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# The Modern FTO Framework

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Strategies for Connected,  
Risk-Reduced Innovation

February 17, 2022

# ClearstoneIP

Thank  
You

## Our Mission:

To pioneer the industry standard for digital freedom-to-operate management.

## Clearstone FTO is a purpose-built patent clearance management platform that:

- ▶ Accelerates patent clearance review by more than 30-40%.
- ▶ Increases collaboration and transparency through a modern, easy-to-use web platform with configurable access controls.
- ▶ Captures and memorializes patent analysis to build institutional knowledge and retain historical work product.

# Our Panelists



**Lisa Adams**

Member,  
Mintz Levin



**Rich Roberson**

Senior Patent Counsel,  
adidas group



**Gabe Sukman**

Founder & CEO,  
ClearstoneIP



**Gene Quinn**

President & CEO,  
IPWatchdog



# Agenda



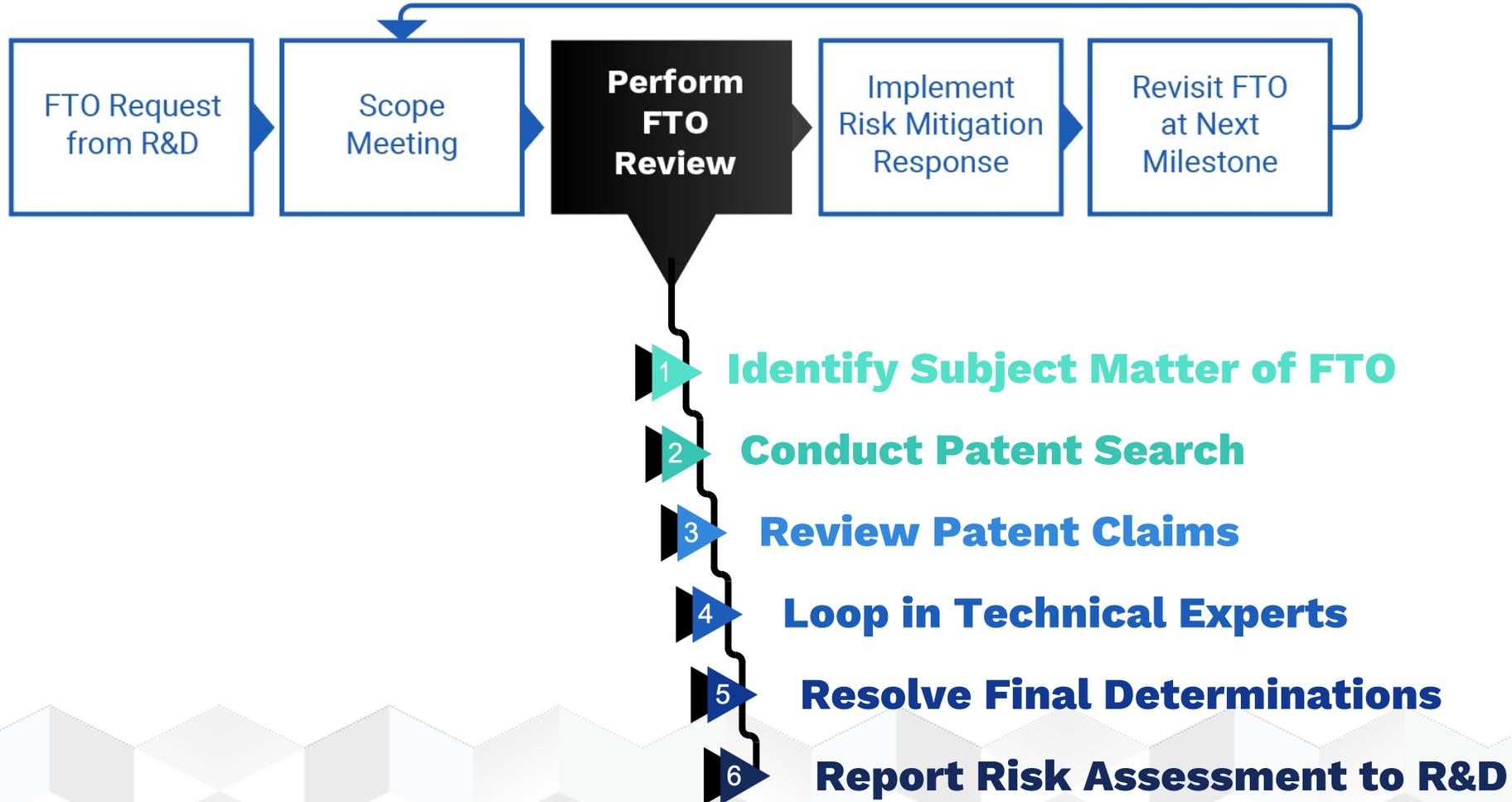
- ▶ The Digital Review: a modern FTO framework for legal and R&D collaboration
- ▶ Protecting attorney-client privilege and work product through environmental controls
- ▶ Automated competitive monitoring strategies
- ▶ Leveraging historical work

# Poll 1



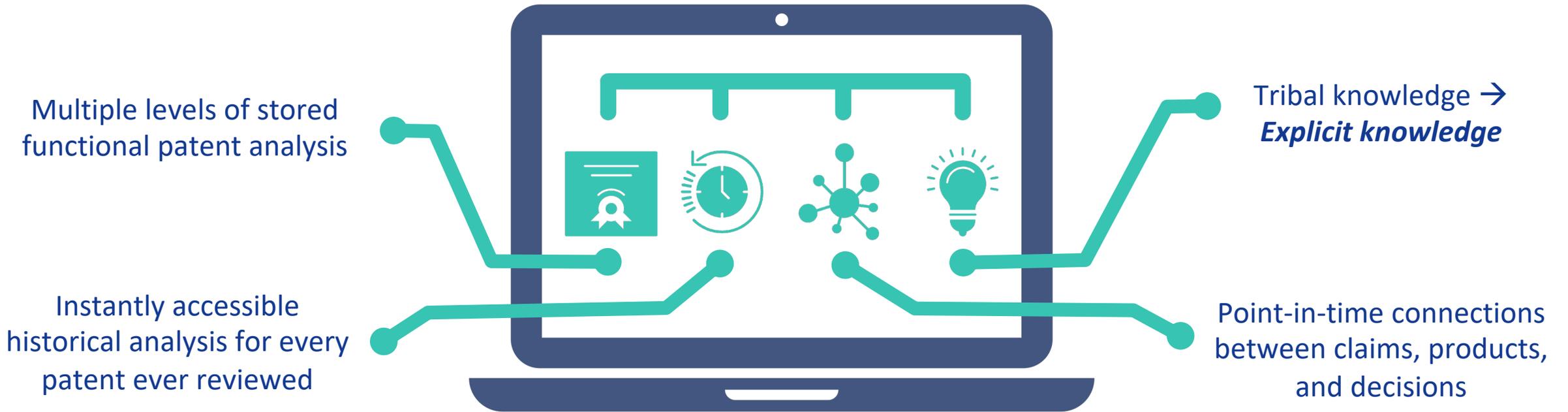
# The Digital Review

The new standard for digitally transformed freedom-to-operate and patent clearance investigations.



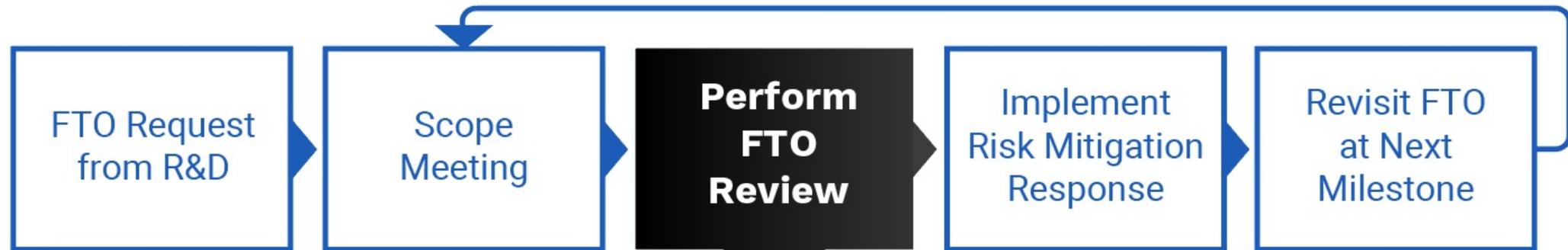
# The Digital Review

A structured FTO review process for efficient knowledge-sharing, communication, and collaboration, all while preserving attorney-client privilege.



# The Digital Review

The high-level view:



# The Set-Up

1

## Identify Subject Matter of FTO

- ▶ Understand and define product and feature details that are the subject of the analysis
- ▶ Create product record in digital system



2

## Conduct Patent Search

- ▶ Perform patent search using integrated search function or with other tools
- ▶ Create a new digital review that contains the search results



# The Initial Review

3

## Review Patent Claims

- ▶ Review patents and capture claim-by-claim analysis
- ▶ Mark first-pass determinations with structured, functional statuses
- ▶ Use claim text highlighting and annotations to record non-infringement and invalidity positions
- ▶ Flag items for technical review



# Poll 2

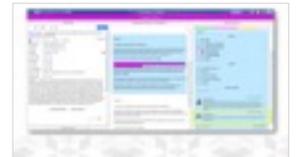


# Get Input From R&D

4

## Loop in Technical Experts

- ▶ Invite technical experts to the digital review with role-based access profiles
- ▶ Technical experts see a focused view of information and flagged items to efficiently respond to requests and queries
- ▶ Collaborate in real-time and in parallel, eliminating hand-off delays

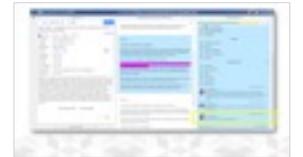


# Synthesize and Resolve Results

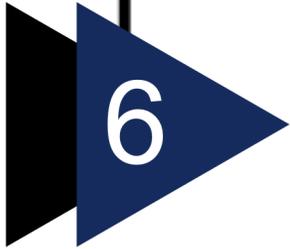
5

## Resolve Final Determinations

- ▶ Review input from technical experts and make final assessments
- ▶ Consider risk mitigation options such as designing around, non-infringement and invalidity positions, licensing, etc.



# Report and Implement



## Report Risk Assessment to R&D

- ▶ Communicate "go" or "no-go" decisions, workarounds, next steps, whether to involve other parties
- ▶ Capture final dispositions in central digital system
- ▶ Note areas to revisit in future

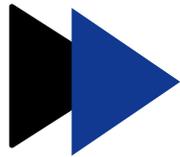


# Poll 3



# Protecting Attorney/Client Privilege

A/C privilege anxiety is centered around the impossibility of containing patent commentary in disparate places:



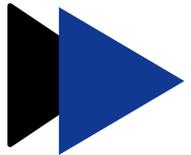
## **What's possible with a centralized FTO**

**system?** All communications are contained in a single environment that can be reviewed and monitored by attorneys.

- ▼ **Email**
- ▼ **Instant messages**
- ▼ **Chats**
- ▼ **Excel files**
- ▼ **Word docs**
- ▼ **PowerPoint decks**
- ▼ **Text messages**
- ▼ **Written notes etc.**

# Embedded Competitive Monitoring

Patent data is more available and processable than ever.

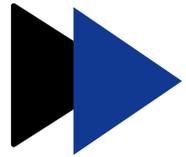


Set alerts to monitor competitor activities

Create dedicated reviews for these tasks and assign responsible individuals.

- ▼ **PAIR and EPO alerts for new allowances and grants**
- ▼ **Legal status alerts for grants, lapses, and continuity of rights**
- ▼ **Automated search updates for new publications by subject matter or owner**
- ▼ **Family alerts for portfolio monitoring**

# Leverage Historical work



A centralized system enables instant access to a patent's entire analysis history.

- ▼ **Leverage prior analysis**
- ▼ **Maintain consistent legal positions**
- ▼ **Avoid duplicative work**



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# Thank you

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