



IPmetrics[®]
Intellectual Property Consulting

Leveraging IP

via the Capital Markets

Types of Intangible Assets

Obvious Intangibles:

- **Trademarks, Patents, Copyrights**

Less Obvious Intangibles:

- **Slogans: “Just Do It”, Characters, Package Design**

Obscure Intangibles:

- **Non-Compete Clauses, Proprietary Sales Methods, Engineering Designs and Drawings**

Leveraging via Capital Markets

- **Relatively unexplored method of leveraging IP**
- **Focus of IP leveraging has been on expansion of opportunities**
- **Focus of Capital Markets is risk management and efficient use of cash flow**
- **As licensing increases, cash flows catch the eye of Wall Street**

Risk Management

- **Infringement, obsolescence and cash flow risks can be transferred to lender / bondholder.**
- **Financing has to be *non-recourse* – specific cash flow and assets utilized for debt payments.**
- **E.g., General obligation bond vs. revenue bond.**

Cash Flow Management

- **Trade an ongoing revenue stream for a lump sum cash payment.**
- **Fund new operations: investment return s/b higher than cost of funding.**

Typical Advantages of Borrowing

- **Non-dilutive for current equity holders.**
- **Interest payments are tax deductible.**
- **Cost of financing can be favorable when compared to venture capital discounts of 25% to 50%.**

Two Types of Assets

- **Cash Flow Assets: specific cash flow.**
 - Licensed, royalty payments
- **Implied Value Assets: internal use, obscure.**
 - Customer lists, trade dress, complementary to front line assets
 - Typically used to provide a cushion on specific lending

Focus: Lender's Security

- **Sufficient Value as Collateral.**
 - From Lender's view as potential owner
- **Sufficient Cash Flow to service the loan.**
 - If recourse, from general operations
 - If non-recourse, from specific cash flow
- **Cash Flow: History, consistency, growth, potential risks – credit rating of *LICENSEE*.**

Lender's Requirements

- **Safeguard Against Bankruptcy – Special Purpose Entity.**
 - Wholly owned subsidiary of IP owner
- **Escrow Account to handle payments.**
 - All Royalty payments flow into Escrow Account
 - Loan or asset backed security is serviced – excess to SPE

Due Diligence

- **Some features similar to typical loan:**
 - Title Search
 - Credit History
 - Cash Flow Verification
 - Valuation of Collateral
- **Some new:**
 - Patent Validity
 - Specific asset aspects such as obsolescence, competition, product life cycle

For Additional Information

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