

Case Study:

Due Diligence:

Intellectual Property Rights

Tech Transfer
IP Consulting
IP Handling



The impact of rising R&D costs and focusing on a limited number of research fields has led big players to pay far greater attention to their portfolio strategies by in-licensing third party technologies or mergers. Furthermore, no major investor is today spending money for start-up companies that have not been subject to an in-depth due diligence, which - especially in Life Sciences- includes an evaluation of the company's intangible capital. Such Intellectual Property Rights (IPRs) constitute extremely valuable assets for a company's business development.

A Swiss Association of Investors ("client") has asked BDC - The Business Development Company GmbH ("BDC"), Switzerland, to perform confidential assessments of the IPR situation of enterprises active in Life-Sciences ("companies"). BDC's questionnaire, IP related documents, such as patent documents or licensing agreements, as well as a discussion with the IP representative of the companies are the main sources for the evaluations.

IPRs, especially patent rights, are eminent for companies developing new technologies and products to gain market exclusivity and competitive advantage over its business rivals. According to the clients specification, the evaluated company's IP assets, such as patents, trademarks and designs, are assessed in terms of their legal status and potential or actual scope of protection. Special emphasis is thereby placed on whether these IPRs are covering the company's core technology and/or products, or not and whether they are in line with the business strategy. Furthermore, the implemented measures to protect trade secrets are examined. All in all, BDC aims at determining, if and how easily the existing IPRs can be copied, circumvented and/or reverse engineered.

Ownership of these IP assets is also an important aspect of the evaluation. Like any other business assets, IP assets should either be assigned or licensed to the company and not to the inventors or even third parties. Furthermore, BDC assess whether the company is in full control over its IP

assets and has the right to protect future inventions and know-how in the name of the company in view of existing collaborations and/or obligations towards others, such as inventors or investors.

Last but not least, the client wants to know whether the company is aware of any IPRs owned by competitors and/or public institutions in its core business segment and whether the company needs any third party's IPRs to pursue its business. Hence, existing freedom to operate analysis, licensing agreements as well as strategies in case of a potential dependency are assessed to estimate the risk of a potential infringement.

The client is provided with an opinion, whether there are any objections in investing in the company concerning its IP situation. Furthermore, the client gets an impression of the company's awareness of IP related issues, its IP handling and managing.

***BDC's representatives would be happy to assist you with assessing the Intellectual Property Situation of small and medium-sized companies.
Please contact us for further information.***