International IP Accounting Standards
April 30, 2022

SPONSORING COMMITTEE: 2022 Presidential Task Force on IP Reporting for Brands

RESOLUTION:

WHEREAS, current international accounting rules require an exclusion of trademarks and complementary intellectual property ("IP") that are developed in-house from recognition as assets on corporate balance sheets;

WHEREAS, the exclusion of trademarks and brands developed in-house understates the financial value of companies for management, investors and other stakeholders;

WHEREAS, the exclusion of trademarks and brands as financial asset limits management attention to IP, hampering its strategic contribution to the protection of creative and innovative competitiveness and longevity of companies;

WHEREAS, brand owners, along with investors and other stakeholders, could benefit from the lifting of this exclusion and contribute to bringing accounting standards in line with the global move into the intangible economy; and

WHEREAS, the International Trademark Association, on behalf of its Members, can advance its strategic mission by building bridges to and engaging with non-legal organizations regarding IP reporting and valuation, with the goal on benefitting its Members;

BE IT RESOLVED, that it is the position of the International Trademark Association that accounting standards should not require a blanket exclusion of trademarks and complementary IP that are developed in-house from recognition as assets on corporate balance sheets.

BACKGROUND

The true economic values of companies increasingly lie in their non-physical assets, collectively referred to as "intangible assets." A subset of intangible assets, referred to as "Marketing Intangibles" includes trademarks and brands.

As the world's largest brand owner organization, the International Trademark Association ("INTA") has developed an active interest in the financial treatment of trademarks and brands. In INTA's 2018-2021 Strategic Plan, the "Promotion of the Value of Trademarks and Brands" served as one of the Association's three strategic directions, and the current 2022-2025 Strategic Plan continues to emphasize the importance of the valuation and commercialization of brands.

In March 2018, INTA formed the Brand Value Special Task Force, which provided recommendations on brand valuation-related topics. One recommendation of the Brand Value Special Task Force's 2020 Report was that INTA should engage with the International Accounting Standards Board ("IASB"), particularly on the issue of internally developed brands being excluded from balance sheets, embodied in International Accounting Standard 38, *Intangible Assets* (IAS 38). In 2021, INTA's subsequent IP Accounting Project Team recommended that the Board take a formal position on this exclusion.

It follows from IAS 38 that expenditures associated with internally developed brands are expensed as incurred on the income statement, and not capitalized on the balance sheet. Concretely, this means that as long as a trademark has not been sold, it does not have a reported accounting value. The effect of this blanket exclusion of IP as assets is that significant parts to companies' value remain unreported. However, in economic reality the values of intangible assets often drive many important decisions (such as acquisitions), resulting in a disconnect between accounting rules on one side, and the legal and economic reality on the other side. As accounting forms the backbone of sound economic analysis, the exclusion of large portions of IP value means that a significant part of the economy remains uncharted. This is problematic in today's increasingly intangible economy, in which IP forms crucial drivers that require systematic analysis and reporting.

The fundamental substantive reason behind the current restrictive accounting standard is its historical focus on costs. It does not explicitly recognize other forms of IP value, such as revenue generation (e.g., through licensing) or commercial exclusivity (e.g., through the right to prohibit use by competitors). Today, the capacity to generate revenue is often considered a better way to value IP than only looking at the cost of creating it. Professional IP valuations are widely done in a variety of situations, such as company acquisitions, asset sales, financing, IPOs, and tax assessments. In such situations the "income method" is often preferred over the "cost method", and recognized by courts, tax authorities and other public oversight bodies.

The exclusion of IP from balance sheets results in subdued management attention regarding trademarks and brands, and limited knowledge of IP among finance professionals. This maintains a negative feedback loop in which financial literacy among IP specialists also remains low.

In addition, investors in public and private companies require complete and reliable information for sound investment decisions. While many countries and stock exchanges already impose stringent publication and valuation requirements (for example, in the case of IPOs), continuing to exclude IP from core financial documentation hampers transparency.

The exclusion of IP from balance sheets also harms funding possibilities for SMEs, as IP often represents their core assets. Asset-backed funding generally requires a recognition of intangible assets and their values.

It should be acknowledged that the proposed removal of the blanket exclusion only forms the first step of a process during which updated IP accounting standards will have to be shaped through inter-professional consultation and cooperation. As such, **the purpose of this INTA Board Resolution is limited to contesting the blanket exclusion of all internally develop IP from recognition on balance sheets, and not providing draft modifications to accounting standards or prescribing the actual audit or appraisal techniques that subsequently could be applied** (although INTA may engage with other organizations to assist in that process). Notable issues related to the proposed removal of the blanket exclusion, such as brand value volatility, double counting, valuation costs, tax consequences, and the relation with *off-balance sheet* reporting[1], will have to be addressed as part of the consultation process.

The current Board Resolution provides INTA with the necessary stepping-stone for initiating this process. As the world's premier brand owner organization, it has the legitimacy and purpose to contest key obstacles for brand development, recognition and reporting, including accounting standards. Cognizant of the elaborate process of such changes, it takes the lead in advocating for change for the long-term benefit of its members.

CONCLUSION:

The 2022 Presidential Task Force on IP Reporting for Brands requests that the Board of Directors' resolution as set out herein states that it is the position of the International Trademark Association that accounting standards should not require a blanket exclusion of trademarks and complementary IP that are developed in-house from recognition as assets on corporate balance sheets.

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[1] INTA's 2022 Presidential Task Force on IP Reporting for Brands has also tasked itself with providing a comprehensive IP reporting framework for off-balance sheet IP reporting.