

Cancer, long-term

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Diagnosis to treatment

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How independent sector innovation and investment can help re-engineer cancer services

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David Beynon, partner with Harrison Clark Rickerbys, looks at how healthcare businesses can identify and exploit new opportunities arising from inherent intellectual assets



MedTech and digital health

Medical technology and digital health have seen sustained global growth over the last decade. In addition to significant technological advancements, external factors such as the onset of the Covid-19 pandemic, and a more developed awareness and personal responsibility for health, give every indication that the growth trend is set to continue. Organisations operating in the life sciences and healthcare sectors, and the stakeholders within them, are well placed to take advantage of that global trend, resulting in the further identification, development and deployment of new methods, processes, devices and treatments.

In this increasingly diverse and dynamic space, public and private organisations should be encouraged to consider what contributions they can make, not only for the benefit of the wider community and patients, but also to enable them to fully realise their own potential and success. In that respect, success will hinge on many factors and be measured in different ways. However, one aspect that is frequently overlooked is the effective management of an organisation's existing intellectual assets, and whether such assets are being protected, developed and exploited to their full potential.

In this context, many readers will be familiar with intellectual property; namely rights that exist in patents,

trademarks, copyright and designs. However, organisations operating in the life sciences and healthcare sectors should note that, in addition to the established intellectual property rights,

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they are also likely to possess and have control over a vast array of other, less obvious, intellectual assets. These may include, amongst other things, methods,

processes, knowledge, data and information, all of which will have some inherent value or benefit.

By taking a holistic approach to the management of all its intellectual assets, an organisation is likely to find rewarding opportunities to exploit and develop them further. For example, adopting such a strategy will often result in, gaining a competitive advantage, improving productivity, the development of new devices or treatments and generating new commercial opportunities and revenue streams. From a practical perspective, for such a strategy to be successful, it will need to be fully integrated into an organisation's processes and culture to ensure that all intellectual assets, and opportunities that arise from them, are not overlooked.

From a legal perspective, the implementation of such a strategy requires a different focus at each stage.

The 'protection' stage should be an ongoing exercise, during which an organisation should focus on keeping its intellectual assets secret and restricting unauthorised third parties from benefiting from them.

That process should be approached as both an internal (i.e. employees, contractors and stakeholders etc) and external exercise (i.e. partners, collaborators, and suppliers etc).

As a matter of best practice, organisations are advised to only share information on a 'need to know' basis.



Of equal importance is the requirement to ensure that both internal and external arrangements are documented on a contractual footing and contain robust and enforceable provisions. Similarly, organisations should seek to register potentially valuable intellectual assets whenever opportunities for registration present themselves.

The ‘development’ stage of the strategy involves turning an organisation’s intellectual assets, and the ideas and opportunities that arise from them, into reality.

Legally, this stage tends to focus on ensuring that the applicable intellectual assets remain available to the organisation and identifying where third-party collaboration is required.

Often this stage results in sophisticated collaboration or research and development agreements being put in place between partners, which focus on a particular deliverable or outcome. Typically, these sorts of agreements seek to ensure that each party’s position is protected and that its overall objectives are achieved.

Finally, the ‘exploitation’ stage deals with the realisation of the intellectual asset and its potential.

Commonly, exploitation in this context is associated with revenue generation and that is certainly often the case when a new medical device or healthcare product is taken to market. In such instances, revenue can be generated by direct sales or through other distribu-

tion channels.

In contrast, depending on the circumstances, it may be more appropriate to seek licensing or disposal opportunities instead. In addition to income generation, the exploitation of intellectual assets can also have a much broader positive impact as well.

For example, a benefit may be derived from the differentiation achieved over competitors, or by enabling the recruitment of new talent for future growth and opportunity.

In any event, whatever the overriding objective, most organisations operating in the life sciences and healthcare sectors will derive some benefit from adopting a holistic strategy to the management of their inherent intellectual assets.