

Innovation and emerging risks

Protecting the value of
your intangible assets
- Safeguarding
intellectual property



Presenters

Lloyd's Innovation team



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Learning objectives

Lloyd's Innovation presentation

- Understand the key intangible assets within businesses with a particular focus on intellectual property (IP)
- Learn methods to control the risks associated with intangible assets
- Knowing actions to take for protecting intangible assets including risk transfer where appropriate
 - With a deep dive into IP

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- Sli.do
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- What are intangibles and how does a company best protect them?
- Sli.do
- Intellectual Property
- Sli.do
- Q&A

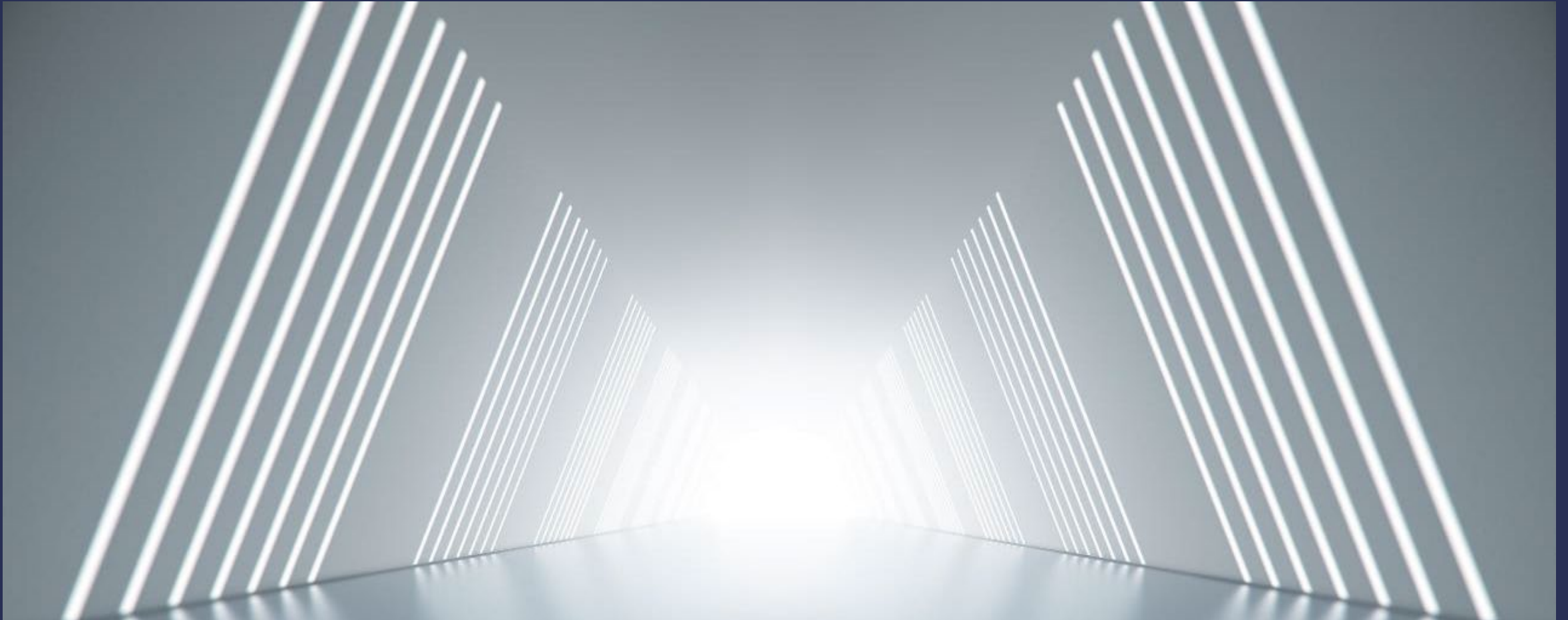
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Lloyd's Innovation team presentation

Pauline Giorgini



The innovation challenge

The world is changing, **very fast**

New technologies
(AI, IoT, VR) are
leading to a **step
change** in
capability;
efficiency

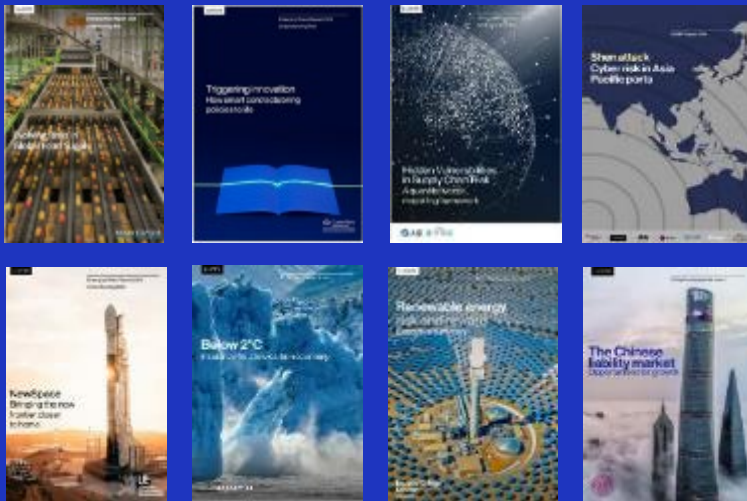
Insurance markets
are **evolving**

Next generation
expects different
ways to interact
with insurers

A new economy is
forming and
**different
solutions are
needed** (e.g.
Sharing
economy)

Lloyd's Innovation team

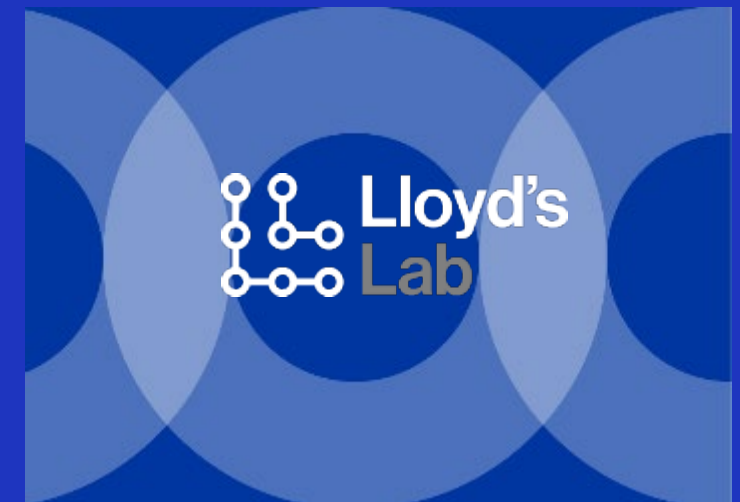
Thought Leadership and Research



Product Development



Lloyd's Lab



Innovation Team

Thought Leadership and Product development

Rosie Denée
Thought Leadership and Product Development Manager



Trevor Maynard
Head of Innovation

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Ed Gaze
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Pauline Giorgini
Innovation Associate



Ivan Spence
Innovation Associate



Disha Ramdenee
Innovation Associate

Outsourcing providers



Femi Williams
Innovation Associate



Overview of the team

Role of the team

The Innovation team within Lloyd's is responsible for:

- **Researching** emerging market risks, trends and areas of market interest;
- **Supporting** the development of insurance products;
- **Exploring** new technologies, methods and business mode in the Lloyd's Lab; and
- **Promoting** a culture of innovation and removing barriers to innovation.

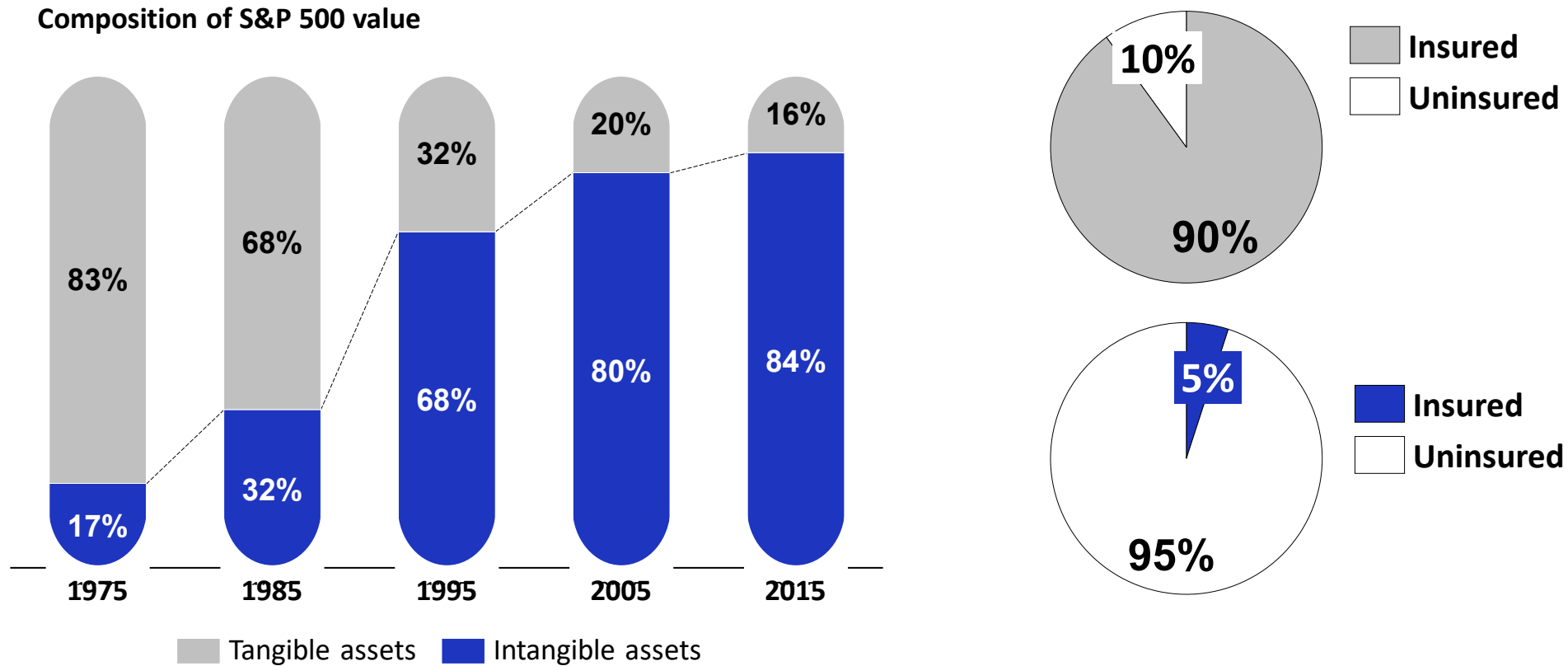
Lloyd's intangible asset project

Rosie Denée



The types of risks that need to be insured are changing

Protecting intangible assets



The speed of change is unlikely to slow down

Protecting intangible assets

"3D printing is going to be way bigger than what the 3D printing companies are saying"

Credit Suisse

"We think deep learning could approach \$17 trillion in market cap [in the next 15-20 years] —which would be 35 Amazons"

Catherine Wood, CEO of ARK Investment Management



3D Printing



Robotics



Deep Learning



CRISPR Genome-Editing



Cryptoassets



Frictionless Value Transfers



Mobility-as-a-Service (MaaS)

Protecting Intangible assets

Aims and objectives of the project

- Collaborative project with KPMG
- Aims and Objectives:
 - Produce 4 reports, 1 overview/introduction and 3 deep dives
 - Aimed at risk managers and owners – Why do they need insurance for protecting intangible assets and which intangible assets are most vulnerable
 - Encourage product development in Lloyd's.

Indicative report timeline

Protecting intangible assets

Report 1: Intangible Assets Landscape

Report 2: Deep Dive #1: Intellectual Property

Report 3: Deep Dive #1: Reputation

Report 4: Deep Dive #1: Human Capital

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What are intangibles and how does a company best protect them?

Rosie Denée



What are intangible assets?

Protecting intangible assets

- Intangibles unlike tangible assets are those assets that are less physical in nature e.g. computer software.
- Reputation, human capital, and intellectual property are becoming the main drivers of value in most industries across the globe
- The economic landscape has been changing over the last couple of decades with digitisation of assets taking place.
- Covid-19 has helped accelerate this change further and now digital business models are likely to persist into the future.



There appear to be **eight distinct categories of intangible assets**, spread across the three main asset categories – structural capital, relational capital, and human capital. These eight categories are explored in further detail in this report.

The new intangible driven world

Protecting intangible assets

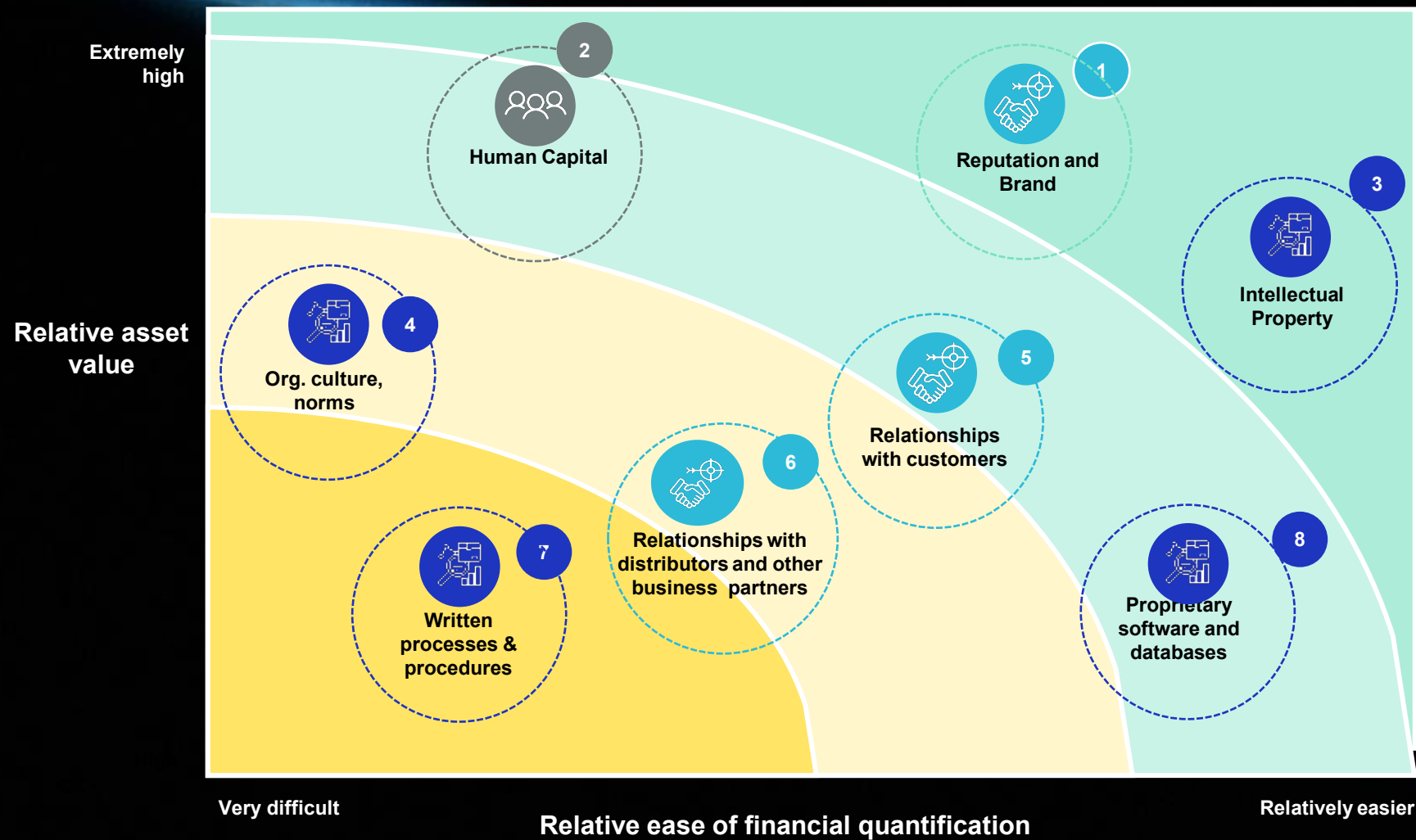
- Digital business models have gradually been embraced and the top most valuable companies demonstrate this.
- The value of intangible assets is significant, 85% of the total business value across industries according to research.
- Covid has accelerated digital transformation of many companies.
- Companies are now having to protect employees and information at their homes

2008			2018		
Top 10 U.S. companies by market capitalisation in 2008			Top 10 U.S. companies by market capitalisation in 2018		
#1	Exxon	Energy	#1	Apple	Tech
#2	General Electric	Industrials	#2	Google	Tech
#3	Microsoft	Tech	#3	Microsoft	Tech
#4	AT&T	Telecom	#4	Amazon	Tech
#5	P&G	Consumer	#5	Facebook	Tech
#6	Berkshire	Finance	#6	Berkshire	Finance
#7	Google	Tech	#7	J&J	Consumer
#8	Chevron	Energy	#8	JP Morgan	Finance
#9	J&J	Consumer	#9	Exxon	Energy
#10	Walmart	Consumer	#10	Bank of America	Finance

Valuing Intangibles

Protecting intangible assets

- Intangible assets due to their nature are difficult to value.
- Intellectual assets like reputation and intellectual property are relatively easy to quantify.
- Culture, written processes and procedures are difficult to quantify.



How do resilient organisations protect themselves?

Protecting intangible assets



- Risk owners should work closely with risk managers to optimise protection of assets.
- Form intra-departmental stakeholder groups that value and monitor intangible assets
- Protecting reputation involves 'horizon scanning' for significant social movements
- Human capital protection should involve advanced HR analytics
- One of the best ways to protect IP, is through building strong cyber resilience

How to protect your intangible assets

Five actions you could take

1

Assess the total intangible value of your organisation.

How (much) intangibles do you have on your balance sheet? Do you have other 'hidden' intangibles like human capital or reputation that are valuable but not on your balance sheet?)

2

Rate the relative value of different types of intangibles in your organisation; determine which are critical to your success. (Which assets will bring you competitive advantages? Which assets will help you maximise shareholder value?)

3

Perform 'war-gaming' exercises to test your resilience to risks impacting intangible assets; determine your weaknesses. (Look at internal and external risks across all intangible categories. Think about immediate and long term risks.)

4

Assess your ability to adequately monitor intangible asset value changes over time and assign each asset a clear risk owner. Consider using corporate partners, such as communications agencies, to further understand risks and value. (Do not leave risk ownership to the lower level staff – the most successful organisations manage risks at the executive level.)

5

Determine if there are risks you cannot deal with within the organisation and require support from the insurance market. (Insurers can help you transfer some of the risk off your balance sheet and can help you prevent risks from happening as well as respond to adverse events.)

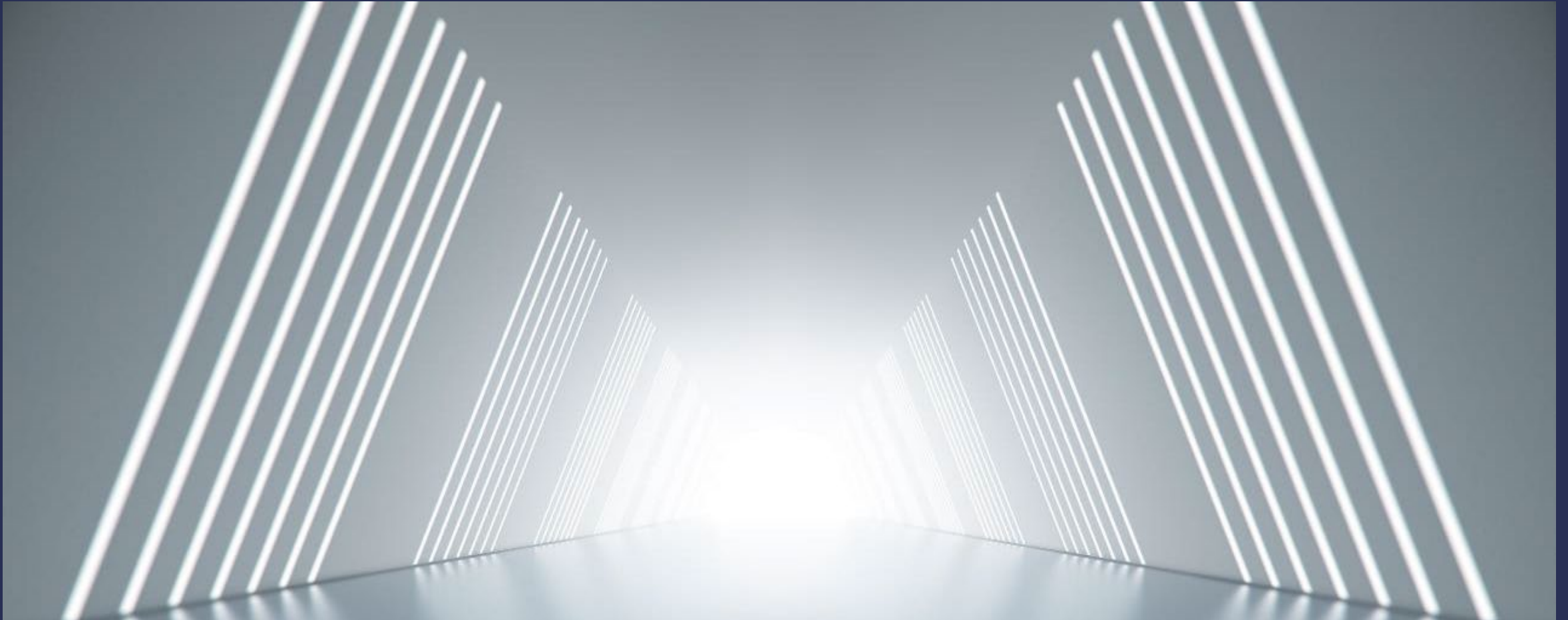
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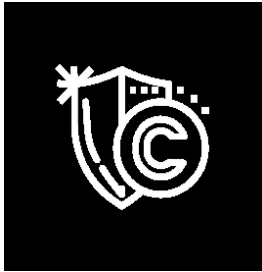
Intellectual Property

Ivan Spence



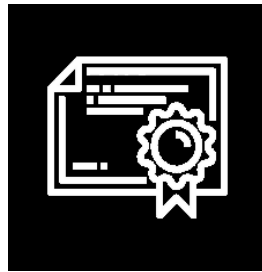
What is intellectual property?

Six types of Intellectual property:



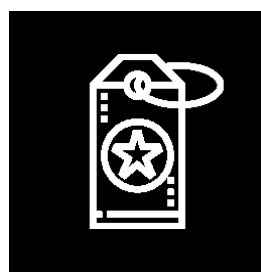
Copyrights / Database rights

Creations of mind,
e.g. literary works,
films, music,
databases,
architecture, etc.



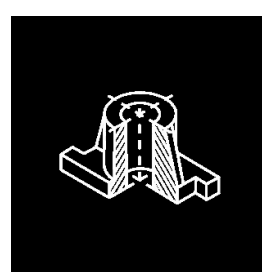
Patents

An exclusive
right granted for
an invention.



Trade marks

A word or a
combination of
words, letters,
and numerals.



Industrial designs

The ornamental or
aesthetic aspect of
an article.



Geographical indications

Having qualities
or a reputation
due to
geographical
origin.



Trade secrets

IP rights on
confidential
information which
may be sold or
licensed.

The importance of valuing your IP



Necessity

Required by regulation and practice

Examples:

- Business combination accounting (M&A activity)
- Determining IP value in insolvency proceedings
- IP litigation proceedings
- Transfer pricing e.g. for tax planning
- Pension asset transfer
- Compliance with market requirements e.g. IPO
- IP ownership dispute resolution
- Investor remuneration dispute



Opportunity

Meeting a commercial need for a business

Examples:

- Raising equity funding
- Negotiating licensing agreements
- Establishing franchising arrangements
- Structuring partnerships/JVs
- Buying/ Selling assets
- Setting reserve for IP auction
- Portfolio assessment
- ROI calculation
- Strategic business insights



Emerging

New types of requirements

Examples:

- Raising debt funding for collateral
- New forms of IP insurance
- Development in financial reporting of intangible assets
- Asset utilisation checks
- Hidden pockets of value for creditor benefits in distress situations

Violation of IP rights

- Intellectual property rights can be violated by competitors, counterfeiters, or even suppliers and employees.
- Most violation cases impact intellectual property that has been through official protection measures.



Copyright
infringement

Reproducing, distributing, displaying or performing a work, or to make derivative works, without permission from the copyright holder (excluding fair use).



Patent
infringement

Using or selling a patented invention without permission from the patent holder.



Trade mark
infringement

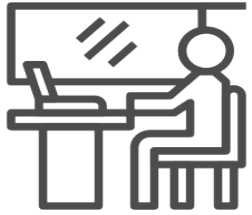
Using a trade mark that is identical or confusingly similar to a trade mark owned by another party, in relation to products or services which are identical or similar to the products or services of the other party.



Trade secret
Appropriation

Discovering trade secrets through lawful methods of reverse engineering or employee poaching or through unlawful methods, including industrial espionage.

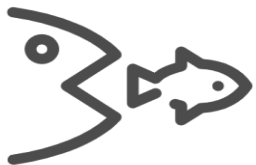
How to think about IP risk



Internal IP risks

Lack of exclusivity /
loss of revenue

- **Lack of proper intellectual property rights protection** of core products resulting in increased counterfeiting
- **Missed deadlines** (renewal, payments, oppositions)
- **Insufficient freedom-to-operate analysis**
- **Early disclosure** of inventions by employees
- **Flaws in drafting or application limiting enforceability** of intellectual property rights



External IP risks

Infringement of 3rd
party intellectual
property rights / cost
for defence or
licensing

- **Becoming a defendant** in IP litigation
- **Forced licensing** under unfavourable conditions
- **Liability for IP risks and problems of contractual partners**, such as suppliers
- **Invalidation attempts of intellectual property rights** by competitors or non-practicing entities (NPEs) such as “patent trolls”
- **Own invalidation attempts** against 3rd party intellectual property rights

Steps for consideration in the IP life cycle



Create and develop

There are multiple ways the most 'IP savvy' organisations protect themselves during this critical stage of IP lifecycle.



Keep it secret

Before IP has been legally protected and is still kept in the form of a trade secret, it is subject to a range of key risks that can cause major commercial implications.



Register

Some obvious protection activities will include selecting the right type of IP and deciding how broad or narrow the registration should be, as well as thinking through the geographical scope of the IP rights.



Monetise

There are multiple ways organisations can try to protect themselves during monetization, including forming their own 'rainy day' funds, creating patent thickets, and carefully monitoring licensing agreements, including conducting compliance audits.

Insurance solutions for protecting your IP

- 1) **Defensive products** that would protect the insured against someone making a claim against its patent or a claim about the insured infringing someone else's patent (e.g. infringement liability product or indemnified party infringement liability)
- 2) **Offensive products** that would help businesses when pursuing a case against a 3rd party that has knowingly or innocently infringed your IP (e.g. enforcement (abatement) product).

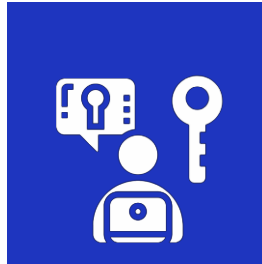


Four actions risk owners could take

**1**

Mitigate your risks during creation & development process of IP

- Make sure your idea does not already exist
- Do not disclose your idea to 3rd parties prematurely

**2**

Keep your IP secret before its registered and in the public domain

- Bolster IP's cyber and physical security
- Improve governance
- Prevent reverse engineering

**3**

Make sure you maximise the value of your IP through registration

- Select the right type of protection
- Be smart about registering broad or narrow patents
- Actively manage your IP applications

**4**

Enforce your rights during exploitation / monetisation of your IP

- Plan IP strategy to maximise value of your IP portfolio
- Create a (or use insurance) fund to cover the potential cost of litigation

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Q&A



Thank you

If you would like to get in touch with us, please email
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