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Sharing the Risk in R&D Relationship and Insurance

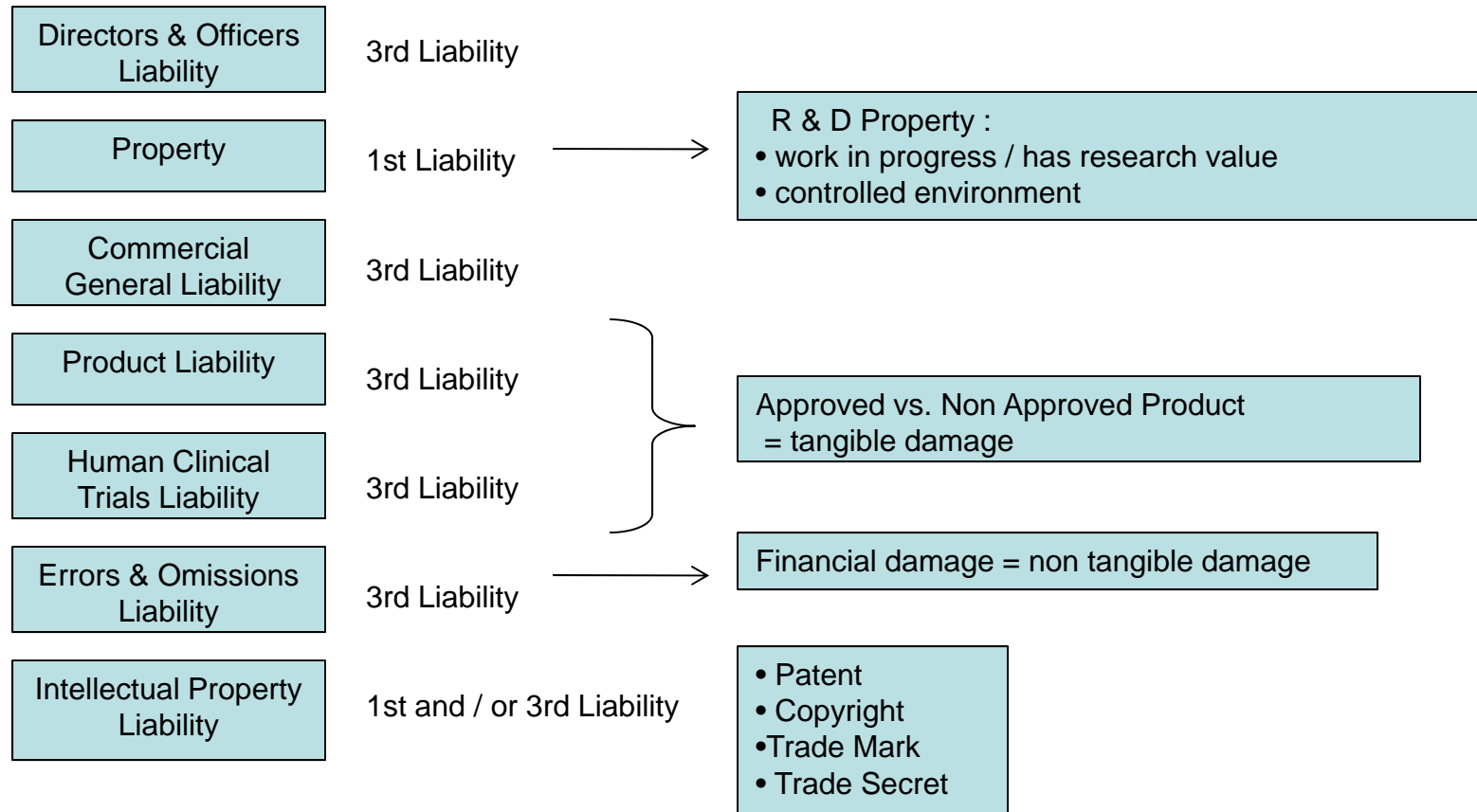
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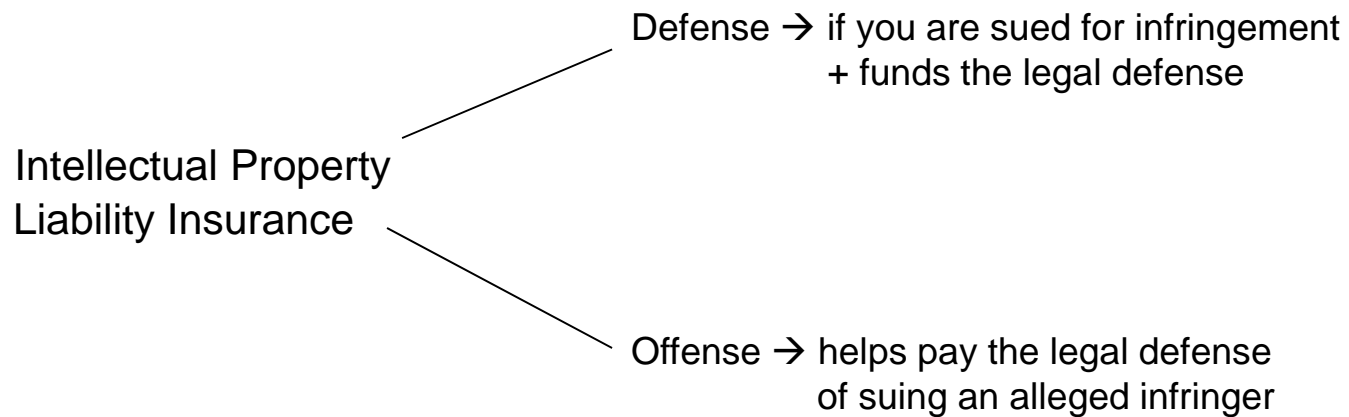
Senior VP Knowledge Based Economy

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Insurance 101



Two Basic Types of IP Insurance



Typical Contractual Clauses That Insurers Look At:

1. Warranties
2. Indemnification
 - a. Between the 2 contractual parties
 - b. Against third party claims
3. Limitations of liabilities
4. Insurance Clause
5. Governing law
6. Exclusive Remedy

But Why Should I Care?

It's all about \$\$\$ (cost of your insurance policy) and it's all about obtaining the broadest insurance protection or limiting the exclusions.

Typical Insurances Available To Cover Certain Indemnification Provisions

Commercial General Liability

Errors & Omissions Liability

Intellectual Property

Example of An Insurance Clause:

- A. **Commercial general liability with a limit of no less than one million dollars (\$1,000,000.00, option) each occurrence. Such insurance shall be written on a standard ISO occurrence form or substitute form providing equivalent coverage.**
- B. **Professional liability of no less than one million dollars (\$1,000,000.00, option) each occurrence.**
- C. **Worker's compensation consistent with statutory requirements. Certificates of insurance shall be provided to Licensor upon request and shall include the provision for 30-day notification to the certificate holder of any cancellation or material alteration in the coverage.**

What does this all mean?

Here we go again - Our sample insurance clause found on the Internet:

- A. Commercial general liability with a limit of no less than one million dollars (\$1,000,000.00, option) each occurrence. Such insurance shall be written on a standard ISO occurrence form or substitute form providing equivalent coverage.
- B. Professional liability of no less than one million dollars (\$1,000,000.00, option) each occurrence.
- C. Worker's compensation consistent with statutory requirements. Certificates of insurance shall be provided to Licensor upon request and shall include the provision for 30-day notification to the certificate holder of any cancellation or material alteration in the coverage.

What are the various provisions of an Insurance clause and Why is this important to me?

- 1. Financial rating of Insurance Company
- 2. Who pays for the insurance → "shall maintain at sole cost and expense"
- 3. Type of Insurance Requested and does this have any relation to the scope of the contract?
- 4. Limit of Liability Requested
- 5. Occurrence / Claims made
- 6. Primary & Non Contributory
- 7. Written notice of cancellation or nonrenewal
- 8. Additional Insured status
- 9. Certificate of Insurance

What is missing?

Factors determining the Cost of Insurance Policies

- Varies by the type of insurance
- What Industry / Stage of Development
- What is the financial health of your organisation
- Management Team
- Board members
- How many employees
- Contract Management – legal advice
- Does your insurance professional understand your business?

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Questions

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