

2018 FICPI World Congress  
Plenary #2: Expanding the Role of IP  
Attorneys in the Changing World

# The Role of Information Governance in an IP Practice

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# All IP begins with an idea and information



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- Businesses and their attorneys need to manage this information.
- But it is not just about the ethical obligations of attorneys to protect their client's secrets or how IP attorneys can help their clients protect trade secrets.
- It is about the role that attorneys can play in helping their clients develop and employ an **information governance strategy.**

# Defining “information governance” or IG

- “IG is a sort of **super discipline** that has emerged as a result of new and tightened legislation governing businesses, external threats such as hacking and data breaches, and the recognition that **multiple overlapping disciplines** were needed to address today’s information management challenges in an increasingly regulated and litigated business environment.”
  - Robert Smallwood, from his book *Information Governance, Strategies, and Best Practices* (Wiley 2014)

# What are the overlapping disciplines/concerns?

## Lawyers

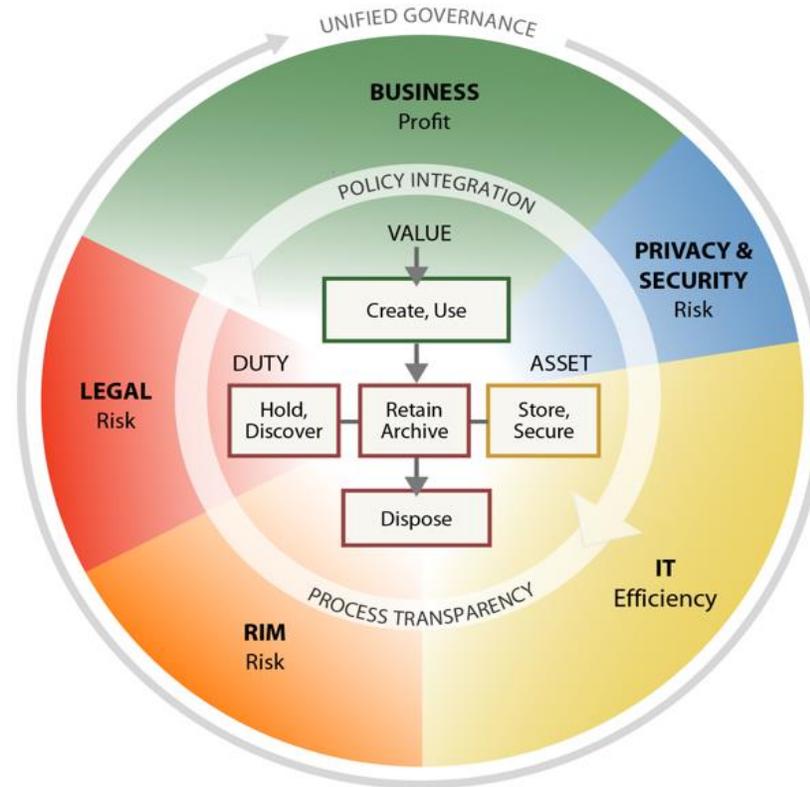
- Help client to:
  - Meet business objectives
  - Identify, protect, and own information
  - Obtain patents
  - Comply with legal obligations
  - Respond to data breaches
  - Avoid liability
  - Respond to e-discovery
  - Meet contractual obligations

## Others

- Business leadership
  - Value, costs, risks
- Research & Development (R&D)
  - Open vs. closed innovation
- Corporate compliance
  - Legal obligations, including privacy laws
- Records & Information Management (RIM)
  - Document retention and destruction
- Information Technology (IT)
  - Efficiency and security
- Employees, vendors & contractors
  - Ownership and License Obligations
- Public relations & media

# Information Governance Reference Model (IGRM)

Linking duty + value to information asset = efficient, effective management



**Duty:** Legal obligation for specific information

**Value:** Utility or business purpose of specific information

**Asset:** Specific container of information

# What can be the role of IP attorneys in the IG process?

- 1. Think more broadly about how information might obtain value and be protected; there is more than one way to protect a great idea, invention, or compilation of information.
- 2. Consider the costs and benefits of information and never assume that more information is better; with some information comes risks.
- 3. Learn to conduct an information audit and how to develop an information governance plan.
- 4. Understand the information governance interests of the different stakeholders.
- 5. Facilitate conversations between the different stakeholders and effectively translate a client's information-related concerns to those parties.