

VALUATION OF INTELLECTUAL PROPERTY ASSETS (2010) by Akshat Pande, Eastern Law House Private Ltd., 54 Ganesh Chunder Avenue, Kolkata 700013. Pp. 24 + 387. Price: Rs. 550/-.

INTELLECTUAL PROPERTY (IP) is a subject that was not heard of by most policy makers till late 1990s and the aspect of valuation of IP assets is perhaps still not known or may be not seriously taken by the policy makers. IP laws regulate the creation, use and exploitation of mental or creative labour.<sup>1</sup> The growing interest in intellectual property may be attributed to the fact that in the last decade or so, intellectual property law has come to be widely viewed as an area of considerable economic and social importance.<sup>2</sup> The book under review is an attempt to explain the economics of IP and argues that valuation of IP is imperative to business today. The book has been divided into 4 parts and contains 12 appendices. Broadly, it seems that the author must have faced the problem of selecting the topics and, therefore, the analysis of many aspects has been done in a summary manner.

Part I of the book is introduction which examines the need for valuation of IP assets, explains economics of IP and describes features of IP assets. It generates interest by establishing need for valuation of IP in the areas of merger and acquisition, taxation and transfer pricing, corporate reporting, *etc.* Chapter 2 examines the link between IPR and monopoly and it also explains the balance between incentive to create and diffusion of the result obtained. It examines the economic concepts of excludability and rivalry of goods in the context of IP goods. Chapter 3 brings to fore the discussion on aspects of IP assets, *viz.* protection, duration, transferability, enforceability and identifiability.

Part II discusses the legal underpinnings, chapters 4, 5 and 6 explain the basics of trademark law, patent law and copyright laws, respectively. Chapter 7 discusses the relevant provisions of foreign exchange laws and taxation laws having a bearing on the valuation process of IP assets It

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1. Lionel Bently and Brad Sherman, *Intellectual Property Law* 1 (Oxford University Press, 2004).

2. *Id.* at 3.

raises some interesting questions as such whether IP assets are goods or services. It answers questions taxation on electronic transmission of software. The relevant provisions of the Finance Bill, 2008 and the Custom Act, 1962 have been explained. The Indian and foreign cases have been extensively analysed to explain the issues. Chapter 8 explains the importance of valuation in claiming damages in a court of law. Case studies form the basis of this chapter.

First two parts of the book generate sufficient interest in the reader to learn the processes and methodologies of valuation which are detailed in part III. Chapters 9 to 13 bring to fore the discussion on issues of valuation process and deliverables,<sup>3</sup> market value method,<sup>4</sup> valuation based on cost value of IP asset,<sup>5</sup> valuation based on income value of IP asset,<sup>6</sup> royalty rate methods,<sup>7</sup> rule of thumb approach<sup>8</sup> and hypothetical negotiation method.<sup>9</sup> One of the important aspects of part III is that it attempts to explain the methods of valuation by way of easy to understand figures, tables and graphs. Case studies further help in clarifying the methods. Chapter 14 gives an account of modern methods of valuation which are improvement over traditional methods such as income method.

Part IV discusses issues such as the long term objectives of business enterprise in the form of value creation and IP asset management. The majority of assets held by top companies of the world today constitute intellectual property assets.<sup>10</sup> Thus, the relevant question which has been answered in part IV is how should a company manage its intellectual assets so as to derive the maximum benefit.

The appendices at the end of the book make it a ready reference for many purposes. There are 12 appendices which contain all the relevant documents having a bearing on the issue of valuation of IP assets. They contain provisions of the Income Tax Act, 1961, the NSE Listing Agreement, Accounting standards, Regulation 26 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulation, 2009, the Technology Transfer Block Exemption Regulation

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3. Akshat Pande, *Valuation of Intellectual property Assets* (2010), chapter 9.

4. *Id.*, chapter 10.

5. *Id.*, chapter 11.

6. *Id.*, chapter 12.

7. *Id.*, chapter 13.

8. *Ibid.*

9. *Ibid.*

10. *Id.* at 196.

(772/2004), the SOX Act, 2002, the Council Directives 78/660/EEC and 83/349/EEC, the Trade Marks Act 1999, the Patent Act 1970, the Copyright Act, 1957, the Foreign Exchange Management (Current Account Transaction) Rules, 2000, the Finance Bill, 2008, the Customs Act, 1962, the Central Excise Act, 1944 and the Code of Civil Procedure, 1908.

The book attempts to explain the subject by creating a number of headings in every chapter, the coverage seems to be very extensive. One obvious problem with the book is that it lacks details at many places. It seems that the book has been written with the presumption that the reader knows the basics of IPR, taxation law, business laws, economics and accounting, *etc.*, which is not true in case of many readers. It appears to be slightly ambitious to include all the issues in a book of less than 400 pages. Bibliography given in the beginning of the book is useful for those who wish to learn the subject more, but, at the same time, it is felt that footnotes and a more detailed subject index would have been more useful for the reader.

The book under review is a sincere attempt to explain the new area of valuation of IP assets and useful to people working in various sectors. The professionals like lawyers, chartered accountants, company secretaries and professional valuers may also find this book useful. Considering the difficult nature of the subject matter, the present book on valuation of IP has been appropriately valued and priced.

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