

Negotiating the best terms for your Intellectual Property

In IP negotiations, innovative ventures might find the balance of power unexpectedly in their favour, says Robert Marshall, a Cambridge tech specialist

When it comes to negotiations that involve IP, the stakes can seem high and, like many SMEs, you may feel uncomfortable and out of your depth. When your time, resources, experience and funds are limited, it's easy to feel disadvantaged from the start, especially when dealing with a bigger organization.

Thankfully, the other party, however large and intimidating they might appear, doesn't always hold the balance of power in these kinds of situations and there's much you can do to help secure a positive outcome.

In most cases of early-stage technologies, long-term commercialization success depends on the motivation on all sides, so, from the outset, negotiation should be seen as a collaborative problem-solving task.

A few years ago, a small high-tech spin-out from a UK university designed a completely new kind of specialist medical diagnostic machine. The problem? They needed permission to use a particular chipset from one of the world's biggest electronics companies to build their machine. They feared the chip company might see them as a competitor and would either say no outright or charge far too much (effectively a different way of saying no).

At the initial meeting, the two parties started by exploring each other's interests. They rapidly identified that the spin-out wanted technological success and, of course, the resulting commercial success. But it turned out that the electronics company had a different and unexpected goal in mind.

They knew they were never going to sell more than a few hundred chipsets to the SME, but they did see huge value in the positive publicity: partnering with a world-class university to build a device that could save lives. They offered a great price and favourable payment terms, as well as help with marketing and joint publicity.

So the SME actually held the balance of power in that particular negotiation. The key message of this story? If you take enough time to understand each other's interests there is a better chance of creating mutual benefit. Don't assume that it's a simple battle about who gets how much. People more often find value in different things.



*[Robert Marshall](#) has negotiated numerous deals to transfer knowledge and technology, and delivers training in commercial negotiation for clients worldwide. His full article on negotiating IP terms for SMEs appears in '**Winning with IP: Managing high-growth intellectual property**', Novaro Publishing, January 2021. More details [here](#).*