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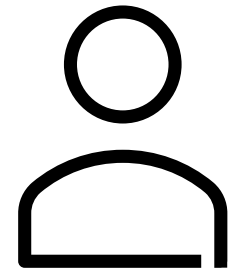
Aon IP Solutions

**How to protect your
company's balance
sheet from IP risks: for
SMEs to Corporates**

**Wednesday 24th May
2023**



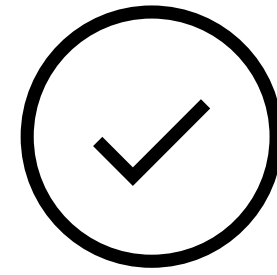
Agenda Discussion



Introductions

Aon Italy Team

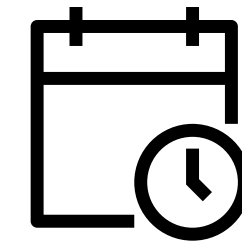
Aon IP Solutions Team



Policy Coverage

Overview of IP liability insurance

Purchasing Scenarios



Claims

2 Case studies

Details of processes and timelines

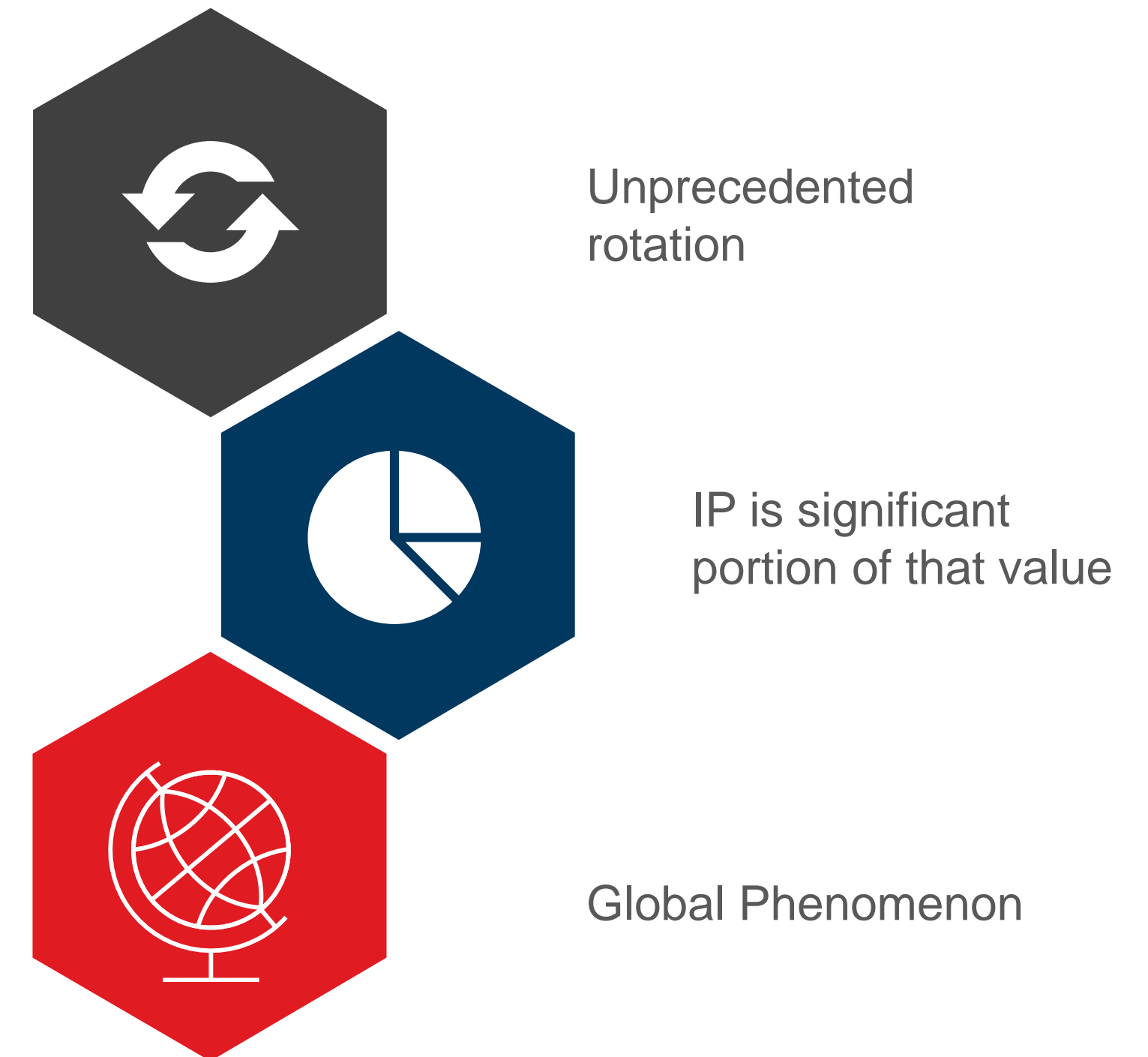
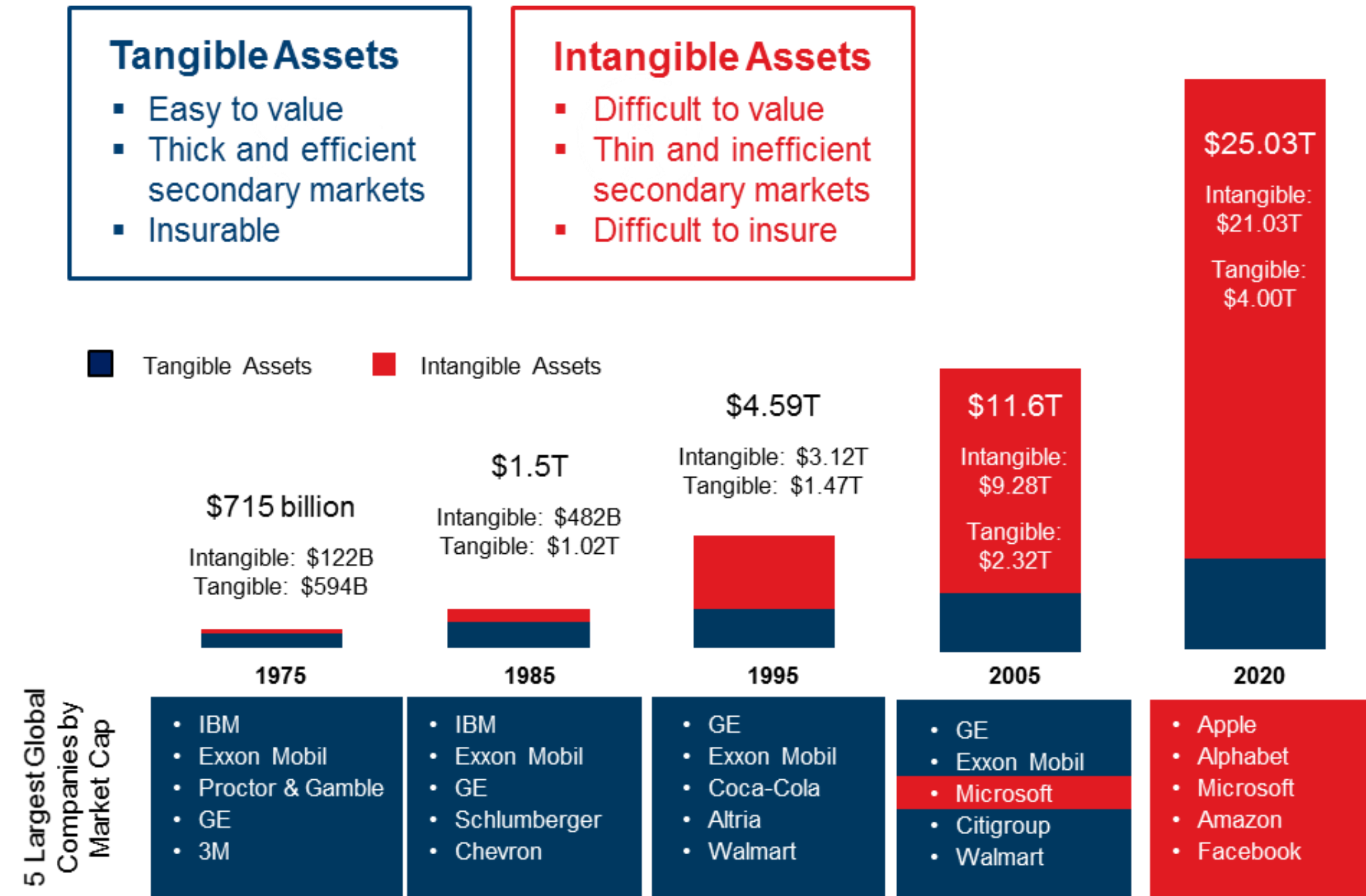


Q&A

Increasing importance of intangible assets

The drivers of corporate value have evolved over time

Tangible Assets vs. Intangible Assets for S&P 500 Companies, 1975 – 2020



“Although such (intangible) assets are increasingly prevalent and important for creating market-leading products and services, finance has not yet caught up, leaving firms that rely primarily on them for growth with fewer options. **The end result is a market for finance that is incrementally less effective.**” (British Business Bank “Using Intellectual Property to Access Growth Funding” 2018)

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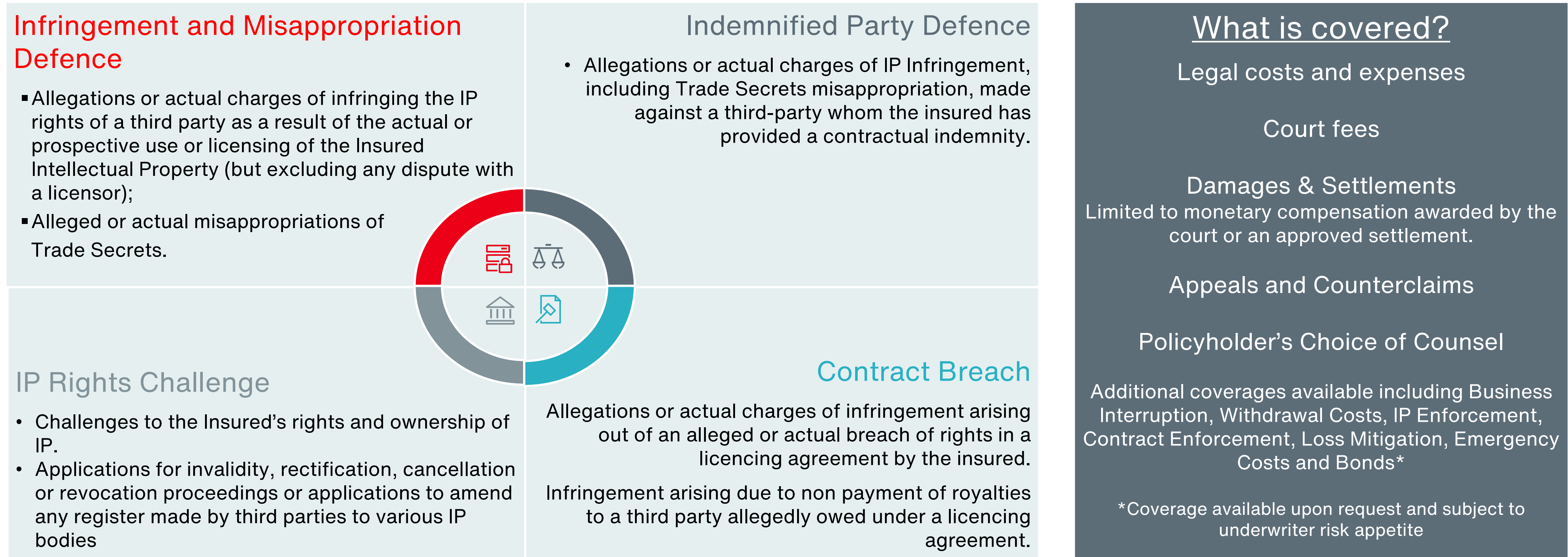
Policy Coverage



Understanding the Main IP Insuring Agreements

Triggers under the policy and what is covered

Policy Triggers



It is important to note that not every quote will include cover for all the above agreements, and some insurers may sublimit cover to below the aggregate limit of the policy. The policy wording will also vary per insurer, with differences in the breadth of cover offered.

Purchasing Scenarios

Why do you need IP Infringement Coverage?

Scenario 1 Defensive Coverage



You sell products

Situation

You sell and promote products and your brand, and occasionally hire knowledgeable employees from your competitors.

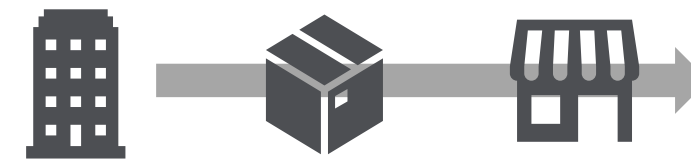
Problem

You are concerned that you are a target for an infringement lawsuit regarding intellectual property, including trade secrets. You fear significant or even catastrophic impact on your bottom line.

Solution

IP Infringement insurance policy¹ covering patent, trademark, and copyright infringement, and misappropriation of trade secrets.

Scenario 2 Contractual Liability Coverage



You sell through vendors

Situation

You use third-party vendors to distribute your product. Or others license your product for use in their products.

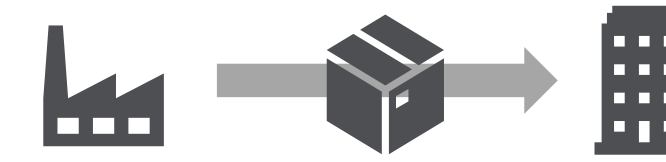
Problem

No indemnification clauses for infringement allegations in the contract with vendors. Vendors are worried about being named in an infringement lawsuit because they distribute your product. The deal is in jeopardy.

Solution

IP Infringement insurance policy¹ to cover your third-party vendors. The policy protects them from the costs of infringement allegations and can act as a business facilitator with them.

Scenario 3 Transactional Coverage



You use other's products

Situation

Another company (supplier) has a product that you want to incorporate into one of your key product lines.

Problem

The supplier is willing to offer you some indemnity, but it may not be enough, and you are worried about their ability or willingness to honor it. They are unwilling to put funds into escrow, needing the money for business. The deal is in jeopardy.

Solution

Product-specific IP Infringement insurance policy¹ to cover the “non-infringement” indemnities.

1) Policies purchased on an annually renewable basis

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Case Studies

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Case study 1 – Copyright infringement

Party Type	Defendant		IP Asset
Client Details	Fashion retailer with £25M in revenue where they have products in store and online across Europe and North America.	X	Patent
		X	Trademark
		✓	Copyright
		X	Trade Secret
Claim Summary	A third party artist sent a cease and desist letter alleging that the prints on their clothing products were infringing the artist's copyright and threatened legal action if the product was not removed from circulation.		
Claim Outcome	Insurance claim was accepted by the insurer. The company had to enter into negotiations and eventually reached a settlement with the third party for ~£200,000 whilst legal costs amounted to ~£170,000.		
Jurisdiction	UK		
Claim length	~a few weeks		
IP Policy Details	The company held a £2,000,000 IP Liability policy with a £30,000 retention (per claim)		
Premium	~£17,000 – 0.85% RoL		
Claim Payout	Legal Costs Incurred	Settlement Amount	Claim Payout (above the retention)
	~£170,000	£200,000	~£350,000

Case study 2 – IP Enforcement

Party Type	Defendant		IP Asset
Client Details	A producer and seller of mechanical tools for machine composite materials, strongly oriented towards research and development with EUR 11M Turnover.	✓	Patent
		X	Trademark
		X	Copyright
		X	Trade Secret
Claim Summary	The client made an enforcement action of a European patent validated in IT, FR, DE, ES (patent granted and never opposed) against a Chinese company that sells an allegedly infringing product in IT and DE.		
Jurisdiction	Italy		
Claim length	~likely a few months		
Costs incurred	Legal Costs Incurred (incl. court fees)	Loss of revenue not resulting from the enforcement action (uninsurable)	
	~EUR160,000	~EUR1,000,000	
How IP Insurance could have helped	Had the client purchased an IP insurance policy, the costs of their legal fees of enforcing their patent rights against the Chinese entity would have been covered (subject to terms and conditions of the policy wording) under IP Enforcement cover. The Damage calculations awarded by the courts to the Client may also take into account the loss of revenue amount.		

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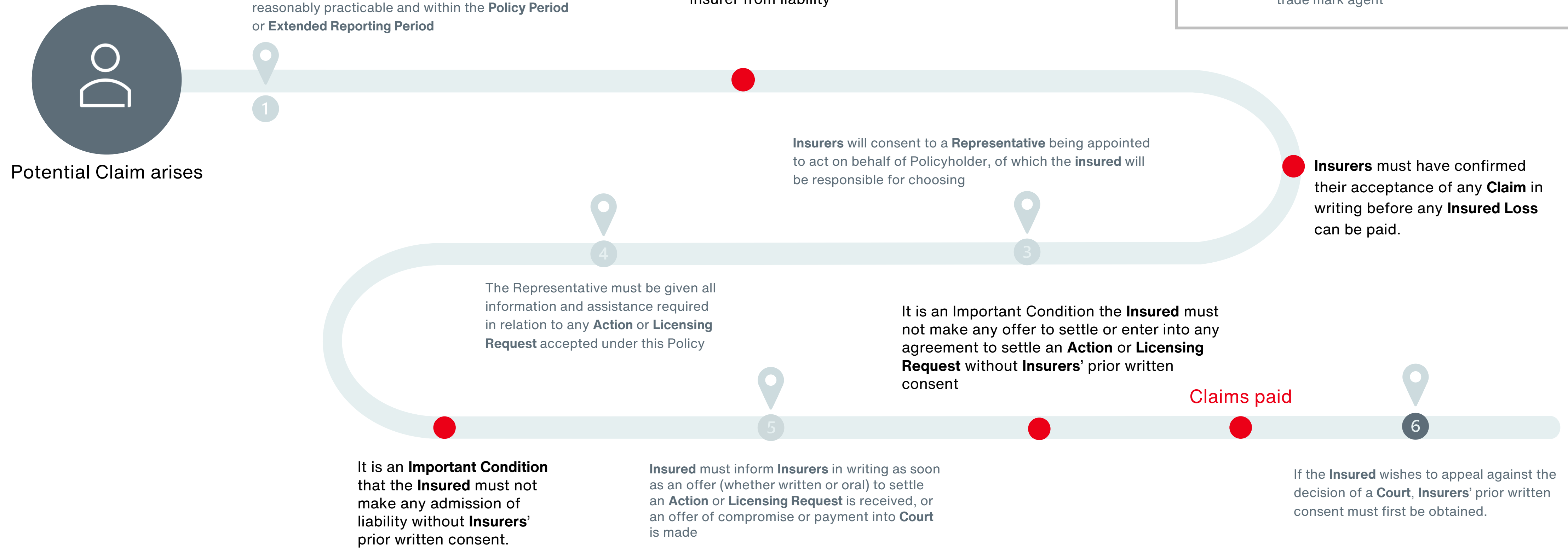
Claims Process



Claims Timeline

Documentation required:

- 1 Fully completed claim form
- 2 Supporting documentation
 - Name and location of parties
 - Copies of any correspondence
 - Potential financial impact
 - Details of when the insured first became aware
 - Any legal advice provided
 - Proposed course of action
- Details of any lawyer, advocate, barrister, patent or trade mark agent



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Q&A

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