

Patent valuation is the process of determining the monetary value of a patent or a portfolio of patents. This is not merely about calculating a number but understanding what a patent contributes to a business or could potentially contribute to various scenarios. It involves both qualitative and quantitative analyses and is influenced by legal, technical, and market factors.

Patent valuation in the Indian market presents a unique set of challenges and nuisances that can influence the accuracy and applicability of valuation outcomes. These challenges are from several aspects of the market, legal framework, lack of professionals, and the current IP ecosystem in India. There is a growing awareness and appreciation for intellectual property in India, but it still lags behind some of the more developed markets where IP generates significant economic value. This cultural aspect can affect both the development of IP and its valuation, as the ecosystem for commercializing technology through patent licensing and sales is still at developing stage in India.

India has established several valuation standards primarily for financial assets, which are also applicable in various contexts, including intellectual property and specifically patents. India has first introduced **Registered Valuers and Valuation Rules, 2017** under the Companies Act, 2013. The Ministry of Corporate Affairs (MCA) introduced these rules to regulate the valuation of assets, including intangible assets. **Institute of Chartered Accountants of India (ICAI), Institute of Company Secretaries of India (ICSI), Insolvency and Bankruptcy Board of India (IBBI),** and Securities and Exchange Board of India (SEBI) have also developed valuation standards to provide frameworks and procedures for valuing assets, including patents. These standards ensure consistency and transparency in how valuations are performed by its members. Registered Valuers and professionals who must follow these rules when conducting valuation assessments.

While the specific guidelines for patent valuation aren't detailed in these standards, the principles can be applied. From these

standards, valuing a patent may involve:

Determining the Purpose: Why the patent is being valued—whether for a sale, licensing, litigation, or financial reporting.

Choosing the Methodology: Common methods include the cost approach, market approach, and income approach. The choice depends on the availability of data, the nature of the patent, and the valuation purpose.

Considering Legal and Market Factors: The patent's legal standing, the competitive landscape, regulatory environment, and market potential are crucial for valuing the same.

Considering Technical and Strategic Factors: More innovative and less easily circumvented patents carry higher value. Stage of development, technological significance, and having a portfolio in the technical domain are generally more valuable.

Professional Judgment: Valuers must use their professional judgment, factoring in industry practices, economic conditions, and technological relevance.

However, patent valuation is significantly influenced by Indian cultural and institutional challenges that influence how patents are perceived, utilized, and valued within the local ecosystem. These challenges are divided into cultural factors, which affect how intellectual property is appreciated and strategically used, and institutional factors, which arise from the operational framework and processes involved in managing and valuing patents.

1. Cultural Challenges:

- **Low Awareness and Education:** There's a general lack of awareness among SMEs, individual inventors, investors, banks, and funding and academic institutions about the strategic value of patents.

- **Perception of IP:** Intellectual property is often seen more as a cost than an investment, which can deter patenting efforts.

- **Risk Aversion:** There is a general reluctance to engage in patent enforcement and commercialization activities due to uncertainties.

2. Institutional Challenges:

- **Administrative:** Issues like backlogs in opposition matters, varying quality of examination, lack of understanding on IP mortgage terms by banking system, lack of implementation of IP knowledge at corporate and administrative levels are undermine the value of patents.

- **Lack of Expertise:** There is a shortage of professionals skilled in the legal, technical, and financial aspects of patent valuation.

- **Judicial System:** The lengthy and costly litigation process, along with inconsistent rulings, and non-valuation-based judgement of IP matters create uncertainty of patent enforcement and accordingly the valuation of the patent.

Addressing these challenges involves enhancing IP education, improving patent office operations, developing specialized valuation expertise, and reforming the banking and judicial system. These improvements are essential for fostering a robust environment where patents are not only accurately valued but are also strategically utilized as business assets.



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