

## Law360 Quotes Elizabeth Stevens: Defining Marketing, Trademark IP Could Sink OECD Tax Plan

04.29.2019

*Law360 Tax Authority*

An OECD proposal to overhaul international tax rules hinges on defining and measuring the intellectual property used to promote products, which tax experts fear could be a nearly impossible task for today's complex and nebulous digital marketplace.

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"Does the algorithm have value independent from the data that it thrives on?" asks Elizabeth Stevens, an associate at Caplin & Drysdale, Chtd.

In some ways the nebulous and difficult-to-place nature of marketing intangibles is part of the thinking behind the proposal. For decades tax authorities and taxpayers have battled over whether a valuable brand should be taxed where advertising wizards concocted it, or in the jurisdiction where the consumers themselves sustain its value through their own interest. The marketing intangibles proposal would finally state explicitly that some of the value is where the customers are - but only to a limited extent.

"If we've got to put something, some function, asset or risk to the market jurisdiction, marketing intangibles are probably the easiest to allocate there, because they have this inherent link to their function," Stevens said.

For the full article, please visit *Law360's* website (subscription required).

*Excerpt taken from the article "Defining Marketing, Trademark IP Could Sink OECD Tax Plan" by Alex Parker for Law360 Tax Authority.*

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