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## VALUATION NEWS

### *Intellectual Property is Everywhere*

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Most of us bought our children or grandchildren, a chocolate bunny at Easter. This fantasy bunny and the eggs he may have bought are very old. The first book about him, or her, dates back 332 years to 1682 when he was well established.

What has this to do with intellectual property? Actually, quite a lot.

Lindt & Spruengli, the Swiss chocolatier, early in 1952, developed their own, sitting version of the critter wrapped in gold foil and sporting a red ribbon bow tie bearing a golden bell. To protect its brand image, Lindt obtained a Swiss trademark. Copies quickly followed – Confiserie Riegelein in German and Hauswirth Austria. For a while each had its market – Lindt in Switzerland, UK and USA; the other their home turf.

The world changed and each tried to compete in the other's back yard. Lindt applied for a European trademark in 2010; the firm was rejected and then appealed. In 2012, the EU Court of Justice said no; so on to Germany's Federal Court of Justice. In May 2013, long after Easter, Lindt lost its final chance. After that it was out; however, not in Austria. In 2013, a court ruled that Hauswirth could no longer sell a bunny looking like Lindt's.

This saga, the Swiss winning in Austria, losing in Germany is rather typical and shows the importance of protecting designs not matter how trivial. At its birth, 350 years ago, the Easter Bunny, I am sure, never dreamt he would be the subject of international law suits; in fact, I am sure had no idea of what Intellectual Property is. Today, we all have to think constantly about the subject.

What intellectual property do you have but are not recognizing?

- Trademarks?
- Designs?
- Packaging?
- Is someone else using something similar?
- Has it any effect on your business?
- What is it worth?

### THE TERM VALUE

There are many definitions of value and the differences are not being merely semantics. FASB adopted the "fair value" for financial reporting in 2002. The phrase took on at least two meanings in US GAAP and several more for IFRS. In 2011, nearly all were finally combined into one.

In the US, the AICPA has redefined industry terminology. Phrases such as estimate, conclusion, and calculation of value now differ in the US and Canada; other countries also march to their own drummers. Various courts adhere to their individual definitions. Equally, taxing authorities continue to insist on their own. Professional experience, wisdom, acumen is essential.

With otherwise identical facts, interpretations may vary. If in doubt, call CVS to assist in appraising your clients' situation correctly and advantageously.

James P. Catty, MA, CA•CBV, CPA/ABV, CFA, CVA, CGMA, CFE, Principal Valuator of CVS, is Chair of the International Association of Consultants, Valuators and Analysts (IACVA), a 10,000 member organization with designation-granting authority in 55 countries. With contributors from 13 nations, Jim compiled "Guide to Fair Value under IFRS", published by Wiley, NY, in 2010. In 2011, he wrote "The Professional's Guide to Fair Value", Wiley, NY. Jim keeps completely up to date with the requirements of changing standards and would be delighted to assist with any professional question you may encounter. He can be reached at 416.865.9766, [www.corporatevaluation.ca](http://www.corporatevaluation.ca) or [jcatty@corporatevaluation.ca](mailto:jcatty@corporatevaluation.ca).