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The Licensing Journal, *Should Your Company Use an IP Holding Company? Here's What You Need to Know*, (Aug. 1, 2025)

The Licensing Journal

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Should Your Company Use an IP Holding Company? Here's What You Need to Know

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When it comes to intellectual property (IP), where your company holds its assets can be just as important as what you own. Many companies default to keeping IP within their operating entities… but is that the smartest move?

Cue the IP holding company (IPCo): a separate legal entity, typically a subsidiary, designed to execute the company's IP strategy. The IPCo offers unparalleled strategic benefits regardless of whether the current IP strategy is focused on generating revenue through licensing campaigns, preparing for an asset or stock purchase, leveraging IP to generate operating revenue, or generating registered IP or monetizable trade secrets (data). While it may seem like a no-brainer, there can be some important pitfalls associated with forming an IPCo.

This article examines the pros and cons of some of the key factors a company should consider when deciding whether to adopt this corporate structure. Whether you're a startup scaling fast or an established company reevaluating your monetization goals, this guide will help you make a more informed decision about how – and where – to hold your most valuable intangible assets.

Pros to an IPCo Structure

- **Centralization and Control**: An IPCo simplifies the management of IP assets across multiple subsidiaries or divisions and allows the parent company to track the costs associated with maintaining an IP portfolio easily.
- **Tax Efficiency**: Because IP is an intangible asset, it can be moved or licensed across borders, allowing for tax planning opportunities like transfer pricing. There is great potential for tax savings through licensing with IPCos.
- **Protection from Litigation Risk**: By holding IP separately from operating companies, an IPCo could shield the assets from operational or product-related lawsuits.

- **Simplified Ability to Transact**: A separate entity for IP makes licensing and transactions easier because it creates a distinct, clearly defined asset that can be independently valued, managed, and transferred. This separation minimizes risks to the IP assets and allows for more straightforward licensing agreements, partnerships, and sales.
- **Improved Valuation for Investment or Acquisition**: Consolidated IP can make it easier for investors or buyers to assess the value of the company's intellectual property. Investors place high value on having "clean IP." This means that the ownership or title of intellectual property is clear, properly documented, and free from legal encumbrances (such as disputes, competing claims, or unclear assignments). A well-structured IPCo with clear assignments and licensing agreements can increase the overall valuation of the company by showing a strong, well-managed IP portfolio.
    - **Note for smaller companies and startups**: Clear, centralized IP ownership is especially important when approaching an acquisition or IPO. Investors want to see full control over the company's IP.

Cons to an IPCo Structure

- **Setup and Maintenance Costs (especially for smaller companies and startups)**: Setting up a separate IP entity involves legal and administrative costs, which may be hard to justify for smaller companies with limited IP. However, as a business grows, transitioning to an IPCo can help consolidate assets and support future expansion or acquisition.
- **Risk of Double Taxation**: If the holding company is in a different (international) jurisdiction, there could be potential tax challenges, including double taxation on royalties or dividends. When patent owners license their IP internationally, their income from royalties is often subject to taxation in both the licensor's country and the licensee's country.
- **Considerations for Different Types of IP**: Patents, copyrights, trademarks, and trade secrets each come with a unique set of considerations for IP protection and licensing with different legal frameworks offering different protections.
- **Loss of Control Over IP**: If the counsel establishing the IPCo fails to create the proper ownership and licensing structure, the IP assets might become disconnected from the operational side of the business, making it harder to maintain control over how it's used or licensed. For example, a poorly structured IPCo relationship could negatively impact an operating company's ability to recover lost profits in patent infringement cases.

Establishing an IPCo can offer significant benefits like asset protection, tax efficiency, and streamlined IP management. However, an IPCo is not a one-size-fits-all solution. Larger companies or those planning for growth may find it especially valuable, while smaller businesses must weigh the costs and complexities. Ultimately, the decision should align with the company's size, IP portfolio, and long-term goals. Managing IP effectively requires a strategic, well-informed approach tailored to your unique business context.

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