IP Licenses and Insolvency Guide

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

  
  
In the evolving global business environment — reshaped by the disruption of the pandemic, challenges to supply lines, the emergence of new transformative digital technologies, changing workforce trends, and soaring inflation and interest rates in some jurisdictions — it is critical that companies are proactive, consider issues holistically, and maintain the financial flexibility to adapt to rapidly changing circumstances.

Restructuring tools can help companies seeking to improve their capital position, manage their liquidity, streamline operations, or avoid distress. Such companies may seek to renegotiate current business arrangements with third parties, restructure their debt, or liquidate key assets to enable them to weather the storm and return to profitability.

For companies already experiencing distress and undertaking insolvency proceedings, creditors may pursue strategies to recover as much of their debt as possible and to protect valuable assets, such as intellectual property. The licensees of insolvent companies may seek to preserve their rights to use licensed intellectual property and licensors may want to ensure royalty payments are collected and optimized. Lastly, opportunistic third parties may find opportunities to bid on and acquire intellectual property assets that wouldn't ordinarily become available. Sales of intellectual property to third parties may have a considerable effect on both licensors and licensees.

Each of these parties will need to understand the unusual rules of intellectual property licenses in insolvency proceedings in order to effectively approach the risks and opportunities posed by this complex landscape. This complexity is enhanced when the intellectual property licenses at issue in an insolvency case cross borders. In some instances, the debtor in an insolvency case may seek to enforce the laws of its home jurisdiction in a foreign country where the counterparty to the license resides or operates, catching the counterparty off-guard. It is therefore critical that businesses involved in these types of transactions understand the insolvency laws and procedures in all affected jurisdictions.

This guide presents answers to some of the most common IP licensing issues arising in insolvency proceedings in key jurisdictions — including notably the United Kingdom, where recent insolvency legislation has introduced significant reforms to the insolvency process and the treatment of intellectual property in such proceedings.

\*The IP Licenses and Insolvency Guide was updated in 2022.

©Copyright © 2024 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.