

How IP can boost the health of your pension fund

A Guest Article by Stuart Whitwell
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Managing deficits and raising finance

Intellectual property (IP) is invariably a company's most valuable asset class. It includes:

- trademarks
- patents
- copyright
- contracts
- databases
- brands
- reputations
- know-how
- customer relationships.

Two relatively new developments are being used to leverage the value of this IP. The first – mainly used by large corporations – is to transfer rights in the IP to an occupational pension scheme, thereby reducing company guaranteed pension deficits and provide additional security to trustees.

The second, which is more relevant to SMEs and company directors, is to sell the IP to the pension scheme for investment finance.

The process of valuing the IP is similar for both schemes. The first step is to identify a suitable bundle of IP assets that collectively enhance and support value. For instance, in order to maintain the value of a trademark (or brand), other assets such as customer contracts, databases, design rights and copyright may also be required.

While IP valuations require the involvement of specialists, the methodologies are fairly standard and accepted by regulatory bodies.

1. Using IP to reduce pension deficits

Company pension deficits have never been higher, putting employers under onerous obligations and trustees in precarious situations. IP is increasingly being used as a contingent asset, owing to its ease of transferral and its high value, and because it is usually covenant free.

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For example:

- John Lewis contributed shares in Ocado.
- Interserve used Private Finance Initiative (PFI) contracts.
- ITV used shares in a subsidiary.
- GKN used a mix of assets, including its trademark.

The IP is valued and transferred to a special purpose vehicle (SPV) over which the pension fund has rights in the event of default. The assets are transferred at lower rates than market value, to provide headroom and additional security for trustees.

The company continues to use the IP by paying a royalty to the SPV for its use, with the rights transferring back to the company once sufficient payments have been made.

This system has many advantages for both corporates and trustees. For corporates, the advantages are:

- a reduced deficit
- lower annual cash contributions
- increased cash flow
- an accelerated tax benefit through providing a large upfront contribution.

For trustees, the advantages are:

- increased security in the form of control over a valuable asset that they can sell in the event of default, rather than being left with nothing
- a company that is healthier and better able to meet its ongoing obligations
- an immediate reduction in the deficit.

2. Using IP to raise finance from pension funds

SMEs often struggle to raise investment finance as banks are unwilling to lend, particularly against IP. Many SMEs have little in the way of tangible assets, and these – property, for example – will already have finance secured against them. What they do often have is valuable IP.

The directors' pension scheme – often a small self administered scheme (SSAS) – can be a good source of finance, as it is able to acquire and invest in assets

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and authority can be readily granted. Once the IP is valued the pension fund acquires it, thereby injecting cash into the company.

The company also continues to use the IP under licence, and royalty payments, which are set at market rate, top up the pension fund.

Innovative schemes such as these are giving business a greater range of options for leveraging the value that is inherent in their IP and is usually lying idle.

Stuart Whitwell
Joint Managing Director – Intangible Business

If you would like more information on any of the points covered in this Guest Article, please contact **TCii** on **020 7099 2621**.