



# IP Assets and Value Creation

André Gorius – June 2018

**Safe and Ethical Cyberspace, digital assets and risks:  
*How to assess the intangible impacts of a growing phenomenon?***

**The World Conference on Intellectual Capital for Communities**

**UNESCO, June 14&15 2018**

# Multinational Enterprises face multiple Technology Valuation challenges

- Mergers & Acquisitions
  - Identify valuable IP assets
  - Allocate value of IP in Purchase Price (PPA)
  - Decide which Legal Entity purchases IP assets
- Transfer Pricing – Tax
  - What is a **Comparable** Uncontrolled Transaction (CUT)?
  - When a Buy-In/out transaction of an intangible is needed, what is a reasonable value?
  - Are the « Cost Sharing » schemes real?
  - ...
- R&D and decision making
  - Licensing in/out: value?
  - Partnerships: respective contribution?
  - ...
- Integrated Reporting
  - IP assets in the Balance Sheet?
  - What value? Accounting Principles?
  - What reliable, representative dynamic indicators?
- AND : Methods
  - Little evolution despite a real need

# IP Intangibles in the Balance Sheet?

- Well, they are an asset, that's for sure
- If they create value, they should be recognized « somewhere » in the Company's Value
- Discussion with my accountant:
  - It's about 100 M€
    - What do you mean « about »?
  - Oups, sorry: Take 100 123 456.78 €
    - Thanks; I will book that; please provide documentation
  - I will, no problem, down to the last cent
- **Question : what is the meaning of such a value?**

## Example – THE Veritas Case

### Veritas Corp. Vs IRS – US Tax Court, Dec 10, 2009

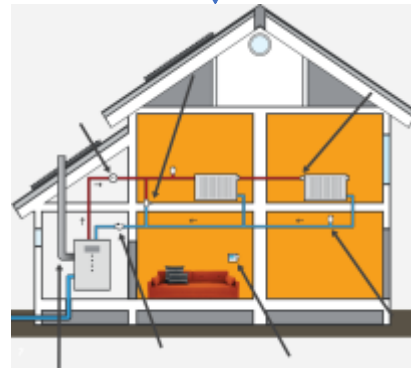
- **The Facts:**
  - **Two subsidiaries enter a Cost Sharing Agreement**
  - **Sub 1 (USA) sells its IP to Sub 2 (non-USA) : \$166M**
- **IRS contests this value: First Estimate: \$2500M (Yes: more than 15 times!)**
- **Court – Experts Battle**
  - **Veritas revision to \$315M (1.9 times initial estimate)**
  - **IRS revision to \$1675M (Still more than 5 x)**
- **Where do the differences come from?**
  - **Royalty Rate**
  - **Discount Rate (IRS=14%, Veritas around 20%)**
  - **Terminal Value**
  - **Trademarks Value**

# Valuation often overlooks one simple aspect : qualitative is not equal to quantitative

My new patented technology : wonderful cheap easy-to use eco-friendly high-temperature high pressure steam generator

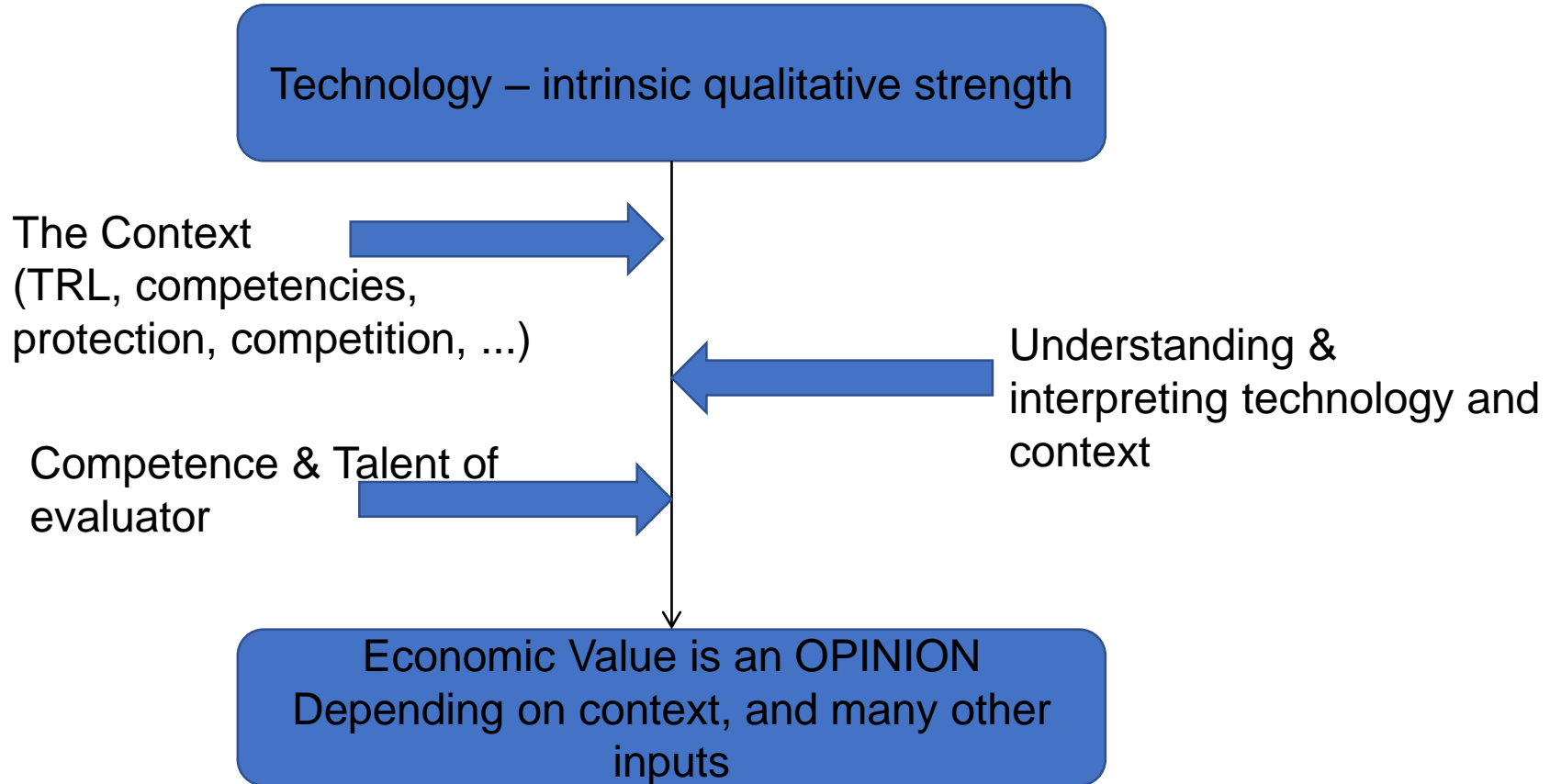


WHAT VALUE?



**The Value created/extracted from a given IP will depend on my abilities**

# Recognize the strengths and weaknesses of valuation



# Value is created by ALL functions performed by the Enterprise...



## Education is definitely on the critical pathway of value creation

- Corporate experience
  - Coaching of colleagues in all aspects above
  - The most critical is clearly the non-deterministic character of IP Valuation
  - 2007-2018: the road is long, long, long...
- Coaching, training and education are now recognized as real needs
  - Recognize intangible assets
  - Measure their potential
  - Manage value creation
- Interesting initiatives:
  - Licensing Executive Societies: local IP Valuation Committees
  - Licensing Executive Society International
    - IP Valuation Committee
    - Educational Committee
  - Observatoire de l'Immatériel: "Ecole Française de l'Immatériel"