CFA Society Hong Kong

Pilot Patent Valuation Support Scheme
Guidelines for Quantitative IP Valuation Reports

PURPOSE

1. These Guidelines set out the essential requirements for quantitative valuation of intellectual property ("IP")[1] assets and other types of intangible assets under the pilot Patent Valuation Support Scheme ("Scheme") and the minimum information to be included in a quantitative valuation report under the Scheme. How, and to what extent, IP assets are to be valued, as well as what other material information is to be set out in a quantitative valuation report in a particular case, are ultimately subject to the professional judgment of the valuer.

DEFINITIONS

2. In these Guidelines: -

"approved entity"	means an entity that is granted funding under the Scheme to engage an independent qualified valuer to conduct quantitative valuation of the entity's IP assets;
"applicable valuation standards"	refers to the standards and guidelines on valuation of IP based on the International Valuation Standards as published and amended from time to time (if any) by the professional institution of which the valuer is a fellow or member;
"associated company"	in relation to a body corporate, means (i) a subsidiary of the body corporate, (ii) a holding company of the body corporate, or (iii) a subsidiary of such a holding company;
"International Valuation Standards"	means the valuation standards as published and amended from time to time by the International Valuation Standards Council;
"professional institution"	refers to any professional body or institution enumerated in paragraph [3(a)(i)] hereinbelow;
"subject IP assets"	means the IP assets valued by a qualified valuer under the Scheme;
"should"	means it is expected to comply with the relevant requirement unless it can be demonstrated that alternative action(s) are sufficient;

[1] IP generally refers to creations of the mind in a range of different forms of intangible property covering patents, trade marks, registered designs, copyright, plant varieties, trade secrets etc., which are protected by law. In the context of valuation, IP is a subset of intangible assets under the International Valuation Standards.

“valuer” means the individual who conducts quantitative valuation of the subject IP assets or other intangible assets of an approved entity and compiles the relevant valuation report under the Scheme.

INDEPENDENT QUALIFIED VALUER

3. Each valuation under the Scheme must be conducted by an independent qualified valuer. In this connection,

(a) a qualified valuer is a valuer—

(i) who is a fellow or member of any of the following professional bodies or institutions throughout the provision of valuation services to an approved entity—

- CFA Society Hong Kong;
- The Hong Kong Institute of Certified Public Accountants;
- The Hong Kong Institute of Surveyors; or
- Royal Institution of Chartered Surveyors;

(ii) whose provision of valuation service is regulated by or subject to the disciplinary procedures of any relevant professional body or institution;

(iii) whose name is on the list of designated valuation service providers issued and updated from time to time by any of the professional institutions throughout the provision of valuation services to an approved entity, available at—

- CFA Society Hong Kong;
- The Hong Kong Institute of Certified Public Accountants;
- The Hong Kong Institute of Surveyors;
- Royal Institution of Chartered Surveyors

[Note: The lists of designated valuation service providers are being prepared by the relevant valuation bodies.]

(iv) who, or where the valuer provides the valuation services to an approved entity through a firm or company, the firm or company, carries on business in Hong Kong[2] by providing valuation services for properties (including but not limited to IP assets).

(b) a valuer engaged by an approved entity is not considered as independent where—

(i) the valuer is a shareholder, director, officer or servant of the approved entity or an associated company thereof;

[2] Including a business registered under the Business Registration Ordinance (Cap. 310).

(ii) the valuer provides the valuation services to the approved entity through a firm, and any partner of such firm is a shareholder, director, officer or servant of the approved entity or an associated company thereof; or

(iii) the valuer provides the valuation services to the approved entity through a company, and such company is an associated company of the approved entity, or any shareholder, director or officer of such company is a shareholder, director, officer or servant of the approved entity or an associated company thereof.

GENERAL PRINCIPLES

4. A valuation report must contain all material details of the basis of valuation, the valuation method(s) applied, and the conclusion/ result reached.

5. Valuation conducted under the Scheme must at all times comply with the International Valuation Standards, and any additional applicable valuation standards provided that such standards are consistent with the International Valuation Standards.

6. A valuation report must be signed by the valuer and, where the valuer provides valuation services through a firm or company, by the authorized signatory of the firm or company.

MINIMUM CONTENTS OF A VALUATION REPORT

7. Without limitation to the generality of the aforesaid, this Part E sets out the minimum information to be included in a valuation report. A "Summary of Content of an IP Valuation Report" is attached to the **Annex** of these Guidelines for reference.

8. Description of valuer

8.1. The name, address and professional qualification(s) (including but not limited to any relevant licence, registration and/ or professional membership) of the valuer, the name of the firm or company through which the valuer provides valuation services (if applicable) must be mentioned in the valuation report.

9. Scope of valuation

9.1. The valuation report must clearly specify the name of the approved entity, the agreed scope of work, the purpose of the valuation, the recipient to which the valuation report is addressed to as instructed by the approved entity (if any)[3], any intended users of the valuation report other than the approved entity, whether the report may be used for any purpose other than the stated purpose of valuation, and the subject matter of valuation.

[3] For example, the valuation report may be addressed to a bank assessing the loan application of the approved entity.

9.2. The valuation report must identify the valuation standards (i.e. the International Valuation Standards and the applicable valuation standards, if any) which the valuer adopts in conducting the valuation, and also include a statement of compliance of such valuation standards.

9.3. The valuation report must contain a declaration that the valuation is conducted by an independent qualified valuer, and a statement that the valuer has considered and conducted the valuation in accordance with these Guidelines as appropriate.

10. Identification of the subject IP assets

10.1. The subject IP assets covered and addressed in a valuation report may comprise a single IP or a pool/ portfolio of IPs which varies from case to case.[4] The valuation report must identify the subject IP assets and should include the following information of each IP:

(a) description of the IP;

(b) owner(s) of the IP;

(c) where the registrable IP is registered, the registration particulars, including but not limited to—

(i) the registration number;

(ii) the jurisdiction(s) of registration; and

(iii) the status of the registration, including whether the validity of the registration is being disputed, and if so, the particulars of the disputes, including the legal proceedings involved (e.g. opposition, revocation, invalidation);

(d) where the IP is not registrable, a statement stating—

(i) that the protection period of the IP has not expired; and

(ii) whether the validity of the IP is being disputed, and if so the particulars of the disputes, including the legal proceedings involved;

(e) details of any use of the IP (e.g. any grant of licence(s) of the IP);

(f) details of any mortgages or other encumbrances created against the IP; and

(g) any other matter which may materially affect the value of the IP (including but not limited to the particulars of any past or current investigations, litigation or other proceedings, and any material restrictions on the use of the IP).

11. Valuation method

[4] Whether each individual subject IP asset is to be valued separately or whether the subject IP assets are to be valued as an entire portfolio should be specified in the terms of engagement.

11.1. The valuation report must identify the method(s) (e.g. income, market or cost approach) adopted in conducting valuation of the subject IP assets (or any part thereof) in accordance with the purpose of valuation, and the reasons or rationales for adopting such method(s).

12. Information and assumptions relied on

12.1. The valuation report should set out all data and information, as well as the literature(s) which the valuer has relied on in conducting the valuation, the sources of such data, information and literature(s), and the research, investigations (e.g. through interview with the approved entity's management on whether the approved entity has the expertise to commercialize the subject IP assets) or verification works (if any) conducted by the valuer.

12.2. Where the valuer has relied upon data and information supplied by the approved entity, the valuer should state the same in the valuation report and describe the extent to which the valuer has independently verified such data and information.

12.3. Where necessary for conducting valuation, the valuer may need to obtain independent legal or technical advice. In such circumstances, the valuer should disclose how and to what extent the valuer has taken into account such advice in the valuation process.

12.4. In appropriate cases, the Hong Kong Technology and Innovation Support Centre ("HKTISC") would provide a qualitative patent evaluation report on a relevant patent granted in Hong Kong (the "HKTISC Report") prepared by the patent examiner(s) of the Intellectual Property Department based on the national standard under the Guidelines for Patent Evaluation (GB/T 42748-2023, as revised or amended from time to time). The national standard uses legal, technical and economic value indicators to analyze the overall quality of a patent in a multi-dimensional and systematic manner, covering the scope and robustness of right protection, extent of technological breakthrough, remaining economic life, competitive landscape, market application, and degree of utilization or commercialization, with a view to facilitating the quantitative valuation to be conducted on the relevant patent(s). If the HKTISC Report is available, the valuer must consider, and should as appropriate, refer to or take into account the evaluation in the HKTISC Report in conducting the valuation, and must also include a statement in the valuation report that the HKTISC Report has been duly considered. The valuer may, if he sees fit, attach a copy of the HKTISC Report to the valuation report.

12.5. The valuation report must disclose all assumptions (whether general or special) made by the valuer and those provided by the approved entity in the course of the valuation, which may include quantitative assumptions such as the revenue forecast, discount rate and economic life of the approved entity's product(s).

12.6. Where necessary, the valuation report should include appropriate statements to alert the recipient of the valuation report of the need to carefully consider the nature of such assumptions.

13. *Analysis and valuation result*

13.1. The valuation report should include sufficiently detailed analysis conducted by the valuer which enables the recipient of the valuation report to understand the scope, process and result of the valuation.

13.2. Where applicable, such analysis should include:

(a) analysis of the industry, technology and/ or market, and the approved entity's product(s) and/ or service(s), to which the subject IP assets are applicable;

(b) analysis of how the subject IP assets are connected to the approved entity's business strategy and contribute to its competitive edge (e.g. by taking into account the protection scope and period of the subject IP assets);

(c) sensitivity or scenario analysis on key quantitative assumptions (as mentioned in para. 12.5 above) to demonstrate how variations in these inputs impact the assessment of the valuation result;

(d) details of the valuer's investigations and analysis in conducting the valuation; and

(e) explanation on how the valuation method(s) are applied to reach the valuation result.

13.3. In addition, the valuation report should, where feasible, specify the valuation result in absolute figures and words. The valuer is generally not encouraged to use a range of values to specify the valuation result.

13.4. The valuation report should also specify the valuation date and report date. Where the valuation is prepared for a potential transaction (e.g. grant of IP-backed loan), the valuation date should be close to the date of the transaction and should take into account all relevant information which may materially affect the valuation between the valuation date and the date of the transaction.

13.5. Where the valuation report is used for financing purpose, the valuer should, where appropriate, consider providing valuation of the subject IP assets under alternative bases of value (e.g. for stress testing or assessing their ability to generate profits for the financial institution (such as by reselling or licensing) if the approved entity is liquidated) to assist financial institutions in assessing downside collateral risk, as a supplement to the primary valuation.

14. Limitations, disclaimers and risks

14.1. The valuer must identify any limitation that may affect the valuation process or the value of the subject IP assets and explain their effects in the valuation report.

14.2. The valuer should include any disclaimer and identify any material risk (including any error, omission, bias or inadequate documentation arising within the valuation process) or uncertainties which may affect the valuation process or the value of the subject IP assets and describe the process and procedures (if any) used by the valuer to mitigate such risks and uncertainties.

14.3. Where the valuation report is used for financing purpose, the valuer should state that the valuation report is for reference only and that the financial institution is free to decide on how to make use of the valuation report.

Summary of Content of an IP Valuation Report

Below is a sample of the format of a valuation report with a brief summary of the minimum information to be included in a valuation report for illustration and reference. **The valuer must not solely rely on this Annex and must refer to the main contents of these Guidelines for further details.**

A. Description of valuer

- Name of valuer
- Name of valuation firm/ company (if applicable)
- Address of valuer
- Professional qualification(s) of valuer

B. Scope of valuation

- Name of the approved entity
- Agreed scope of work
- Purpose of the valuation
- Recipient(s) of the valuation report (if any)
- Any other intended users of the valuation report
- Whether the report may be used for any other purpose
- The subject IP assets
- Standard(s) based on which the valuation is conducted
- Statement of compliance with the valuation standard(s)
- Declaration that the valuation is conducted by an independent qualified valuer
- Statement that the valuer has considered and conducted the valuation in accordance with these Guidelines as appropriate

C. Identification of the subject IP assets

- Description of the IP
- Owner(s) of the IP
- Registration particulars of the registrable IP or a statement on validity of the IP (if it is not registrable)
- Details of use of the IP (including grant of licence(s)) (if any)
- Details of mortgages and other encumbrances (if any)
- Any other matters which may materially affect the value of the IP

D. Valuation approach and method

- Valuation approach and method(s) adopted (including reasons and rationales for adopting such method(s))

E. Information and assumptions relied on

- All data, information and literature(s) relied on by the valuer
- Sources of such data, information and literature(s)
- Independent advice obtained by the valuer (if any)

- Details of investigations, research and verification work conducted by the valuer (if any)
- Statement on due consideration of the HKTISC Report (if provided)
- Attachment of the HKTISC Report (if provided)
- General and special assumptions relied on by the valuer (including quantitative assumptions such as the revenue forecast, discount rate and economic life of the approved entity’s product(s))

F. Analysis and valuation result

- Analysis conducted by the valuer, including (where applicable):
- Analysis of the industry, technology and/ or market, and the approved entity’s product(s) and/ or service(s), to which the subject IP assets are applicable
- Analysis of how the subject IP assets contribute to the value of the approved entity’s business
- Sensitivity / scenario analysis of key quantitative assumptions
- Details of the valuer’s investigations and analysis
- Explanation on how the valuation method(s) are applied
- Valuation result (in absolute figures and in words where feasible)
- Valuation of the subject IP assets under alternative bases of value
- Valuation date
- Report date

G. Limitations, disclaimers and risks

- Limitations
- Disclaimers
- Material risks or uncertainties, and any relevant risk / uncertainty mitigation procedures

H. Signatures of the valuer and the authorized signatory of his firm or company

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