Securing Loans with Your IP Assets

Hands-on IP Finance Series

WIPO

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World Intellectual Property Organization
34, chemin des Colombettes, P.O. Box 18
CH-1211 Geneva 20, Switzerland

wipo.int

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Introduction

Did you know that your intellectual property (IP) assets could help you secure a loan to grow your business?

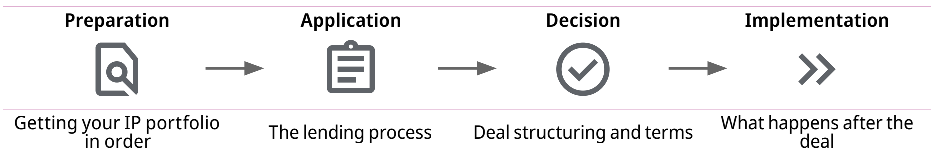
Traditionally, lenders required tangible property like equipment, real estate or equity as security. However, an increasing number of lenders recognize that IP assets can have substantial value and are willing to factor them into their decision-making processes. While lender attitudes vary, this means your business can now consider using IP assets when raising capital.

Your software, technology, brands and creative works all have the potential to help you secure financing. The IP assets that protect them are still an unfamiliar asset class to many lenders. You may need to convince them these assets are bankable.

This guide will help you have better conversations with prospective lenders about your IP assets and how they drive value in your business.

This guide is divided into four sections. Each section contains explanations and templates to walk you through the process of using your IP assets to secure a loan as shown in Figure 1. You can download these and populate them with your own information.

Figure 1 How this guide is organized



To help you apply the principles explained in this guide to your own situation, three examples of different company types are featured as shown in Table 1.

Table 1 Example companies used in this guide

Company	Description	Reason for borrowing
TechCo	An advanced manufacturing company that has developed a patent-protected energy generation and storage system, growing rapidly through sales and a network of distributors and installers	To drive its plans for international expansion
FoodCo	A food and beverage company that is establishing its brand in supermarkets	To expand its product lines to capitalize on the popularity of its launch range
GameCo	A company that has created a mobile app which is growing rapidly and attracting subscribers	To market its existing game and create a licensable brand

Who should use this guide?

This guide is particularly designed for companies that:

- own and use their IP assets
- generate revenue
- are high growth.

1 Preparation: Getting your IP portfolio in order

This section covers:

- Which IP assets are bankable?
- What is bankable in your IP portfolio?
- How do your IP assets support your business?
- How do your IP assets generate value?
- Explaining your IP assets to a lender

Which IP assets are bankable?

To be bankable, your IP assets need to support cash flows that can be used to repay a loan. They must be identifiable and separable from your business, and you need to own them.

A lender will take security over these assets; this gives them rights over your IP if you do not make payments when they fall due. For some lenders, IP can be sufficient collateral on its own; others may take a security interest over IP as part of a wider package.

While the amount you can borrow against the value of your IP assets will vary, it is worthwhile communicating what your IP assets are and what they do, so that a lender can better understand the role of your IP portfolio in your business.

What is bankable in your IP portfolio?

Start by establishing whether you own any bankable IP that could be used to secure financing.

While there may be a lot of IP assets which are important to your business, not all of them will be suitable to support the lending process. Some IP assets are easier to use to secure financing than others as shown in Table 2.

Table 2 Ability of IP assets to support debt financing

Easier	Harder
Patent	Trade secrets (which may have to be disclosed in order to use them as security)
Registered trademarks	Unregistered trademarks
Revenue-generative creative/ literary/artistic copyright assets	Creative assets that don’t form a basis for revenue generation
Revenue-generative software code	Raw data (because ownership may be hard to establish and consent issues can be complex)
Registered/industrial designs	Unregistered designs

Registered IP assets

While most IP assets have value, some are more easily identifiable. Registered IP such as patents, trademarks, designs and copyright (in some countries) gets recorded on official databases. Demonstrating the existence and ownership of unregistered IP assets like some copyright materials and trade secrets can be more complex, as lenders are generally used to taking security over tangible, verifiable assets.

You can use the following Template 1 to create a schedule of your registered IP assets.

Template 1 Registered IP assets template

TechCo Example

	Number	Name/title	Recorded owner	Country/ territory	Application date	Official status	In use?
Patents	USXXXXXX	Energy storage and conversion system	TechCo	US	YYYY-MM-DD	Granted	Y
	CAXXXXXX	Energy storage and conversion system	TechCo	CA	YYYY-MM-DD	Pending	Y
Trademarks	USXXXXXX	CoName	TechCo	US	YYYY-MM-DD	Registered	Y
	CAXXXXXX	CoName	TechCo	CA	YYYY-MM-DD	Applied for	Y
Registered designs	-	-	-	-	-	-	-
Registered copyrights	XXXXXXX	Energy system software code	TechCo	US	YYYY-MM-DD	Registered	Y

How the other example companies would differ:

FoodCo — FoodCo's most numerous and important IP assets are its trademarks. It has nothing patentable, but has designed some highly distinctive packaging, which it has protected using registered industrial designs.

GameCo — GameCo's schedule is naturally heavily based on copyright-protected materials, but it has also trademarked the name of its game and used design protection to register the styling of its lead character. It can record those rights in this template.

You can download Template 1 and examples from all three companies [here].

"In use" assets

As well as indicating whether your IP assets are "in use", it is important to set out how and where they are used, and their relationship to cash flows. There may not be room to set this out in a schedule but do ensure you make this connection clear in your business plan.

Software, audio-visual assets and other copyright material

Some countries offer official copyright registers. If GameCo has these registrations, it would include them in the above schedule. However, even where there is a register, most businesses have copyright assets that produce value which are not registered. A lender will only know about these if you tell them.

Your checklist does not need to mention every copyright-protected asset you own, but you should make sure it covers any and all materials that actively generate revenue for your business. Common examples include software code and apps, music, artwork and manuscripts. If you make money from these assets, e.g. by licensing your software to customers, it will be very important to describe these IP assets to a lender.

You can use the checklist in Template 2 to identify and describe assets protected by copyright.

Template 2 **Checklist for core copyright assets**

GameCo Example

Type	Example	Used for	When created/ last updated	Who created/ updated it	Directly revenue-generative?
Software or app	Mobile app for game (OS and Android versions)	Game play	YYYY-MM-DD	In-house R&D team	Y
Database design	Game parameters	Game calibration/ progression	YYYY-MM-DD	In-house R&D team	Y
	User subscriptions and system interactions	Game calibration/ progression	YYYY-MM-DD	In-house R&D team	Y
Website	Promotional site at www.GameCo.com	Marketing and downloading	YYYY-MM-DD	In-house marketing team	Y
Process documentation	Code documentation	Code updating and maintenance	YYYY-MM-DD	In-house R&D team	N
	Rule sets	Game play	YYYY-MM-DD	In-house R&D team	N
Original literary, artistic or musical creation	Original in-game music	Game play	YYYY-MM-DD	Specialist music producer	N
	Original character designs (lead characters also protected by design registration)	Game play	YYYY-MM-DD	Design agency	Will be when licensed
Broadcast or recording rights	Original in-game soundtrack recordings	Game play	YYYY-MM-DD	Specialist music producer	Y
Performance or adaptation rights	-	-	-	-	-
Other (please describe)	-	-	-	-	-

How the other example companies would differ:

TechCo

TechCo has copyright in the software components of its energy control system and the design of the database that make its system operational. It has two websites (a corporate and a product one) and a range of process documentation covering assembly manuals/bills of materials, a software manual, an installation guide and a set of brand guidelines.

FoodCo

FoodCo has a website for its products. It has copyright in the creative expressions of its recipes and well-documented processes that enable it to maintain consistent product quality, including across aspects of production that are outsourced. It also has social media content which helps it generate new business.

You can download Template 2 and examples from all three companies [here].

Other intangible assets

Like IP assets, other types of intangibles can drive value in your business, and need to be identified if they do. You will particularly want to highlight any of the following that contribute to sales and profits:

- Internal resources only your business has – such as unique data on customers, prospects and activities, special algorithms and artificial intelligence models, or processes that may be protected by trade secrets.
- External accreditations that your business needs to trade but which are scarce or difficult to obtain. These might be regulatory, like rights to operate, or industry-based, like quality approvals.

Template 3 provides an example.

Template 3 Checklist for other intangible assets

FoodCo Example

Internal resources	Example	Used for	Revenue-generative?
Data (produced by your business)	Product sales data by SKU, location, day, season	Promotions, offers, retailer sales targeting	N
Data (obtained from external sources)	-	-	-
Proprietary algorithms or AI	-	-	-
Trade secret processes or designs	Product recipes and methods of formulation (held as trade secrets)	Product design and manufacture	Y
Unique formats/styling	Product packaging – style, color and shape	To stand-out on supermarket shelves	N
Regulatory approval	-	-	-
Company accreditation	ISO22000	Food safety management system	N
Permissions or rights to operate	-	-	-
Industry awards	Best New Specialty Product (Good Food Awards)	Marketing and promotion	-

How the other example companies would differ:

TechCo

TechCo produces a large amount of valuable data as a result of its business operations and interprets these using algorithms. It has to conform with various electrical standards. It has won energy efficiency awards.

GameCo

GameCo's game produces a high volume of user/game interaction data from which it gathers useful behavioral insights. It has proprietary algorithms and keeps some of its game rules as trade secrets. It has won awards which have helped it to grow its user base.

You can download Template 3 and examples from all three companies [here].

Demonstrating ownership

To use your IP assets to secure financing, the assets must be owned and controlled by your business. This is vital to a lender, who needs to know it can acquire title to your IP and intangible assets if the need arises.

Generally, this means the recorded IP assets owner needs to be the company seeking funding. If your IP assets are distributed across several companies in your group, or placed in a holding company, additional agreements may be required to harness their value to secure financing.

If rights are registered in the names of directors or founders, you will need to have them transferred first, as it may be impossible to take account of their value if the company cannot enforce them or grant security over them. Also, any IP asset that is core to your business but is licensed in from others is very unlikely to be usable.

Consolidating IP assets into a single company

Some types of funding structure might require you to consolidate all your IP assets in one company, which can be expensive. If this applies, your lender will explain what is required.

How do your IP assets support your business?

For a lender to view your IP assets as bankable, they must demonstrate a relationship to the cash flows you generate now and will be generating in the future. IP assets can support cash flow lending, for example, where these assets give the lender extra comfort. There are three reasons for this:

- Lenders take security to have control over assets you consider to be valuable today, to encourage you to repay your loan.
- If the assets generate revenue, lenders can assume you will be motivated to protect and enhance them in the future.
- Assets unrelated to revenues could be very difficult to re-sell, if you default on a loan.

Are you an early-stage firm?

If your firm is at an early stage and has not yet started generating any income, it may be extra difficult to access loan finance. If as an entrepreneur you struggle to explain what your firm does and how your IP assets generate value, it is unlikely any lender will go any further. Likewise, judiciously assess if borrowing would be the right choice for your business as there is a possibility that you would be taking on debt that you may not be able to repay.

How do your IP assets generate value?

There are two main ways in which your IP assets may generate cash. They may be used in your business or used by other people. They may do one of these, or both.

Firstly, your products or services may contain your IP, making them distinct and different from other offerings in the market as shown in Table 3.

Table 3 Examples of how IP helps your business generate cash

Business model	Example
Sales and profits associated with your products and services prove your IP assets have value	Leading consumer branded goods
You create sales revenue indirectly, by using your products or services to attract advertising/sponsorship income	Popular apps that work on a free or "freemium" model

Alternatively, or additionally, your IP assets may be the product or service you offer and generate revenues and profits in their own right as shown in Table 4.

Table 4 IP as a product

Business model	Example
Technical IP, e.g. patent-protected inventions monetized by licensing	Licensing income like ongoing royalties, upfront or minimum payments, or a combination
Creative IP monetized from advances, commissioning payments, broadcast or publication royalties, performance or recording rights, and/or spin-offs like authorized merchandise	Book and film franchises Enterprise software
Access rights to tools and systems, licensed to users based on size and functionality	Enterprise software

Relevance for the example companies:

TechCo

TechCo generates cash from sales to its trade distributors. Its patented technology is at the heart of what it offers. Revenues are becoming increasingly reliable and predictable, giving the business the confidence to enter new markets and accelerate its growth.

FoodCo

FoodCo generates cash from sales to retailers. The brand and its packaging are essential for consumer recognition.

GameCo

GameCo operates a freemium model – the game is free for anyone to download. Revenue is derived from advertising and in-app purchases which are all dependent on the copyright-protected software created by the business. Its trademark protection helps to avoid confusion in the market with other, less fully-featured apps.

In preparing for a funding application, you will need to quantify the revenue and profit impact of these assets in the recent past and forecast future cash flows. Typically, these calculations are needed for a minimum of the current trading year and two full further years beyond the end of your current accounting year.

Using contracts to demonstrate proof of traction

You will want to showcase the strength of your IP assets and the contribution they make to your business. One of the ways you can do this is to show that you have contracts in place that generate cash flows from them.

Start with the best or most representative example of each type. For instance, for domain names, make sure you reference the ones that are in use, and which drive sales. Depending on your business, and the type of finance you are seeking, a lender may ask for further particulars.

You can use Template 4 to identify the most important categories of contracts.

Template 4 Checklist for core contractual IP assets

TechCo Example

Type	Best example	Relationship to IP and revenue	How many are there like this?
IP license or franchise to others	--	--	--
IP license or franchise from others	--	--	--
Public or private sector contracts	California State Highways contract	Concerns patented systems, generates recurring revenues	12
R&D funding agreements	Industrial collaborative development award with control systems manufacturer	Access to background IP to support future product development	1
Agent/reseller agreements	Canada distributor agreement	Concerns patented systems, generates recurring revenues	8
Exclusivity arrangements	--	--	--
Customer order book	US order book	Concerns sales of patented systems	3 countries
Domain names	www.techco.com	Promotes products	2
Employee contracts (granting rights to IP)	Standard employment contract	Safeguards ownership rights in inventions	39

How the other example companies would differ:

FoodCo

FoodCo has contracts with supermarkets and with international distributors, an order book with specialist retailers and a domain name of value. The company's employment contracts contain important clauses that help to make protection of its trade secret formulation more easily enforceable.

GameCo

GameCo is working on a franchise model for its game concept and character properties. It has agreements to distribute its games on proprietary app stores and domain names. The company has incorporated confidentiality wording in its employment agreements.

You can download Template 4 and examples from all three companies [here].

Financing contracts

Contracts can sometimes support financing as well, as a standalone asset. If performance risk is low, this is something you may be able to discuss with a lender. However, to lend against these revenues, the lender may require the contracted incomes to be paid into an account it controls.

Explaining your IP assets to a lender

When applying for a loan, lenders often ask for your business plan.

The business plan is the place to set out what funding you require, and how you intend to spend it. Make your "ask" clear. Your plan should also set out the term over which you propose to repay.

Lenders need to be confident you can repay what you intend to borrow. Your business plan is the place to explain the basis for your financial forecasts and the reasons you are confident these are achievable.

Building IP assets into your business plan

If you want the lender to consider your IP assets, your business plan will need to describe your most important IP assets in some detail and explain clearly why they are important to your business. You can use Template 5 and the checklist in Template 4 to help you consider how best to weave your IP assets into the narrative of your plan.

Once you have created a full inventory of all your IP assets using the tables in this section, you can attach it to your plan as an annex.

Template 5 below shows you how FoodCo might connect its IP portfolio to its business plan.

Template 5 How IP relates to the business plan

FoodCo Example

Sample heading	Content suggestions	Further evidence
Business model	– FoodCo makes money by selling its products through supermarkets and other retail outlets – FoodCo's IP protects its mark of origin and creates a basis for developing brand recognition and loyalty – This existing IP will facilitate range expansion/ diversification and repeat purchasing	
Company assets	– The company has registered trademarks and trade secrets which protect its formulations – Historically, these have not been recognized as assets on the company's balance sheet	Detailed listing of all IP rights and their current status provided in an annex
Company strategy	For the IP section: – Trademarks are registered in the home market. Searches have been conducted and confirmed availability in export markets. Registrations will be made in key markets prior to entry – Formulations are protected as trade secrets; all subcontractors are under NDA; all staff terms and conditions contain specific confidentiality provisions – Copyright will be registered where national systems offer an official record, when the company starts trading there	Results of TM searches; and copyright registration certificates (where relevant) provided in an annex
Competitive position	– FoodCo is creating a profitable niche with strong evidence of repeat purchase activity and interest from retailers in production of "white label" goods – FoodCo has identified several new product segments not currently well served by its closest competitors which would provide opportunities to up-sell and cross-sell	Matrix showing closest comparative brands and availability of target product ranges
Summary financial forecasts	Would include commentary on: – Sales of current products through existing distribution routes – Sales of new products through existing distribution routes – Sales of current products through new distribution routes – Sales of new products through new distribution routes – Budget for IP protection (including renewals)	Detailed forecasts
Historical financial performance	Would include commentary on: – Historical accumulated investment in all R&D – Proportion of this investment that is visible on the company balance sheet	Audited or unaudited financials
Uses of funds	FoodCo will invest a further $500,000 over the next two years on new products	Description of products and any IP protection already obtained or in progress for them

How the other example companies would differ:

TechCo	TechCo's plan is to expand its sales to three other neighboring countries, where it has identified suitable trade distributors. It makes money by selling its products and systems through distributors and installers. The company has a strategy to apply for IP protection in its domestic and major export markets, with patents also applied for in countries where others might seek to manufacture competing products. It can demonstrate a direct link between the protected features and enhanced revenues, broken down by product and by territory.
GameCo	GameCo's plan is to increase its subscriber base and grow its popularity, to both generate more revenues through existing means, and explore the potential to license the characters and styling of the game to third parties. It owns all the copyright in its code (all written in-house), designs of main characters and trademarks for its name. The company can show how its conversion rates to paid usage outperform market norms and the research it has done to validate the out-licensing opportunity. The plan includes a detailed breakdown of its virtual goods sales showing how these relate to its IP rights.

You can download Template 5 and examples from all three companies [here].

Quantifying the value of your IP and intangible assets

If you do apply for a loan using your IP assets, you will need an estimate of how much they are worth. Professional support, using tools and services, is available to help you form a view of this value in advance. However, before you invest time and money in this activity, ask your lender about the type of valuation they can accept. They may insist on their own method, and/or trusted source, for the valuation report (see Chapter 3, 'Valuing your IP assets).

At this stage, your priority is to assemble and present information on the investment made in creating and maintaining your IP portfolio. There are a number of areas you can usefully cover as shown in Table 5.

Table 5 Costs of developing your IP assets

Cost category	Example	Categories of expenditure to include
Invention	Costs associated with researching and prototyping your innovative concept	– Internal staff time/effort – Market research – Contract research – Specialist resources/facilities needed
Implementation	Costs associated with building a means of delivering the invention or creation	– Internal staff time/effort – Specialist development and prototyping services – Tooling – Software licenses – Subscriptions
Brand development	Work on developing explanatory or promotional materials	– Internal staff time/effort – Branding agency fees
Design development	Work on styling and presentation, e.g. of products or packaging	– Internal staff time/effort – Design agency fees
IP costs	Costs of filing, prosecuting, renewing and defending patent, trademark and design rights	– Patentability/freedom to operate searches – Trademark searches – Attorney fees – Official fees – Renewal fees
Other expenses		– Domain name purchase – Website development – Legal fees, e.g. for standard terms – Marketing costs

Setting out these costs will make it easier to convince lenders your IP and intangible assets have a value, and shows your commitment to them, especially if significant expense has been incurred in their creation and maintenance.

Sweat equity

It may not be possible to quantify all your costs. It can be hard to account for sweat equity – unpaid time spent working on the business. It is worth trying to quantify this as an indication of commitment – though it is unlikely you will be able to borrow against its nominal value.

2 Application: The lending process overview

This section covers:

- Finding lenders interested in your IP assets
- What your business can do with the money
- Understanding the limits to a lender's risk appetite
- What are security interests and collateral?
- Anticipating due diligence questions
- Dealing with confidentiality concerns

Finding lenders interested in your IP assets

Three main types of financiers can lend against the value of your IP assets:

- Commercial lenders, development banks and/or asset finance companies may be willing to take your IP portfolio into consideration when determining whether to make a business loan, how much to lend, and/or on what terms;
- Specialist financiers may operate funds dedicated to backing IP-rich firms, for example, tech companies; and
- Governments may subsidize or support IP-backed lending programs, which may be targeted at particular sectors.

Not all of them engage with IP assets in all countries, so establishing which ones operate locally will be your first priority. Accountants, business advisers, chambers of commerce and government information agencies may be able to help you understand your options and support you with introductions.

Lenders with specialties

Some lenders have sector or technology specialties. It's worth doing your homework to identify whether any lenders are a particularly good "fit" with your business activities.

To get comfortable with using your IP assets in this way, a lender might need to satisfy conditions set by regulators, government guarantee schemes or insurers. This will influence the questions they ask you during the application process, to determine whether you qualify.

The process most lenders will go through is broadly summarized as in Figure 2.

Figure 2 The lending process

Discuss your business, incomes and funding requirements to determine if IP finance could work for your business.

Conduct a detailed review of your IP assets and financials to determine if your IP assets meet the lender's requirements.

Provide a **provisional offer**, which you should review to determine whether the financing meets your needs and the loan terms are acceptable.

Document the loan terms for you to sign.

Take **security** over your IP assets in exchange for the agreed loan amount.

What your business can do with the money

Before starting an application, you will need to be clear on two things:

– *How much you want to borrow.* Some lenders and funds may have minimum or maximum amounts they are willing to lend. The biggest factors, however, are your business's financial circumstances and future plans, which will determine the amount you can borrow.
– *How you plan to use the funds.* Some financiers restrict how the money can be spent (e.g. you may not be able to pay dividends or use it to buy another company). Lenders usually prefer purposes that involve exploiting and/or strengthening your existing IP assets, or creating new ones to realize a known market opportunity, such as those found in Table 6.

Table 6 Sample uses of funds and their likely suitability for IP finance

Purpose	Example	Considerations
Research and development	Creating new goods or services	Likely to be a permitted use: lender may ask how much of the R&D effort will be spent on enhancing/extending the life of existing assets vs. creating new ones
Marketing expense	Promotion of existing goods or services	Likely to be a permitted use: lender may ask how results/returns will be monitored
Exports	Expansion of existing goods or services into new markets	Likely to be a permitted use: lender may ask how well protected your existing IP assets are in the new markets you intend to enter
Staff recruitment	Building out your company's team	Likely to be a permitted use: lender may ask whether new staff will be involved directly in IP creation, protection or exploitation, as these should all add value to the lender's security
Acquiring IP	Buying technology, brands and other assets to strengthen your offering	Likely to be a permitted use: lender will ask about the motivation for purchase, expected revenue or cost saving benefits and integration plan
Acquiring another business	Buying a competitor or integrating parts of your supply chain	May be a permitted use: lender will ask about the motivation for purchase, expected revenue or cost saving benefits, integration plan and IP implications
Existing loan repayment	Paying off existing indebtedness	Might be prohibited by the terms of the loan, except where IP is being used as the basis of a restructuring exercise, on the grounds it does not add value to your IP or business activities
Share buyback or dividend payment	Compensating shareholders	Sometimes barred by lenders on the grounds it does not add value to your IP or business activities

Relevance for the example companies:

TechCo	TechCo's priority is international market expansion. This should be an acceptable use of funds.
FoodCo	FoodCo's priority is to invest in development and marketing costs for its new product. This should be an acceptable use of funds.
GameCo	GameCo's priority is targeted social media campaigns and exploring licensing opportunities. This should be an acceptable use of funds.

Understanding the limits to a lender's risk appetite

When extending a loan, lenders take on the risk that a borrower may not be able to repay it. To manage this risk, lenders set limits on how much risk they are willing to take. They assess your ability to make payments by looking at certain ratios that consider the cash flow you generate (see Chapter 3, How much of your IP assets' value can you finance?). This analysis of whether you can afford the loan payments is called evaluating the serviceability.

Serviceability depends partly on how long the period is over which a loan is repaid, called a term or tenor. A longer loan tenor means each payment is smaller, putting less strain on your cash flows. However, you will generally pay more total interest, due to the extended loan term or higher interest rates.

Lenders can structure loans in different ways to increase serviceability, make a loan more affordable, and reduce risk as shown in Table 7.

Table 7 Loan structures

Loan structures	How it works
Balloons	The borrower makes smaller payments over time, then pays off the remaining balance in one final larger payment
Bullets	None of the principal is repaid during the loan period. Instead, the entire loan is paid at the end of the loan term
Capital repayment holidays	A period, usually at the start of the loan, where the borrower only pays interest

What are security interests and collateral?

Lenders face an important information gap. They only know what you or their advisers tell them about your business. Taking security over your assets helps them manage this information gap and other risks.

Understanding the terminology

When a lender takes a security interest, it has the right to sell your assets if you default. This helps lenders motivate you to repay the loan and allows the lender to recover their losses if you cannot.

If a lender directly ties the amount they are willing to lend to the value of the IP assets you are able to offer as security, you may see it described as collateral. This reflects an increased level of expectation that your IP assets have value that can offset any loss. When a lender identifies valuable collateral, it makes their lending decision simpler, and more likely to be favorable.

Lenders routinely take security over tangible assets like property, and use them as collateral. They are experienced in re-selling these assets if necessary. Banks price these assets at their disposal value, the amount the lender expects to receive from selling it. They deduct a small margin for risk, usually 20–30 percent.

Growth companies often lack tangible assets, leading to consideration of how IP and intangible assets can fulfill this role. With lenders less familiar with these assets, the margin deducted for risk will be greater. This will be reflected in lower maximum loan-to-value ratios for IP assets, which may be 50 percent or less.

Giving and receiving value

Your IP assets have value. If you place these assets at risk by giving your lender a security interest in them, you should expect to receive something in return. Otherwise, all that's happening is that your lender is better protecting their position.

Boot collateral

Collateral generally gives you access to more favorable financing terms, as explained below. In some situations, though, lenders may try to capture everything your business owns in a 'blanket' security interest, without offering additional value of this nature. This is known as taking boot collateral.

Using IP assets as collateral can potentially replace the need for other forms of security such as tangible assets like property, or personal guarantee. This can be possible, if the lender is confident it has access to something of value if you default.

You will need to know the value of your IP assets to use them to support the lending process. However, before you invest in a valuation, consult with your lender. Lenders often have preferences on the way valuation is conducted or the provider used (see Chapter 3, Valuing your IP assets).

Understanding the value of your IP assets may improve your access to more favorable financing options, including:

- qualifying for loans that you otherwise would not be able to obtain;
- increasing the amount your lender will let you borrow; and
- securing better terms, such as a reduced interest rate.

Anticipating due diligence questions

Lenders have a responsibility to offer suitable financial products. To find out whether IP-backed finance works for you, they will need to conduct due diligence. In this process, a lender will verify certain assumptions, which might involve people different from your usual relationship manager at the lending institution.

Your application will progress more smoothly if you have answers ready for the most common questions that are likely to be asked.

Familiarity with intangible assets

Many IP due diligence questions have parallels in tangible asset lending. These questions will investigate the condition and quality of your assets, and whether there are any issues over ownership or rights of use. However, if your lender is unfamiliar with IP assets, they may ask more questions about them than they would with other asset classes.

As explained in the previous chapter, you will need to provide complete details about the IP assets you want to be taken into consideration and be able to explain how they add value to your operations. Assuming the lender is satisfied with this information, the IP-related areas that are most likely to be scrutinized include:

- *Title* (who owns your IP asset?)
- *Status* (do IP rights exist, and are they in force?)
- *Scope* (what do these IP rights cover?)
- *Spread* (where are they valid?)

- *Maturity* (what traction do they have?)
- *Disputes* (infringement or invalidity claims and their management).

Template 6 can assist you in preparing the information that may be required. This version shows the main points that need to be covered and provides a worked example for GameCo.

Template 6 Template for due diligence

GameCo Example

Sample heading	Key points to cover	Key points and useful supporting evidence for GameCo
Title to assets	Confirm your business owns and has rights to all the assets listed and that they are not subject to any disputes	Concern may be whether anyone else holds IP rights in the game *Supporting evidence:* – Licensing terms of the underlying gaming engine – Staff terms and conditions – Assignments of rights from any subcontractors engaged in coding
Status of assets	Expand on your asset inventory by setting out further information on your strategy for IP protection for any rights not yet registered or granted	Concern may be that GameCo is dependent on copyright in software that is hard to protect against imitation (as opposed to theft) *Supporting evidence:* – Inventory of all the IP and intangibles GameCo owns and uses, by type – Business plan incorporating branding strategy and ways in which character properties can be used to drive future growth
Scope of assets	Explain why the rights you have are appropriate and sufficient to support your current and future business model and that there is clear evidence of market demand for them	Concern, as above, may relate to the limitations of copyright protection *Supporting evidence:* as for Status
Spread of assets	Explain the relationship between the geographical markets in which you trade and the countries where you have IP protection in place	Concern may be that mobile apps can be played anywhere and protecting IP across the world can become very expensive *Supporting evidence:* – Matrix comparing statistics on current user profiles with territories in which registered IP protection is in place – Extended matrix showing which additional territories can readily be protected (bearing in mind time limits on extension of certain existing registered rights)
Maturity of assets	Show that the rights are sufficiently mature to support product or service revenue generation, but not so mature they are becoming obsolete	Concern may be that IP associated with games is often short-lived and that assets that are valuable today will not retain their value tomorrow *Supporting evidence:* – Market research showing successful development of franchise and licensing models from comparable games – Business plan containing a product development roadmap showing how further investment will increase loyalty and traction – Also containing clearly articulated steps to drive value from the assets created to date
Asset disputes	Provide information on any infringement you have identified, or which has been alleged against you, and explain what has happened in any such cases. If you have successfully enforced your IP, this should be regarded as a plus. If there are no disputes, make it clear that there aren't any	Concern may be that developers will take unique and novel features/ways of working with them when they leave GameCo and undermine competitive advantage *Supporting evidence:* – Staff terms and conditions showing explicit copyright ownership and confidentiality clauses

How the other example companies would differ:

TechCo

TechCo may need to show that its use of sub-contractors to produce physical products does not complicate or limit its rights. Assignments and non-disclosure agreements (NDAs) may provide helpful evidence. The company may also need to explain how its IP protection strategy supports its planned market expansion, particularly in respect of patenting, given that not all its rights are granted and therefore enforceable as yet; there could be questions on scope and territorial coverage. Finally, there may be concern that distributors or installers could infringe on the company's IP rights. TechCo will need to explain how it manages this threat.

FoodCo

FoodCo puts a lot of emphasis on brand development, but some of its products are developed in conjunction with suppliers. A lender may wish to confirm that appropriate assignments are in place so that the company owns all the assets on which it relies for day-to-day trading, and also get confirmation that outsourced suppliers do not retain any rights that could complicate the business's planned expansion. There will be questions to answer on how much market traction has really been generated to date. Lastly, there has also been a case of "passing off" – which FoodCo successfully resolved in its favor – showing that there is some strength in its brand protection.

You can download Template 6 and examples from all three companies [here].

The lender may rely on the answers you provide and the loan agreement they offer will require you to confirm that the information you have given is accurate.

Dealing with confidentiality concerns

During the due diligence process, lenders or their appointed specialists may ask detailed questions about your IP assets, current and historical financials, future plans, and customer base.

A reputable lender will generally treat information you give them in confidence and not reveal it to your competitors or customers. However, consider signing a non-disclosure agreement (NDA) to protect yourself. This also demonstrates that your business is serious about protecting its IP assets. It may be quicker to agree on the wording of an NDA your lender provides rather than insisting on your own.

Be extra cautious for these IP assets

- Information about inventions before you file for patent protection – if you disclose the content of your invention, except under strict conditions of confidentiality, you may lose your right to patent protection; and
- Trade secrets you use in your business – once a secret is disclosed, it is very difficult to protect and maintain it as a competitive advantage.

3 Decision: Deal structuring and terms

This section covers:

- Available forms of financing
- What's most suitable for your business?
- Types of security interests taken by lenders
- Valuing your IP assets
- How much of your IP assets' value can you finance?
- Is borrowing against IP assets expensive?

Available forms of financing

There are five main ways IP value can be leveraged for debt finance as shown in Table 8. Not all of them are present in all countries, and any given lender will probably offer one or two of these options at most.

Table 8 Forms of IP financing

	Structure	Role of IP assets
Collateralized lending	A secured loan where IP assets will be used as collateral, to supplement or replace security over tangible property or personal guarantees	The value of your IP determines the amount you can borrow. Using IP as collateral is more likely if it has value independent of your business. Lenders look at the ability to resell the IP assets, requiring significant due diligence as part of the transaction
Enhanced cash flow lending	An unsecured loan, primarily based on the amount, frequency and reliability of the cash generated by the business. IP assets provide comfort to a lender, backing up the commitment and ability to repay the loan	The lender will conduct a valuation of the IP assets, but their recoverable value has a limited role in the lender's decision to extend credit. Lenders will consider the soundness of the projected cash flow and the IP's role in delivering it
Sale and license-back	A form of asset finance. IP assets are purchased by the lender and licensed back to you exclusively	By giving up ownership over your IP assets, you can recover cash previously invested in their development. You will still have exclusive rights of use.
Venture debt	Venture debt is aimed at growth businesses that need additional funds after previous equity-based funding rounds. It provides debt financing without further diluting founders' ownership, but lenders may include options to acquire shares in the future. IP assets can be used as security	Lenders evaluate the business's potential, the amount of equity previously secured, and risk indicators of a business' ability to meet future repayment obligations. IP assets are considered as a factor in assessing a business' profitability and potential
Securitization	Similar IP assets that generate cash are bundled to create a new security instrument, such as a bond. By selling the new security instrument to the market, funds are secured in the present in exchange for future income streams	The cash flows associated with IP assets determine how much can be raised and what returns can be delivered. Usually copyright-based (e.g. Bowie bonds, issued in 1997)[1]

1 WIPO Magazine. Turn and face the strange: David Bowie and IP financial innovation. January 13, 2016. Available at: www.wipo.int/pressroom/en/stories/bowie_ip_innovator.html [accessed May 23, 2024].

This is not an exhaustive list, and specialist variations exist. For example, films are sometimes financed using the copyright of the script and screenplay as security, backed by a completion bond that ensures against the risk of the film not being completed or generating a minimum level of income. Further new variants are likely to emerge over time.

What's most suitable for your business?

Each financier will have its own view on the financing structures it is prepared to offer. When all the options are available, the choice depends on the maturity of your business and the nature and market traction enjoyed by your IP assets.

The relationships between IP assets and potential financing options are shown in Figure 3 below.

Figure 3 IP assets that can be used for finance and suitable approaches

Type of finance	IP assets are in use in revenue-generative products/ services	The IP assets are the product (e.g. recorded music)	IP assets are core to business operations	There are predictable contracted or recurring incomes	IP assets could be re-sold if needed	Business has existing equity investors
Collateralized lending	E	D	E	HD	E	D
Enhanced cash flow lending	E	D	D	E	D	D
Sale and license-back	E	D	E	HD	E	NR
Venture debt	HD	NR	D	D	D	E
Securitization	E	E	NR	E	NR	NR

E–Essential **HD**–Highly desirable **D**–Desirable **NR**–Not required

Table 9 below shows the relevance of different financing options for the example companies.

Table 9 Potential financing options for example companies

		Potential financing options				
		Collateralized lending	Enhanced cash flow	Sale and license-back	Venture debt	Securitization
TechCo	TechCo has existing venture capital investors. Its IP assets are core to the business and support its revenue. The company is profitable	✓	✓	✓	✓	✗
FoodCo	FoodCo IP assets help generate revenue for the company. FoodCo is not venture capital funded	✓	✓	✓	✗	✗
GameCo	GameCo is still at a relatively early stage in its development. Its IP assets are not yet mature and do not independently generate revenue	✗	✓	✗	✗	✗

Talk to your lender before conducting a valuation

These structures may require different IP valuation approaches. For this reason, until you know the viability of the various routes, and which ones may be available to you, it makes sense to defer investing in a valuation, as the lender may stipulate how this needs to be done and have approved sources for it.

Types of security interests taken by lenders

Most countries have laws and mechanisms that facilitate lenders taking security over tangible assets like real estate and equipment. Many countries have an equivalent process for intangible and IP assets. The approach and terminology may vary based on the legal regime in your country.

In common law countries, a lender will probably use a charge or lien. In civil law countries, the corresponding structure is a pledge. Mortgages over IP assets are technically possible in most cases, but rarer due to the more extensive formalities involved.

These types of security interests give you the freedom to continue to use the IP assets mostly as you would normally. There will be some conditions, like prohibitions against selling, exclusively licensing or abandoning them. The lender can take ownership of your IP assets if you default on your loan without consent.

A charge, lien or pledge will usually be recorded in an official database. The security interests may also be recorded on IP databases where your assets are registered.

If an asset finance structure is used, such as in sale and license-back, the lender purchases your assets instead of taking a security interest. You will get an exclusive license to use the IP assets in return for repayments. You will still be able to use the IP assets in your business, but you also remain fully responsible for maintaining and protecting them.

Valuing your IP assets

IP assets are more difficult for lenders to value than tangible assets, because:
- their value is more context-dependent;
- there is much less transaction data available; and
- IP assets have a less predictable amortization profile over their economic useful life.

For these reasons, IP valuation requires specialist input. The analysis includes both objective and subjective components. Consequently, different professionals can sometimes arrive at fair but divergent values for IP assets. Commercial lenders like banks will want to ensure the methods used to value IP are consistent and comparable across transactions.

Lender's caution and prudence

You can expect a lender to take a cautious and prudent approach both on value, and on the proportion of that value that can be leveraged.

There are generally two sets of financial data available for consideration of IP value:
- *Income* – the revenue, cash flow, and profit generated by the IP assets in the past and the projected amounts for these in the short and medium term (primarily a forward-looking analysis).
- *Cost* – the investment made to get IP assets to their current stage of development, and how much more investment may be needed to maintain their competitive position (primarily a backward-looking analysis).

Lenders and their specialist advisers use these inputs to think about IP value in a number of ways. They may combine different methods in their analysis. The methods used may depend on the type of product they are able to offer you.

The most relevant aspects and those that may require further information from your business to get a fair result are shown in Table 10.

Table 10 Preparing for valuation as TechCo

TechCo Example

Valuer question	Key points to include	TechCo's answer
What contribution does your IP make to future incomes if things go to plan?	Well-evidenced forecasts that are backed up by contractual commitments and/or established business relationships and evidence of demand	– Patents protect the energy generation and storage system – Software is proprietary – Company also has an increasingly well recognized brand – Sales are growing rapidly – Forecasts are supported by signed contracts with distributors and installers
What are the risks that might stop you from achieving your plan, and are any of these IP-related?	Information on the regulatory context; ways in which you have hit your targets in the past; details of any IP disputes or infringements that have arisen; plus competitor insights (see below)	– The business needs the right level of working capital to scale up its production and sales to meet confirmed international demand – There are no specific identified IP or regulatory risks
Would anyone else be interested in buying your assets if your business got into serious difficulties and a bank had to sell them?	Details of any merger and acquisition activity in your sector involving similar businesses, and of any commercial approaches you have received to buy, license or collaborate based on your IP	– Company is now backed by venture capital – They bought into TechCo because merger and acquisition activity in the sector is prevalent – expected to be good exit opportunities – There have been two expressions of interest in buying TechCo in the past 12 months, but management want to expand the operations first – TechCo has also received approaches to license its patents
How much have you invested in building your assets – do you have real "skin in the game"?	Schedule of historical investment – sources and uses (where has the money come from and where has it gone?)	– In total over USD 8 million has been invested in developing patented hardware, systems and software to date – TechCo's management has retained a majority share in the company
Do your investment, your know-how and your IP represent meaningful barriers to other people entering your market?	Information on competitor activity and your unique selling points in relationship to theirs	– TechCo's technology is market-leading in its field, which is why the business has successfully secured agreements with leading distributors – These distribution contracts represent an additional barrier to entry for others
How much will you need to spend on your IP to keep it competitive?	Incorporation of sensible R&D budgets within your business forecasts	– Budgeting USD 1 million in R&D over the next two years to develop new software and hardware systems – Further trademark registrations will be made to protect sub-brands

This questionnaire may support an organized analysis of the factors critical in the valuation process of your IP.

How the other example companies would differ:

FoodCo

FoodCo will emphasize the way its formulations are contributing to strong growth and the need to satisfy demand for new products, backed by letters of intent and approaches from new customers. These are reflections of a well-differentiated offering. Given the popularity of FoodCo's goods, it would not be surprising if some "copycats" were starting to surface, but if dealt with effectively, these only serve to confirm the growth opportunity that exists.

GameCo

GameCo will emphasize its high level of subscription conversions and in-app purchases, which are driving better revenues than its competitors. It will set out the evidence showing that its assets are well suited to expansion via licensing, and show it has taken the necessary steps to protect its brand and key character properties.

The role of cash flow

While the value of your IP assets is important, your current and future cash flows will be the main determinant of whether you can borrow, and how much. Cash flows determine your ability to repay a loan (both for the amount borrowed and the interest and other fees that may be charged). The biggest threat to the lender's money during the loan period occurs if you go out of business. Companies are more likely to fail because they run out of cash, than because their IP assets cease to be useful.

How much of your IP assets' value can you finance?

IP financing is new and lenders are still learning how IP assets behave as loan security. Accordingly, there are no established practices regarding how much of your IP value can be used as security for borrowing. Two factors influence this situation:

- **Lack of confidence** in the recoverable value of IP assets. IP value is context-sensitive, so it may change if the IP assets or the business are in distress. Also, IP value is harder to determine than for physical assets, because IP is seldom bought and sold on the same kind of transparent marketplace. The absence of market reference points and disposal routes also means the capital treatment of these assets is different.
- **High transaction costs.** This lack of familiarity and confidence with IP assets may lead to higher costs, as explained in the next section.

Practice is evolving quickly, with a focus on improving access to finance for growth companies whose ability to borrow is most affected by the absence of tangible asset security. However, few lenders will be willing to offer the same loan to value ratio on IP assets as they would for a house or a car.

Is borrowing against IP assets expensive?

IP-backed lending involves costs in three main categories:

- Interest and other financing fees.
- Legal and professional fees.
- Insurance and guarantee fees.

Often, these costs are bundled rather than charged separately. Each of these costs are described below.

Interest and other financing fees

Most loans will require interest payments to be made over the loan term. Financial institutions may view lending against IP assets as riskier than physical assets, potentially leading to higher interest rates. However, you may be able to save money on interest rates if your country offers a subsidy or you offer your IP assets as security.

One-time fees for loans are common, such as those used to cover associated administrative costs. For IP-backed funding, these costs may be higher than other loan types since they require the lender to involve specialists in IP due diligence and valuation. There may be additional fees if you choose to end your loan early.

Legal and professional fees

Most loans require some involvement from parties other than the lender and borrower. This is especially true in the case for IP-backed financing, as few financing institutions have in-house expertise due to low transaction volumes.

As discussed above, the lender will require a trustworthy, independent valuation of your IP assets. There may also be costs associated with due diligence checks to confirm your IP assets are suitable for security, especially if you rely on the value of your IP assets as collateral. These costs are generally passed onto the borrower but some countries offer subsidies. You may be able to roll these costs into the loan agreement.

If you are raising a large amount of funding, there may be additional costs involved. For example, your lender may require you to hold your IP assets in a separate company so the lender is more confident it has access to them if the need arises. You may also have additional costs associated with securing legal or financial advice or complying with reporting requirements.

When the IP assets are software, a lender may require you to keep a copy of your code in escrow with a third party. The costs of setting up and maintaining the escrow will usually be borne by the borrower.

Insurance and guarantee fees

In several countries, governments offer guarantees for some of the loan amount. There are some administrative costs involved and these are often passed onto the borrower.

Lenders may insure themselves against the risk of losses to the value of your IP assets with collateral insurance. The cost of obtaining this cover may be reflected in the arrangement fees or annual fees associated with your loan.

Additionally, a lender may want assurances that you can address risks related to the infringement of your IP assets. One accepted way to provide this is through IP litigation insurance. You may be able to use your loan proceeds to pay the associated premiums.

4 Implementation: What happens after the deal

This section covers:

- Understanding loan covenants
- What your lender will expect you to do
- Restrictions on your IP assets during the loan
- When you create new IP

Understanding loan covenants

Loan agreements often feature covenants. These are contractual commitments you make to the lender, setting out specific requirements and restrictions for the borrower. Some of these covenants may relate to your IP assets, such as those shown in Table 11.

Table 11 Common IP-related covenants

Obligation	What it means	Implications
Duty to maintain your assets	You need to keep your IP registrations valid and in force, renewing rights when due, and continuing to prosecute any applications for new ones	If someone tries to object or invalidate your rights, or you need to enforce or defend them, you may need to tell your lender
Requirement not to sell or pass control of your assets to anyone else	You will not be allowed to sell any of the IP offered as security or grant sole or exclusive licenses to your IP	You may need the lender's permission to license your IP assets
Negative pledge	You will not be allowed to offer the IP assets as collateral to anyone else, or you must safeguard the priority of the original lender's interest	You may need to consult your lender before taking out additional loans
Right to inspect and revalue	Cooperation in periodically updating security records and in revaluing the IP assets	You may be obligated to provide information within specified time frames

Business models requiring licensing

If your business regularly licenses your IP as part of your business model, then you will need to work with your lender to carve these out of the covenants. This may happen, for example, if your software is sold as a service and licensed to your customers.

What your lender will expect you to do

Because an IP asset's status can change quite quickly, lenders may frequently monitor them. They may engage a specialist to perform this work. As well as considering the general financial health of the business, and confirming that there are no threats to the security interest taken by the lender, these monitoring activities will benefit from information you supply on:

- Positive developments like management team additions, new markets entered, new products introduced or new IP assets discovered and protected; and
- Potentially negative developments like key staff departures, IP infringement, product recalls or new market entrants, with the steps you are taking to mitigate them.

Lenders will reasonably expect you to keep your IP assets properly protected and maintained. Steps you will need to take are likely to include the activities in Table 12.

Table 12 Key actions during your loan

Activity	Expected action
IP rights renewal	If you have granted/registered IP rights, you will be expected to renew them when due
IP rights prosecution	Of course, it is fairly common to drop some applications, e.g. domestic patents when PCTs are applied for. With this in mind I think we should say 'you will be expected to continue those processes, or have a good reason you have elected not to do so
IP strategy	If you discover or develop new IP assets, you will be expected to seek levels of protection for it that are at least as rigorous and comprehensive as you have sought in the past
IP infringement	If you suspect your IP assets are being infringed, or you are accused of infringing someone else's IP assets, you will need to address this promptly, taking appropriate legal and professional advice. You may need to inform your lender
IP insurance	If the loan agreement requires you to hold insurance cover for the costs of managing infringement issues, you will need to make sure you maintain it, as well as all other relevant insurances

Reputation as an intangible asset

Given that reputation is also an important intangible asset, you will be expected to avoid, as much as possible, actions that may diminish the value of the company, or its products and services. It is important to manage the company, and the risks it faces.

If your IP finance is project-based, you may also be required to produce some specific new IP assets within a particular timetable and obtain rights to protect them.

Restrictions on your IP assets during the loan

Your lender will want to ensure that your business remains free to utilize your IP assets to protect and grow their value. Therefore, it is highly unusual for any loan agreement to place restrictions on the way in which you can use your IP assets "in the ordinary course of business."

However, there are IP financing agreements that are likely to prohibit certain actions without special permission (e.g. via the covenants and negative pledges referenced above). The most common consent matters are that you must not:

- sell or assign your IP assets to anyone else;
- offer your IP assets as security for any other loan agreement; or
- license your IP assets to anyone else on an exclusive or sole basis[2].

None of these clauses should stop you from refinancing or selling your business in future. However, you will need to take account of the existing security interest if you engage in either of these activities. The IP financing will need to be settled or some agreement will need to be made with the new lender or acquiror.

2 While licensing is generally beneficial to a lender, since it helps you generate income and new customers, an exclusive or sole license limits your ability to pass on rights to anyone else.

When you create new IP

In many loan agreements, lenders will acquire a security interest in new IP assets you create with their funding. Therefore, these covenants will apply to IP assets that do not exist at the time of your loan.

If you develop significant new IP assets that gain commercial traction, the value of your IP portfolio may increase. A lender may be willing to lend you more when this happens.

Conclusion

IP assets can increasingly be used to secure loans. By leveraging your IP assets, you can unlock new funding opportunities to grow your business.

While IP-backed lending is still a new area, the potential benefits are worth exploring. Increasing access to affordable capital allows your business to invest in research, product development, expanding manufacturing and other growth initiatives faster.

Learn more about WIPO's work in IP finance and give us your feedback on this guide by visiting our website.

Glossary

Amortizing loan	A loan structure where the capital amount you have borrowed is paid back progressively across every installment. The more repayments you make, the less you owe the lender
Asset-based lending	A type of finance where a company or an individual borrows money to buy real estate, a vehicle or plant machinery. The asset being purchased acts as collateral for the loan and is at risk if loan repayments are not made when due
Asset finance	A type of finance where the company provides a security interest over assets that are on its balance sheet, e.g. investments, inventory, receivables, to obtain a loan. The assets are at risk if loan repayments are not made when due
Balloons	A loan structure where an element of asset value may be excluded from your capital repayments on the basis that it represents an expected residual amount. It is mainly relevant for asset finance. It reduces the cost of your loan installments, but these will still be based on the interest accruing to the total amount
Bullets	A loan structure where no capital is repaid during the agreement period. Instead it is all paid at the very end of the loan term. As the capital sum is not reducing, the total interest you pay is usually higher
Capital repayment holiday	A loan structure containing a period, usually at the start of the loan, where you only pay interest, not the principal sum you have borrowed. During this period, the amount you owe does not change
Charge	A form of security interest used in some countries with a common law tradition. It can be fixed against specified assets such as named IP assets, or floating against a pool of assets that are continuously changing, such as stock in trade
Collateral	An asset that a lender accepts as security for a loan. The value of the secured loan will be directly related to the value of the collateral. In the event of a loan default, the lender can seize the collateral and use it to offset any losses
Deferred interest	A period provided during a loan, usually at the beginning, during which interest is not paid. The amount of interest that would otherwise have been due during the deferral period is generally payable over the balance of the loan tenor
Depreciation	A term describing the reduction in the value of an asset over time, typically in the case of physical assets due to wear and tear
Development bank	A type of financial institution with a particular focus on stimulating economic development, often providing technical assistance as well as risk capital
Distress	A term that may be used to describe a business that cannot generate enough revenue or other income to be able to meet its financial obligations. This may arise for various reasons such as an economic downturn, significant cost increases, competitor activity leading to loss of market share, IP infringement or disputes
Due diligence	A term that describes the process of confirming facts or details prior to entering into a binding agreement. It usually involves some form of structured investigation or audit
Lien	A form of security interest used in some countries with a common law tradition. It is fixed against a specified asset
Loan tenor	The tenor is another word for the term of any loan or credit given by a lender. In other words, how long the borrower has to repay the debt
Negative pledge	A clause in a loan agreement that protects the lender by prohibiting the borrower from offering their assets as collateral to anyone else or safeguards the priority of the original lender's security interest
Pledge	A form of security interest which exists in most countries. It may be possessory, meaning that a financier takes possession of your assets when lending the money, or non-possessory, where you keep full use of the assets that are pledged. Only the non-possessory type is suitable for use with IP assets
Preferential interest rate	The rate at which you are charged interest is reduced, for part or all the agreement period
Secured loan	A type of loan product that requires some form of collateral as a condition of borrowing
Securitization	Securitization involves the pooling or grouping of assets into interest-bearing financial products known as securities. Investors who buy these securities receive the principal and interest payments associated with the underlying assets

Security interest	A generic term for a claim on an asset provided by a borrower that is legally enforceable, allowing a lender to repossess the asset and sell it if the borrower defaults on their loan. The type of security interest taken may be a charge, lien or pledge depending on applicable laws
Serviceability	A term that describes the process of working out whether a business can afford to pay or service the principal and interest payments associated with a particular loan over a specified time period
Sweat equity	Refers to non-monetary contributions, such as time and effort, put into business ventures, typically by early-stage entrepreneurs. These contributions may take the form of free labor or below market salaries, which may instead be compensated with entitlement to equity
Transparent marketplace	A term most often used in association with asset disposal routes. There are transparent (i.e. well-known, open and honest) marketplaces to sell all types of assets that are commodities. However, because intangibles like intellectual property are unique assets, not commodities, there are few transparent marketplaces for them. Historically, this has undermined lender confidence in their value
Unsecured loan	A type of lending product that does not require collateral to borrow and is based instead on the financial standing and/or financial performance associated with a business or an individual

This guide assists businesses and intellectual property (IP) owners in leveraging IP to secure loans. It outlines how IP can support debt financing, prepares users for discussions with lenders, and provides insights into the lending process. Additionally, the guide addresses post-loan procedures. Throughout, practical checklists and templates equip businesses and IP owners to maximize the value of their intangible assets and facilitate favorable financing terms.

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