



Hold my beer tea IP

IP in a Holding: Practical and Legal Considerations

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Beneluxvereniging voor Merken- en Modellenrecht

Agenda

- Introduction Lipton
- What's a (IP) holding?
- Benefits of IP in a holding:
 - Fiscal aspects
 - Juridische en organizational aspects
- Disadvantages and restrictions
- IP holding in practice
- Dessert!

History and characteristics of **LIPTON** *Teas and Infusions*

History

- In October 2021, Unilever divested its tea business, which became a standalone division under the name ekaterra.
- In July 2022, CVC bought ekaterra in a long term strategic investment.
- In 2023, the business adopted the new name LIPTON Teas & Infusions.

Key facts and figures

- Headquartered in Amsterdam, The Netherlands
- 4000 employees globally
- 9 Factories in 4 continents
- +/- 2B euro TO
- 34 tea and herbal infusion brands globally
- +/- 5000 trademark registrations

World wide category leader with powerful brand portfolio

N°1 GLOBAL



100+ Countries
\$1.1B+ sales

LOCAL JEWELS



N°1 UK
5.25B Cups p.a.



US: New tea
experience

HERBAL AND PREMIUM



Fruit & Herbal
Authority



D2C
B-Corp

LIPTON
Teas and Infusions

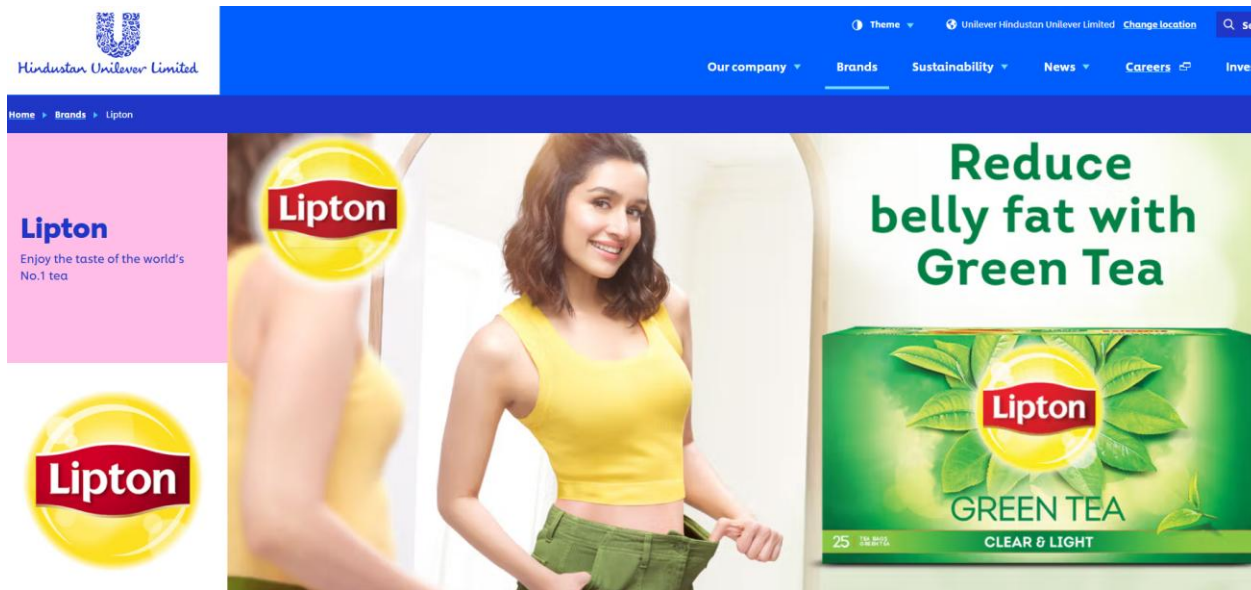
Product/Geographical split of Lipton brand

**Pepsi
Lipton**



Sale to CVC excluded:

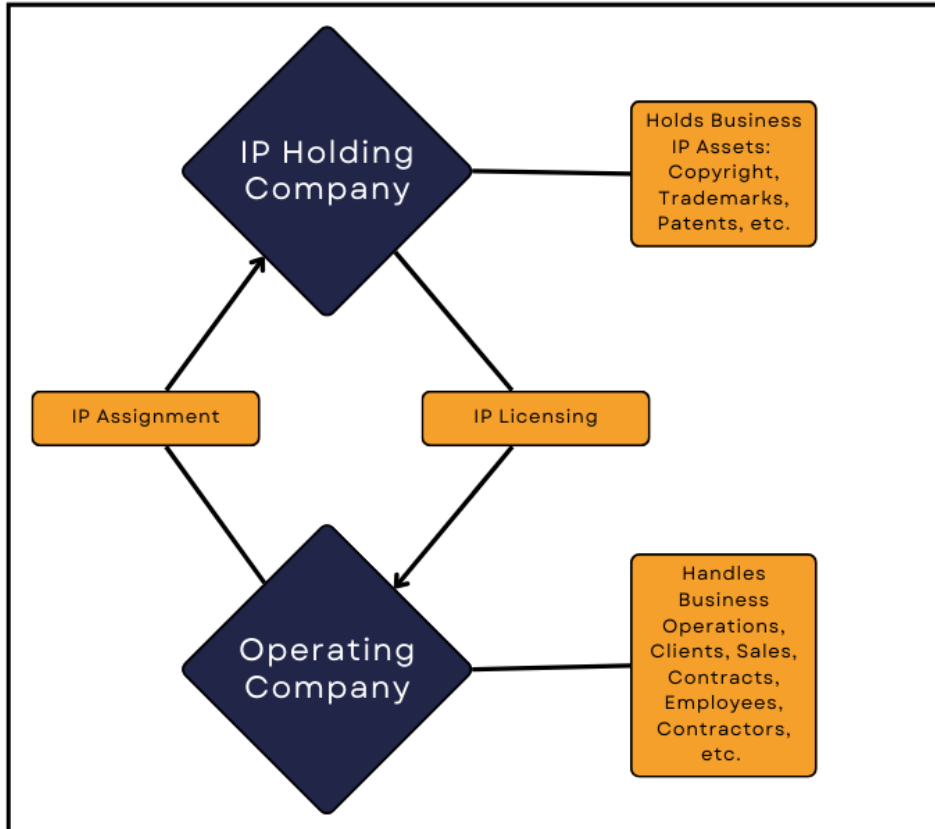
- Lipton Ice-tea JV with PepsiCo → brands licensed to UL for 'ready to drink' products
- Tea Business in India, Indonesia and Nepal



LIPTON
Teas and Infusions

Introduction

Holding structure - the basics



Holding:

- Parent company (holding) owns shares in one or multiple subsidiaries.
- A holding typically does not engage in operational activities but manages the shares and strategic decision making.

IP-holding

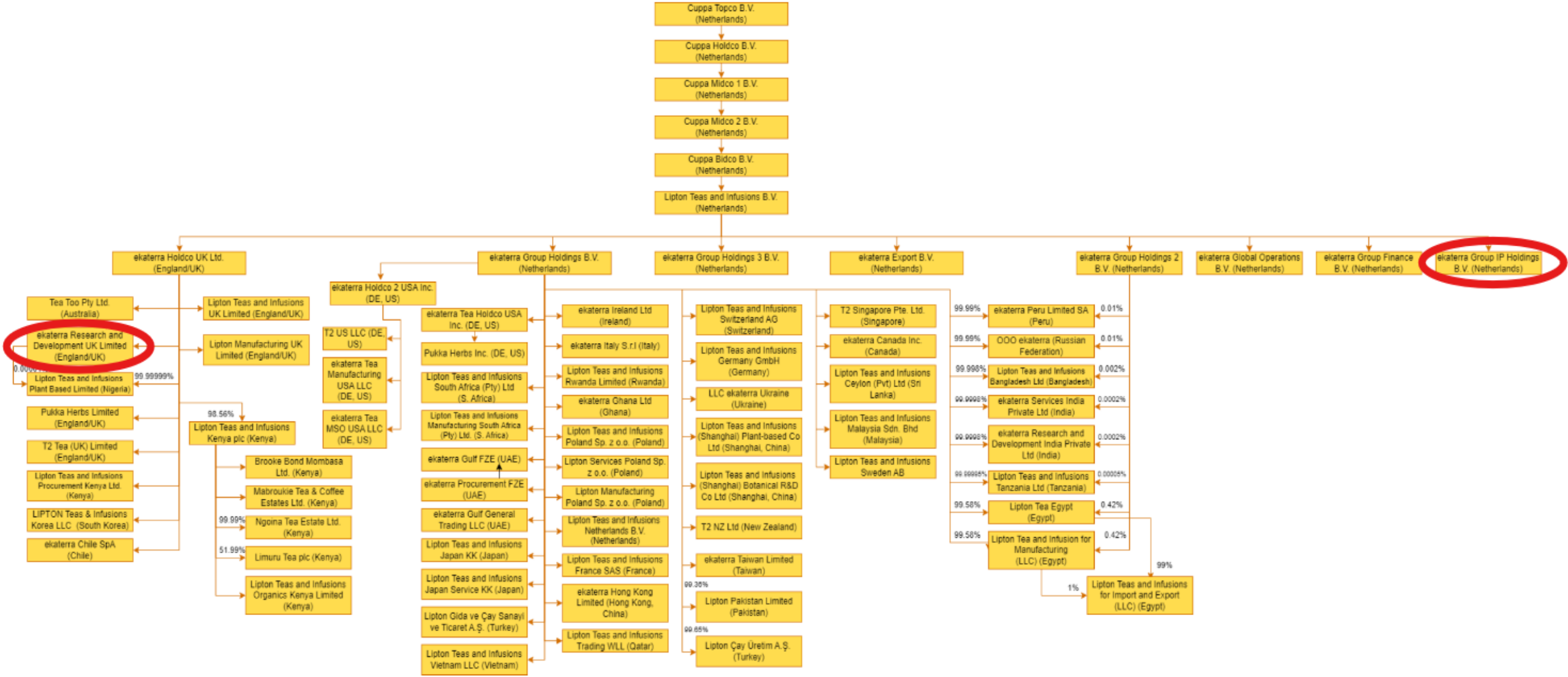
- created to own and manage the IP assets of one or more businesses
- Licenses operating companies to enable to use the IP

"AI generated content may be incorrect"...



Lipton Teas and Infusions Group

1 June 2024



Benefits of IP in a Holding

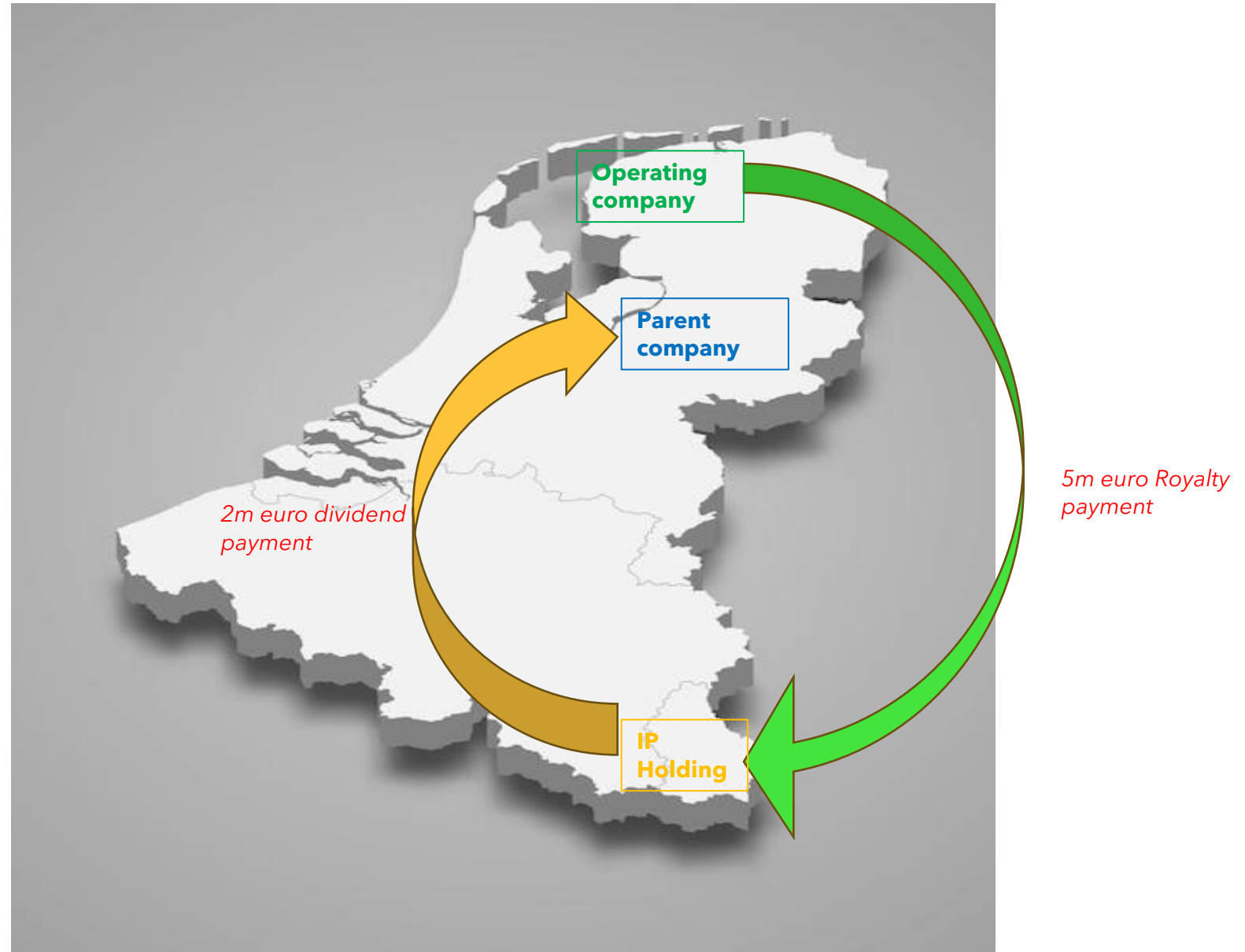
1. Tax benefits

- **IP Holding:** lower tax rate on IP income (Luxembourg 5,7%, also for TM's)
- **Operating Company:** deductible royalties (shifting profit to the holding company).
- Lower tax rates on selling trademark rights (capital gains)
- Participation exemption: lower tax rate on dividend to from IP Holding to parent company.



Example

1. Turnover Dutch operating company 50m euro
2. 5m euro royalty payment to Lux IP holding
3. 5m deducted from TO in the NL's → lower corporate tax (over 45m euro)
4. Royalties received by Lux IP holding exempted from tax
5. 2m dividend received by parent company → exempted from tax in NL (participation exemption)



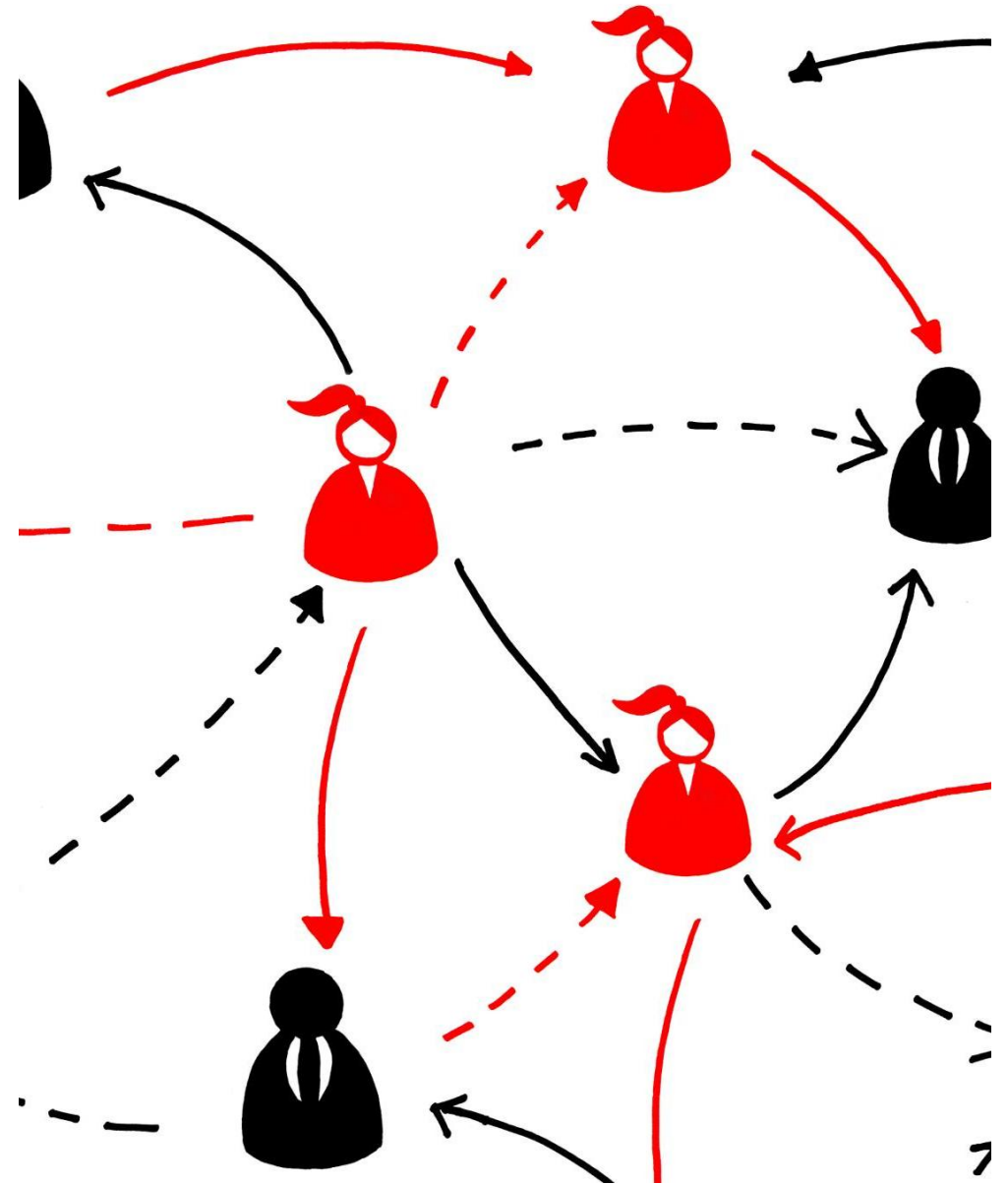
2. Streamlining IP Management



- **More efficient and cost-effective management:**
 - Central trademark team and capabilities
 - International registrations
- **Corporate governance:**
 - Signatory authority
 - Budget- and cost management
- **Administrative convenience**

3. *Efficient transaction structure*

- External licenses
- Sale and acquisition
- Securities/rights of lien
- Attractive for investors



3. Risk spreading and shielding

Shielded against potential risks and liabilities in the operational management of the company:

- Infringement claims of third parties
- Chances of insolvency of operating company is higher than of IP Holding → IP rights shielded from bankruptcy



Disadvantages IP Holding

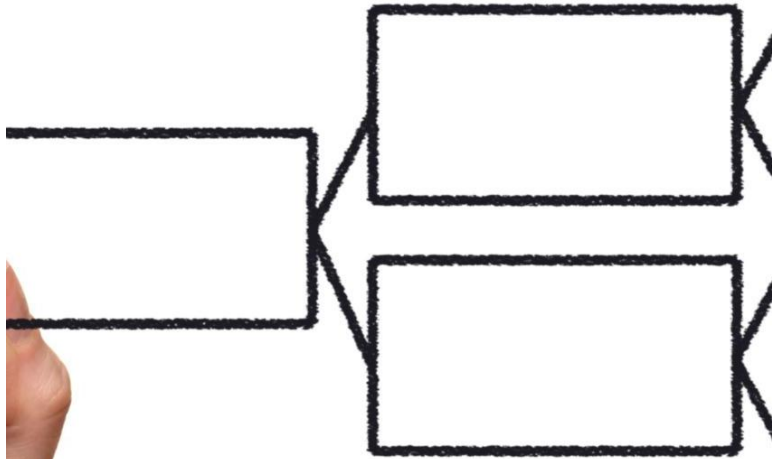


1. Complexity and costs

- Obtaining legal and financial advice
- Establishment holding (incl articles of association)
- Assignment and recordal of assignment of existing trademark registrations
- Transfer price for assigning marks to holding
- Drafting and managing internal licenses

IP Holding in practice

Steps to create an IP Holding Structure (1)



1. **Determining objectives and legal structure**
2. **Choice of jurisdiction IP holding:**
 - Tax regimes
 - Sophisticated legal system and strong IP protection laws
 - Madrid Protocol country useful
 - “Resident director” required/advised
 - Reputation

Steps to create an IP Holding Structure(2)

3. Determining governance

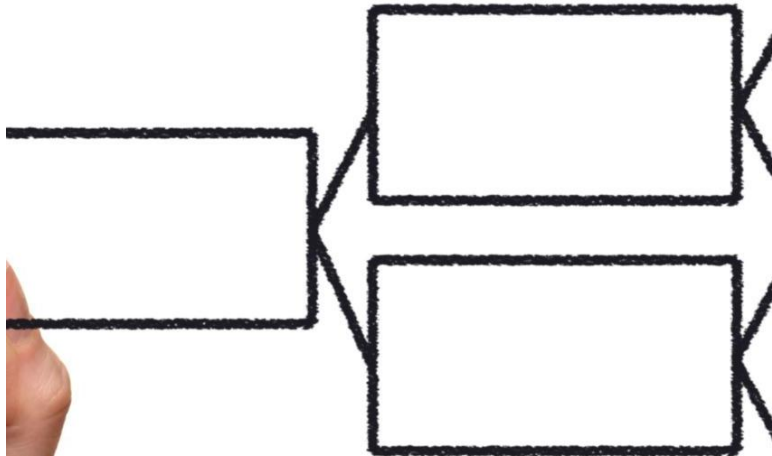
- management of IP, resources, policy etc.

4. IP valuation and transfer

- Watch out! Not just recordal of assignment, deed of assignment also required.

5. File recordal of assignments at TMO's

6. Draft and sign internal license agreements



Important aspects of an intracompany license

- Non-exclusive
- Royalty: arm's length principle
- Don't only license the marketing and sale entities, but also the manufacturing entities
- Requirement to adhere to brand guidelines
- Reference to internal IP Policy
- Restricted sub-licensing rights



Important aspects of an intracompany license (2)

- Costs of filing, maintaining and enforcing trademarks
- Prevent non-use:
 - Include obligation to 'use on industrial scale' to meet the use requirement (as IP holding generally does not use mark (locally))
- Include authorisation of operating company to claim damages (art. 2.32 lid 6 BVIE)
- Copyright: contractors of operating company agree to assign rights to holding company (not to operating company)



Differences intercompany license agreement vs license agreement 3p

1. Purpose and commercial goals
2. License fee and pricing
 - arm's length-principle (market based pricing) for intercompany license vs freely negotiable fee
3. Quality control
4. Record license with TMO's (?)



Summary

- Placing your IP in a dedicated IP holding generally a good idea
- Structure and governance of IP holding often 'tax-driven' but implications on trademark management should also be considered
- Intercompany licences \neq third party licenses




Desert!

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Farbe: Custom DIY Your Pic



Schuhgröße: USMen6.5Women8.5EU41

US Men4Women5.5 EU37 US Men5Women6.5 EU38
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Lipton Iced Tea Drink Home Clog Mens Women Youth Boy Girl Sandals Shoes Garden Bespoke Customized Breathable Shoe Hole Slippers

Color: Lipton C



Shoe Size: USKids8 EU25-26

US Women 4 EU36 US Women5 EU37
USMen3.5Women6 EU38 USMen4.5Women6.5EU39
USMen5.5Women7.5EU40 USMen6Women8 EU41
USMen7Women9 EU42 USMen7.5Women9 EU43
USMen8.5Women10 EU44 USMen9Women11.5 EU45
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China



LIPTON
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Pakistan



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Thank you!

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T2

puKka

TAZO

