How to maximize
the value of your IP
Introduction
For more than 130 years, Novagraaf has been helping iconic brands and innovative organisations around the world to power their competitive advantage by delivering a connected IP perspective.
Together we take IP further

Local presence, global reach

- Sophisticated IP strategies
- Tailored IP prosecution
- Global IP support services
- IP software and tools

UNITED STATES | THE NETHERLANDS | BELGIUM | FRANCE | SWITZERLAND | UNITED KINGDOM | GREATER CHINA | JAPAN

www.novagraaf.com
Novagraaf combines legal, administrative and commercial capabilities to power your competitive advantage and optimise the business impact of your IP assets. From strategy development to sophisticated IP management tools and systems, we offer a fully connected IP perspective.

**Trademarks & Domain Names**
Targeted support throughout the entire trademark life cycle; from brand creation and trademark registration to domain name management, audits, licensing, due diligence and sale.

**Strategy**
Make the most of the time, money and resources invested in innovation and brand creation by aligning your IP strategy with your commercial objectives.

**Designs**
A design registered correctly can provide legal certainty and a cost-effective route to protection in fast-moving industries.

**IP Technology & Tools**
Strategy development, managing to budget and mitigating risk call for smart technology and secure IP data management.

**Patents**
Achieve market potential and ensure competitive longevity by maximising your patent assets and R&D spend.
Introduction to TMs
What is a trademark?

Functions

- Identification / origin function - guarantee to the relevant public that products or services originate from a particular undertaking;
- Communication, advertising, and investment/ goodwill function.

Legal point of view

- An exclusive right;
- An absolute, subjective right;

- A trademark right enables the proprietor to act upon others that use an identical or similar sign for identical or similar goods and/ or services;
- Proprietors of trademarks ‘with a reputation’ enjoy a broader level of protection.
Different kinds of marks

- Marks for goods
- Marks for services
- Individual mark
- Certification mark / Collective mark
Types of trademarks

- Word mark: Coca Cola
- Word-/device mark
- Device mark
- Packaging layout
Other types

- 3D marks
- Slogans
- Colour marks
- Sound marks (the first 9 tones of ‘Für Elise’)
- Hologram marks
- Multi media marks (for example Novagraaf’s Benelux multi media mark)
IP and finance
Globalisation of IP follows economic globalisation

IP teams face an increasing complexity in legal and managerial tasks

IP departments are under pressure to control budgets and improve operations (processes, people) and technology (automation, digitalisation, seamless integration with suppliers)
Components of S&P 500 market value

<table>
<thead>
<tr>
<th>Year</th>
<th>Intangible Assets</th>
<th>Tangible Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td>1975</td>
<td>83%</td>
<td>17%</td>
</tr>
<tr>
<td>1985</td>
<td>68%</td>
<td>34%</td>
</tr>
<tr>
<td>1995</td>
<td>32%</td>
<td>68%</td>
</tr>
<tr>
<td>2005</td>
<td>20%</td>
<td>80%</td>
</tr>
<tr>
<td>2015</td>
<td>16%</td>
<td>84%</td>
</tr>
</tbody>
</table>

Source: Intangible Asset Market Value Study 2017

Creating value & monetization = 9.5%

Distribution in % of time spent on IP portfolio
IP and finance

Finance professional

- Cash
- Budgeting

- Value
- M&A
IP and finance

Example

• M&A assets -> you buy a company with IP
  • IP = value

• How do you know if the IP is sustainable?
  • Is the IP properly registered?
  • Is the assignment of IP assured in the acquisition?
How do I make sure I own the relevant IP?
**IP cycle**

1 **DEVELOP**
- IP Protection Strategy
- Strategic reviews and alignment
- TM portfolio development
- IP Auditing and Gap Analysis
- In-house IP awareness training

2 **PREPARE**
- Availability searches
- Infringement searches
- Application drafting/planning
- Due diligence
- Evidence of use register

3 **REGISTER**
- Worldwide Registrations
- National, EU, International
- Registration formalities
- Opposition management (defensive)

4 **ENFORCE**
- Renewals
- Portfolio rationalisation
- Formalities / title updates
- Assignment
- Recordals
- IP Policy

5 **MAINTAIN**
- Trademark and domains watching
- Oppositions (offensive)
- Litigation support
- Anti-counterfeiting support
- Customs Recordals

6 **MONETISE**
- Portfolio Acquisition
- Brand valuations
- Licensing
- Due diligence (M&A/sale)

**Trademark strategy**
How do I make sure I own the relevant IP?

Without a registration, no trademark right!

www.novagraaf.com
How do I make sure I own the relevant IP?

In M&A also:

Due diligence

Assignment
How do I make sure I own the relevant IP?

How do I maintain my rights on IP?

- Renewals
- Enforcement
IP strategy
Global IP management in 8 key questions

- Do you know what your competitor is doing with (your) IP?
- Do you have the licenses you are entitled to?
- How can you improve the exploitation of your IP rights?
- What is your IP strategy? How valuable is IP to your company?
- How is your IP strategy? How efficient and effective are your IP management processes?
- Do you know what rights you own, create and use?
- What measures have you taken to protect your IP?
Get the IP cycle right

- Is an innovation minded culture created and do employees know the IP basics?
- Does the company know what it owns, creates and uses?
- Is a solid IP check-in gate in place to move from ideas spread out over the organisation to IP?
- Do employment contracts include proper non-disclosure?

- Does the company know what is happening in the market through actively watching the IP filings of competitors?
- Is the company open minded enough to quickly spot new competitors?
- Is there a clear, effective and consistent strategy and approach on when to enforce and when not?

- Do you have consistent and reliable portfolio management processes? (= are you due-diligence ready?)
- Is your country & class coverage in line with your protection wishes and cost appetite?
- Do you know and actively manage the success rates of your filings?
- Are you taking informed decisions on filings, renewals and recordals?

- Does the company know the cost, benefits and ROI of its IP?
- Is it clear what actions need to be taken to increase the ROI?
- Is existing IP smartly augmenting with IP acquisitions?
- Is the CEO regularly updated on the IP strategy, costs and benefits?

www.novagraaf.com
IP costs money, but it can also generate money:

- Licensing
- Pledging
- Sale
IP budget
Trademark portfolio budget

What are the risks to the TM portfolio?

Who do I include in the decision process?

Where do I start?

What has the biggest impact on the budget?

What should I abandon?
Organise portfolio (a disorganised portfolio is usually more likely more expensive to manage/maintain).

Use a budget reduction as a chance to cull ‘dead wood’ brands/territories, reposition unused brands for further use rather than refile completely new brands etc.

Drawing up a list of marks which are potentially vulnerable to non-use cancellation is usually helpful.
Tips: Enforcement

Confine offensive actions to core brands/territories only

Settle outstanding contentious actions, if possible, to avoid drawn out costs and avoid actual litigation if possible

Use automated technology to manage online brand protection
<table>
<thead>
<tr>
<th>Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abandoning marks which are currently licensed for third party use without informing/liaising with the licensee/local agent etc.</td>
</tr>
<tr>
<td>Not involving the brand manager in decision making especially abandonment</td>
</tr>
<tr>
<td>Abandoning marks which are being used as a principal basis for contentious actions without settling or otherwise finalising the action first</td>
</tr>
<tr>
<td>Abandoning portfolio items which are the subject of possible sale/security for loans etc.</td>
</tr>
<tr>
<td>‘short termism’ – making decisions based on current budget and not long term strategy e.g. failing to protect/maintain in developing markets etc.</td>
</tr>
</tbody>
</table>
Conclusion
Conclusion

STRATEGIZE!

In the management there are choices to be made

Obtaining IP costs money
But it can also generate money

How can IP be managed more efficiently in order to create more value?
Various reports and insights that can help you in making the right strategic decisions regarding your IP.

<table>
<thead>
<tr>
<th>Strategy update</th>
<th>Financial</th>
<th>Customized reports</th>
</tr>
</thead>
<tbody>
<tr>
<td>• On the basis of a strategic plan</td>
<td>• IP Valuation</td>
<td>• Benchmark reports</td>
</tr>
<tr>
<td>• Detailed analysis of performance of current IP</td>
<td>• Licensing / pledging</td>
<td>• Financial IP reports</td>
</tr>
<tr>
<td>portfolio</td>
<td>• IP in M&amp;A or sale</td>
<td>• Portfolio analysis</td>
</tr>
<tr>
<td>• Aimed at efficiency, protection, creating value</td>
<td>• Cost development</td>
<td>• Registration strategy</td>
</tr>
<tr>
<td>and budget management</td>
<td>• Budget breakdown</td>
<td>• Concern relations</td>
</tr>
<tr>
<td></td>
<td>• Renewal forecast</td>
<td></td>
</tr>
</tbody>
</table>
IP software and tools
EasyIP 5.0 modules

1. DASHBOARD
   Overview of relevant deadlines (declarations of use, renewals and watching)

2. PORTFOLIO
   Full overview of all IP rights and case matters

3. RENEWALS
   All necessary info, incl. cost estimate and possibility to give instructions through the portal

4. WATCHING
   Full watch notice with detailed info and possibility to give instructions through the portal

5. MESSAGES
   Direct and easy communication through the portal

www.novagraaf.com
OBP: online enforcement solution (cost effective)

Definition of Scope
- APPS
- DOMAIN NAMES
- MARKETPLACES
- SOCIAL MEDIA
- WEB CONTENT

80% of worldwide available web content

Potential Infringement
LONG LIST
SHORT LIST

Decision Making & Legal Action
- Enforcement
- Monitoring
- No action required

CASE MANAGEMENT SYSTEM
- Modular Monitoring Technology
- Smart technology and smart thinking
- Client IP Policy
- Selection Criteria
- Attorney Expertise
Monique Granneman  
Manager Corporates / Partner  
T: +31(0)205641402 / +31(0)651339623  
E: m.granneman@novagraaf.com
Q&A