

## Training Assessment of Intellectual Property in Vietnam

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### **Abstract:**

*The objective of this paper is to assess the status of training, valuation, intellectual property in Vietnam. Through analyzing the situation of the training course of valuation, valuation of intellectual property, the author makes remarks about the achievements, the limitations that need to be overcome, and analysis of the causes. Lead to restrictions. Finally, the author makes recommendations to improve the efficiency of IP asset valuation training.*

**Keywords:** Training, valuation, intellectual property, Vietnam.

### **1. Introduction**

Intellectual property is a special type of intangible property, which is a property created by human intelligence through creative and thinking activities in the fields of industry, science, literature and technology. Technique, which cannot be determined by its own physical characteristics, is of great value because it is potentially profitable and is often protected by law against unauthorized use. It is a measure of business efficiency, competitiveness and development ability of enterprises both in the immediate future and in the future.

In a market economy, prices are formed and manipulated under the direction of objective laws of the market economy, but it is also the spontaneous movement of market prices that can have a negative effect. extreme to production process and consumption.

Asset valuation and valuation is an objective activity in the market economy, but this activity has not been implemented much in Vietnam. Most pricing depends largely on the dynamics of experts and the agreement between experts and investors.

The demand for the correct valuation of the property value of a scientist or an enterprise is huge and it is necessary to have appraisers on advisory prices or intermediary organizations to determine the right value of assets of Scientists, businesses and investors determine that they buy this technology know-how is worth it.

These demands have been demanding intellectual property valuation activities to be developed both in quality and quantity, becoming a highly professional, independent and professional consultancy service. The agency requires service organizations as well as appraisers to be professionally trained and fostered.

### **2. Literature review**

#### **2.1. Concept of intellectual property valuation**

The definition of valuation, so far, has many different definitions, however, the definitions all consider valuation as an estimate of the price of an asset at a given time.

Oxford According to the Oxford Dictionary, property valuation is construed as follows: Property valuation is an estimate of the value of property rights in monetary form appropriate to a market, at a time, by standards for a certain purpose.

According to research by Potsmouth University professors, UK: "Valuation is an estimate of the value of specific property rights in monetary form for a definite purpose".

In our country, the valuation of new assets is considered a service profession for the economy since the late 1990s. The precursor of enterprises operating in the profession of valuation is the Valuation Centers belonging to Government Pricing Committee, now under the Ministry of Finance. At that time, the word

"valuation" was not used in estimating the market value of assets. Instead, the operation of estimating the market value of assets and goods is regarded as a "valuation" activity. Up to now, there is still a lot of debate about whether to use the word "valuation" or the word "valuation" in the provision of consulting services on estimated prices of goods and assets.

According to the Ordinance on Prices published on February 8, 2002, officially taking effect from July 1, 2002, the explanation of "Appraisal" in Article 4, Clause 3 is: "Valuation is the evaluation and revaluation of the value of an asset in accordance with a market at a given place or time according to Vietnamese standards or international practices. " Although the name is Appraisal, in the wording of the Ordinance, it is recognized that it is the evaluation and reevaluation of the value of the property or the valuation of assets.

According to the Law on Prices No. 11/2012 / QH13 2012 of the National Assembly, pricing is defined as follows:

"Pricing is the determination of prices of goods and services by competent state agencies or production and / or business organizations and individuals."

Thus, under the new Price Law, the concept of pricing has been clearly defined and officially used.

According to "Ta Thi Thanh Thuy, Contributing business capital with intellectual property according to Vietnamese law", "intellectual property valuation is understood as the estimation of market value of intellectual property such as inventions, labels. ..., wherein, the market value of the intellectual property is the calculation of the potential income of the product or service using that intellectual property. " Accordingly, the value that the valuation operation aims at is the market value of the intellectual property, that is, the estimated price that will be traded in the market at the time of valuation, between one party is the willing buyer. The buyer and the seller are willing to sell, in an objective and independent transaction, under normal commercial conditions.

## **2.2. Law on intellectual property valuation**

\* International law on intellectual property valuation

Currently, there is no international legal document governing the valuation of intellectual property, so the valuation of intellectual property is still mainly done according to the Guidelines on valuation of intangible assets No. 4 published by the International Valuation Council (IVSC) (Source: Guidance Note No. 4 on Valuation of Intangible Assets (GN4) issued in 2001 and amended in 2010). This guide is considered to be a general reference guide for valuing intellectual property in particular and valuing intangible assets in general according to international standards.

\* The laws of some countries about intellectual property pricing

The US legal system does not yet have a legal document guiding the valuation of intellectual property in particular and the valuation of intangible assets in particular. Currently in the United States only a few guidelines of the Association are for reference only. In 2001, the Finance and Accounting Standards Council published two notices on financial and accounting standards, including provisions on the valuation of intangible and intellectual properties upon merger and consolidation of enterprises. they are: Notice No. 141: Business consolidation; Notice No. 142: Goodwill and other intangible assets (Source: Financial Accounting Standards Board (2001), Statement of Financial Accounting Standards No.141, Business Combinations; Statement of Financial Accounting Standards No.142, Good Will and Other Intangible Assets10). In 2008, the American Valuers Association issued a "Corporate Valuation Standard" in which Standard IX provides for the valuation of intangible assets (Source: American Society of Appraisers (2009), Business Valuation StandardBVS,

[http://www.appraisers.org/Libraries/BV\\_Discipline/2009\\_BV\\_Standards.sflb.ashx](http://www.appraisers.org/Libraries/BV_Discipline/2009_BV_Standards.sflb.ashx)).

At present, Chinese laws do not have a separate legal document on the valuation of intellectual property. The current valuation of intellectual property is mainly based on the criteria for valuation of intangible assets

specified in the Circular of the Ministry of Finance on 2001 to set standards for valuation of intangible assets and intangible assets. (amended in 2008).

\* Vietnamese law on valuation of intellectual property

Vietnam has issued a number of legal documents related to intellectual property valuation such as the Law on Civil Judgment Execution 2008, Law on Enterprises 2005, Decree 102/2010 / ND-CP guiding exam examinations. on implementing a number of articles of the Enterprise Law (Decree 102/2010 / ND-CP), Accounting Standard No. 04 on intangible fixed assets (fixed assets) promulgated and announced under Decision 149/2001 / QD- BTC dated December 31, 2001 of the Minister of Finance (Accounting Standard No. 04), Circular 203/2009 / TT-BTC stipulating the regime of management, use and depreciation of fixed assets No. 203/2009 / TT-BTC), Circular 202/2011 / TT-BTC guiding financial handling and enterprise valuation when transforming 100% state-owned enterprises into joint stock companies according to regulations Decree No. 59/2011 / ND-CP (Circular 202 / 2011 / TT-BTC), most recently the Draft Circular promulgating Criteria for Valuation No. 13- Appraisal of TSVH ...

However, the Vietnamese legal system of intellectual property pricing is still quite sketchy. The aforementioned legal documents do not directly regulate the issue of intellectual property valuation, but only mention the principles of principles of how to calculate (based on books) of immovable assets. figure - which includes intellectual property. Even the 2005 Intellectual Property Law, amended and supplemented in 2009 (the Intellectual Property Law) and its implementing Decrees, are specialized legal documents on intellectual property. which stipulates the valuation of intellectual property.

### ***2.3. Appraisal of intellectual property prices***

In countries, people often use two English words, Appraisal and Valuation, to refer to price appraisal. The term origin of both terms is from French. Valuation appeared in 1529 and Appraisal since 1817. The two terms have the same meaning, which is the estimation, evaluation and implication of the opinion of a specialist on the value of an item. specified.

When studying valuation, academic researchers around the world have come up with many different definitions:

Oxford According to the Oxford Dictionary: "Valuation is an estimate of the monetary value of an object or property"; "Is an estimate of the present value of assets in a business".

According to Professor W. Seabrooke - Portsmouth University Institute, UK: "Valuation is an estimate of the value of specific property rights in monetary form for a defined purpose" .

According to Mr. Fred Peter Marrone - Marketing Director of AVO, Australia "Valuation is the determination of the value of real estate at a time taking into account the nature of the property and the purpose of the valuation. Therefore, valuation is the application of comparative market data collected by the appraisers and analyzing them, then compared with the assets required to be appraised to form their value. " .

According to Professor. Lim Lan Yuan - Singapore: Valuation is an art or science of estimating value for a specific purpose of a particular asset at a time, taking into account all the characteristics of the property. as well as considering all the basic economic factors of the market including the selected investment types.

According to Vietnam's 2002 Ordinance on Prices No. 40/2002 / PL-UBTVQH10, in appraisal of prices is defined as follows:

"Valuation means the evaluation or revaluation of the value of assets suitable to the market at a given place or time according to Vietnamese standards or international practices."

According to the Law on Prices No. 11/2012 / QH13 in 2012 of the National Assembly, the valuation is defined as follows:

“Valuation means the determination of monetary value of assets by agencies and organizations in accordance with the Civil Code in accordance with market prices at one place and time. and serve certain purposes according to price appraisal standards ”

#### **2.4. Law on valuation of intellectual property**

From 1997-1998, price appraisal activities were formed and penetrated into the Vietnamese economy; Vietnam's legal system of price appraisal has not been specifically and clearly defined; The valuation activities are based on the learning experiences and documents of developing countries pricing in the region and based on the experience of price management and price management that Vietnam has prescribed to apply and rely on. into valuation activities. After the Ordinance on Prices was issued by the Standing Committee, Vietnam has built a legal corridor for price appraisal. The Government issued Decree No. 101/2005 / ND-CP dated August 31, 2005 of the Government on price appraisal and the Ministry of Finance issued 12 sets of valuation standards.

Some other Decisions and Decrees such as Decree 153/2007 / ND-CP detailing and guiding the implementation of the Law on Real Estate Business; Decision No. 87/2008 / QD-BTC on the Regulation on professional training and fostering for price appraisal; Decision No. 55/2008 / QD-BTC promulgating the Regulation on examination, issuance, use and management of appraiser's cards on prices ...

Most recently, in 2012, the National Assembly promulgated the Law on Prices No. 11/2012 / QH13 and the Ministry of Finance is currently drafting a Decree detailing the implementation of the Law on Prices on valuation, or the Draft Circular. on the promulgation of the Criteria for Valuation No. 13 Valuation of intangible assets.

Thus, in the current legal system, there is no document regulating intellectual property valuation, training and retraining of intellectual property valuation operation but only documents adjusting the subject matter. TS VH valuation which includes intellectual property or property valuation in general.

### **3. The reality of training and retraining of valuation, valuation of intellectual property in Vietnam**

#### **3.1. Actual situation of training and retraining of intellectual property valuation operations**

For businesses, intellectual property serves as a measure of business efficiency, competitiveness and the ability of enterprises to develop in the future. The valuation of intellectual property helps businesses to affirm their position and prestige in the market, and at the same time, businesses can conduct commercialization of intellectual properties in a favorable manner.

The valuation of intellectual property in Vietnam took place long before the Intellectual Property Law was introduced in 2005, but until now the valuation of this intellectual property has not followed any standards. The valuation of intellectual property in Vietnam has not followed any standards. This can be clearly seen when in 1995, Phuong Dong company in Ho Chi Minh City. HCM sold the brand of PS toothpaste to Unilever Group for \$ 5 million, while all the land, factories, machinery and equipment were only \$ 3 million. However, in 2009, the value of the trademark "TISCO" of Thai Nguyen Iron and Steel Company was only valued at VND 39.5 billion when equitizing enterprises (less than 3% of the total value of assets - VND 1084 billion. ) Or Trang Tien Ice-Cream Joint Stock Company when equitizing the company, people only calculate the tangible value of the old factory, machinery, equipment that is not worth much while Kem Trang brand Money without any advertising is too famous, brands such as Trung Nguyen, Petrolimex, Kinh Do, Viet Tien ... are also typical examples of high intellectual property value, equal to 3% of the total asset value - VND 1084 billion) (Source: Trademark valuation report "TISCO"; "GT, TISCO and pictures" of the Institute of Intellectual Property Science).

The issue of intellectual property valuation has not been implemented much in Vietnam. Most pricing depends largely on the dynamics of experts and the agreement between experts and investors.

However, the parties can come up with a lot of different options, experts give a calculation, investors give a calculation. In case the scientist gave a research result of 10 billion but the investor only paid 1 billion ... is quite common.

Therefore, it is necessary to have appraisers on advisory prices, or intermediary organizations that determine the true value of assets of scientists, businesses and investors who identify themselves to buy this technology know-how. is worthy.

The demand for the correct valuation of assets of scientists and businesses is huge, but the appraisers have not been well-trained, the training, the curriculum of the property valuation course. Intellectual property is currently not available and the training and retraining of intellectual property valuation operations take place in the form of training and retraining of property valuation operations organized by the Ministry of Finance.

### ***3.2. Actual situation of training and retraining of intellectual property valuation operations***

Training and retraining activities for valuation operations take place in the form of training and retraining of property valuation operations in general, currently there is no training program on professional valuation. intellectual property in particular. Therefore, in the scope of this topic, we will talk about the situation of training and retraining of property valuation in general.

#### **Long-term training**

The long-term training of trainees in asset valuation is currently being conducted at 5 universities and colleges, namely:

- The Marketing University and the College of Business Administration of the Ministry of Finance have a Department of Appraisal, and start enrolling students from the 1998-1999 school year, each year training about 50-70 students. These two schools have trained 4 courses with about 400 college graduates; only 40-50% of these graduates can find jobs in the same field of study. In the 2004-2005 academic year, Marketing University recruited its undergraduate students with 81 students; In the 2006-2007 school year, the college enrolled 107 college students and 66 undergraduate students. College of Finance - Business Administration in 2007-2008 enrolls 100 students and in 2008-2009 enrolls 100 students in Appraisal Department.

- Hanoi National Economics University has just formed a valuation subject group with 4 teachers; 2007-2008 school year has recruited 50 students to major in Appraisal.

- Ho Chi Minh City University of Economics has an Appraisal Department of the Department of Development Economics which is responsible for teaching valuation with 7 teachers and has recruited 3 courses, each course has 1 class, total the number of students in 3 courses is 170 people; By the end of the first course of 2005-2006, 40 graduates were expected to graduate, and the school is expected to form and develop the discipline of Appraisal, which is one of the five majors of the School of Development Economics. 2006-2007 school year; 2007-2008 school year has recruited 80 students and expected 2008-2009 school year enrollment of 100 students majored in Appraisal.

- The Finance Academy (Ministry of Finance) has recruited 5 training courses for the University of Valuation from 2004-2005, each course has 1 class with 40-50 students / class In 2007, there were 41 students; in 2008, there were 45 graduates trained in price appraisal and in 2009, there will be 56 graduates.

To organize professional training on price appraisal and grant of price appraiser's card

- Comply with the provisions of Article 16 of the Ordinance on Prices, in order to prepare a basis for the granting of price appraiser cards, the Government Pricing Committee (previously) has assigned two price appraisal centers under the Main Pricing Committee. The Government organized 3 training courses on price appraisal skills in the North, the Central and the South at the end of 2002 for 203 students who are currently working on price management at state agencies, Departments of Finance, and enterprises. The training course was organized for 2 weeks, lecturers and training content were compiled and conducted by units of the

Government Pricing Committee (formerly). After the course, the Head of Pricing Department issued 38 price appraisers cards among 203 students participating in the class.

- On February 24, 2004, the Minister of Finance issued Decision No. 21/2004 / QD-BTC promulgating the Regulation on issuance, use and management of appraiser's cards on prices. At the same time, the Minister of Finance issued the program and content of professional training and retraining for valuation; From 2004 up to now, training institutions have been allowed by the Ministry of Finance to open short-term classes such as: Finance Academy, Ho Chi Minh City Marketing University; College of Finance - Business Administration; Northern Evaluation Center (now is a Financial Services Joint Stock Company); Southern Valuation Information Center (now known as Vietnam Financial Services and Appraisal Joint Stock Company) and Vietnam Valuation Association organized classes with a period of 120 periods; content of professional training on price appraisal under the program prescribed by the Ministry of Finance. As of June 2008, these organizations have issued certificates of professional training in valuation for about 1,000 people working at Finance Departments, Valuation organizations, Valuation organizations, Banks, Auditing, Securities ... Based on that, the Ministry of Finance has organized 4 exams (2005-2007) to issue price appraiser cards to over 500 experts who are working on price appraisal and price appraisal in both countries of valuation organizations and issued price appraiser cards for 216 people, of which 174 price appraisers have practiced at 47 price appraisal enterprises informed by the Ministry of Finance. eligible for valuation activities.

The organization of short-term professional classes has contributed to updating and improving knowledge and professional skills for the team of valuers and appraisers; at the same time, creating conditions for subjects attending training classes to have a certificate of professional training in price appraisal. This is one of the conditions for them to take part in the examination to get a card appraiser and practice valuation and career development later.

Carrying out the tasks assigned by the Ministry of Finance, the Department of Price Management of the Ministry of Finance has collaborated with foreign consultants, foreign price appraisal organizations and specialized scientists on prices, laws and appraisal of prices. ... organized the compilation of a short-term specialized knowledge fostering document and has been appraised by the Evaluation Council of the Department of Price Management (according to Decision No. 853 / BTC of February 27, 2007 of the Ministry of Finance). in October 2007, the Ministry of Finance officially released the training document for short-term specialized knowledge of appraisal which is uniformly applied to the specialized training courses for short-term knowledge training. The price is applied uniformly to the specialized short-term knowledge training schools Valuation nationwide.

With the content, basically creating conditions for individuals who are allowed to organize training courses on short-term specialized knowledge of valuation to have a basis for teaching according to a suitable and consistent program content. With practice, meeting professional requirements, creating favorable conditions for appraisers to constantly improve their skills and skills in the valuation industry.

#### **4. Discussion**

\* Long-term training:

- The training of bachelors in Appraisal has been included in the training program in some schools but still spontaneously derived from practical requirements, not yet become a formal system of nature. officially from the decision of the competent State agency (Ministry of Education and Training, Ministry of Finance ...), has not been included in the formal systematic training program in universities.

- A team of lecturers in charge of appraisal of prices is still thin and has not yet received intensive training in appraisal of prices.

- The content and training program is based on documents issued domestically and abroad, which are collected and compiled by each school, not associated with the practice of Vietnam price appraisal, and no official textbooks uniform standards of the state (Ministry of Education and Training, Ministry of Finance).

- Graduates of university valuation department are one of the resources for future property valuation market. However, the number of students enrolled in this field is too small compared to the needs of the market; The annual long-term training of the schools is still of an exploration nature, and has not yet formed a long-term general orientation in creating human resources for price appraisal activities in the next 5-10 years.

- Society has not been aware of the role of appraisal profession, students are less likely to want to enter this major due to the low rate of students applying for a job in their major after graduation.

\* Training for a short time:

- For a long time, the training of knowledge for appraisers has not been done regularly, just implemented through projects with foreign countries in a short time or when preparing for examination of appraiser's cards. Content of professional training at price appraisal classes by units that are allowed to organize professional training courses on appraisal of prices is not uniform and does not meet the requirements of the Ministry of Finance.

- Participating in the training course for issuing cards includes many students with different qualifications, some of whom have not trained in Appraisal, so there is a big difference in professional knowledge among students, while the content of compensation Refresher course is generalized and implemented in a short time (2 weeks), leading to a large difference in the level of trainees.

- The organization of examinations for assessor cards takes place seriously. However, the number of appraisers who are issued with a card is too small, so it is difficult to meet the valuation needs of the business in time.

- The regulations on issuing price appraisals cards are still limited (State employees are not allowed to take part in the examination of price appraiser's cards).

## 5. Conclusion

While it is necessary to legislate methods of valuing intellectual property in general and inventions in particular, it is necessary to realize that the valuation of intellectual property is often used mainly in civil transactions. / economy so the pricing entity will be the parties to this transaction. The parties may agree to set their own prices or hire professional valuation organizations under the agreement of the parties. And in addition to the valuation methods specified in the circular, other methods should also be recognized in practice.

For state-owned organizations, units or inventions, the valuation of intellectual property, the author would suggest this valuation should be given to a professional valuation organization to ensure that Maximum accuracy when conducting valuation. In addition, sanctions should also be imposed on valuation organizations when the valuation of intellectual property is high or lower than its actual value.

### *5.1. Proposing solutions for training and retraining of intellectual property valuation operations in Vietnam*

- Goods and services are priced in 2 cases: Goods and services are priced by the State; Goods and services (including intellectual property) are priced in civil transactions, whose prices depend largely on negotiating skills of the seller (usually authorized appraisers). . Therefore, it is necessary to have training programs, textbooks teaching negotiation and negotiation skills for appraisers in order to offer reasonable and fair prices in civil transactions.

- It is necessary to have an intellectual property curriculum for appraisers, because in order to provide fair and fair prices in civil transactions on intellectual property, price appraisers must understand. gain economic and social characteristics of intellectual property.

- Classes are held by domestic and foreign experts with long-term experience in asset valuation, especially intellectual property.

- Ministry of Finance cooperates with international valuation organizations such as: WIPO, ASA (Association of American appraisers of tangible assets and machines), IRWWA (International ROW Association - valuation practical values) ... organize refresher training classes for appraisers.

### **5.2. Proposing solutions to training and retraining professional valuation of intellectual property in Vietnam**

Train appraisers on intellectual property prices

\* About Bachelor of Intellectual Property valuation

- Develop specific programs for bachelor training in intellectual property valuation

- The Ministry of Education and Training shall coordinate with the Ministry of Finance and the Ministry of Science and Technology in elaborating uniform teaching content for uniform intellectual property valuation, bringing teaching on intellectual property valuation. into an official education program. Specifically, in the first 2 years, students of the intellectual property valuation department will have to study under the programs of the Ministry of Education and Training, the third year will have to study the subjects according to the discipline of valuation, 4th year will have to study specialized subjects on intellectual property and conduct internships in the valuation business.

\* About fostering short-term knowledge

- Programs and contents of short-term training must be standardized and uniformly applied throughout the country.

- The Ministry of Finance shall coordinate with the Ministry of Science and Technology in organizing short-term refresher courses and granting intellectual property valuation practice certificates. Specifically: The Ministry of Finance organizes the training and granting certificate of price appraisers, then price appraisers must go through a training course on intellectual property by the Ministry of Science and Technology. organization and grant of intellectual property certificates, after going through these two training and retraining processes, price appraisers may practice evaluating intellectual property prices.

- Organizing periodic update of knowledge on valuation of intellectual property. Annual knowledge update is about 3-5 days (Ministry of Finance in conjunction with Ministry of Science and Technology).

- Develop and gradually standardize the price appraiser level in the direction of: High level; Intermediate; primary.

- Organize classes conducted by foreign lecturers for intellectual property appraisers to enhance the quality of intellectual property valuation in Vietnam (each year may open 1-2 classes) .

\* Regarding the establishment of specialized agencies in charge of intellectual property valuation

- The Ministry of Finance needs to set up an agency and division specialized in intellectual property price appraisal.

- Agencies and divisions in charge of intellectual property valuation periodically organize training courses, grant practicing certificates on intellectual property valuation.

- Agencies and divisions in charge of intellectual property valuation shall build a database of training programs and grant certificates of intellectual property valuation.

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