the veracity is that a small amount of such apps are ever actually being put to use. The appealing issue that crops up is how an app cultivator in the health arena can expand market traction. One might be lured to trust that new artists will surface as the transmitter of flourishing health-concerned apps sprint on both smart phones and wearable. Further expected, however, the definite path to marketable accomplishment will be all the way through the influence of an excellently placed health brands into the health-app business. In the words of The Economist, “The disjointed, embryonic market appears probable to blend in time, with its most showing potential startups conceivably being bought by, or entering coalition with, faithful health brands, that would help it to comprehend its generous potential to facilitate professionals and other beneficiaries or stakeholders like the patients, doctors, health insurers and researchers.” The outcome is that the big health-associated brands will get superior during the course, while beginners, looking to market a pioneering health-concerned app will have a sizeable encounter in doing so. Declared if not, health associated apps are diverse from smart phone amusement apps in the form of Angry Birds and Candy Crush Saga. There are no less than two reasons for this. The first being the purpose of trust in the brand concerned is inextricably disheveled with the health occupation presented by the app. Brand gurus are articulate of consumer trust in the background of the potency of

whichever brand, but when health is at stake, the function of trust is exaggerated. If a patron loses the conviction in his breakfast cereal brand then he may have pessimistic corollary for the brand vendor as the patron moves on to a challenging creation, but it might not engage in a contemplation of wellbeing and security. When these trepidations are a facade and hub, the vigor of a trusted brand turns out to be more significant for all apprehensions. The second being, the responsibility of the brawny brand possibly will be a fractional replacement for managerial directive of health-associated apps, no less than in the short term, where such directives are still in the determining stage. As long as this is so, a sturdy brand can endow with a grade of defense for the patron on the subject of the dependability of the merchandise. Nonetheless that brands and novelty could perhaps be not as much of magnitude and substance as regularly assumed. Nevertheless an impending responsibility of sturdy brands in nurturing novelty in the health-app industry exhibits that the theme is further fine distinct than he could have one time deliberated. Contemporary efforts to widen broad-spectrum souk approaches to assessment, takes into account, the American Stock Exchange Equity Index supported on the merit of corporate IP privileges, and campaigns for an IP swap over in Chicago to facilitate patrons and corporate involvement in a broad-spectrum of IP associated monetary yields for instance, the opposite equity listing/co-listing, IP associated indexes, futures and alternatives, IP supported money owing mechanisms, patent rich corporate' Initial Public Offerings (IPOs) and new IP supported exchange traded merchandise. In 2007, the German Institute for Standardization (DIN) made available its "General Principles of Proper Patent Valuation" (PAS 1070 (SAB)) to appraise the eminence of assessment reports and proficient appraisals. DIN then fashioned an operational board and commenced a worldwide homogeny mission on patent assessment at the International Standardization Organization (ISO), which employs a board to build up an ISO standard for patent assessment, if all significant and associated groups articulate attention to ISO in the course of their national standardization organizations.

A Propos on the Authorized Scaffolds

Commencing on a lawful perception, it is fascinating to make a note of that a good number of jurisdictions until now do not present passable lawful conduit for monetarily supporting intangible property, including IP. While quantities of segments of academe are conscious of these inadequacies, it becomes visible that there is not until now satisfactory political stress to bring up to date these authorized scaffolds. The subject matter of monetarily supporting IP is presently the area under discussion for strategy advancements at the worldwide level [14]. An abridgment of trade and commerce and government achievement has been made obtainable by the International Chamber of Commerce in Section B-V. In 2000, the United Nations Commission on International Trade Law (UNCITRAL) recognized an operational assembly to concentrate on protection measure privileges in private property, as well as intangible property [15]. The operational assembly was endowed with the territory to amplify acclamation for a well thought-out legal administration for protection of rights in merchandize affianced in marketable activity, together with intangible property, and to recognize the concerns to

be addressed, as well as the form of the mechanism and the faithful reach of property that could dole out as security [16]. The alternative to go on board on employment in the locale of tenable credit regulation was taken in retort to the necessity for a resourceful legal regimen that will organize legal impediments to tenable credit and possibly will as a consequence have an advantageous blow on the accessibility and the price of credit. In 2007, UNCITRAL completed a Legislative Direct that holds suggestions for a consistent legal organization for tenable monetary support, which as well swathes IP financing. This Legislative Direct have got to be looked upon in the milieu of former guiding principles by UNICTRAL, counting the UN Convention on the Assignment of Receivables in International Trade and the Model Law on Cross-Border Insolvency.

The Revelation for Monetary Support of IP

A thriving outlook for monetarily supporting IP is a historic demonstration in advancing the expansion of the IP based economy [17]. Enrichment of a corporate credit source: As catalogues, receivables and, progressively more, IP will turn out to be further marketable, and extra useful to augment entrée to acclaim, and to bring down the price of accessing acclaim. Lucidity in the acclaim classification, and fervor in money markets, if put into practice, a worldwide acclaim registration arrangements such as that visualized by the UNCITRAL Legislative Direct on Secured Transactions will endow with authorized conviction for lenders, by providing intelligibility as regards the debtor's acclaim constitution, and providing visibility to protected dealings. For market contributors, monetary support of IP will be of prior magnitude to accomplish their cost-effective targets.

CONCLUSION

The world across is getting familiarity with the calamities in economic augmentation that evidence stumpy interest rates and quantitative respite have yet to be determined [18]. Coupling the strength and volume of the monetary support based services, organizations in the camaraderie of the IP protected intellectual wealth of knowledge bound corporations possibly will be a component of the explanation. An important feature in disengaging this prospective is to make certain that entrée to wealth and resources is alleviated for those cost-effective entities by means of the supreme intensification prospective, specifically startups and SMEs. All the imperative thespians from various organizations including monetary supported services, other specialized bodies, educational institutions, governments and intercontinental organizations akin to WIPO will have to pertain to their relevant dexterities and wealth to apprehend this impending for financially viable growth and public well-being. With the purpose of and subsequently to every part is the reason the IP milieu was fashioned in the preliminary place.

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