



VALCON 2015
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**VALUATION OF INTELLECTUAL PROPERTY
(AND BEYOND)**



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Valuation Overview

- o Discounted cash flows where
 - o Cash flow is defined as proceeds minus costs
 - o Discount rate determined by risk that cash flows will not materialize due to various risk factors
- o Comparables/Relief from Royalties
 - o Valuation of intellectual property in established market using royalty rates for similar products
 - o Used to assess damages in infringement cases
 - o Well-developed case law but requires established market
- o Market
 - o Assumes willing buyer and willing seller in arms'-length transaction and sufficient exposure
 - o Most similar to bankruptcy court approach

Valuation = Damages

Mandel v. Thrasher (In re Mandel), 2014 U.S. App. LEXIS 15709, at * 31 (5th Cir. 2014)

- o “Damages in misappropriation cases can take several forms: the value of plaintiff's lost profits; the defendant's actual profits from the use of the secret, the value that a reasonably prudent investor would have paid for the trade secret; the development costs the defendant avoided incurring through misappropriation; and a reasonable royalty.”

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