



Annual Meeting 2011
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Welcome to Session 903:

Working With Your IP Business Partners and Executives

Aaron Brodsky, Managing Counsel, **Oracle**

Myron Eng, Associate General Counsel ISD and IP, **Wal-Mart**

Patty Motta, Senior IP Counsel, **American Greetings**

Monica Winghart, General Counsel, **Article One Partners**



Roadmap

- Setting your IP Strategy
- Responding to a Dispute
- Enforcing IP
- Maintenance Messaging





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Setting IP Strategy





IP Alignment with Business Strategy

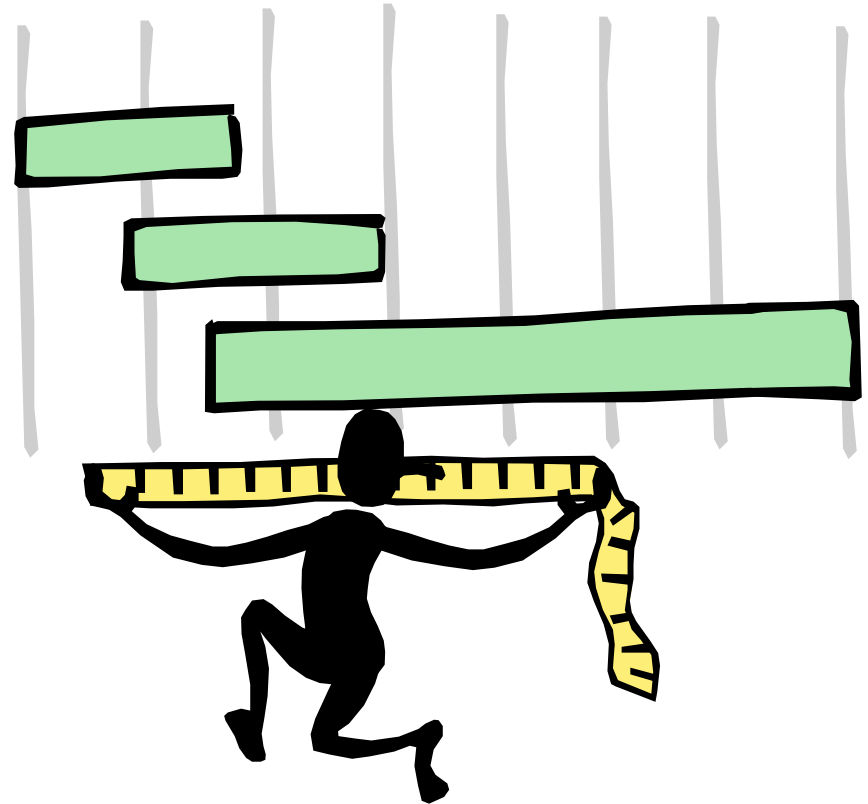
- Build relationships
- Monitor R&D efforts
- Active participation in strategy sessions, product reviews





Metrics for Gauging Success

- Patent, trademark, copyright docket
- New invention disclosures
- Leverage in IP disputes





Executive Support

- Communications
- Expertise
- Advocacy
- Budget Management

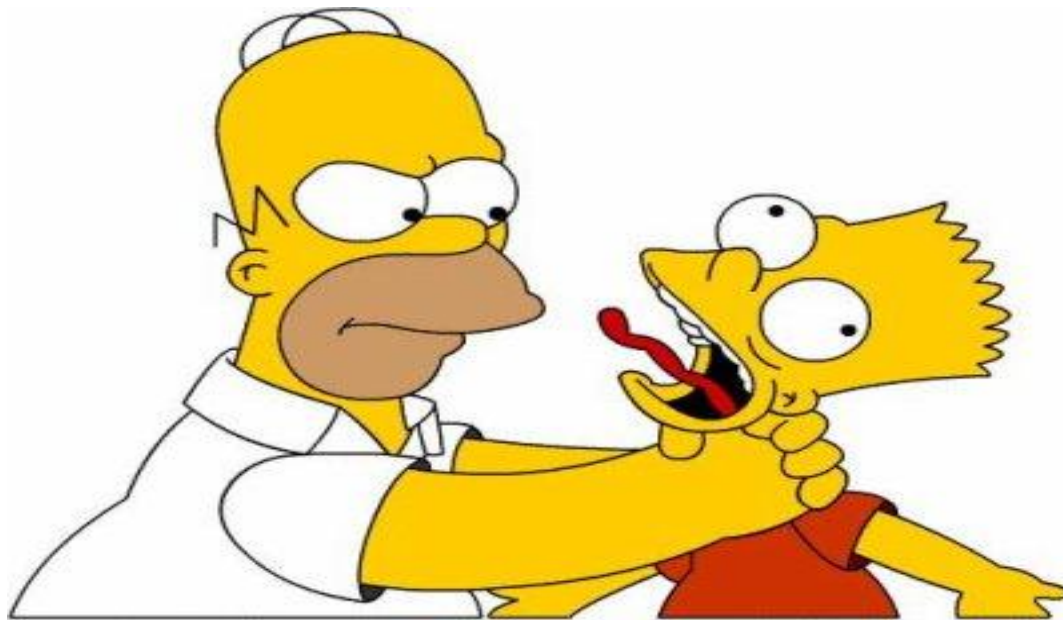




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Responding to a Dispute





How Big Is The Problem?



- Your company
- Their company
 - Financial strength
- The Claim
- Products/Services



Should We Worry?

- Infringement case
- Defenses

What, Me Worry?





What If We Go To Court?

- Strategy
- Evidence
 - Bad facts
- Time and timing





How Do You Break The News?

- Evaluate cost of litigation
- Indemnification from third party
- To settle or not to settle
 - Cost to settle





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Enforcing IP





Why does IP Enforcement matter?

- IP protects creations and innovation

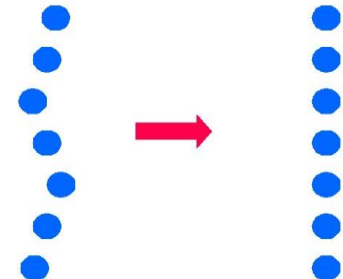
- IP is the hammer that can:
 - Stop competitors from copying
 - Maintain your competitive advantage
 - Create customer/consumer loyalty and engagement
 - Provide a stream of licensing income





Aligning IP Enforcement

- Establish policy on policing rights
- Identify competitors
 - Review competitors' existing products for IP infringement
 - Watch for new competitor products, branding, and advertising
- Identify the business goal for each enforcement scenario:
 - Sale of IP?
 - Cross-license?
 - Royalty-bearing license?
 - Injunction?
 - Damages?
 - Combination of the foregoing?





Define success for action

- Successful enforcement of IP rights does not mean you have to go to court
 - *But* litigation may have to be used on occasion
- Out-of-court settlements are the most cost-effective
- Prevent infringement from occurring or continuing in the marketplace in order to avoid damage, including loss of goodwill or reputation
- Establish a reputation that the company will protect and, if necessary, enforce its IP rights
- Build competitive advantage



Message the risk and reward potential

- Understand appetite for risk (at all levels of the organization)
- Articulate impact on business
 - Purchase insurance that cover IP risks
- Act as an advisor to client
 - Focus on decision criteria
 - Outline risk optimization + mitigation
 - Explain pros and cons





Garner support for initiation and follow-through on action

- Engage the right audience
- Be proactive; not reactive
- Consistent communication metrics:
 - **Posture:** Risk tolerance
 - **Advisory Quality:** Law-related knowledge, litigation outcomes
 - **Business Knowledge:** Knowledge of business operations, knowledge of business strategy, and understanding of non-legal risk
 - **Responsiveness:** Meeting deadlines, accessibility, clarity of communication, and solution orientation
- Everyday diligence, diligence, diligence



Budgeting and costs discussion

- Transparency
- Cost control
 - Outsourcing decisions -- Ask for specific budgets/costs/caps
 - Law firm selection -- Identify and work with trusted counsel
 - Matter management
- Tracking and Reporting





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Maintenance Messaging



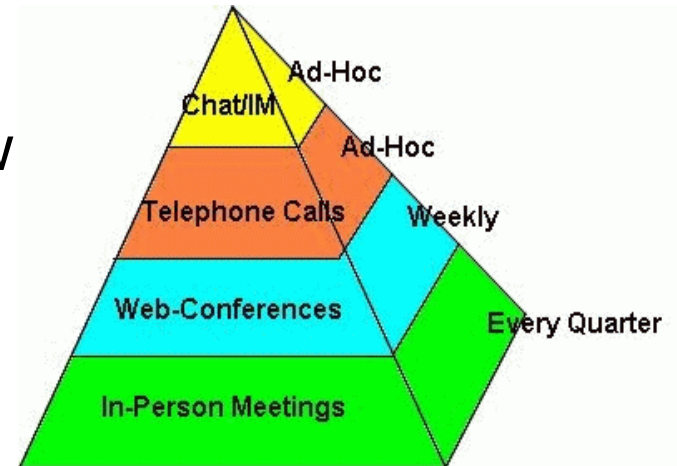


Keys to Successful Messaging



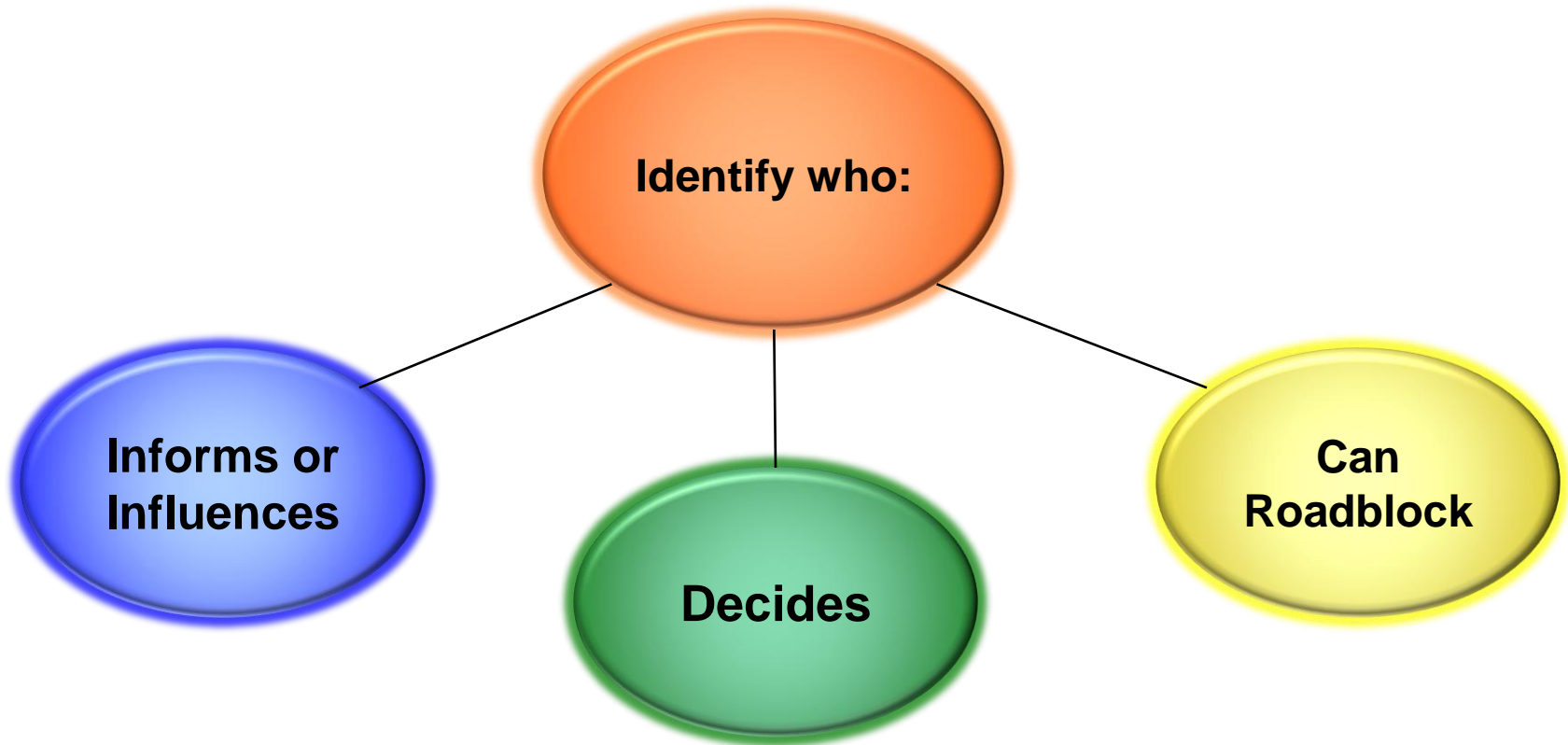
- Know your Audience

- Determine What They Need to Know
- Message Delivery and Timing





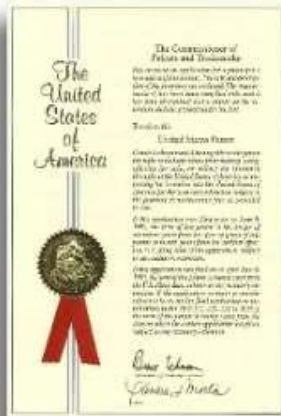
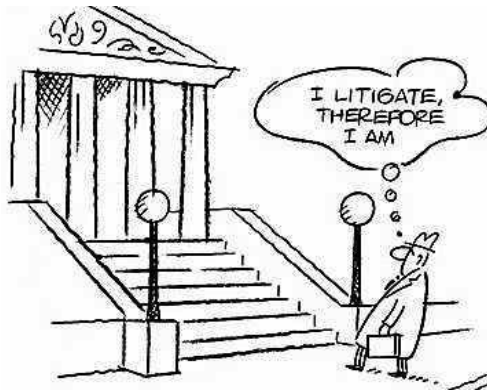
Who is Your Key Audience?



What Do They Need to Know?

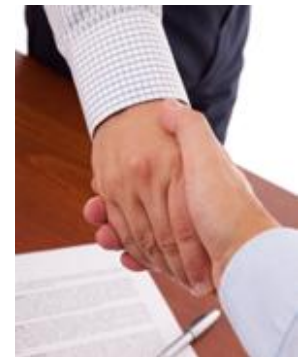
- Type and Scope of Matter – Matters

- Litigation



- Prosecution

- Transactional

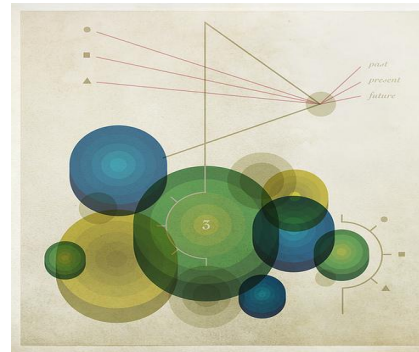




What Do They Need to Know?

- Type of Information

- Inform Only?



- Decide -- one-dimensional

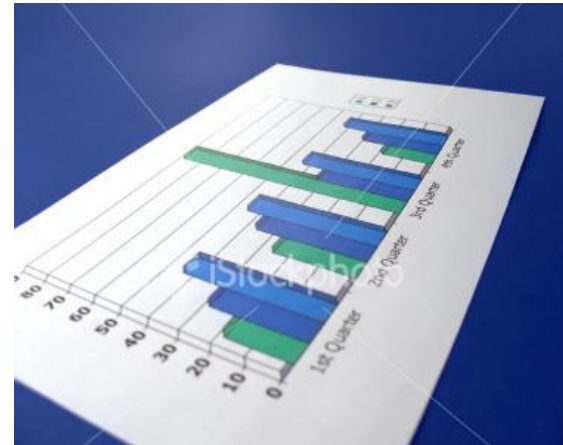


- Decide -- strategic direction?



When Do They Need to Know It?

- Regular Updates



- Urgent Matters



Remember Kiss and Tell Rule

- Keep it Simple and Smart



- Don't Forget About Privilege



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Questions???

