

The value of Patents – what value?

by
Dr. Dierk-Oliver Kiehne
July 24th 2013

How would you outline the value of a patent?

The first thing, people start to answer, is "the value is the amount of money that someone else is willing to pay". Correct? Precisely spoken: No. This describes a price but not a value. But what is value then?

I have read about the VW Golf that was auctioned at Ebay. The regular value of the car according to construction year, mileage, engine was about 9.000 Euro but it was sold for 188.938,88 Euro. The highest bid, an online Casino was ready to pay this price because they most probably had marketing ideas in their mind, afterwards it was announced that the first owner of the car was Josef Kardinal Ratzinger, better known as Pope Benedict XVI. Can the value of a certain product halve itself because the person who is selling it wants to his stock – or is this maybe the price. The price can be equal to the value - the neoclassical economics approach of value is price - but it doesn't have to. In Wikipedia the *"Economic value is a measure of the benefit that an economic actor can gain from either a good or service. It is generally measured relative to units of currency, and the interpretation is therefore "what is the maximum amount of money a specific actor is willing and able to pay for the good or service"? Note that economic value is not the same as market price. If a consumer is willing to buy a good, it implies that the customer places a higher value on the good than the market price. The difference between the value to the consumer and the market price is called "consumer surplus". It is easy to see situations where the actual value is considerably larger than the market price: purchase of drinking water is one example.* ". It is also mentioned that the value is strongly related to an exchange of goods – so as long as there is a seller and a buyer, there is also a value of a certain good. It is also introduced to have two different values: a value in use and a value in exchange, which is very important to distinguish. A value in use can be the benefit that someone is having e.g. by driving his car: It may bring you to work and back again, but it may also be you work when you are driving a Cab and earn your money with the car. The value of use of the same car is different. The value in exchange *"represents rather what (quantity of) other commodities it will exchange for, if traded."*, but according to Marx, this value is also not identical to the price. One example is that the value doesn't necessarily need to be expressed with money and a currency, it can also be expressed in countertrade.

Having a look on Patents. A Patent has a value in use – this values is e.g. determined in the earned income method – it measures the monetary benefit that a patent brings to the owner by protecting a product or technology of being copied or by earning royalty fees. Does this correspond to the patent Value that everybody has in mind? Yes and no. Yes, because the patent is obviously able to earn income and No, because it does not imply that the patent may earn this certain amount being in different hands. It requires at least the technological infrastructure, the technical know-how and the market access. So the value in use seems not be appropriate, because it is strongly connected to the owner. It means the value is an owner specific value. What about the exchange value? A patent can be traded a patent can be countertraded a patent can have a surplus. So a patent is a commodity in a market with a small liquidity. The major challenge is, to set up an exchange value of a patent. Strictly spoken it is determined by trades that have been done in the past. When a certain type

of car was sold in past for a certain amount of money (or range of money) it is obvious that the next car with comparable features will be in the same range. The difficulty in a patent is surely the comparability. The idea of a good patent is to have a big claims coverage. And as long as the coverage is big enough there is nothing comparable left. Or when there are comparable technologies, these may compete with each other – this means that one technology will establish, e.g. as a standard (remember HD-DVD and Blu-Ray). So the direct comparison is difficult and risky. How the real estate market solves these problems? In most cases they are not directly comparable real-estates either. And though they offer a value, even a rough value-estimation just based on some characteristics. The solution: they use indicators. These bring the object on a abstract description and the set of indicators then make a value impression. This is a rough one but it is sufficient as long as the value is – as mentioned before not the final price.