

# Who Are Your Real Threats?

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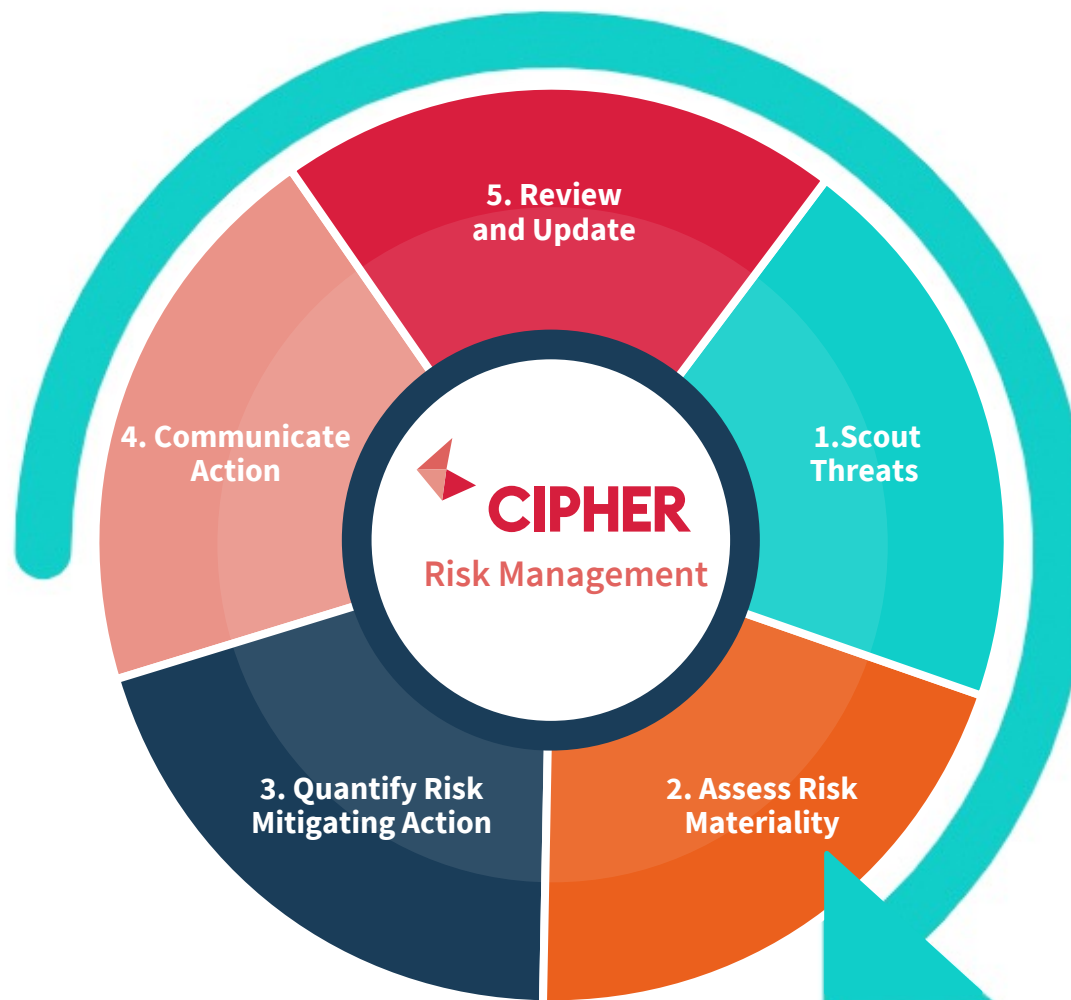


**CIPHER**

# Agenda

- Threat barometer analysis - instantly gauging your risk exposure
- Propensity to litigate - causation or correlation?
- Triaging your threats - in practice using OpenAI worked example

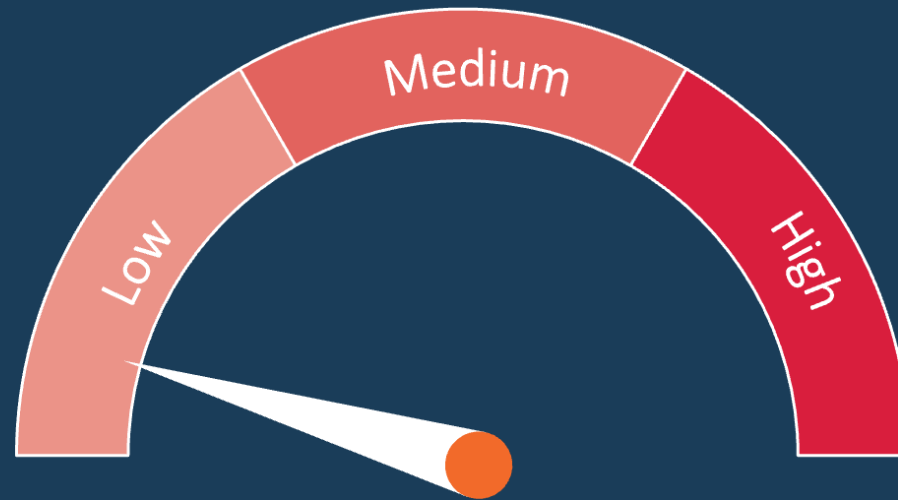
# Cipher Risk Management Process



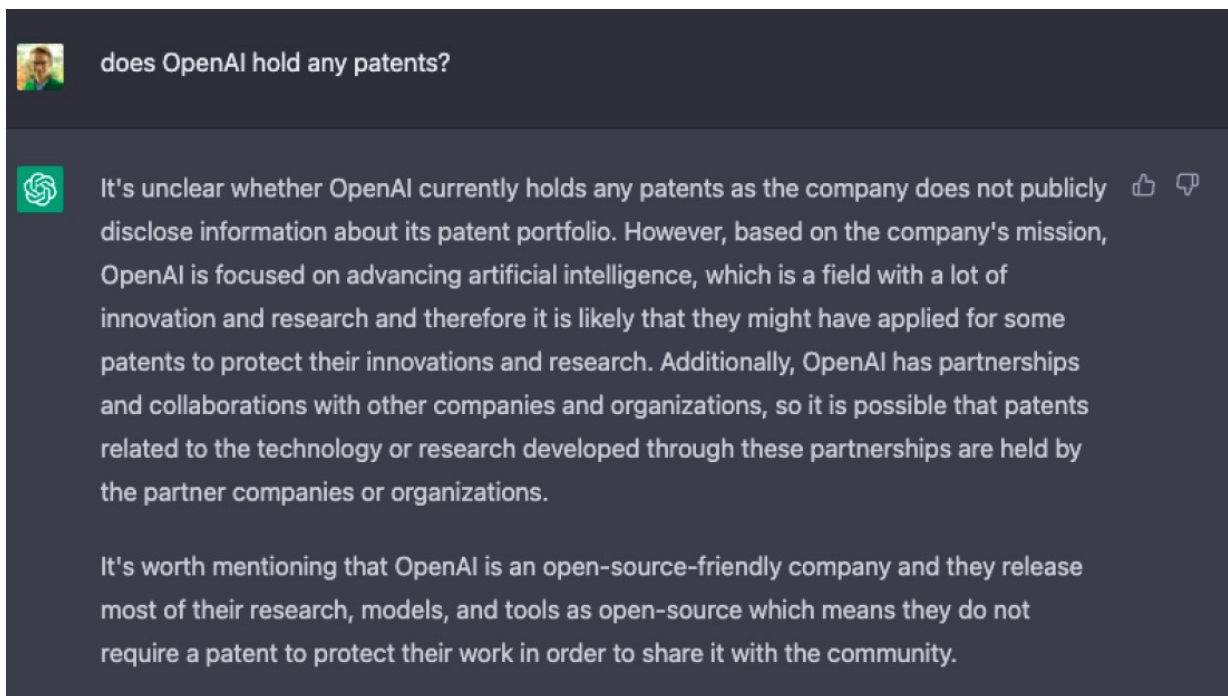
*See our previous webinar on How to Implement Risk Mitigation Strategies to learn more.*



## Threat Barometer



# What is ChatGPT?



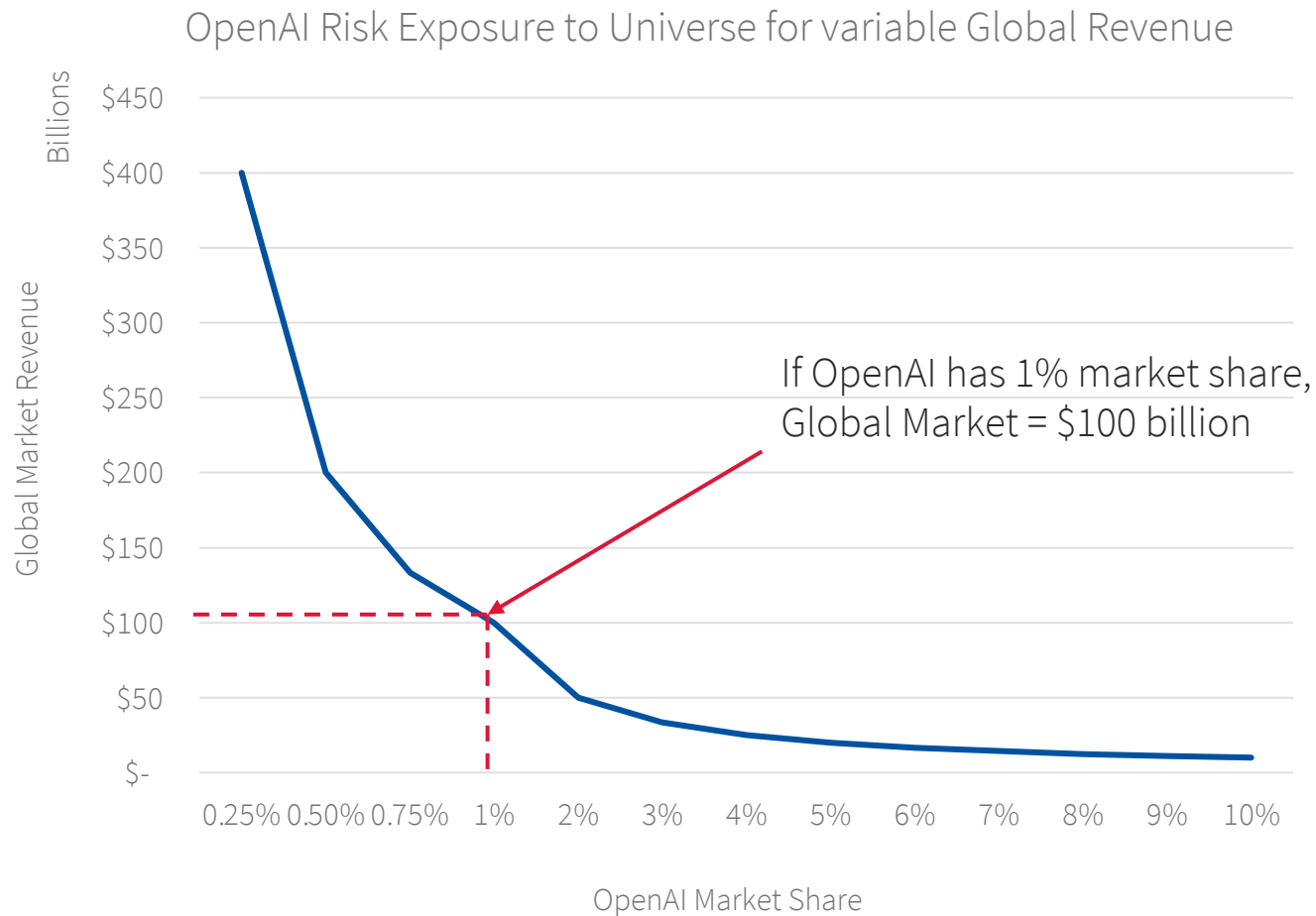
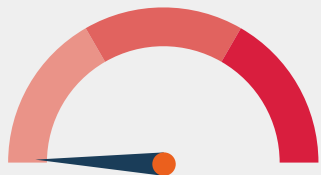
*Source. Content Generating AI, Kacper Gorski and Cormac Creagh*

**\$1 Billion** | OpenAI has projected revenue of \$1 billion for 2024

**\$80 Million** | OpenAI have an estimated patent licensing risk of \$80m

# Threat Barometer

We estimate the Global Market Revenue based on OpenAI's predicted revenue and market share

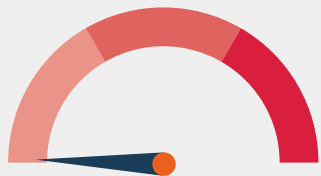


Royalty rate = 8%

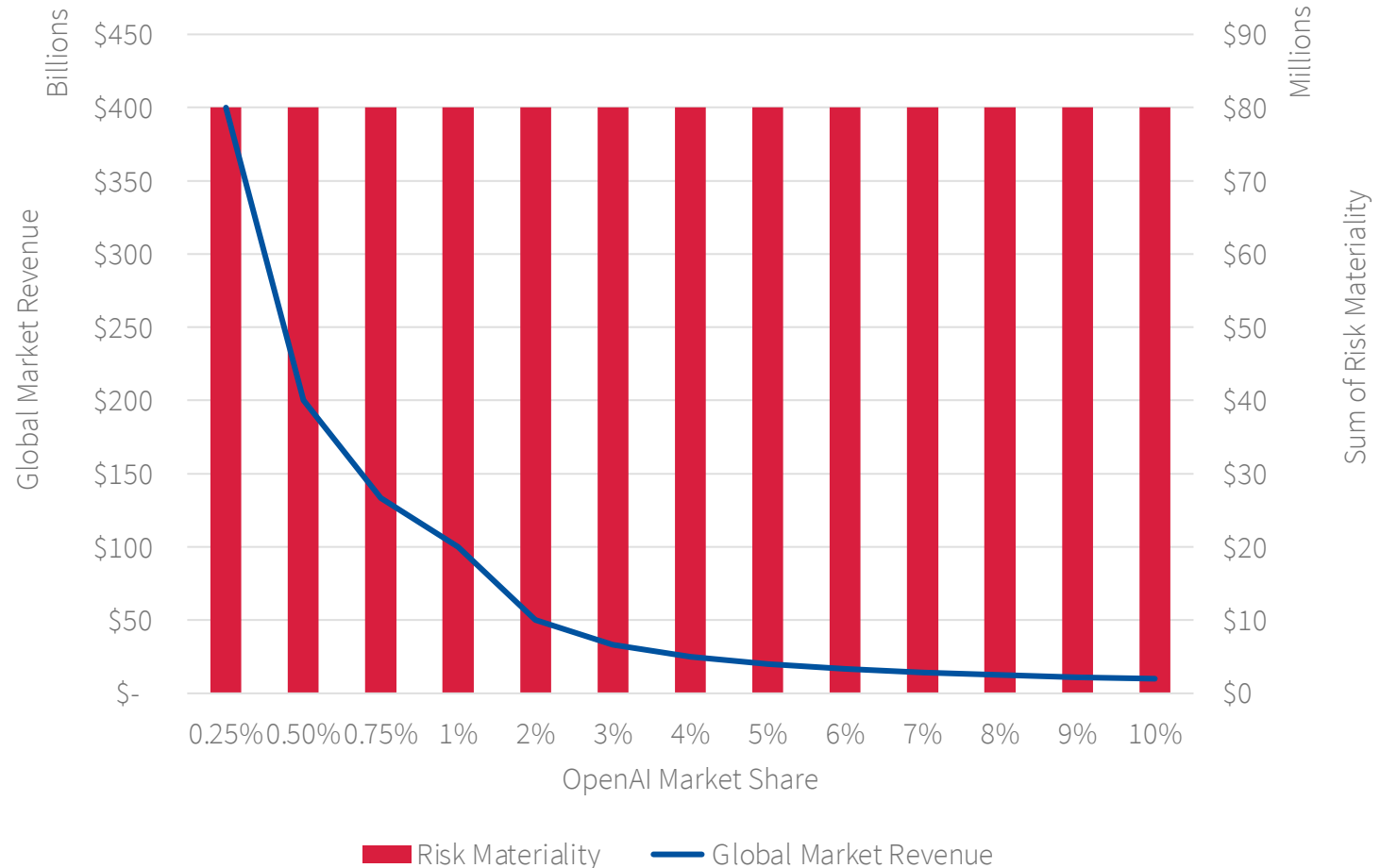
# Threat Barometer

OpenAI currently hold zero patents

With \$1 billion predicted revenue by 2024, they face a flat \$80 million in licensing risk



OpenAI Risk Exposure to Universe for variable Global Revenue

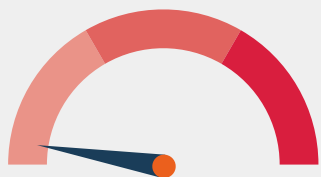


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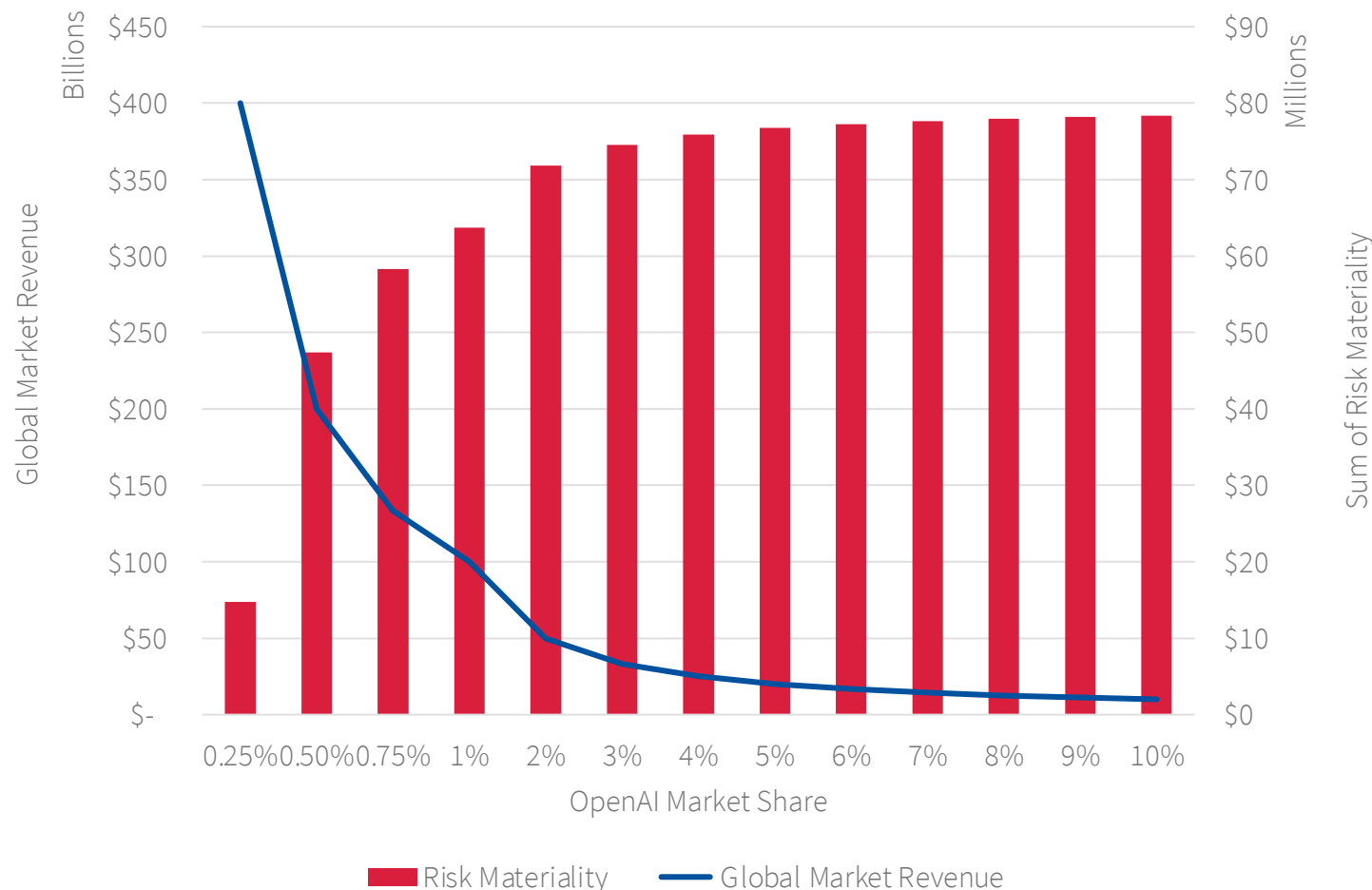
# Threat Barometer

With five patents filed the risk materiality could decrease significantly, depending on the other companies' market share growth

If they are top players in this space, they'll need more patents to protect their revenue



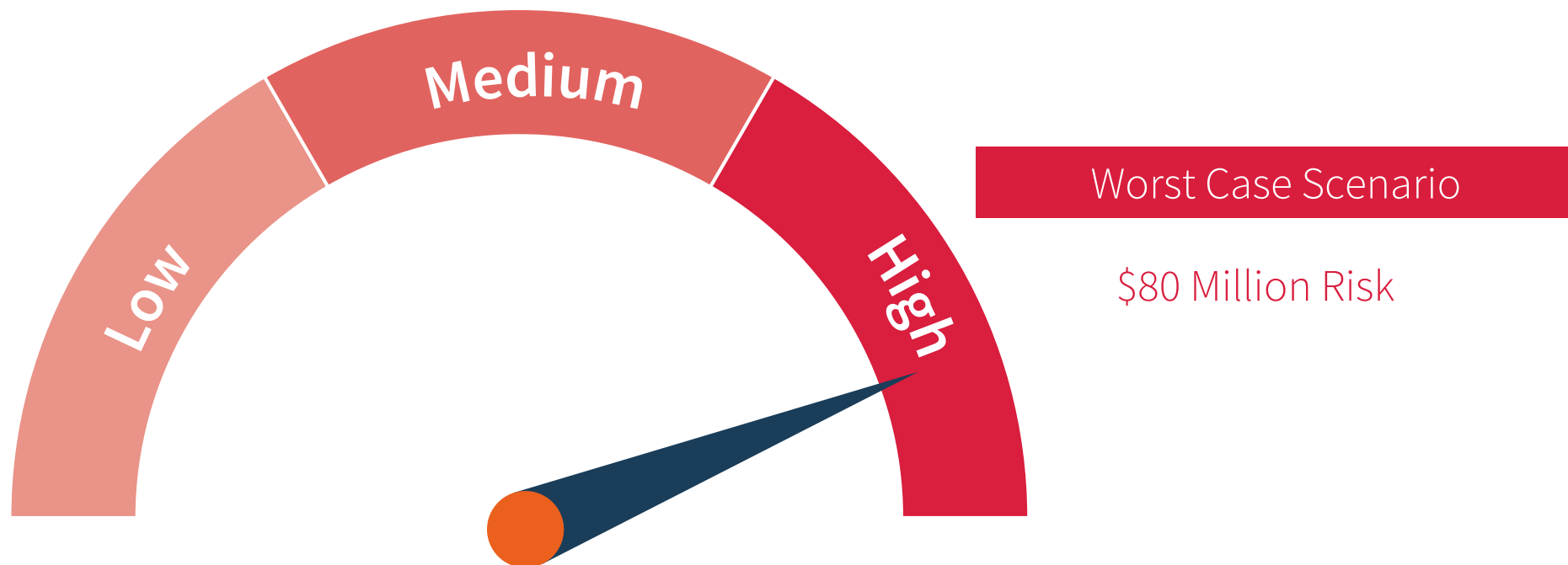
OpenAI Risk Exposure to Universe for variable Global Revenue



Royalty rate = 8%  
Landscape = 2,453



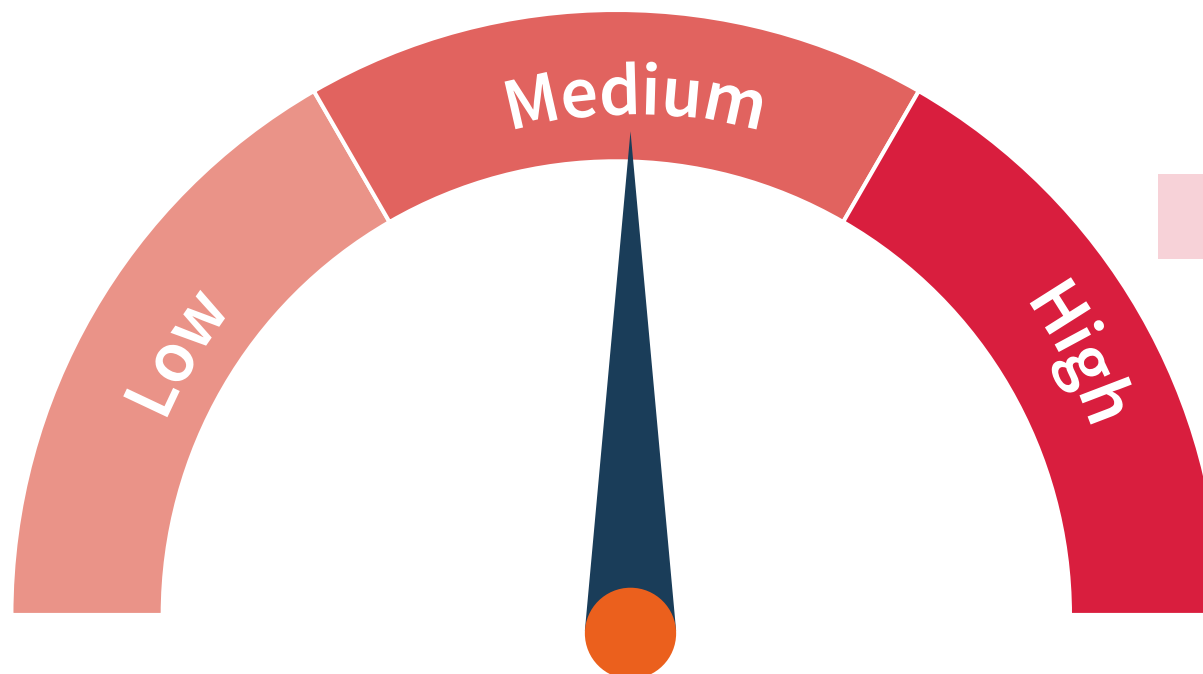
# Threat Barometer



# Threat Barometer

Filing 5 patents

Up to \$65 Million risk reduction



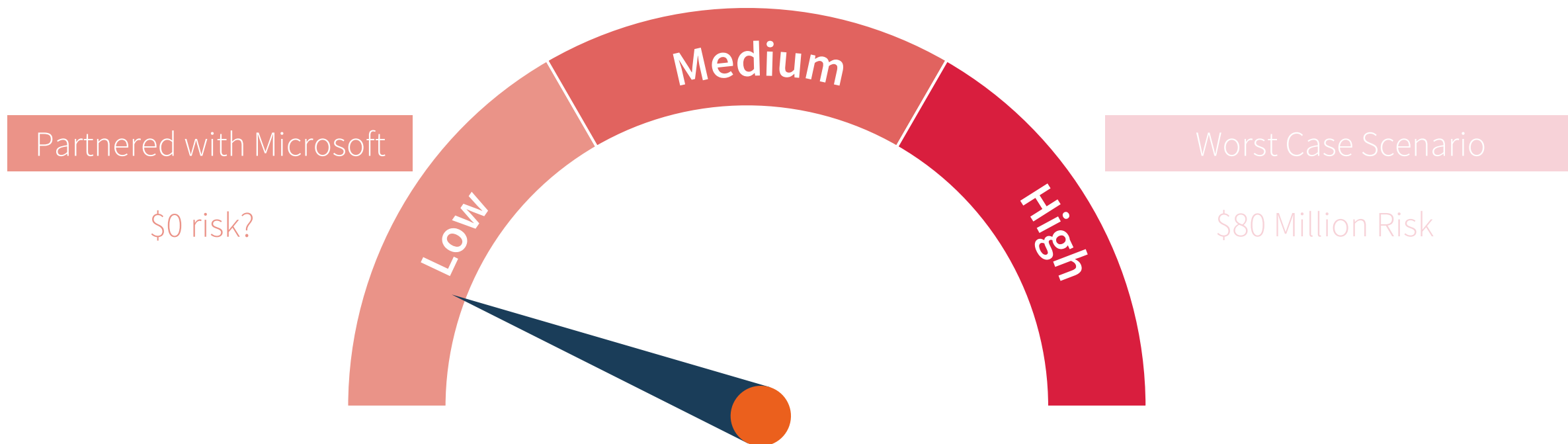
Worst Case Scenario

\$80 Million Risk

# Threat Barometer

Filing 5 patents

Up to \$65 Million risk reduction





## Propensity to Litigate



# Patent litigation: What does it take?

1

Patents that map onto products

2

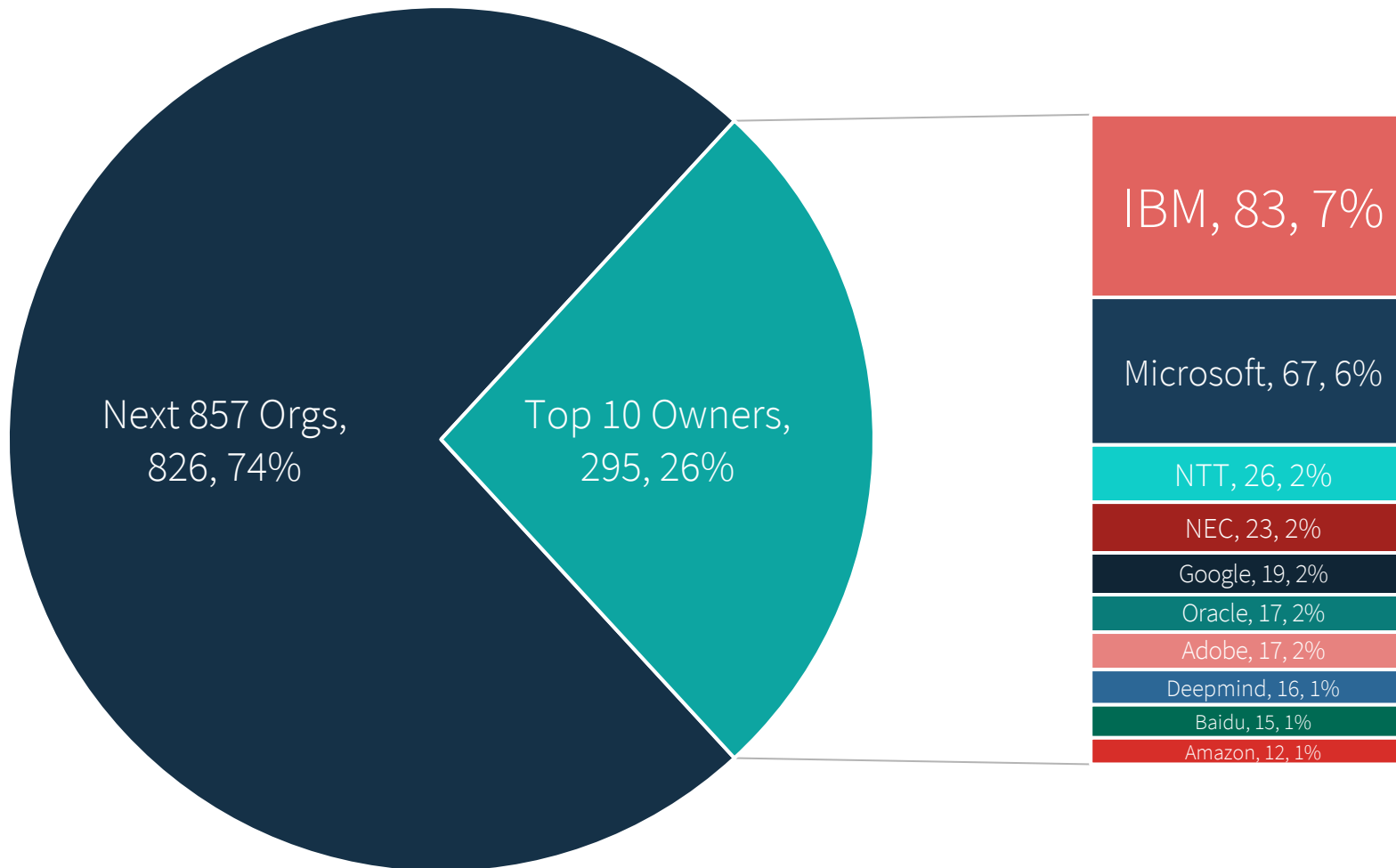
Experience of litigation

3

Financial pressure



# Propensity to litigate – classify to find relevant portfolios



Generative AI: number of granted families (or % share) by Organisation

# Propensity to litigate - once stung, twice burned?

Number of times the company was a defendant



Number of times company was a plaintiff



Proportion %	0	1	2-3	4-7	8-15	16+
0	2.9%	10.8%	12.8%	16.6%	17.1%	23.4%
1	19.9%	28.0%	32.2%	30.9%	29.5%	36.2%
2-3	37.1%	48.2%	60.4%	62.3%	71.1%	79.3%
4-7	46.7%	51.1%	72.1%	86.1%	85.9%	85.5%
8-15	-	-	-	-	98.6%	97.6%
16+	-	-	-	-	-	-

**~4X**

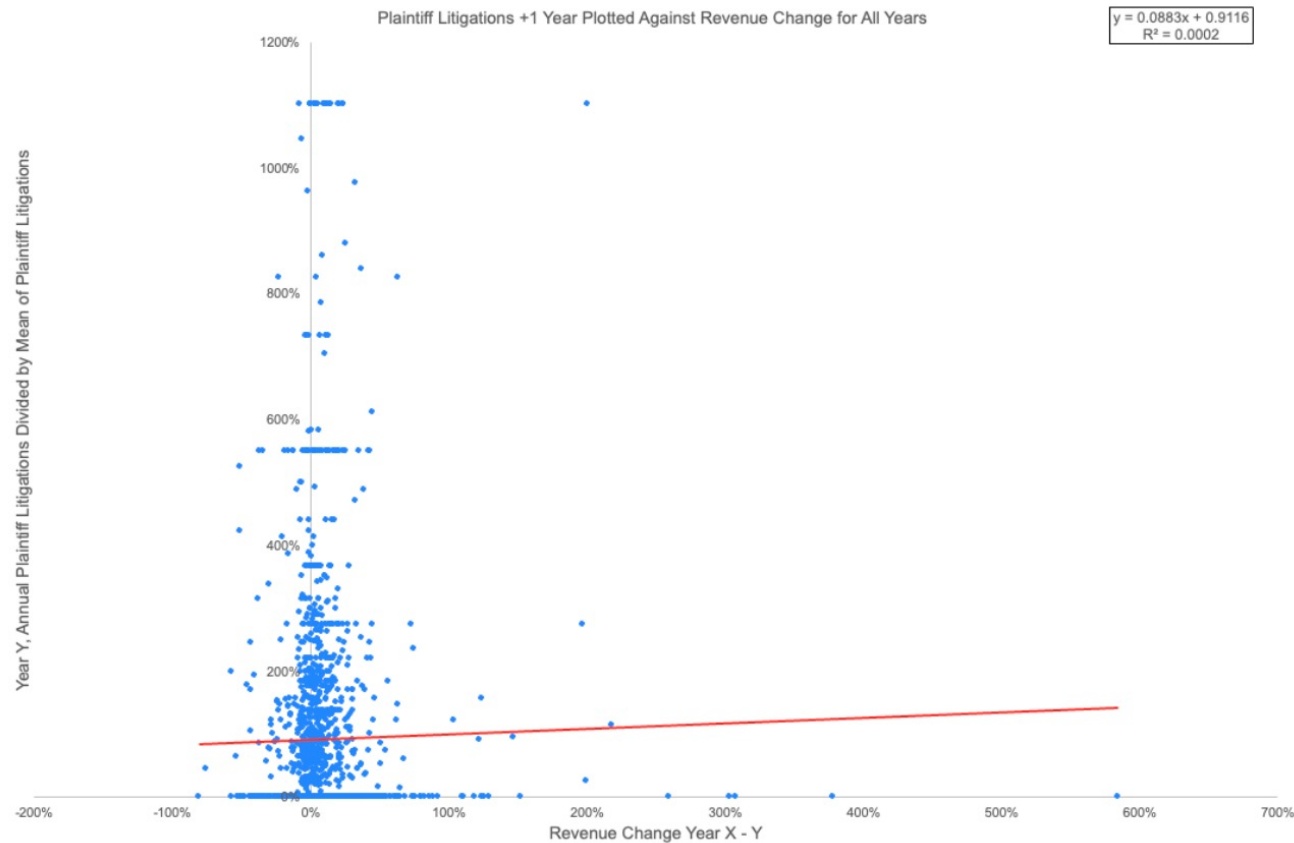
The likelihood of litigation increases by almost 4 times.

Analysis based on 1434 US based companies with >50 families

Exclude NPEs, Universities, NGOs, government offices, and pharmaceutical companies



# Propensity to litigate – no crystal ball for most companies



## Overall: No Correlation

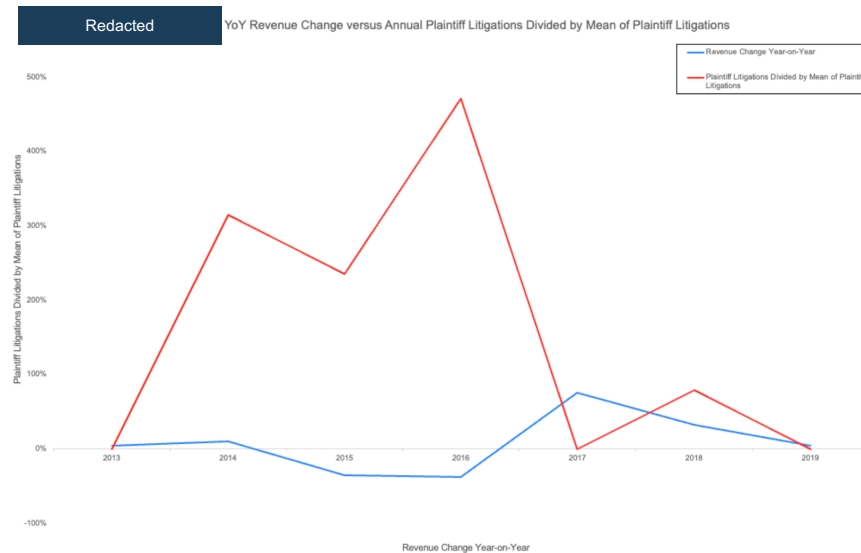
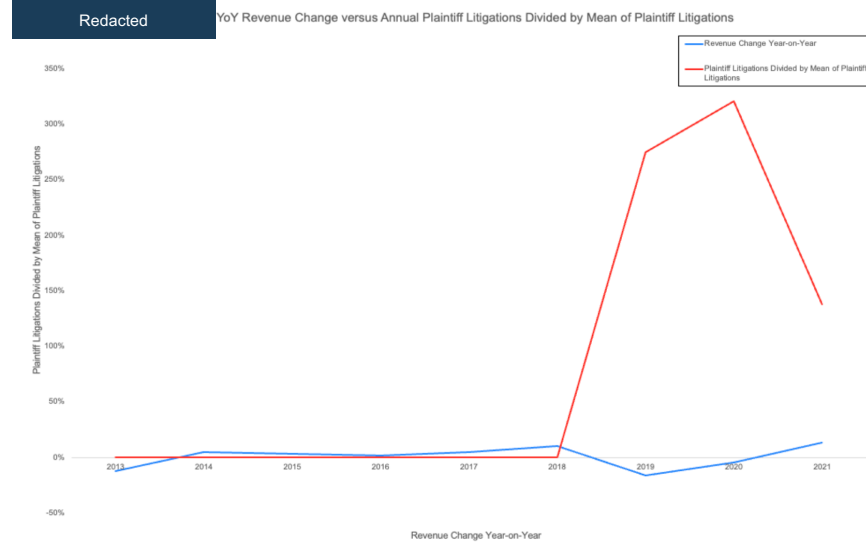
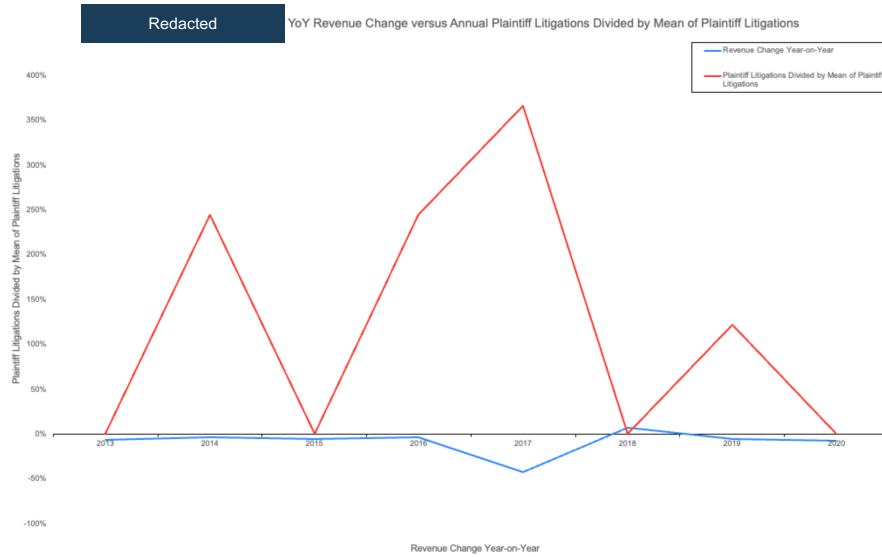
A further analysis sampled 206 organisations and looked at the relationship between their top-line revenue change and the following years litigation propensity.

There was a weak correlation and no conclusive link





# Propensity to litigate – group by behaviour



**Pressure exerted**

At the level of some individual organisations, a statistically significant correlation between revenue change and litigation activity was observed.

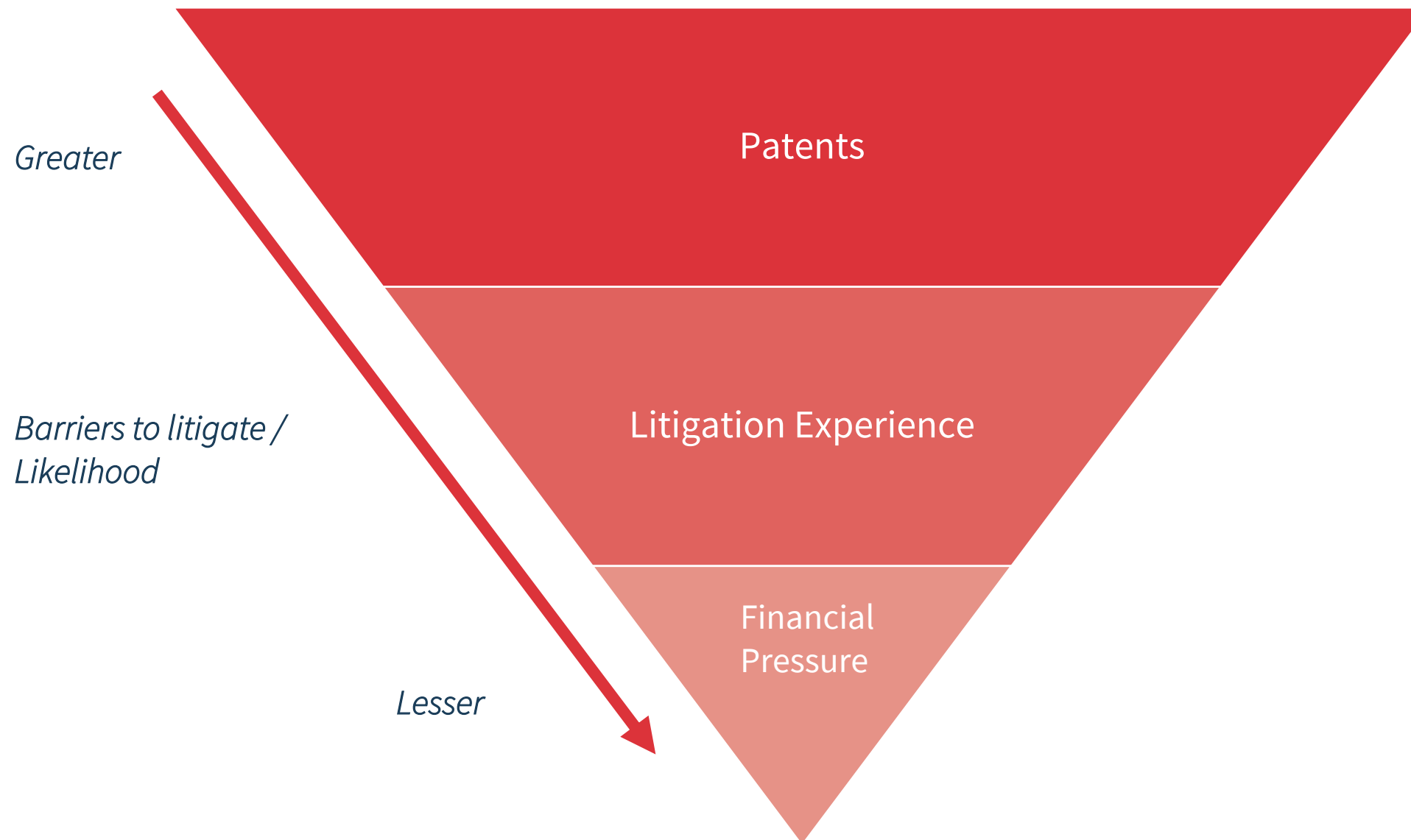




## Principles in Practice



# Priorities: ranking your threat list

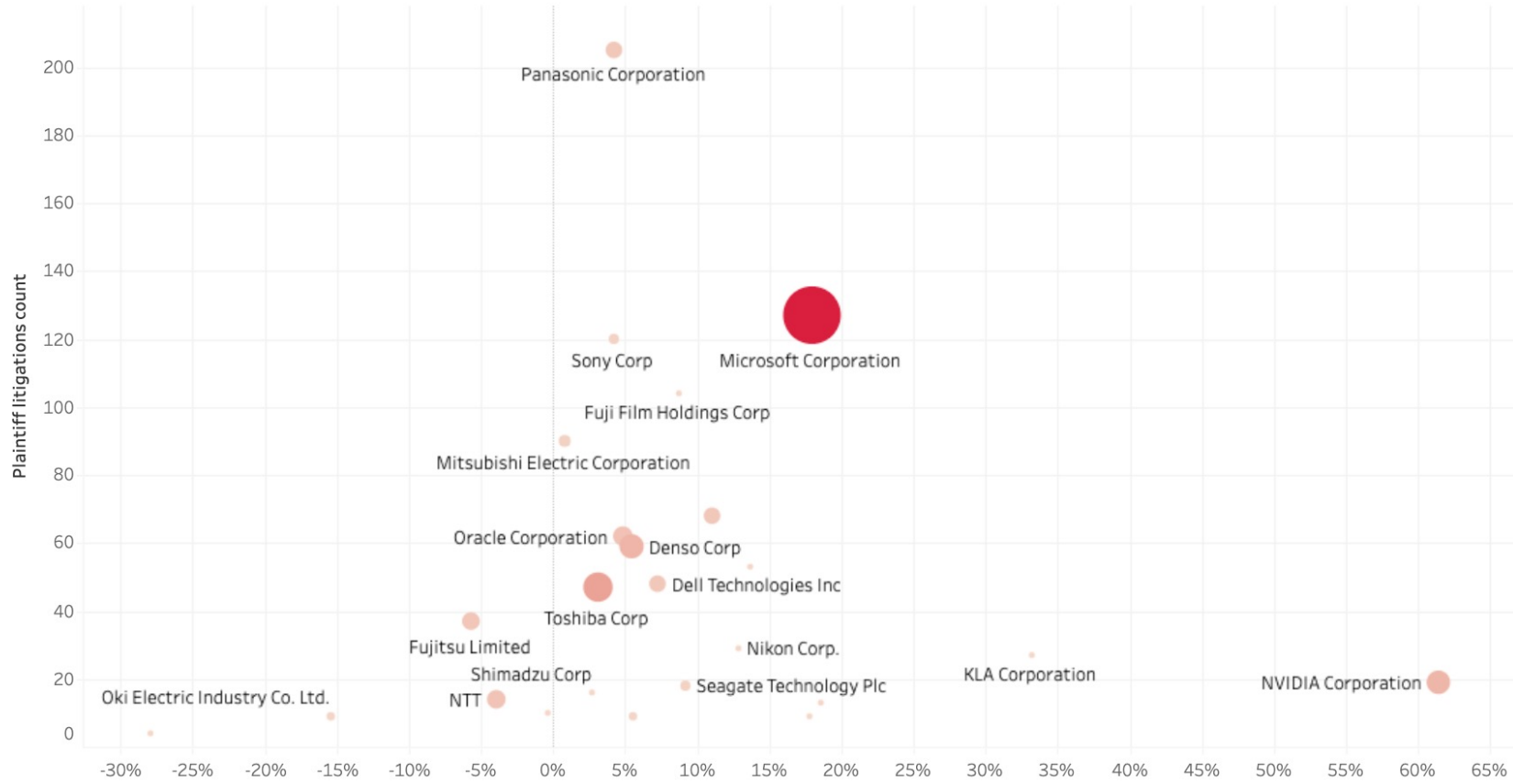


# Quadrant Analysis

## Propensity to litigate

Top 380 Owners; Min 1  
 x-axis: Revenue Growth: 2021 - 2022  
 y-axis: Plaintiff Litigations (total per org): All - All

More litigious



- Litigation Experience
- Financial Pressure
- Defensive Portfolios

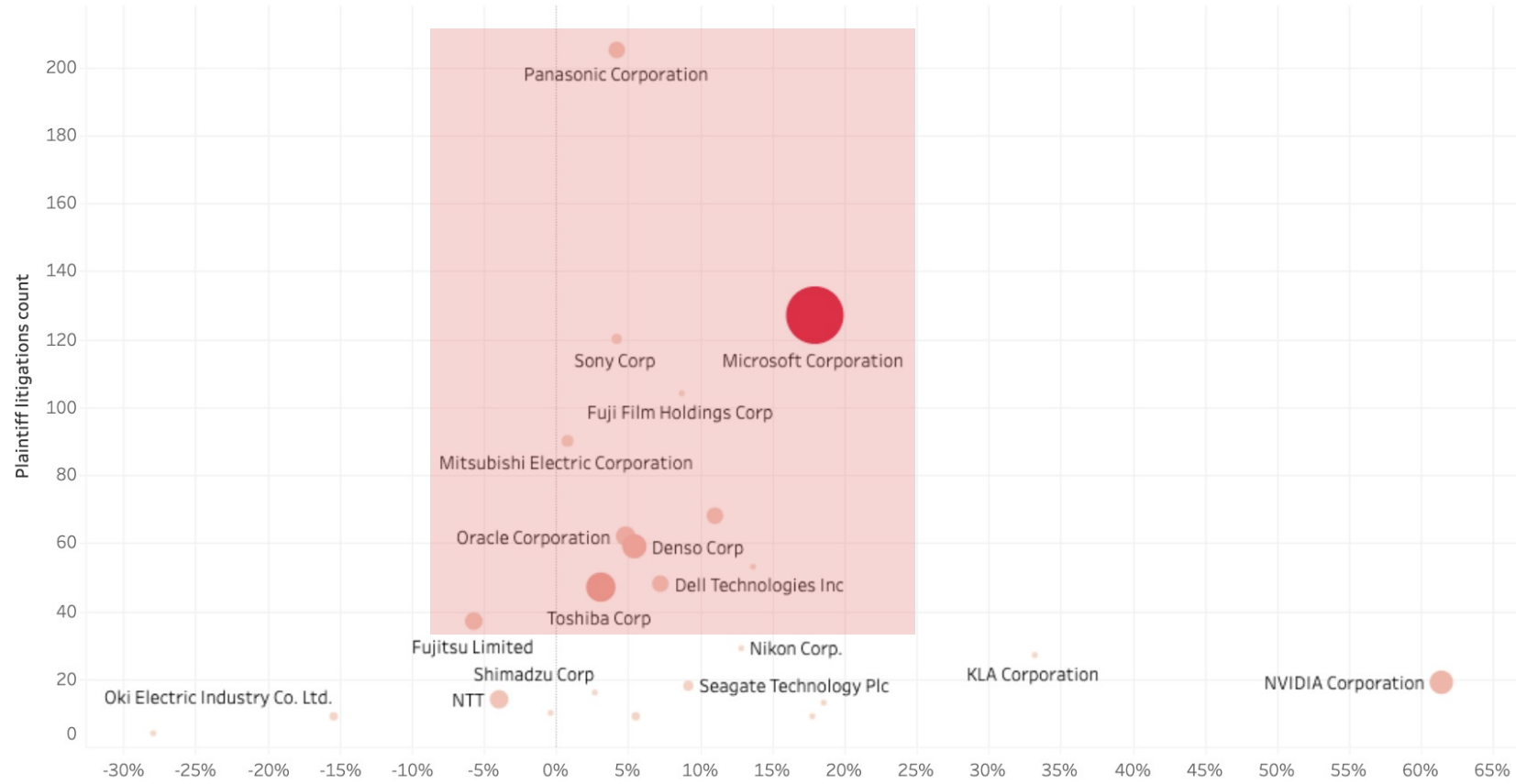
Shrinking revenue ← | → Growing revenue



# Quadrant Analysis

## Propensity to litigate

Top 380 Owners; Min 1  
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Litigation Experience

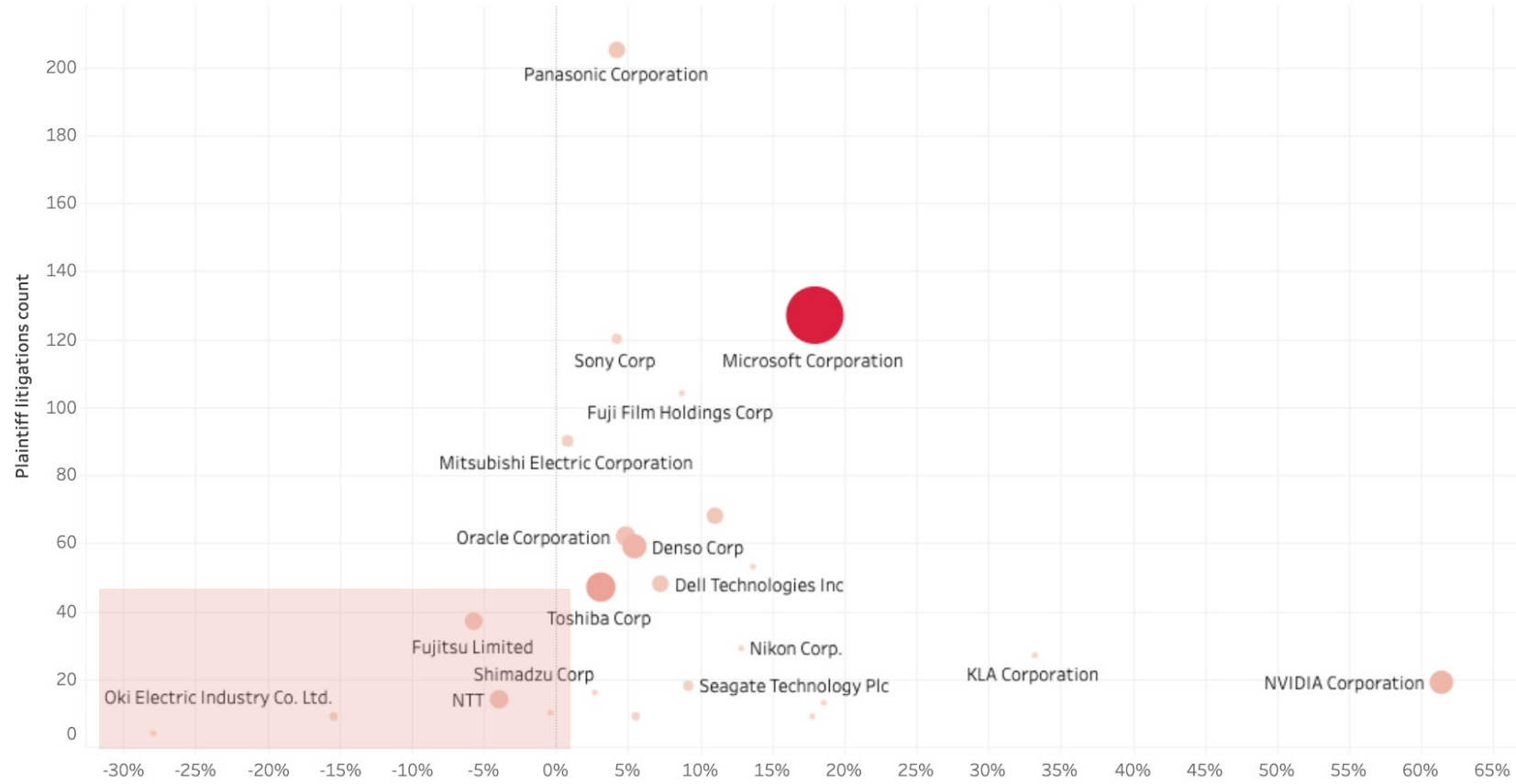
*Tier 1 Threats*



# Quadrant Analysis

## Propensity to litigate

Top 380 Owners; Min 1  
 x-axis: Revenue Growth: 2021 - 2022  
 y-axis: Plaintiff Litigations (total per org): All - All



Financial Pressure

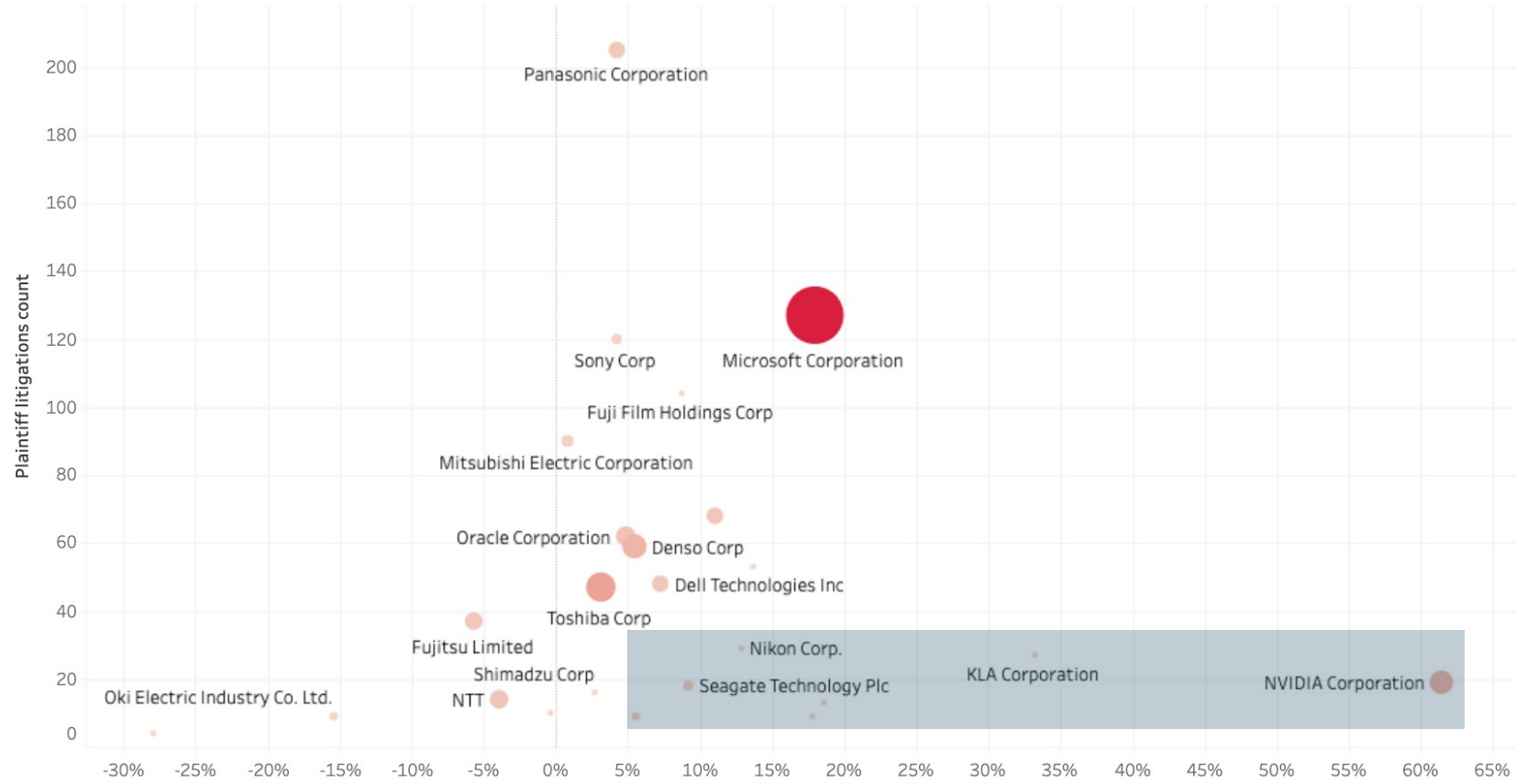
Tier 2 Threats



# Quadrant Analysis

## Propensity to litigate

Top 380 Owners; Min 1  
 x-axis: Revenue Growth: 2021 - 2022  
 y-axis: Plaintiff Litigations (total per org): All - All



Defensive Portfolios

*Watchlist*



# FAST TECHNOLOGY RISERS

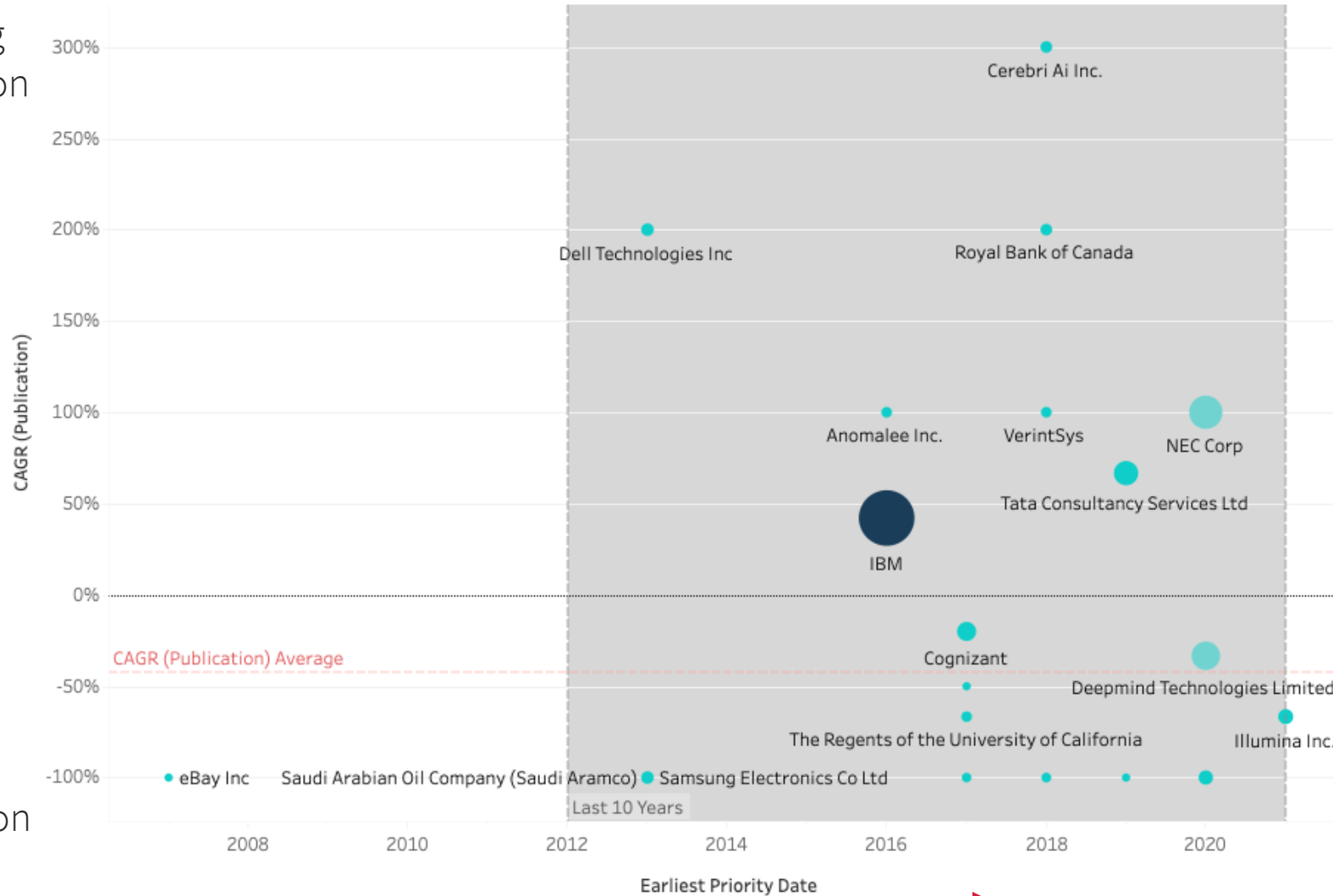
Top 100 Owners; Min 1 Active Families  
 x-axis: Earliest Priority Year  
 y-axis: Portfolio Growth (publication year): 2019 - 2020  
 IP5 Regions: Europe, Japan, Korea and 3 more  
 Tech name: All

Status: granted & pending

Growing publication rate



Falling publication rate



Newer Entrants

Smaller / New entrants

Watchlist

Larger / Earlier entrants

Tier 1 / Tier 2



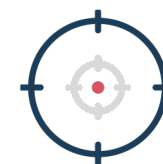
# OpenAI Threats

Tier your Threats



Tier 1

- Google/Deepmind
- IBM
- Sony
- Panasonic
- Fujifilm



Tier 2

- Baidu
- NTT
- NEC
- Dell
- Oracle



Watchlist

- NVIDIA
- Amazon
- Cerebri AI
- VerintSys
- Anomalee



# Why triage your threats?





## Generative AI Wars

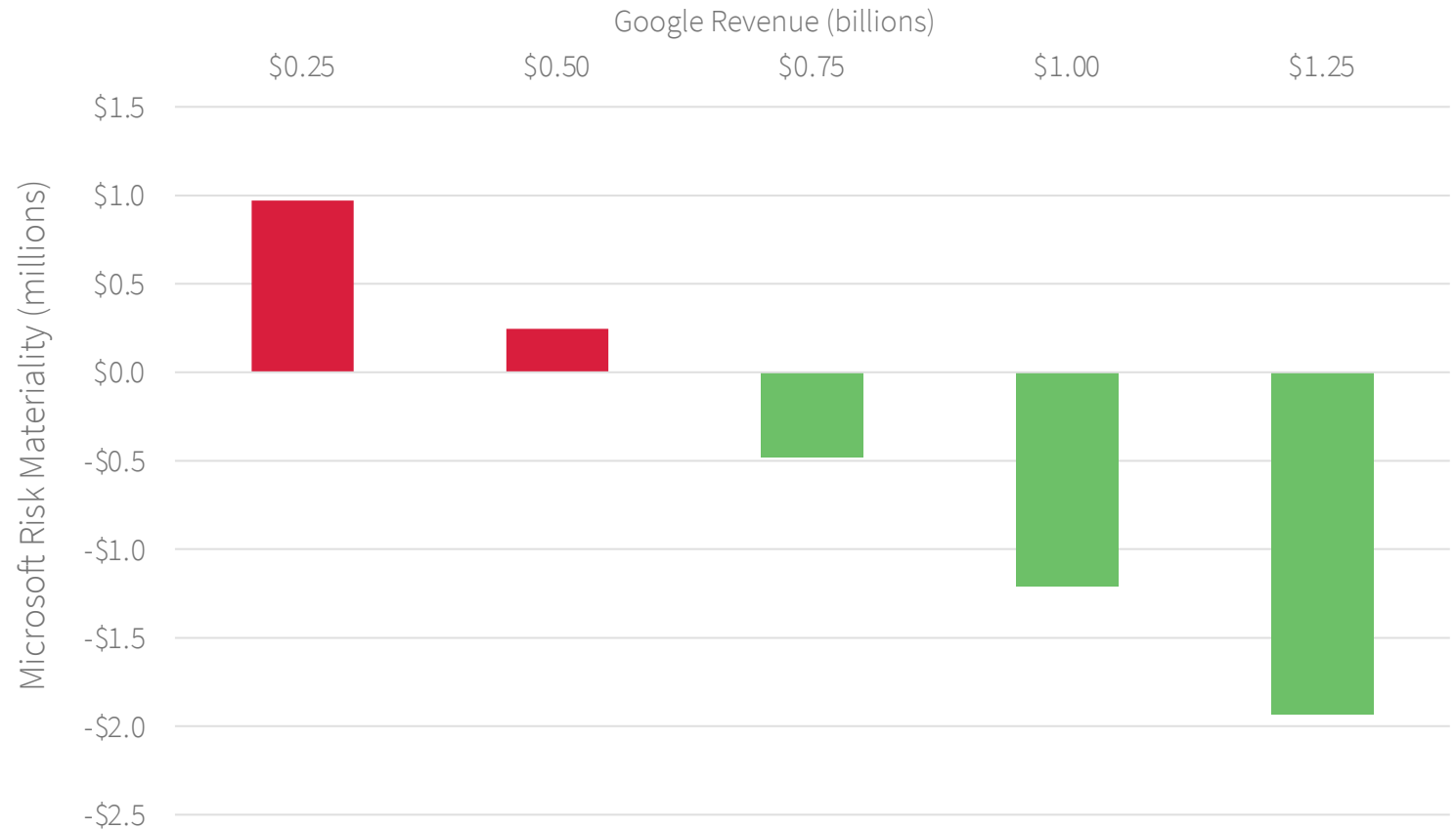


# Should Microsoft settle a license with Google?

Microsoft has invested \$10 Billion in OpenAI

Microsoft and Google are quite closely balanced in generative AI

Microsoft Risk Materiality against Google (variable revenue)



*Assuming Microsoft's portfolio is protecting \$1bn revenue from ChatGPT*

*Royalty rate = 8%*

*Microsoft (89 active patent families); Google (52 active patent families)*



# All scenarios at your fingertips

**Samsung Portfolio Optimisation - Dashboard**

Patent Family Status Active

**Effective Patent Portfolio Size Adjustments**  
 Threat Aggressiveness Factor Off  
 PVIX Quality Weight Off  
 Estimated Unpublished Patents for All Off

Target Revenue (Replace Actual) Off

ACTIVE = GRANTED + PENDING FAMILIES      SET ADJUSTMENTS IN SHEET 'PO CUSTOM INPUTS'      DEFINE TARGET REVENUE IN SHEET 'PO REVENUE MAPPING'

**1A. BASE CASE VIEW**

**Portfolio Zero Switch**  
Set Samsung to Zero Pat Families No

**Royalty Rate**

5G	4.0%
AI Acceleration	4.0%
Batteries	4.0%
Lithography	4.0%
Memory	4.0%
Sensors	4.0%
Wide Band Gap	4.0%

**Tech Area**      **Threat List**

All	X	All	X
5G	-	Conglomerate	-
AI Acceleration	-	Semiconductor	-
Batteries	-	Manufacturer	-
Lithography	-		
Memory	-		
Sensors	-		
Wide Band Gap	-		

All Organisations are shown but the Portfolio Size, Revenue Mapping & Risk Materiality only include the contributions across Technology Areas that each Organisation is tagged as a Threat against.

**Portfolio Size**      &      **Business Metric: Revenue**      =      **Risk Materiality Exposure: Annual revenue potentially at risk to forced licensing royalties from the Threat List**

NSamsung = Samsung Patent Families      RevSamsung = Samsung Mapped Revenue  
 Nb = Threat Org Patent Families      Revb = Threat Mapped Revenue  
 NTotal = Total Universe, Number of Patent Families

**No. of Active Patent Families**

For the tagged Tech Areas Only

**Mapped 2021 Revenue, USDM**

For the tagged Tech Areas Only

**Risk Materiality - Revenue at Risk, USDM**

Sum of Revenue at Risk = 211 USDM

Sum of Revenue at Risk = 211 USDM

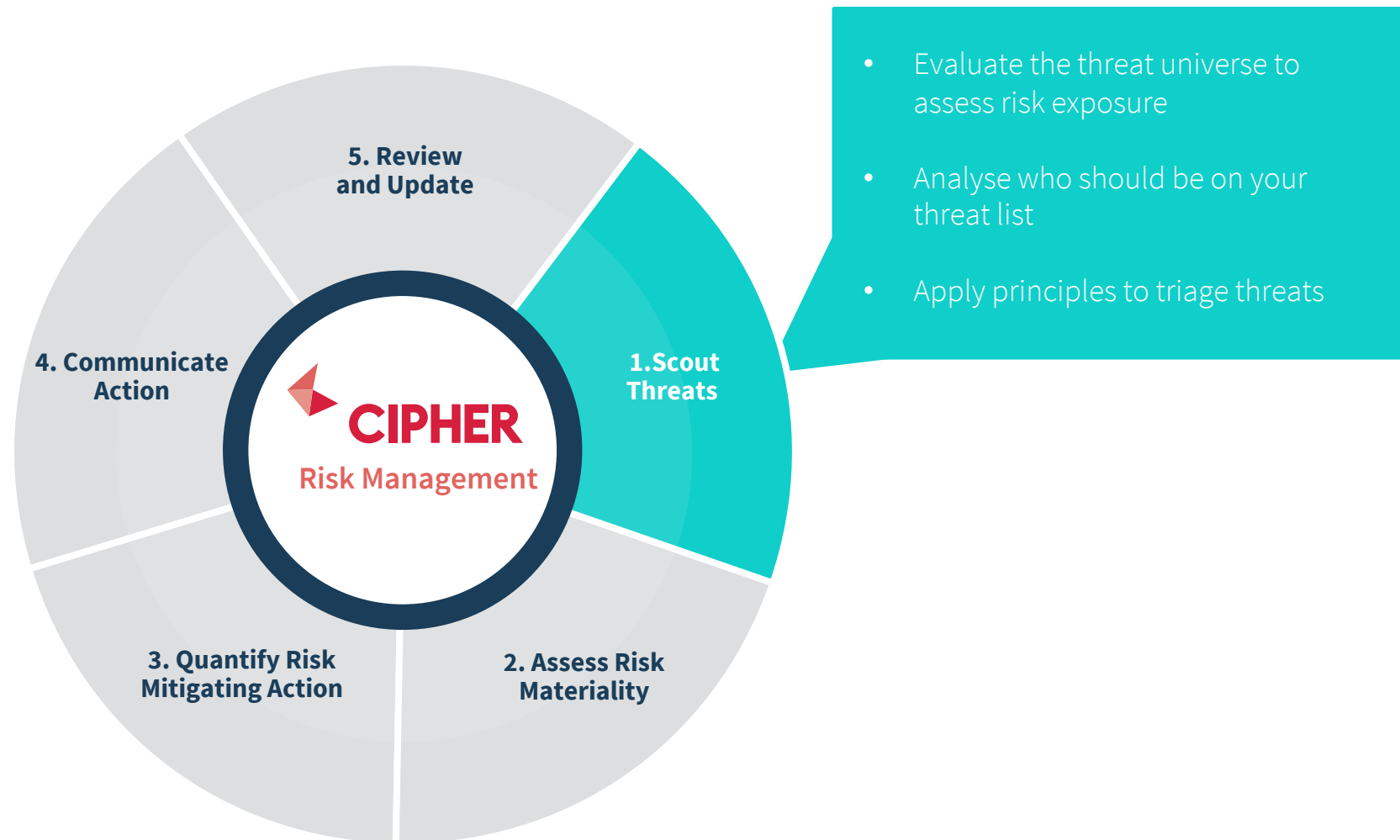




*It's a trick and a challenge to figure out how to manage IP in a fast-paced software environment.*

**Jared Engstrom, Senior Director, IP Strategy at CrowdStrike**

# Cipher Risk Management Process





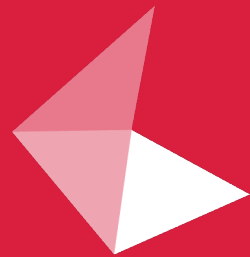
AN

Write a haiku about why OpenAI should have patents



Innovation flows,  
Patents protect what we create,  
OpenAI must lead.





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