



LES (USA & Canada)
Silicon Valley Chapter

Intellectual Capital: Unlock the Unexploited Value of Your Company's IC Assets

November 18, 2020

Intellectual Capital Components

Intellectual Capital

Value Creation

Human Capital

Experience
Know-how
Skills
Creativity

Value Extraction

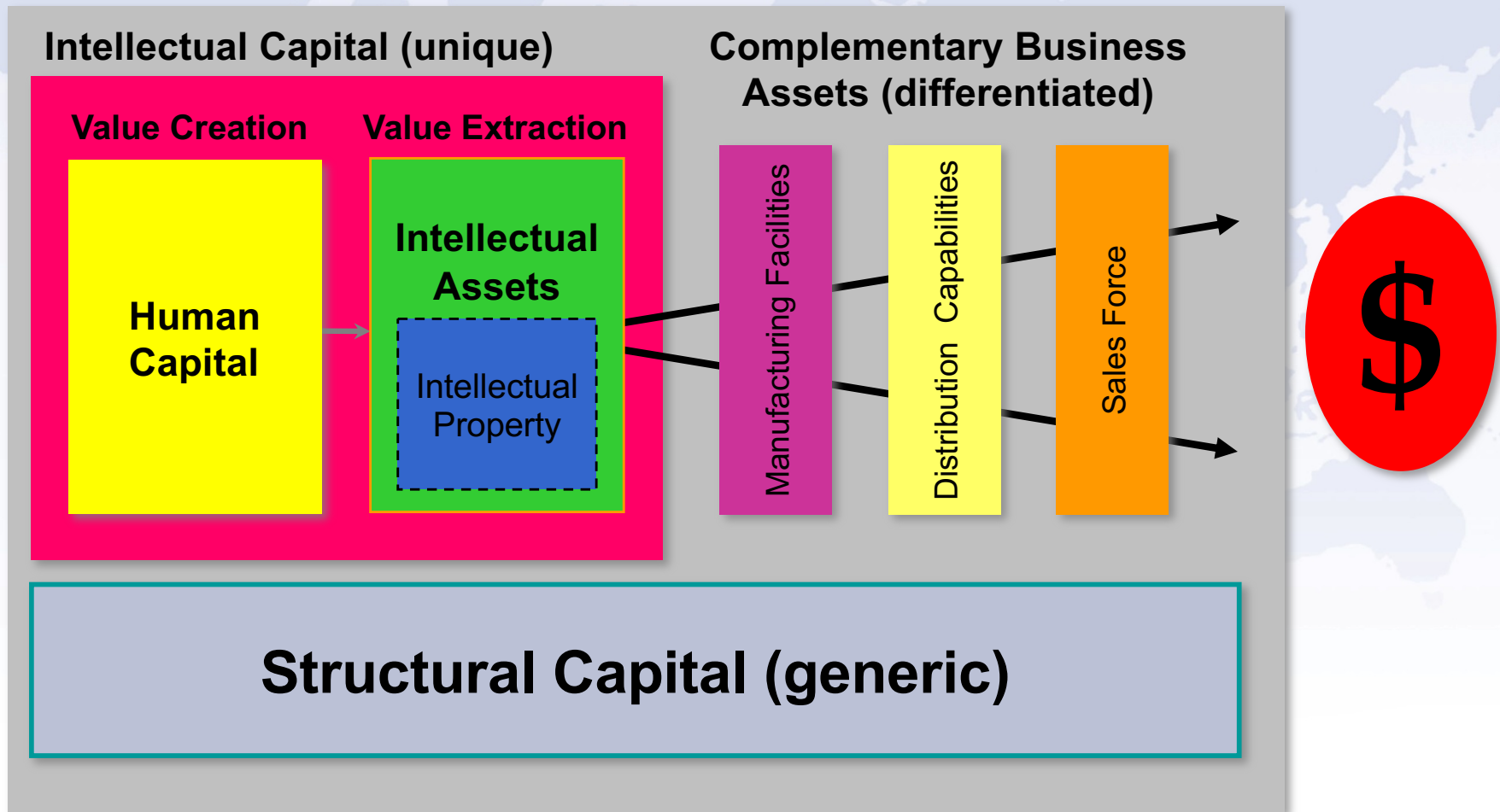
Intellectual Assets

Programs	Methodologies
Inventions	Documents
Processes	Drawings
Databases	Designs

Intellectual Property

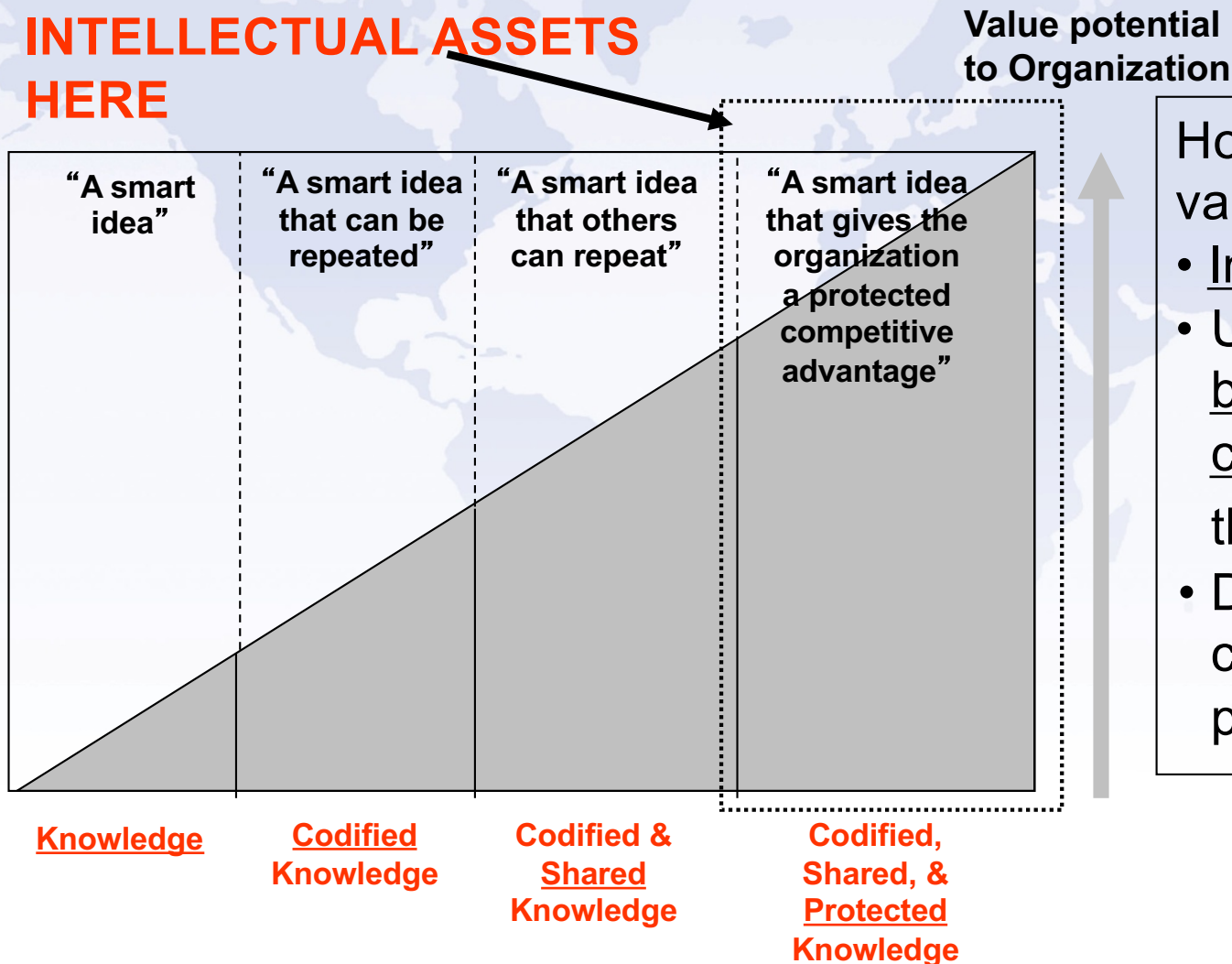
Patents
Copyrights
Trademarks
Trade secrets

A Model of the IC Company



Intellectual Capital Value Components

**MOVE AS MANY OF YOUR
INTELLECTUAL ASSETS
HERE**



- How do you increase the value potential of your IA:
- Inventory your assets.
 - Understand the business purpose and current level of use of the assets.
 - Devise strategies to codify, share and protect.

LES Silicon Valley Chapter

Life Sciences Perspective on IC

Gillian M. Fenton, Esq., CLP
Senior Counsel, Vaccines Legal Operations –
Innovation, Business Development and Strategic Alliances
GSK Vaccines

- **IP-driven R&D Transactions for the Vaccines Pipeline**
- **Global Health Transactions**
- **External Funding ~ HHS/BARDA, DoD/DARPA**

- **Formerly Chief IP Counsel, Emergent BioSolutions Inc.**
 - **2006-2015**

Views expressed are personal and do not reflect the policies or positions of my current or prior employers



ICM Graphic

WHAT IS INTELLECTUAL CAPITAL (IC)?

All of the following and more.



LS IC Management

Best Practices

- Interrelated Oversight of Assets, Risks, Opportunities
- Align with Company business model and priorities
- Think broadly about commercially meaningful exclusivities
- Budget and Timing of significant activities (launch, FTO)
- Workforce training and outreach
- Policies and procedures
 - development, oversight, audit, enforcement
- Functional Adjacencies and Overlaps ~ Not Just R&D!
 - Finance / HR / IT / Security / Corp Strategy / Risk & Insurance
- Strategy Requires Implementation
 - Operational Plan with Timeframe, Resources, KPIs



Using Patents As A Source of IC

Inventor Recommendation

Innovation is core to the culture of Google. Almost all innovation is collaborative, and often the strongest new ideas come from cross-team collaboration. The Inventor Recommendation app is a Google-Inventor recommendation engine that is designed to facilitate cross-team collaboration. Use the app to find Google-Inventors for collaboration on your next big idea or find mentors as you invent in your field of interest here at Google. The app leverages inventors' past patent publications to calculate similarities and provide recommendations.

How to use the app? Start by entering an LDAP or a Search Query in the cards on the right -->

LDAP SEARCH

KEYWORDS SEARCH

Inventor Recommendation - Keywords Search

Enter keywords or short phrases of your idea below and hit Search to find relevant inventors. For example, to find inventors with inventions in reinforcement learning, enter *Reinforcement Learning* and click Search

Enter keywords to search for inventors

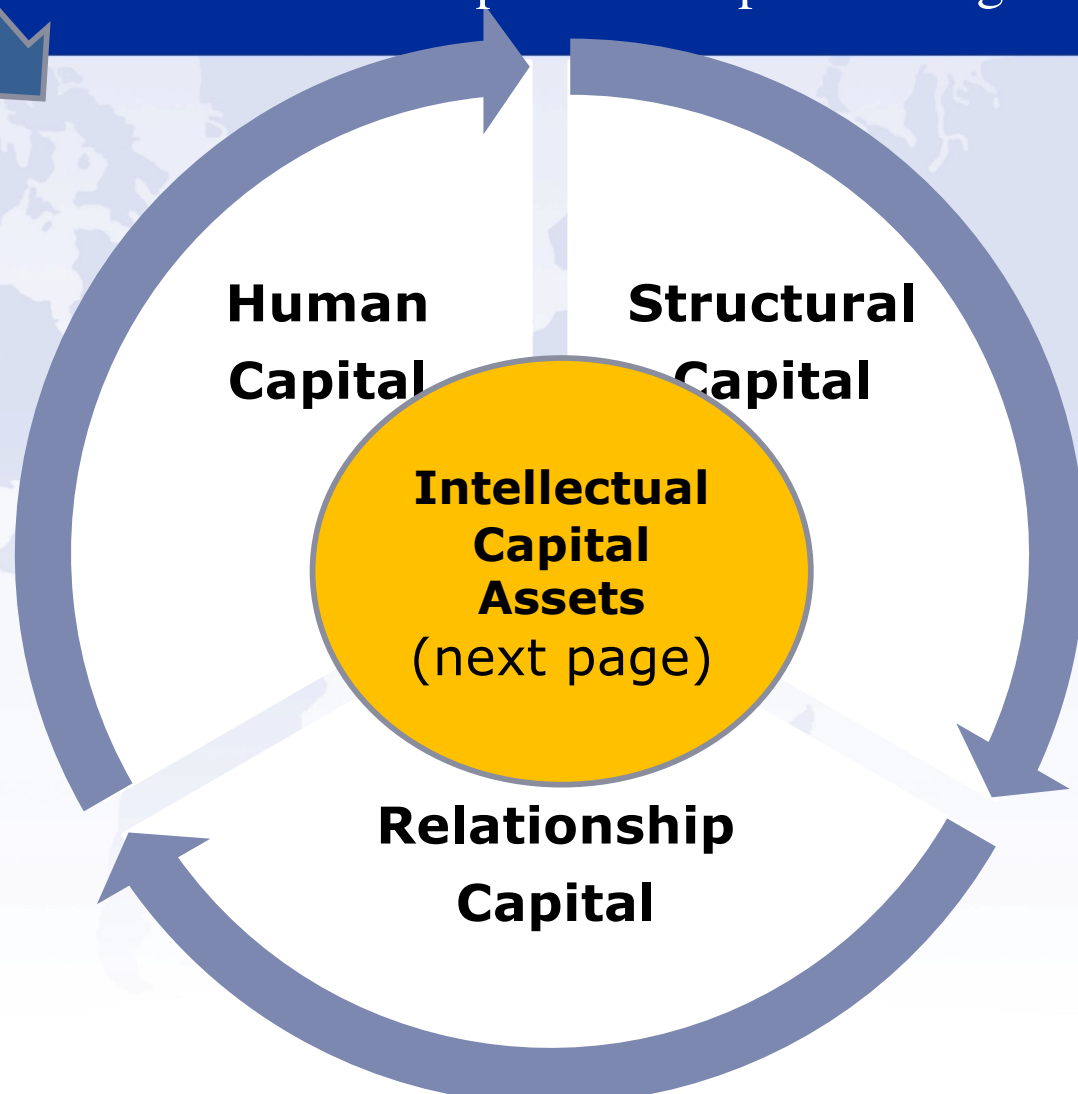
SEARCH



Intellectual Capital

Sum of everything everybody in an enterprise knows and has created and is capable of creating that gives an enterprise a competitive edge

Knowledge, skill and know-how that employees "take with them when they leave at night"



Stays with the firm "after the staff leaves at night", and comprises organizational routines, procedures, systems, cultures, and databases

Resources arising from the external relationships of the firm with customers, suppliers and R&D partners



Intellectual Assets – Sample Menu

Structural Capital Assets			Relationship Capital Assets		Human Capital Assets
"Secret Sauce"	Film libraries	Processes/Methods	Advertising campaigns	Non-compete covenants	Employees' knowledge related to firm business
Apparatus	Food flavorings and recipes	Product designs	Advertising, construction, Agreements	Non-competition agreements#	
Appraisal plant	Franchise ordinance	Product or Service Placements	Books, magazines, newspapers,	Non-contractual customer	
Article of manufacture	Going concern	Production backlogs	Brand names	Non-diversion agreements	
Audiovisual works	Goodwill	Proposal outstanding	Business Relationships*	Open orders	
Awards and judgments	Government programs	Proprietary computer software	Buy-sell agreements	Operating and broadcast rights#	
Bank and credit card customers	Historical documents	Proprietary processes	Certificates of need	Options, warrants, grants, rights	
Blueprints	Insurance expirations	Proprietary products	Color	Order or production backlogs#	
Book libraries	Insurance in force	Proprietary technology	Construction permits#	Pictures, photographs#	
Business methods	Laboratory notebooks	Publications	Cooperative agreements	Plays, operas, ballets#	
Chemical formulations	Leasehold estates	Purchase orders	Customer contracts and related	Possessory interests	
Client, donor or trustee data	Lists of employees, customers,	R&D	Customer lists*	Product Shape	
Company strategy	Literary works	Retail shelf space	Customer relationships	Property use rights	
Composition of matter	Litigations awards and damages	Schematics and diagrams	Design (logo, package)	Regulatory approvals	
Computer software	Loan portfolios	Sculptural (3D) works	Distribution networks	Reputation (prospect of future	
Computer software and mask	Location value	Securities portfolios	Employment contracts#	Royalty agreements	
Computerized databases	Manual databases	Software, source code, object	Enterprise/Company Name	Security interests	
Confidential Business	Manuscripts	Sound recordings	Favorable leases	Servicing contracts, such as	
Confidential Business	Masks and masters	Stock and bond instruments	Franchise agreements#	Shareholder agreements	
Credit information files	Medical charts and records	Subscription lists	Franchise relationships	Solicitation rights	
Culture	Musical compositions	Systems	Franchise relationships	Sound (also known as audio	
Customer list	Natural resources	Technical and specialty	Internet Domain Names#	Strategic Alliance	
Data	Newspaper morgue files	Technical documentation	Joint Ventures	Supply or Service-level	
Data compilation	Ore deposits	Technology	Landing rights	Technology sharing agreements	
Databases, including title	Patented technology#	Title plants (chain of title,	Lease agreements#	Trade dress (unique color,	
Demonstration or Show-how	Personally Identifiable	Trade secrets, such as secret	Leasehold interests	Trademarks, tradenames,	
Designs	Pictorial, Graphic (2D) works	Training manuals	Licensing, royalty, standstill	Use rights - air, water, land	
Plans	Prescription drug files	Unpatented technology*	Marketing and promotional	Video and audiovisual	
Engineering drawings	Prizes and awards	Workforce (trained, assembled)	Mineral rights	Word/Name/Brand of	
Enrollment lists	Procedural manuals		Musical compositions, song	Work in process	



Intellectual Assets & Legal Protections

Translation Matrix

INTELLECTUAL CAPITAL (IC) TYPES	MENU OF POSSIBLE MATERIAL IA	PRESENT?	LEGAL PROTECTION					ENFORCEMENT		IA LEDGER	ACCOUNTING
			CONTRACT RIGHTS		INTELLECTUAL PROPERTY RIGHTS			CAUSES OF ACTION			
			Contracts with Employees & Outside Parties	Contracts w/ Gov't Entities or De Facto Governing Bodies	Trademark Servicemark	Patent	Copyright	Trade Secret	Causes of Action & Appeals		
"Secret Sauce"	?	?	?	?	?	?	?	?	<List from left>		
Apparatus	?	?	?	?	?	?	?	?	<List from left>		
Appraisal plant	?	?	?	?	?	?	?	?	<List from left>		
Article of manufacture	?	?	?	?	?	?	?	?	<List from left>		
Audiovisual works	?	?	?	?	?	?	?	?	<List from left>		
Awards and judgments	?	?	?	?	?	?	?	?	<List from left>		
Bank and credit card customers	?	?	?	?	?	?	?	?	<List from left>		
Blueprints	?	?	?	?	?	?	?	?	<List from left>		
Book libraries	?	?	?	?	?	?	?	?	<List from left>		
Business methods	?	?	?	?	?	?	?	?	<List from left>		
Chemical formulations	?	?	?	?	?	?	?	?	<List from left>	Technology-based	
Client, donor or trustee data	?	?	?	?	?	?	?	?	<List from left>	Customer-related	
Company strategy	?	?	?	?	?	?	?	?	<List from left>		
Composition of matter	?	?	?	?	?	?	?	?	<List from left>	Technology-based	
Computer software	?	?	?	?	?	?	?	?	<List from left>	Technology-based	
Computer software and mask works#	?	?	?	?	?	?	?	?	<List from left>	Technology-based	
Computerized databases	?	?	?	?	?	?	?	?	<List from left>	Technology-based	
Confidential Business Information (as stewards for others' organization)	?	?	?	?	?	?	?	?	<List from left>	Technology-based	

Corollaries

1. Some **Intellectual Assets (IA)** drive *material* value, yet not all material **IA** or **Intellectual Capital (IC)** is recognized by "Accounting", C-suites or Board Directors; other times it is lumped into Good Will.
2. Some **IA** is recognized inconsistently: not if home-grown; but then are recognized only after a transaction.
3. Some **IC** also drives value, yet is often not recognized.
4. The material drivers of value can be considered Parent Assets/Capital that *may also be* **legally/IPR** protectable (some not), and these create Child assets, which themselves provide material value individually or in aggregate (by asset class/category).
5. Children can only come from Parents, but Children are not same as their Parents.
6. Children (and grandchildren) may separably exist from their Parents.
7. **Intellectual Capitals** are catalysts for extracting value from **Intellectual Assets**.



The Proposed Boardroom Standard

Board compliance in 5 Steps:

- ☑ **Step One (Agenda):** The Board Should Add IC-oversight to its Strategy Agenda
- ☑ **Step Two (Baseline):** The Board Should Insure Baseline Awareness of Each Director on IC-related Language, Relevant Topics, & Liability
- ☑ **Step Three (Confer):** Directors Should Confer on IC-related Materiality and Risk Tolerance
- ☑ **Step Four (Determine):** The Board Should Determine Need/Benefits for Additional Planning re External (and Internal) IC-related Events
- ☑ **Step Five (Evaluate):** The Board Should Routinely Evaluate the Timing and Substance of Refreshing the Above Steps



Drivers Of Material Commercial Value (Or Potential)

