

# **Intangible asset and intellectual property risk management**

# What are intangible assets?



## What are intangible asset exposures?



### Events:

- Disclosure/Leak
- Misappropriation
- Damage
- Destruction
- Loss
- Legal challenge to IP right
- Counterfeiting
- Change in law or government action
- Ownership dispute
- Infringement of IP right
- Breach of contract
- Behavior of company/endorser/influencer



### Resulting in:

- Legal Expenses
- Investigation Costs
- Settlement
- Damages
- Infringement Indemnity Costs
- Lost Revenue
- Repair Costs
- Development Costs
- Lost or decreased Value
- Design-around Costs
- Criminal Penalties
- Loss of Relationship
- Loss of License



### Why should intangible assets be protected?

Even though 70% of the enterprise value of the S&P 500 is comprised of intangible assets, and in 2022, the estimated value of intangible assets was \$57 trillion, less than 20% of intangible assets are insured.

# 70%

Of enterprise value is  
comprised of intangible assets

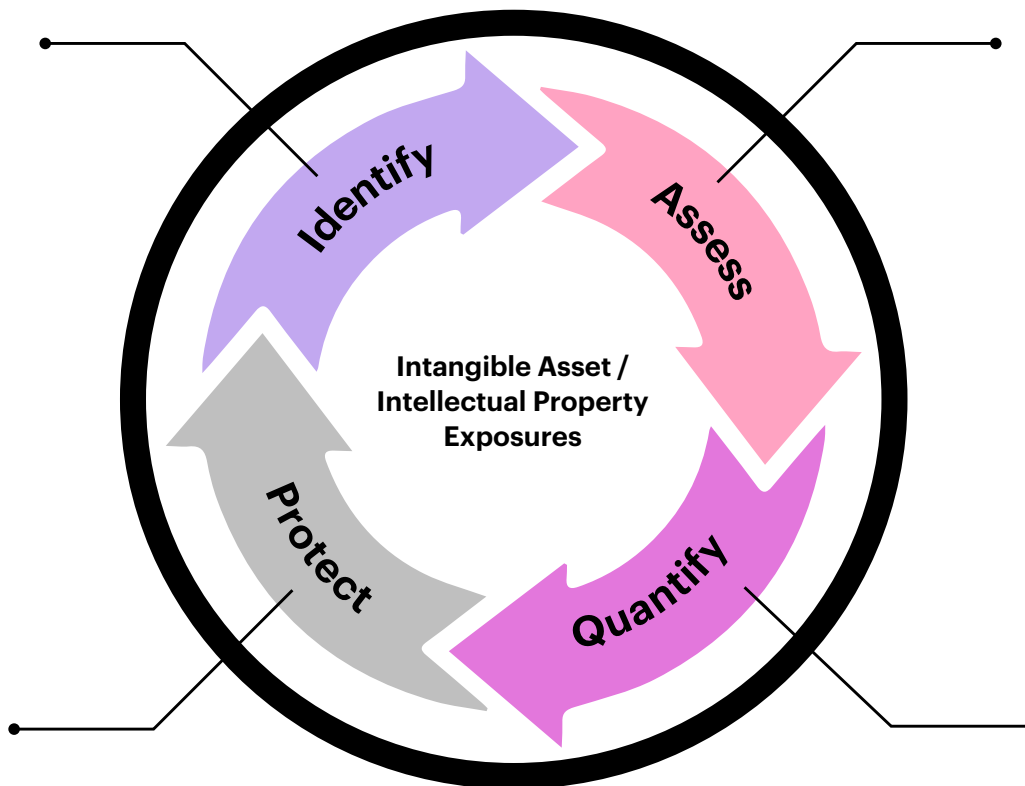
HR Analytics

- **Standard lines of insurance such as property and casualty generally cover tangible assets only**
- **Most IP insurance covers liability but not property risks thus leaving intangible assets largely uninsured**
- **Most forms of IP insurance cover legal events only and typically do not cover financial loss resulting from non-legal events**



# How do you manage intangible asset risk?

- What are your **key intangible assets** that you want to protect against financial loss?
- What could happen to your **intangible assets** to cause financial loss?
- What are the **key IP-related liability** exposures that could cause a negative financial impact?
- Have you integrated **intangible asset and IP exposure** analysis into your enterprise risk management system?
- How do you **manage risk across R&D/product development**, product segments, legal/procurement, HR, corporate development/M&A, IT, finance, sales and marketing, and your workforce?
- What is your **IA/IP risk profile** now and what activities will impact it in the future?



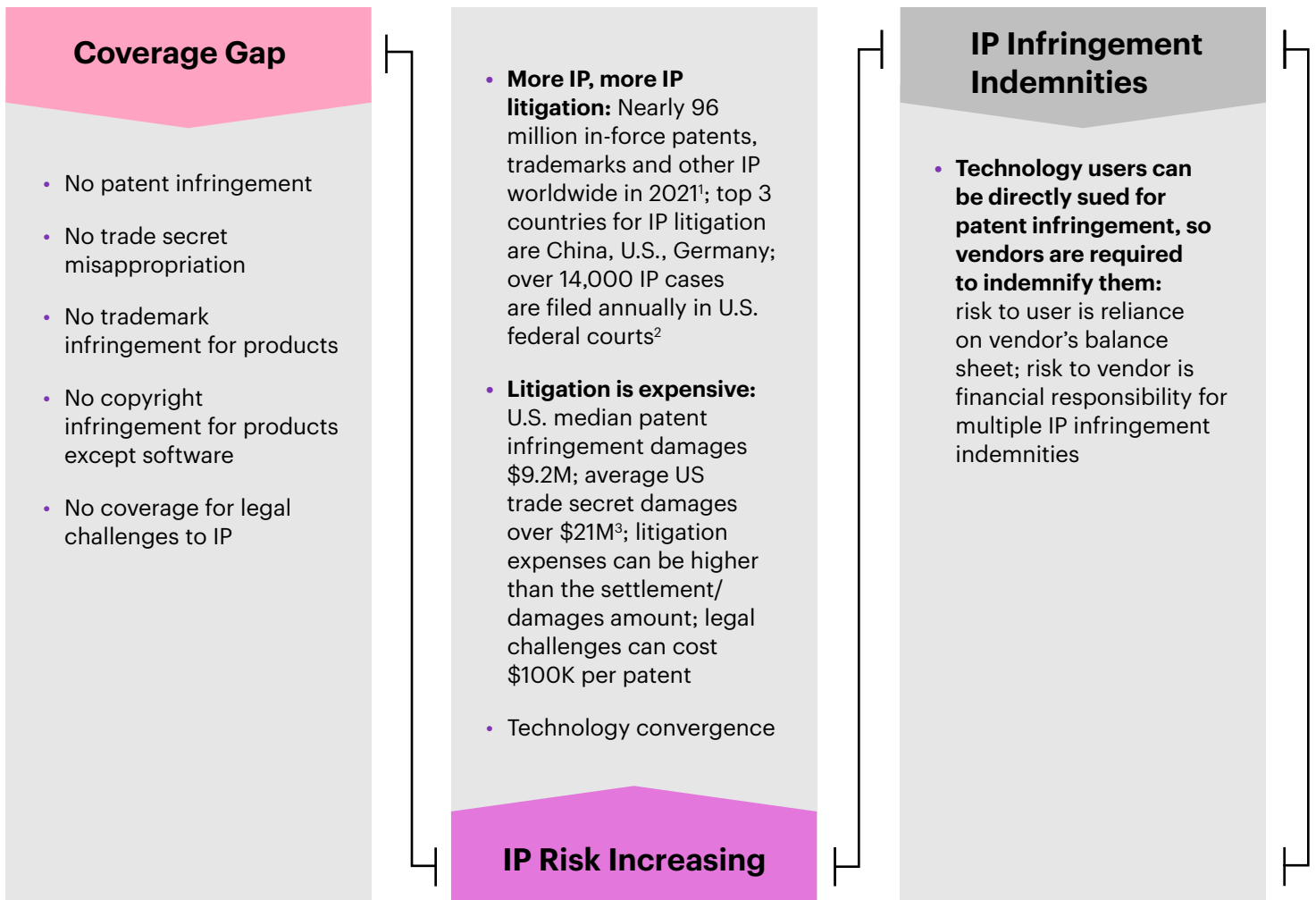
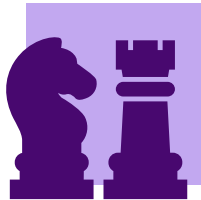
Are you aware that:

- IP insurance is available
- WTW offers IAP, an **intangible asset protection** insurance product
- Contingent **risk and judgment preservation insurance** products are available for IP litigation
- WTW has the risk modeling capabilities to assist with **covering IA/IP exposures in captives?**
- Are you able to **quantify your company's IA/IP ownership risk?** For example, what is the financial impact if key intangible assets are leaked, lost, damaged, or destroyed?
- Do you have access to data allowing you to understand **frequency and severity of your IP infringement risk?**
- How do IA/IP risks correlate with other risks?

# IP opportunity and risk

IP rights protect valuable intangible assets, but IP exposures create balance sheet risk

## Why?



<sup>1</sup>World Intellectual Property Organization (WIPO), World Intellectual Property Indicators 2022, 22.

<sup>2</sup>Lex Machina

<sup>3</sup>Stout, Trends in Trade Secret Litigation Report, 2020, 36.

# IP insurance: Balance sheet protection against a persistent and volatile risk

Our IP insurance specialists have extensive experience with wordings, structure, and placement. We work with you to obtain the insurance solution that cost-effectively addresses the financial impact of IP risk on your business.

## How?

### Streamlined Submission Process

- Leverage our analytics to build your risk profile and quantify the potential risk
- Help the underwriter understand your IP risk profile and price the risk appropriately
- NDAs may be necessary

### Identify IP exposures to be covered

- Forms of IP rights
- Products, services, activities
- Contractual IP infringement indemnities
- Territorial coverage
- Appropriate limit
- Appropriate retention

### Prepare submission

- Complete WTW proprietary application, which is accepted by all IP insurers

### Timing

- Typically, 2-4 weeks

## What?

### Form

- E&S
- Claims-made, annual
- Defense costs inside the limit
- Insured selects counsel subject to insurer approval

### Scope

- Can tailor to specific types of IP infringement, entire business or specific products, certain geographies, and contractual IP infringement indemnities

### Coverage

- Defense costs, damages/settlement, appeals
- Declaratory judgment actions, counterclaims (with advance insurer approval)
- May also include costs to defend against legal challenges to insured's covered IP

### Exclusions

- Undisclosed claims and circumstances
- Retaliatory suits
- Non-IP causes of action

### Limits

- Typically, \$1-10M for primary layer; may require \$25-500K retention and 5-20% co-insurance

### Cost

- Premium typically 1-5% of limit; minimum \$5K
- Driven by revenue, technology and verticals, loss history, geographic sales, types of IP infringement covered, visibility

# Intangible Asset Protection (IAP): Offered Exclusively by WTW

Insurance for valuable, vulnerable intangible assets

## What

- An insurance policy that protects non-public, proprietary intangible assets against financial loss caused by accidental or malicious insider actions resulting in loss, leakage, damage, or destruction of scheduled assets

## Why

- IA **comprise over 70% of enterprise value today**, but **less than 20%** of those assets are insured<sup>4</sup>
- 93% of organizations are concerned about insider risk<sup>5</sup>
- **At least 23%** of insider risk incidents impact IA

## How

- **Broad** coverage for Investigation Costs
- **Flexible** coverage to pursue legal action against malicious insiders and related third parties
- **Financial loss** coverage for employee mistakes, including a prompt interim claim payment

## How much is it?

- Limit: \$10M
  - Investigation Costs: \$1M
  - Prosecution Costs for Malicious Insider Events: \$2M
  - Lost Income, Redevelopment Costs, Repair Costs for Accidental Insider Events: \$7M
- Premium: \$100K-\$500K

## What is the value?

- Leverages a **lower-cost source of funds** to pursue malicious insiders
- **Cushions the financial impact** of employee negligence that results in lost income
- **Protects R&D budgets** against critical employee mistakes

<sup>5</sup>HR Analytics.

<sup>6</sup>DTEX, Cyber Insider Report, 2022

# Why choose us?



## In-depth risk profiling

Gain a deep understanding of your intangible asset risk profile and assess the potential financial impact of IA exposures on your business. Our expertise lies in leveraging advanced analytics, including our proprietary modeling software, Igloo. By quantifying and modeling individual and collective intangible asset exposures, we provide actionable insights into managing and mitigating these risks.



## Optimal risk financing

Navigating IA risk financing can be challenging. Our dedicated team guides you to the risk transfer solutions that best suit your needs. Whether it's self-insuring, purchasing commercially available insurance, utilizing your captive insurance company, or a combination of strategies, we optimize your IA risk financing for maximum effectiveness.



## Pioneers in the field

As the first global broker to establish a practice focused on intangible asset and intellectual property risks, we bring unparalleled expertise to the table. Our integrated team comprises risk consultants, actuaries, placing brokers, and claims advocates with specialized IA risk experience.



## Industry-specific knowledge

We understand that IA risks vary across industries. Whether you operate in technology, media, and telecommunications (TMT), life sciences, retail, manufacturing, or other sectors, our team has in-depth knowledge of the specific challenges you face. We tailor our solutions to address your industry's unique IA risks effectively.



## Comprehensive coverage

Our solutions extend beyond placing traditional IP insurance. We provide a range of services to mitigate IA risks comprehensively. In addition to placing our proprietary Intangible Asset Protection insurance, we routinely place IP insurance and tech E&O and media liability insurance, as well as judgment preservation insurance and other contingent risk coverages for IP litigation. We also have experience placing collateral protection insurance for debt transactions where most of the collateral consists of intangible assets. Leveraging our analytics, data, and Igloo - our proprietary risk analytics modeling platform, we also offer IP risk assessment and quantification consulting services to help you understand and manage potential IA and IP risks effectively.



## Innovative solutions

Staying ahead of the curve, we develop cutting-edge insurance products to meet evolving market demands. Our flagship offering, Intangible Asset Protection, is the first insurance product that safeguards non-public, proprietary intangible assets against financial loss caused by insider actions. This unique coverage protects against loss, leakage, damage, or destruction of intangible assets, offering you comprehensive protection.



## Tailored IP coverage

What sets us apart is our years of experience in placing standalone IP insurance. Our access to IP litigation databases enables us to assess potential frequency and severity of IP risks accurately. This allows us to identify and address IP exposures, including contractual IP infringement indemnities, that may not be covered or sufficiently covered by other insurance lines. With a proprietary insurance application accepted by all IP insurers, exclusive wording agreements, and strong relationships with leading markets, we structure cost-effective coverage that aligns with your activities, products, and services.





For more information please contact:

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At WTW (NASDAQ: WTW), we provide data-driven, insight-led solutions in the areas of people, risk and capital. Leveraging the global view and local expertise of our colleagues serving 140 countries and markets, we help you sharpen your strategy, enhance organizational resilience, motivate your workforce and maximize performance. Working shoulder to shoulder with you, we uncover opportunities for sustainable success — and provide perspective that moves you. Learn more at [wtwco.com](http://wtwco.com).



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