

**AGENCIES
+ IP:**

**FIND, PROTECT
AND MONETIZE
IP IN YOUR
AGENCY**

MARKETING FIRMS ARE IN THE IP BUSINESS

“THE INVENTORY IN YOUR FIRM
IS NOT A WAREHOUSE FULL
OF HOURS, BUT RATHER A
STOREHOUSE OF **INTELLECTUAL
FIREPOWER.**”

– *Tim Williams*





CREATING +

**AGENCIES ARE ACTUALLY IN
THE BUSINESS OF CREATING
INTELLECTUAL PROPERTY.**

Most of it eventually makes its way into Client's hands, but the Agency is also creating its own assets at the same time

TYPES OF IP GENERATED BY YOUR AGENCY–



Trade Secrets – Agency-confidential, proprietary process or information



Trademarks – Legal protection for brands and identities



Copyright – Legal protections for any original creative work

AGENCY SCENARIOS WITH IP CONSEQUENCES –

**Agency New
Business**

**Transfer of
Client Work
and Assets**

**Freelancers
and Strategic
Third Parties**





SCENARIO 1

IP AND AGENCY NEW BUSINESS:

Nondisclosure Agreements

Copyright Notices and Ownership Legends
on Concept Assets

IP Ownership Language in Written Proposals

Up-Front Agreement on Prospect Ownership
of Concepts, Ideation



SCENARIO 2

IP IN THE CLIENT DELIVERABLES, ASSETS

IP Transfer Timing – On Payment

Agency Retention of Unaccepted or
Rejected Concepts

Agency Retention of Proprietary or
Pre-Existing IP

MORE CLIENT IP CONSIDERATIONS:

- Portfolio Display Rights
- Retain and License IP Only?
- Client Expands Use of Work



SCENARIO 3

IP AND FREELANCERS OR STRATEGIC THIRD PARTIES

Independent Contractor Agreement with IP
Ownership Language

IP Rights Transfer After Asset Creation, if Needed

MORE FREELANCER IP CONSIDERATIONS:

- Nondisclosure Agreement?
- Client Non-Solicitation
- Alignment of IP Ownership
with Agency-Client AGR

HOW

DO WE DO IT

WHERE

WHERE DO WE START

3 STEPS

STEP #1:

**IP ASSESSMENT
AND DISCOVERY:
TAKE INVENTORY
OF YOUR IP**

INVENTORY

THE IP ASSETS

Use the Asset Categories Mentioned Here as a Starting Point

When each was the asset created or implemented?

Who created the asset
(Agency internal or a third party for the Agency)?

Any IP registrations for the asset (such as a federal trademark registration, copyright, or a patent)?

Estimated market value of the asset, if available

STEP #2:

IP PROTECTION:

**DECIDE ON
APPROPRIATE
IP LEGAL
PROTECTION**

Are the brand trademarks, taglines, and logos registered as
FEDERAL TRADEMARKS?

Are the business processes, software programs or mobile applications possible **CANDIDATES FOR PATENT REGISTRATION?**

If the assets are creative, and external-facing assets, is
COPYRIGHT REGISTRATION appropriate?

If the asset is confidential, do we need a
NONDISCLOSURE AGREEMENT?

If the assets were third-party created, is there a **WRITTEN IP RIGHTS ASSIGNMENT** or was there a **WORK FOR HIRE PROVISION** in a written agreement with the creator?

Did we originally create this for a Client, and if, so, **DOES THE CLIENT HAVE ANY RIGHTS** to it?

STEP #3:

**IP MONETIZATION:
GETTING THE IP
TO REVENUE**



REVENUE +

WHAT ARE THE REVENUE
OPTIONS AND TACTICS
AFTER THE IP IS ASSESSED
AND PROTECTED?

A man with short brown hair is looking up at a whiteboard. The whiteboard is covered in hand-drawn sketches and diagrams. At the top left, there's a flowchart with a box labeled 'MAIN' containing '300' and '2000f', with arrows pointing to '300' and '2000f'. Below it is a bar chart with an upward arrow. To the right, there's a diagram with a central person icon connected to four groups of three people icons. Further right is a cloud labeled 'CLOUD' connected to a monitor, a server tower, and a laptop. Below the cloud is a line graph showing an upward trend. To the right of the cloud is a pie chart with segments labeled '45%', '15%', '30%', and '1%'. Below the pie chart is a bar chart with an upward arrow. In the center, there's a lightbulb. To the right of the lightbulb is a diagram with a box labeled '45%' and the word 'TEAM'. Below the team diagram is a bar chart with an upward arrow. To the right of the team diagram is a computer monitor and a mouse. Below the monitor is a bar chart with an upward arrow. In the bottom right, there's a line graph with an upward arrow. On the left side, there's a dollar sign, a bar chart, and a car. In the bottom left, there's a sun and a car. The background of the whiteboard is filled with various other sketches, including a pie chart, a bar chart, a line graph, and a diagram with a central person icon connected to four groups of three people icons. The man is looking up at the whiteboard with a thoughtful expression.

Agency typically exits from the IP completely unless it participates in marketing/execution

LICENSE IT

Anything Less than an Outright Sale
Lots of variables: Time, Geography,
Exclusivity of Use

Revenue Streams: Prepaid License
Fee, Per-Use Royalties,
Subscriptions or SAAS Models

Most Ongoing Revenue
Opportunities are Licenses
of Some Sort



PARTNER +

**PARTNER WITH A CLIENT /
THIRD PARTY TO TAKE
TO MARKET**

New Products or
Product Extensions

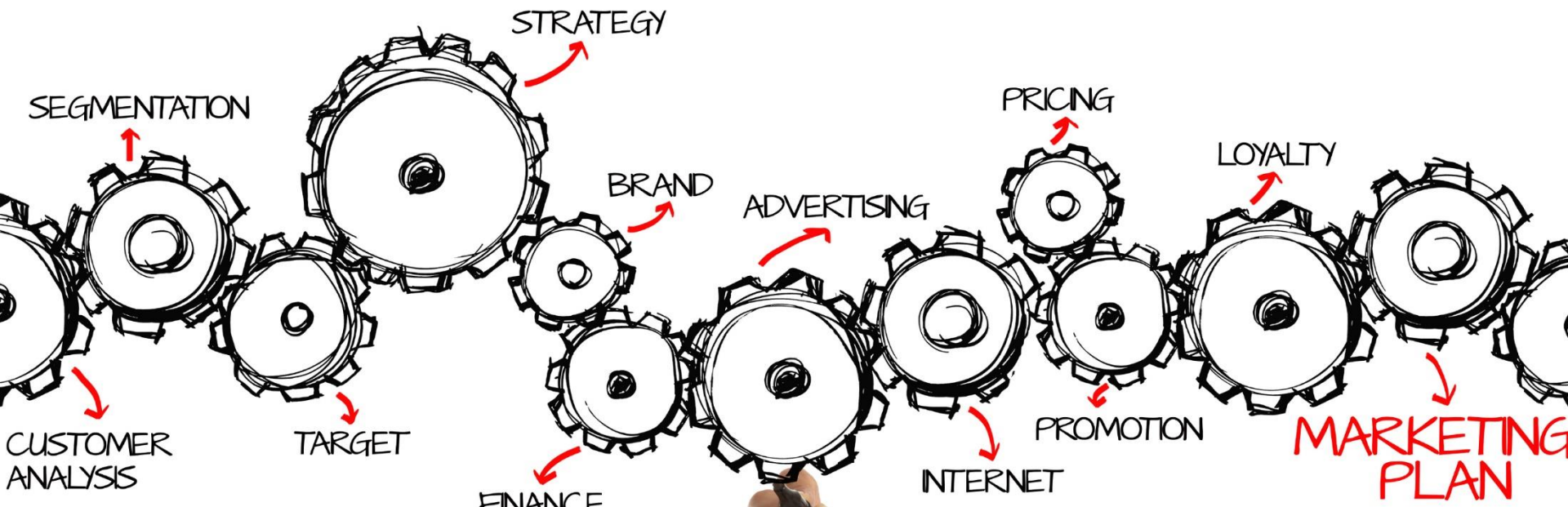
New Venture

Joint Venture



CREATE +

Create an Innovation Department or
Venture for the Agency



VALUATION +

Use the IP to Increase the Value/Valuation
of the Agency



TODAY'S 5 (6!) TAKEAWAYS

- PAY ATTENTION TO 3 AGENCY IP SCENARIOS:
 - IP generated from Agency New Business activities
 - IP generated during the Agency-Client relationship
 - IP generated when Agencies work with Freelancers
- KNOW THESE 3 STEPS TO IP PROTECTION AND MONETIZATION:
 - Take Inventory of your Agency IP assets regularly
 - Determine whether and how to protect the IP
 - Explore the monetization options for Agency IP

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