

Developing an IP Strategy – building on an Intellectual Property Audit



METIS PARTNERS

DRAFT - DRAFT - DRAFT

Creating IP Culture among Small and Medium-sized
Enterprises

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TODAY



- ★ Metis Partners - why am I here?
- ★ Instead of IP basics - where to start?
- ★ Developing an IP Strategy
 - ★ A few steps
 - ★ The IP Fortress
 - ★ Scrutinising the defences of the castle – the IP audit
- ★ Other uses of the IP audit – IP Finance
- ★ Lessons learned and key takeaways

WHO ARE METIS PARTNERS?

- ★ Award-winning IP valuation firm with a proven track record in the assessment, exploitation, monetisation, valuation and sale of IP assets
- ★ Broad presence: Glasgow and London, UK; Silicon Valley, CA; and European growth in Sofia, Bulgaria
- ★ Multi-disciplinary team of experts
- ★ Creators of the IP League Table – the first in the UK and growing towards 130 companies



WHO WE WORK WITH?

AlixPartners



Begbies Traynor

Bain Capital
PRIVATE EQUITY



Deloitte.



energy ventures

e-Therapeutics plc
systems biology drug discovery



Geotech
A subsidiary of LANTEC

Gordon Brothers Group
EST. 1903

Grant Thornton



P2i
perform
protect
improve



Smith & Williamson



WHERE DO WE START?

- ✦ Recognising that companies in all sectors have IP – tangible assets are the tip of the iceberg
- ✦ IP assets make up the majority (~80%) of company value in most sectors
- ✦ SMEs with IP have 32% higher revenue per employee and pay 20% higher wages
- ✦ 92% of SMEs don't know what their IP is worth but are concerned about:
 - ✦ Accessing finance and funding
 - ✦ Finding new business and entering new markets
- ✦ Facilitating the creation of a landscape that encourages and supports IP generation, protection and monetisation is key



IP STRATEGY IN A FEW STEPS

- Understand the business – business strategy, state of the IP (IP audit!), business context
- Strategic direction – mission, principles, vision
- The goals – the desired short- and medium-term achievements
- Share – stakeholders and collaborators



COMPETITIVE ADVANTAGE

Trade Secrets, Know-How & Key People

- ✦ **Low Value** – Recognition you have critical people/know-how in business
- ✦ **Medium Value** – protection of key know-how / trade secrets
- ✦ **High Value** – JVs / collaboration, sharing know-how

Brand & Reputation

- ✦ **Low Value** – unregistered TM/logo use
- ✦ **Medium Value** – TM's ® & awards and broadened reputation
- ✦ **High Value** – expanding online or into new markets / channels





COMPETITIVE ADVANTAGE

Registered Intellectual Property

- ✦ **Low Value** – patents, trade marks (TM)
- ✦ **Medium Value** – key patents & TM protection
- ✦ **High Value** – out-licensing non core & IP assertion / infringement

Critical Customer Relationships

- ✦ **Low Value** – image enhancing customers
- ✦ **Medium Value** – customer loyalty & stickiness measured
- ✦ **High Value** – customer reliance or tribal knowledge to / from customers



COMPETITIVE ADVANTAGE



Organisational Knowledge

- ✦ **Low Value** – Simple customer databases
- ✦ **Medium Value** – FAQs or BKM's or high value databases
- ✦ **High Value** – Key manufacturing specs or internal wikis / manufacturing packs

Critical Partners & Suppliers

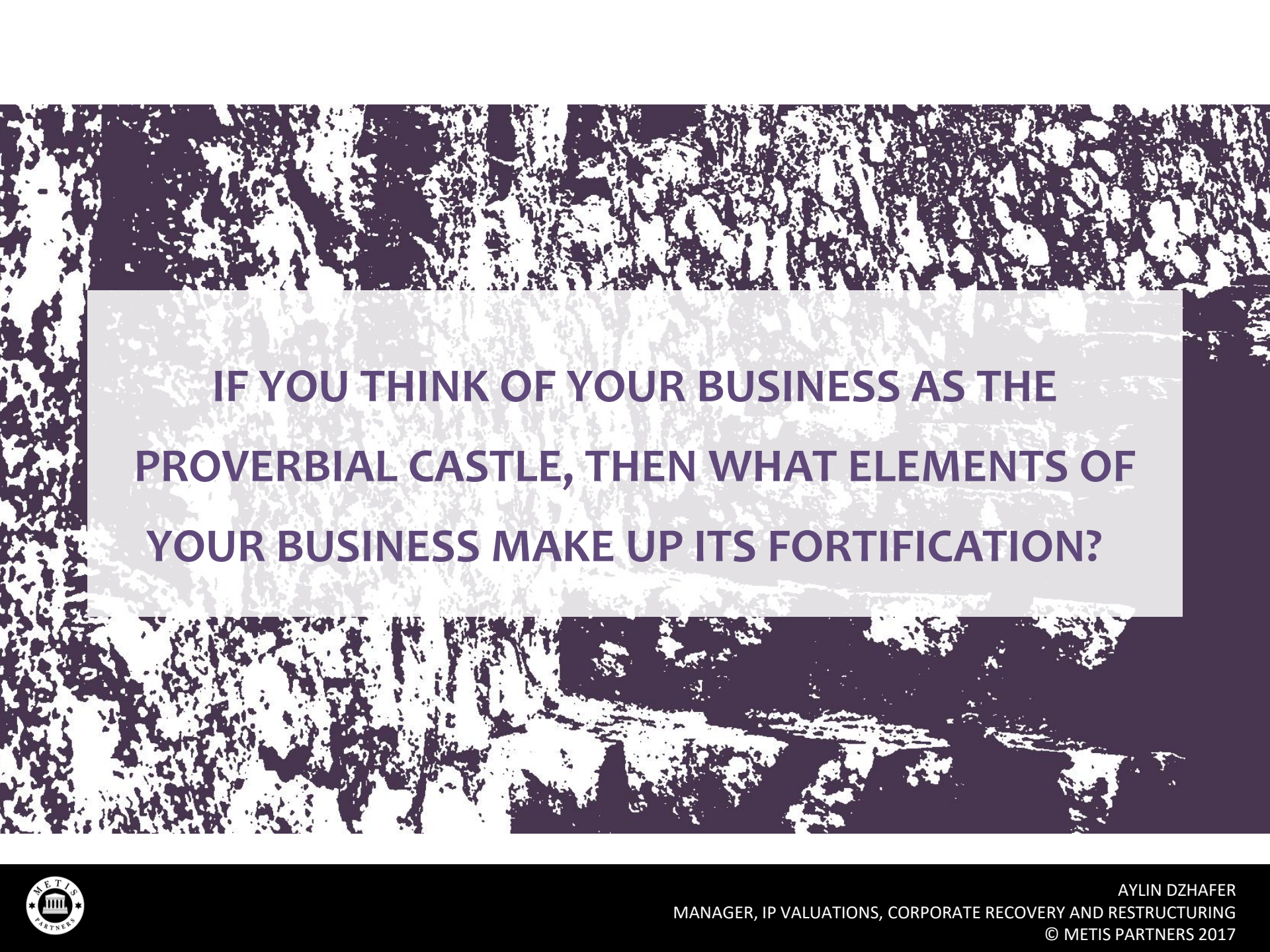
- ✦ **Low Value** – Exclusivity with partners
- ✦ **Medium Value** – Joint BD with partners
- ✦ **High Value** – Joint IP / Strategy - managed cooperation agreements



THE IP FORTRESS

The Foundation of IP Strategy





**IF YOU THINK OF YOUR BUSINESS AS THE
PROVERBIAL CASTLE, THEN WHAT ELEMENTS OF
YOUR BUSINESS MAKE UP ITS FORTIFICATION?**



FIRST DEFENCE: **MOATS**

Moats are often thought of as a castle's first defence

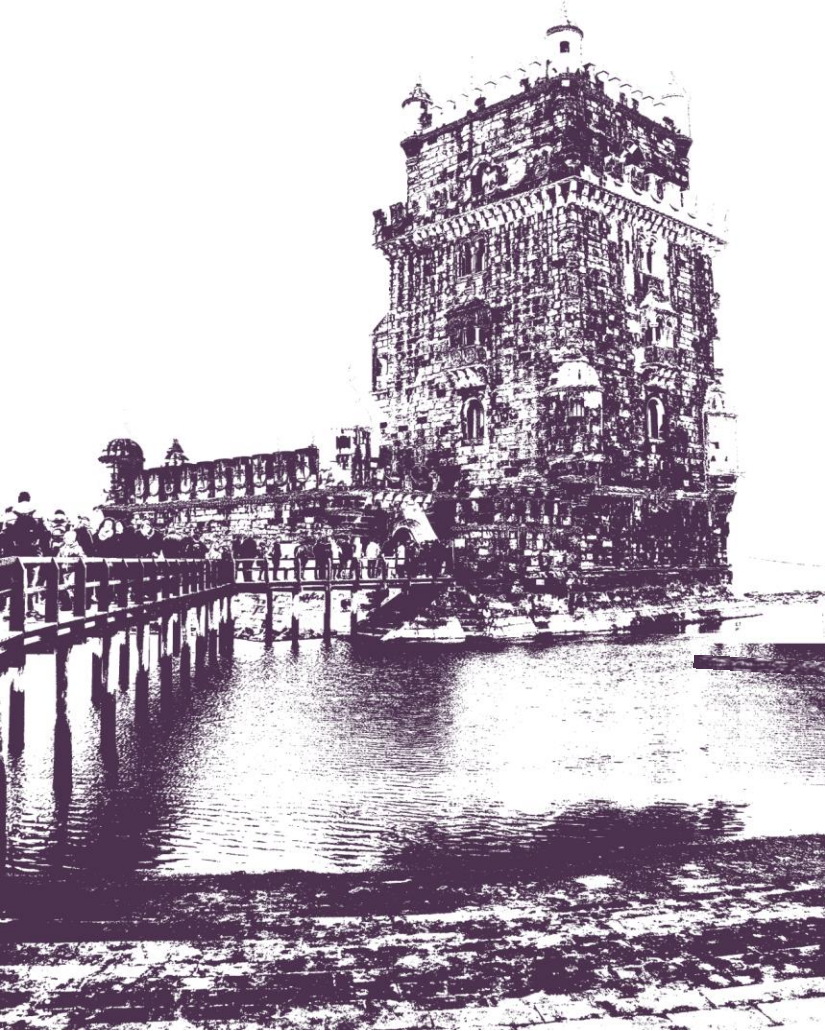
In an IP context, **registered IP assets** (i.e. trade marks & patents) are seen as a company's first defence

Both the **moat & registered IP** are visible to potential attackers/infringers:

- Moats are visible outside the castle
- Registered IP is visible outwith a business in public registers



FIRST DEFENCE: **MOATS**



The moat might be wide, shallow & lacking any hazards

i.e. there may be multiple but weak patent filings

OR


The moat might be narrow, deep & full of various hazards

i.e. there may be fewer but stronger patent filings

Potential attackers/infringers would need to make a closer assessment before seeing whether there were ways to cross/get around these barriers

i.e. must perform **due diligence**





**WHAT HAPPENS IF THE MOAT/REGISTERED IP
ASSETS PROVE TO BE INEFFECTIVE BARRIERS?
THE FIRST DEFENCE IS BREACHED.**



SECONDARY DEFENCE: CASTLE WALLS




Castle walls may be considered the second line of defence

In IP, these may be less obvious but nonetheless foundational IP assets

i.e. crucial intangibles such as **brand & reputation, software or critical partners**

While still visible, it is harder to make a qualitative assessment of the walls/foundational IP assets from the outside

- Potential attackers are unlikely to be privy to materials used, depth and/or structural efficacy of the walls
- Infringers unlikely to be privy to supporting IP assets



WHAT HAPPENS IF THE WALLS/FOUNDATIONAL IP
ASSETS PROVE TO BE INEFFECTIVE BARRIERS?
THE SECOND DEFENCE IS **BREACHED.**



TERTIARY DEFENCE: **SKILLS**

There is likely to be a reliance on the skills of knights/archers/etc. in order to prevent the castle walls from being breached

In IP, this may take the form of **employee know-how & skills**

Though not an innate element of the castle/business itself, individuals can nonetheless protect the integrity of castle/business



TERTIARY DEFENCE: **SKILLS**

Depending on the individual and collective skills, this may prove to be a significant barrier to entry

However, if all of the fighting “know-how” is held by just one or two fighters, this will naturally weaken the overall capacity for defence

Similarly, if business know-how is held by just a few individuals within the company, it puts the company at risk should these individuals leave & take their know-how with them



SUPPORTING DEFENCE: **TOOLS**

All these lines of defence require the use of clever tools/countermeasures to protect the castle and the people inside

i.e. using buckets of hot tar, arrow slits and/or traps

In IP terms, this might include **business innovations**, **trade secrets** and a **clear IP policy** that allows the business to protect its various IP assets through appropriate safeguards

This can slow down potential competitors & strengthen a company's competitive advantage



SUPPORTING DEFENCE: TOOLS

This involves the use of both offensive and defensive measures

Offensive:

- May include lookouts scoping the surrounding area & villages for attackers
- In IP terms, carrying out **competitor, market and/or patent landscaping analysis**

Defensive:

- May include active response to an attack, changing tactics as necessary
- In IP terms, this may include **innovating and leveraging IP in response to competitor and/or infringer threats**



SUPPORTING DEFENCE: **TOOLS**

Regardless of the method, it is crucial to make sure that all individuals within the castle/company work together to maintain the various defences

In business, it's the all-important **recognition that IP strategy and IP culture applies to everyone within the company**, & that one break in the collective effort may undermine a company's competitive advantage



CHOOSING YOUR DEFENCE

How & when the castle deploys these countermeasures depends on the size, skill & methods utilised by attackers

As with a castle defence strategy, it's important that your business:

- Is protected by more than just its moat (i.e. registered IP)
- Has a clear & well-organised defence structure (i.e. a robust IP strategy)

Especially critical is making sure there is an analysis of potential gaps in the castle's structure & armoury (points of weakness where potential attackers/infringers may circumvent defensive measures in place)

This allows you to understand what defences/tools (i.e. IP) you have, enabling you to play to your strengths

LEVERAGING YOUR DEFENCES

Defences can be leveraged in various ways

In castle terms, you could offer protection to the surrounding village in exchange for a monthly levy

In IP terms, this translates to **licensing out your IP assets for a fixed fee & royalty rate**



SCRUTINISING YOUR DEFENCES

Audit/Diligence:

- A castle lord wouldn't want to open his armoury only to find all his weapons are missing
- Likewise, a company would not want to be caught unaware during threat of infringement/competition by learning it does not own the IP it thought it did
- Due diligence reflects on the extent, ownership, quality and risks of a company's IP, allowing it to be proactive in defending its critical assets

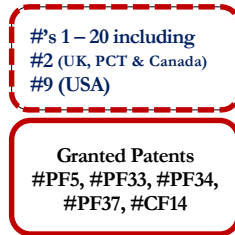
Valuation:

- A castle lord may call a local surveyor asking him to value the stronghold
- Similarly, a company may want to understand the value of its IP assets and, necessarily, underlying IP strategy & business model

IP AUDIT - UNCOVER HIDDEN VALUE

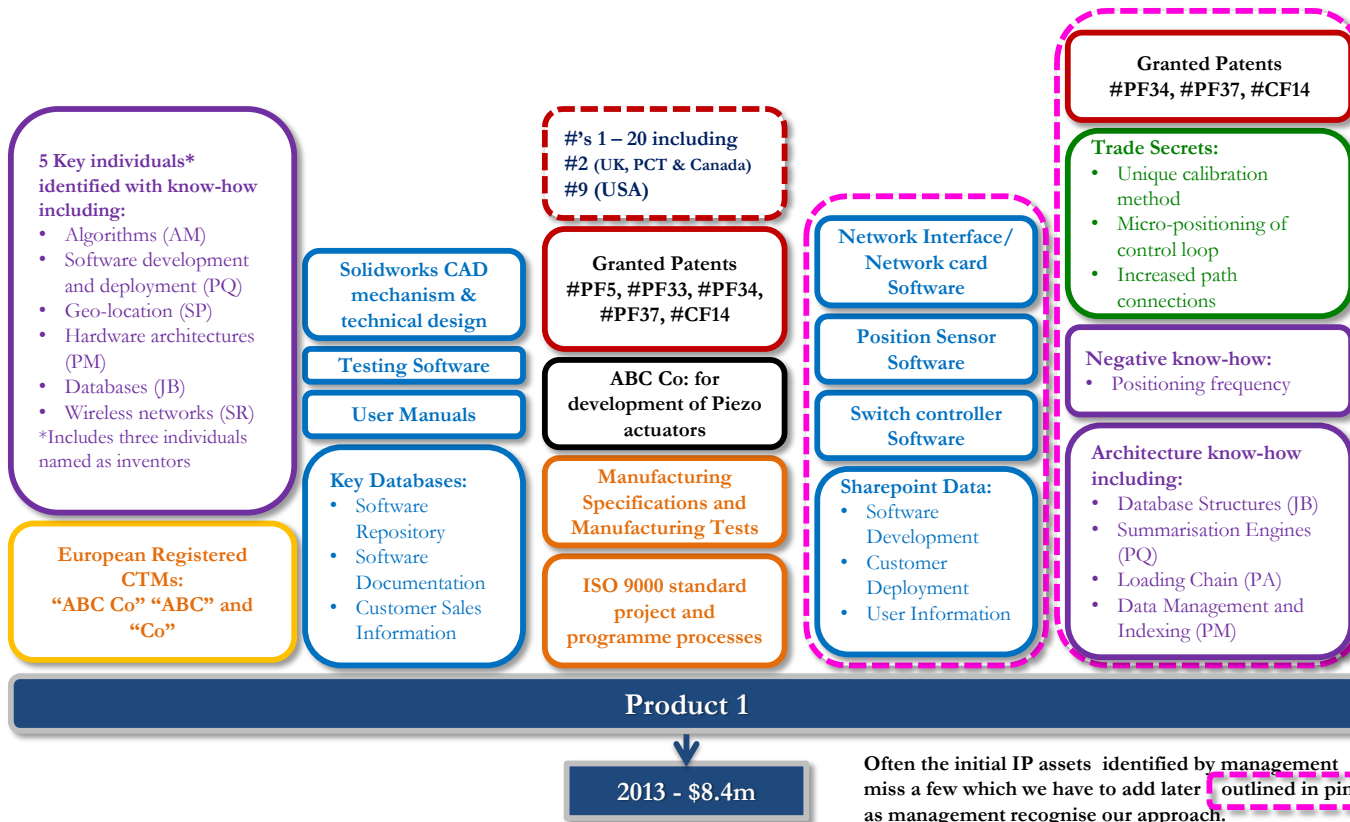
- Identifies what underpins competitive advantage
- Looks beyond “traditional” IP rights
- First step in building a sound IP strategy
- Current and future stakeholders can visualise IP assets vested in the company
- Enhances company’s ability to leverage IP assets to achieve an improved market position

IP ASSET MAPS - IP UNDERPINNING REVENUES / VALUE STREAMS



What company management thinks it has

EVEN MANAGEMENT STRUGGLE TO IDENTIFY IP AT FIRST



What an IP Audit reveals!

Often the initial IP assets identified by management miss a few which we have to add later outlined in pink as management recognise our approach.



IP AUDIT AND IP-BACKED FINANCE



- ✦ Using IP assets to increase financial liquidity
- ✦ Working with banks and credit teams
- ✦ Highlighting critical IP, underlining competitive advantage, creating sustainable growth
- ✦ Creating ability for banks to “secure” IP assets





LESSONS LEARNED

OUR WORK IN DISTRESSED/INSOLVENCY SCENARIOS

- ✦ Create awareness about hidden IP and its value
- ✦ Encourage companies to think about out-of-the-box funding options – tap into the flexibility of IP
- ✦ Encourage a bottom-up approach of monitoring IP creation – ensures visibility of portfolio at all times and expedites identification of rescue options
- ✦ An ecosystem (e.g. IP100) built around the IP improves the business support system – timely access to investors, advisors, peers



FINAL REMARKS & KEY TAKEAWAYS

- ✦ Think of IP as a business enabler
- ✦ IP becomes a key differentiator and reputation enhancer in a competitive marketplace
- ✦ An IP audit is key to building and managing a strong, high value IP portfolio
- ✦ An out-of-the-box, flexible approach to IP helps see the full picture (registered & unregistered IP)
- ✦ Protecting IP helps secure competitive advantage

A close-up photograph of a hand holding a silver pen over a notepad with a grid pattern. The background is blurred, showing what appears to be a person's face in profile.

FINAL REMARKS & KEY TAKEAWAYS

- ✦ Encouraging awareness helps more IP creation and filing activity
- ✦ Fostering the IP discussion helps create the ecosystem of IP-rich players, advisors, funders
- ✦ The ecosystem gradually gives way to a market where IP becomes commercially viable and with a real monetary dimension



An Intelligent Approach to IP

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