



Introducing the Silicon Valley Chapter's Intellectual Capital Management (ICM) Initiative

The Silicon Valley Chapter (SVC) has recently announced an initiative to broaden the chapter's focus -- as well as its membership base -- from licensing as a primarily legal function, to licensing as an essential tool in structuring a broad range of corporate transactions in which "Intellectual Capital" is a significant value driver.

The meaning and scope of intellectual capital can best be understood in the context of a hierarchy of asset types with IP Rights (IPRs) at the bottom and Intangible Assets at the top. As you all know, IPR's are legally enforceable rights conferred by statute or common law and include patents, copyrights, trademarks and trade secrets (as well as lesser known variants like mask works). At the top of the hierarchy are Intangible Assets, a term developed by the accounting profession as a line item on corporate balance sheets, which includes all identifiable and separately transferable assets that are not tangible, e.g., leases and licenses, supply chain rights, franchises, spectrum, etc.

A subset of Intangible Assets is Intellectual Assets which include, in addition to IPR's, those information-based items that enhance corporate value, but are not based on legally enforceable rights. Perhaps the most important example, particularly in Silicon Valley, is often referred to as Human Capital, i.e., the collective contribution of those inventive/creative executives and employees that carry in their heads, the "tacit knowledge" that provides their company with significant competitive advantage. Another notable example is "brand" as an indicator of corporate reputation (which is a much broader concept than trademarks which are a form of IPRs).

As to the difference between "assets" and "capital," the former is used to refer to individual items in the relevant asset class, while the latter refers to the sum total of all such assets within an enterprise. Thus, Intellectual Capital Management (ICM) refers to the management of all of the intellectual assets that contribute to current corporate earnings and/or enterprise value for prospective acquirers.

Finally, the intellectual capital community refers to all of those individuals that are charged with preserving and/or expanding an organization's intellectual asset base, including corporate directors and C-level officers, and their external legal, financial, strategic, tax, and other advisors.

To learn more about ICM, start with the following Wikipedia pages:

https://en.wikipedia.org/wiki/Intellectual_capital

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