


# Going Green: Ethical Considerations When Advising Clients About Progress Towards Sustainable Development Goals



March 23, 2022

Presented By:

**David V. Dilenschneider, Esq.**  
Client Relations Consultant  
LexisNexis Intellectual Property Solutions

No part of this presentation may be reproduced, distributed or transmitted in any form or by any means, including photocopying, recording or other electronic or mechanical methods, without the prior written permission of LexisNexis (except in the case of brief quotations embodied in critical reviews and certain other noncommercial uses permitted by copyright law).

# Agenda

- What are United Nations Sustainable Development Goals (aka “SDGs”)?
- Why are corporations interested in the United Nations Sustainable Development Goals?
- Why attorneys should be interested in the United Nations Sustainable Development Goals
- When giving “SDG Advice,” must attorneys comply with their Ethical Rules?
- Ethical Rules (potentially) applicable to attorneys who give “SDG Advice”
- A useable framework to provide “SDG Advice”: Patent Data

## Disclaimer

The thoughts and opinions presented in this presentation do not, and are not intended to, constitute legal advice; instead, all information, content, and materials presented are for general informational purposes only. Moreover, information conveyed in this presentation may not be current (as new developments occur regularly).

Attendees of this presentation should contact their own counsel to obtain advice with respect to any particular legal matter. No attendee should act or refrain from acting on the basis of the information presented without first seeking legal advice from counsel in the relevant jurisdiction. Only an attendee's individual counsel can provide assurances that the information contained herein – and any interpretation of it – is applicable or appropriate to a particular situation. Moreover, this presentation does not create an attorney-client relationship between the attendee and the presenter and his/her employer(s).

The views expressed at, or through, this presentation are those of the presenter in his/her individual capacity only – not those of his/her employer. All liability with respect to actions taken or not taken based on this presentation are hereby expressly disclaimed.

Finally, the content presented is provided "as is;" no representations are made that the content is error-free.

# The First Question

**What are the United Nations Sustainable Development Goals?**





# United Nations Sustainable Development Goals

## Background

**Adopted in 2015, the UN SDGs “provide a powerful aspiration for improving our world – laying out where we collectively need to go and how to get there.”**



Source: <https://www.unglobalcompact.org/sdgs/about>

# United Nations Sustainable Development Goals

## Background

“Business is a vital partner in achieving the Sustainable Development Goals. Companies can contribute through their core activities, and we ask companies everywhere to assess their impact, set ambitious goals and communicate transparently about the results.”

“In making sure that the SDGs are all implemented in its entirety, it's important that we need to have various systematic and scientific checking and assessment of the situation and (...) **information and data can play a very important role. Without knowing how much we are making progress you will not be able to know where we are going.**”

Ban Ki-moon, United Nations Secretary-General (2007-2016)



# United Nations Sustainable Development Goals



# United Nations Sustainable Development Goals

## Example: Goal 6 (including Targets)



- 6.1 By 2030, achieve universal and equitable access to safe and affordable drinking water for all
- 6.2 By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations
- 6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally
- 6.4 By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity
- 6.5 By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate
- 6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes
- 6.A By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies
- 6.B Support and strengthen the participation of local communities in improving water and sanitation management

Source: <https://www.un.org/sustainabledevelopment/sustainable-development-goals/> and <https://www.un.org/sustainabledevelopment/water-and-sanitation/>

# Learn More about SDGs

Some Informative Websites (also recommended: do a search on “SDG” via the Internet)

- UN SDGs
  - [sdgs.un.org/goals](https://sdgs.un.org/goals)
- UN Promotional Video for SDGs: “We The People' for The Global Goals | Global Goals”
  - [youtube.com/watch?v=RpgVmvMCmp0](https://youtube.com/watch?v=RpgVmvMCmp0)
- Ted Talk: “The global goals we've made progress on -- and the ones we haven't”
  - [youtube.com/watch?v=N3SQIrmV1cE](https://youtube.com/watch?v=N3SQIrmV1cE)
- “Analyzing companies' interactions with the Sustainable Development Goals through network analysis: Four corporate sustainability imperatives”
  - [onlinelibrary.wiley.com/doi/full/10.1002/bse.2753](https://onlinelibrary.wiley.com/doi/full/10.1002/bse.2753)



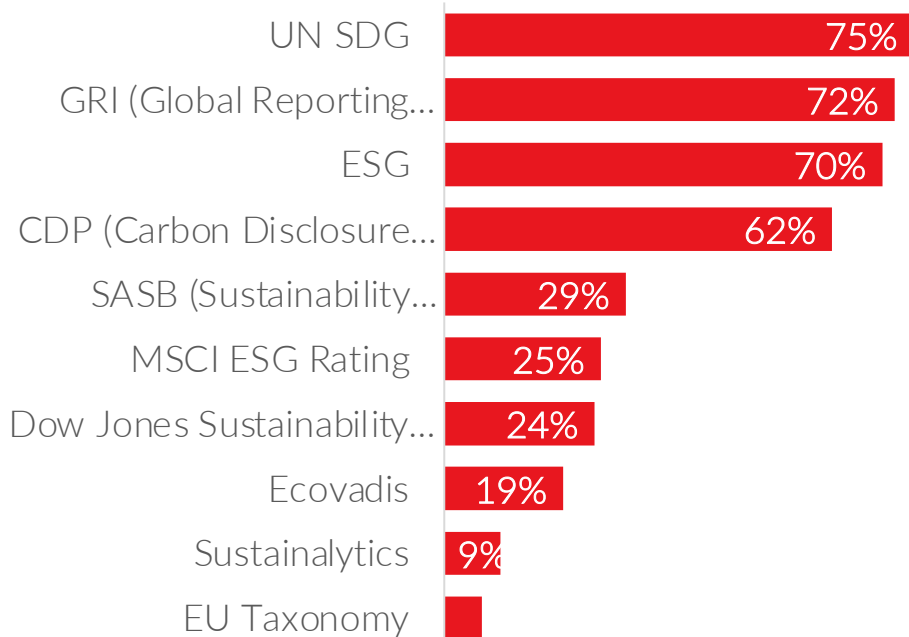
# United Nations Sustainable Development Goals

## Examples of Sustainability Reporting



# United Nations Sustainable Development Goals

## The Most-Commonly-Used “Frameworks” for Sustainability Reporting



Frameworks most often mentioned by Top 100 Corporate Patent Owners

# United Nations Sustainable Development Goals

## Many Corporations Specifically Reference SDGs in Their Reporting

“Some 40% of the world’s largest companies reference the [UN SDGs] in their corporate reporting.”

Source: “Reporting the SDGs: How to get it right,” KPMG





# United Nations Sustainable Development Goals

## Many Corporations Specifically Reference SDGs in Their Reports

**HITACHI**  
Inspire the Next

### Onward to 2030: Hitachi's Road to Sustainability



### Hitachi Management Strategy and the Sustainable Development Goals

In 2015, the United Nations announced 17 goals for ending poverty, fight inequality and injustice, and tackle climate change by 2030. These Sustainable Development Goals (SDGs) are not just a blueprint but a comprehensive action plan for businesses, governments, and communities to support the shared prosperity of people and the planet.

#### SUSTAINABLE DEVELOPMENT GOALS



Globally, organizations are expected to take ownership of this push for sustainability and develop long-term frameworks to realize the SDGs and create a better world.

#### Hitachi's Sustainability Journey

Hitachi's 100-year heritage is rooted in founder Namihei Odaira's determination to "contribute to society through the development of superior, original technology and products." The company has always aspired to fulfill this mission by delivering products and services that answer society's challenges. In short, this is a journey that Hitachi has been on for more than a century.

Today, that journey continues through Hitachi's Social Innovation Business. Combining the strengths of OT (operational technology), IT (information technology), and product development, the company's Social Innovation Business is well placed to respond to the issues facing society today and realize a sustainable society with improved quality of life.

#### The SDGs and Hitachi

Hitachi's Social Innovation Business focuses on four business domains: "power and energy," "industry, distribution, and water," "urban," and "finance, public, and healthcare." Hitachi's Lumada IoT platform is also designed to create value throughout the company's Social Innovation Business by connecting customer value chains and resolving business issues. This diversity of operational focus positions the company well to make a broad contribution to achieving the SDGs. In fiscal 2017, top management considered the 17 SDGs and the opportunities and risks they posed, identifying the five SDGs where Hitachi can have the greatest impact through its business strategy.

Hitachi has also identified six additional SDGs linked to its corporate commitment to society. These six SDGs will have an impact on Hitachi's long-term sustainability as a company, cutting across all areas of its business and management strategy.

While not as well positioned in the short to medium term to contribute to the remaining six of the 17 SDGs through its business, Hitachi recognizes the interaction and interdependency between all SDGs and remains committed to the realization of all 17 both directly and indirectly.



# United Nations Sustainable Development Goals

## Many Corporations Specifically Reference SDGs on Their Websites



2021 Sustainability Report

ESG Hub

GRI

SASB

UN SDGs

TCFD

Year in Review

People First

Climate Change

Community Engagement

Environmental Services



Year in Review

# UN SDGs

WM has aligned our goals to the United Nations Sustainable Development Goals (SDGs).

In 2020, WM adopted a targeted approach to the UN SDGs, identifying goals and specific targets where we could have the greatest impact. Our 2025 and 2038 goals align with eight of the SDGs, and over the past year we have made a positive contribution to the SDGs in a number of ways:

Click an SDG to view our progress, aligned goals and target.



Learn more about our progress toward specific SDG targets in our [ESG Resource Hub](#).

# United Nations Sustainable Development Goals

## Many Corporations Specifically Reference SDGs on Their Websites



### Contributing to solving social issues

#### Through businesses

#### Improving value by adapting to CASE

##### Safe and reliable

Zero deaths and injuries from traffic accidents  
Comfortable and congestion-free travels

No one lacking access to means of transportation  
Spread of cars serving also as power sources

Use of hydrogen to promote energy diversification

##### Environment

TOYOTA ENVIRONMENTAL CHALLENGE 2050   
Zero emissions (zero CO<sub>2</sub> emissions)  
Recycling/reuse of resources



#### By social contribution activities

#### Aiming to become a reliable corporate citizen



# United Nations Sustainable Development Goals

## Many Corporations Specifically Reference SDGs on Their Websites

**BayWa** United for success.



Group Investor Relations Press Responsibility Careers Downloads & Services

Home / Responsibility / Our understanding / Focus on global goals

## Focus on global goals

### Sustainable development

Since 2016, BayWa has aligned its sustainability management to selected objectives of the [17 Sustainable Development Goals \(SDGs\) of the United Nations \(UN\)](#), to address global opportunities and risks more consistently. The 17 sustainability goals apply to all countries and are aimed at achieving sustainable development worldwide. These goals are to be reached by the year 2030.

In 2019, BayWa renewed its materiality analysis in which the central themes of the SDGs were analysed relating to the contribution the company can make to achieving them. An additional stakeholder survey provided an assessment of potential negative impacts on

the environment, employees and society. The results concretise BayWa's options for action and serve as a guideline for operational measures. By 2030, BayWa aims at having made progress in the sustainable safeguarding of food (2), occupational health and safety (3), the creation of equal opportunities (5), the promotion of affordable and clean energy (7), the dissemination of decent work (8), investments in infrastructure (9), responsible production, trade and consumption (12), climate protection (13), the protection of life on land (15) and the strengthening of peace and justice (16).

Read more about the SDGs in practice in the [BayWa Sustainability Report](#).

# United Nations Sustainable Development Goals

## Corporate Engagement with SDGs

**71% of businesses say they are already planning on how they will engage with the SDGs**

**41% of businesses say they will embed SDGs into their strategies and the way they do business within the next five years**



Source: "Make it your business: Engaging with the Sustainable Development Goals," PwC

# United Nations Sustainable Development Goals

Corporate Awareness Is Very High

**Whereas only 33% of citizens worldwide are aware of SDGs, 92% of corporations are aware of them.**

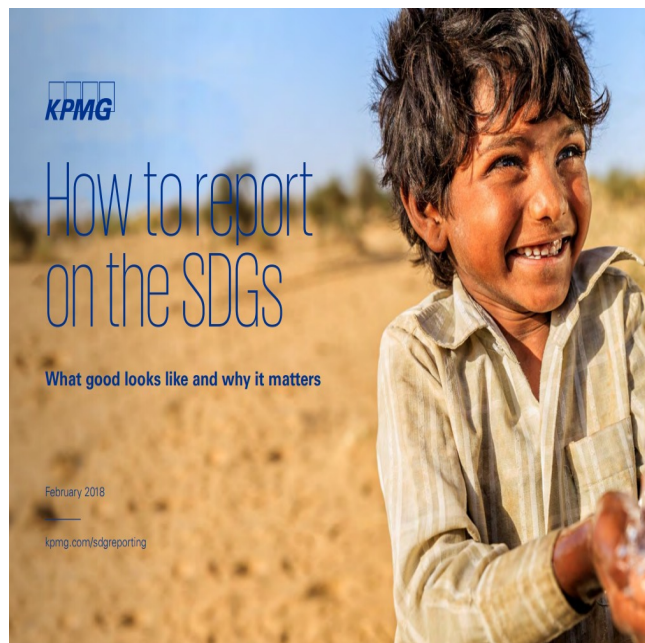


Source: "Make it your business: Engaging with the Sustainable Development Goals," PwC



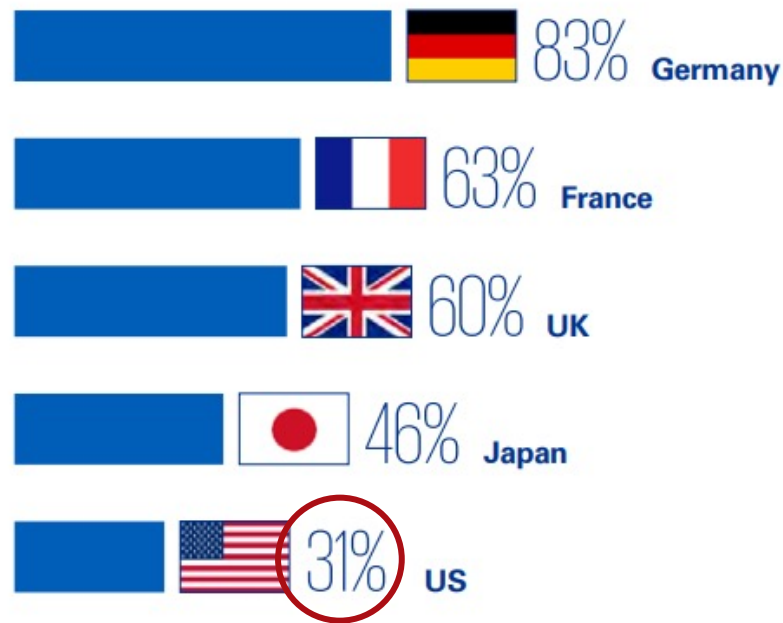
# United Nations Sustainable Development Goals

## Corporate Awareness Is Very High



Sources: Source: "Reporting the SDGs: How to get it right," KPMG

Large companies in Germany, France and the UK are significantly more likely to report on the SDGs than companies in other countries<sup>7</sup>



# United Nations Sustainable Development Goals

## Why Do Corporations Promote Sustainability?

**78% of customers are more likely to buy from companies that have aligned themselves with a SDGs agenda.**



Source: "Make it your business: Engaging with the Sustainable Development Goals," PwC



# United Nations Sustainable Development Goals

## Why Do Corporations Promote Sustainability?

**78% of customers are more likely to buy from companies that have aligned themselves with a SDGs agenda.**



Source: "Make it your business: Engaging with the Sustainable Development Goals," PwC

# United Nations Sustainable Development Goals

## Law Firms Know That Corporations Should Promote Their Sustainability Efforts

ARTICLE



Share



Follow



Question



Print



Translate

## United States: Global Aims For Sustainable Gains: The United Nations Sustainable Development Goals, Part I

28 September 2021

by [Stinson Woodward Ferguson](#)

Haynsworth Sinkler Boyd



Corporate sustainability encompasses a wide range of economic, environmental, and social concerns. As an organization, you may reasonably ask yourself where to start as you endeavor to address this topic. A plan tailored to your business model and industry will help position you for success. Additionally, you should consider widely recognized standards and metrics to enable stakeholders, investors, and existing and prospective customers to evaluate your organization's sustainability efforts.

The [United Nations' \(UN\) Sustainable Development Goals](#) (SDGs) are internationally recognized, respected tools worth integrating into your plan. The world's governments unanimously adopted the SDGs at the [United Nations Summit on](#)

# United Nations Sustainable Development Goals

**Client Relations (and Biz Dev) Opportunity: Offer Advice to Corporations Regarding Progress Towards SDGs**



# United Nations Sustainable Development Goals

## Legal Writers Advise That Attorneys Should Be Knowledgeable About SDGs

**“[I]n a private law firm, all lawyers must familiarize themselves with these goals and the entire movement and understand what it means for . . . their clients[.] By understanding . . . Sustainable Development Goals, lawyers will be better positioned to advise clients[.]”**

Source: “Why should lawyers care about the UN Global Compact and the UN SDGs,” Pamela Cole, Legal Business World (August 15, 2020)

# United Nations Sustainable Development Goals

## Legal Writers Advise That Attorneys Should Be Knowledgeable About SDGs

“[I]n a private law firm, all lawyers must familiarize themselves with these goals and the entire movement and understand what it means for . . . their clients[.] By understanding . . . Sustainable Development Goals, lawyers will be better positioned to advise clients[.]”

Source: “Why should lawyers care about the UN Global Compact and the UN SDGs,” Pamela Cole, Legal Business World (August 15, 2020)

# United Nations Sustainable Development Goals

## Law Firms Know That Attorneys Should Be Knowledgeable About SDGs

**“Lawyers need to familiarize themselves with their clients’ business and commercial decisions not only in order to deliver more targeted and relevant advice, but also, to ensure that their advice matches their clients’ values.”**

Source: “Sustainable Development: How Can the Legal Profession Contribute,” Crowell Moring (November 20, 2020)

# United Nations Sustainable Development Goals

## Some Law Firms Tout Their Experience with SDGs



Successful implementation of the UN Sustainable Development Goals can be a cornerstone for stability and growth. They can help build just economies and level the playing field for whole communities. Doing so requires deliberate action and a commitment to incorporate the SDGs into the daily conduct of business.

Recognizing the unique and important role that lawyers can play, international law firm Debevoise & Plimpton partners with clients, its own workforce, the legal profession and other stakeholders. The firm believes lawyers can be role models who can make a real difference in implementing the SDGs. As wise counselors, Debevoise lawyers advise clients on a broad range of risks and opportunities and, through their own actions and those of their clients, help them achieve those goals.

This video illustrates examples of Debevoise's efforts in three key SDGs: gender equality, providing decent work and economic growth and furthering peace, justice and strong institutions.

# United Nations Sustainable Development Goals

## Some Law Firms Tout Their Experience with SDGs

Corporate legal advice and saving the planet may look like two very separate things. But the global seismic shifts throughout 2020 have convinced us that law firms must respond to the changing environment around them. Given its scale and influence, the global legal services sector is uniquely positioned to drive changes across industries and geographies. If lawyers embed sustainability into their advice, this could rapidly accelerate the uptake of sustainable business practices and help to create a better world for people and planet.



# United Nations Sustainable Development Goals

## Some Law Firms Tout Their Experience with SDGs

Corporate legal advice and saving the planet may look like two very separate things. But the global seismic shifts throughout 2020 have convinced us that law firms must respond to the changing environment around them. Given its scale and influence,

the  
indu  
coul  
crea

One blueprint for building a better and more sustainable world for all is The 2030 Agenda for Sustainable Development, which was adopted by all United Nations Member States in 2015. At the heart of this agenda are the United Nations Sustainable Development Goals, or "SDGs", a set of 17 goals which aspire to eradicate poverty, reduce inequalities and tackle climate change. These goals need to be achieved by 2030. Based on the current rate of change, these goals will not be met.

# United Nations Sustainable Development Goals

## Some Law Firms Tout Their Experience with SDGs

Corporate legal advice and saving the planet may look like two very separate things. But the global seismic shifts throughout 2020 have convinced us that law firms must respond to the changing environment around them. Given its scale and influence, the global legal services sector is uniquely positioned to drive changes across industries and geographies. One blueprint for building a better and more sustainable world for all is The 2030 Agenda for Sustainable Development, which was adopted by all United Nations Member States in 2015. At the heart of this agenda are the United Nations

Sust

erac

be a

met

Currently, the traditional framework for law firms to engage with the SDGs is through their Pro Bono or Corporate Responsibility teams, and that alone is not enough. At Hogan Lovells, we are building a law firm that integrates the SDGs into all of our legal advice. This goes beyond good business sense. It goes to authenticity, hope and ambition. We want to help achieve all 17 SDGs by 2030, to build a better world.

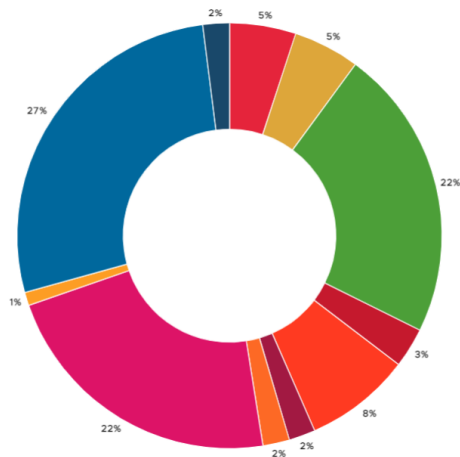
# United Nations Sustainable Development Goals

## Some Law Firms Tout Their Experience with SDGs

KIRKLAND & ELLIS

HOME IMMIGRATION LGBTQ+ VETERANS INCARCERATED INDIVIDUALS CIVIL RIGHTS GLOBAL IMPACT

### Percentage of 2019 Pro Bono Matters Related to SDGs



- Goal 1: No Poverty
- Goal 2: Zero Hunger
- Goal 3: Good Health and Well-Being
- Goal 4: Quality Education
- Goal 5: Gender Equality
- Goal 8: Decent Work and Economic Growth
- Goal 9: Industry, Innovation and Infrastructure
- Goal 10: Reduced Inequalities
- Goal 11: Sustainable Cities and Communities
- Goal 16: Peace, Justice and Strong Institutions
- Goal 17: Partnerships for the Goals

## United Nations Sustainable Development Goals

Some Firms Embrace SDGs Internally – To “Mimic” Their Clients’ Efforts / Initiatives

**“Increasingly, law firms are recognizing that [internal] sustainable development initiatives strengthen their reputation on the market and are important to their clients.”**

The logo for Crowell Moring, featuring the word "crowell" in a lowercase serif font, a stylized white graphic element resembling a partial circle or a bracket, and the word "moring" in a lowercase serif font, all set against a dark blue rectangular background.

crowell  moring

Source: “Sustainable Development – How Can the Legal Profession Contribute?” Crowell Moring (Nov. 20, 2020)

# United Nations Sustainable Development Goals

## Some Firms Embrace SDGs Internally – To “Mimic” Their Clients’ Efforts / Initiatives



United States ▾

About

People

Services

Insights

News

Locations

Careers

### Our commitment to sustainability

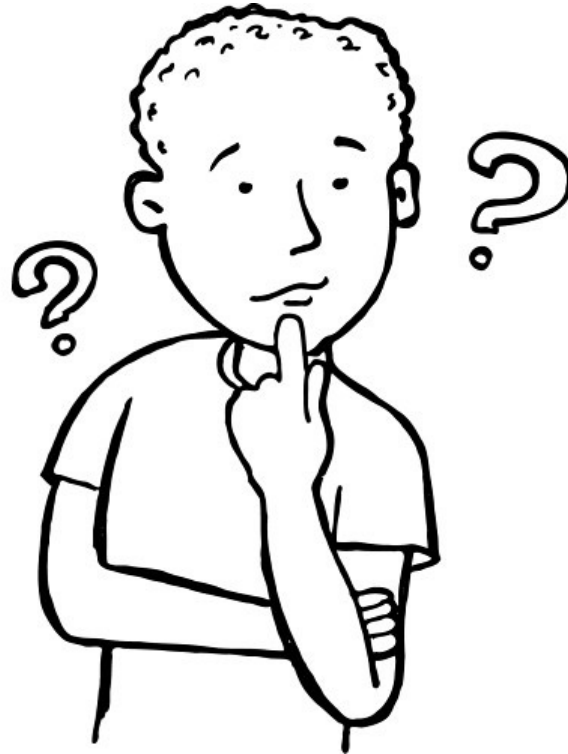
We aim to minimize our impact on the environment – to protect the planet, ensure that resources are available for future generations and create a better quality of life for all living beings. We integrate sustainability best practice into all our decision-making and business activities. We recognize our responsibility to address environmental issues that jeopardize the earth’s ecosystems and the future of our communities and as a firm we work on reducing our environmental footprint and are active on many pro bono projects in the areas of sustainability.

Norton Rose Fulbright supports the Sustainable Development Goals. We have adopted the UN Sustainable Development Goals as our overarching guiding principles. With the goals being the blueprint to achieve a better and more sustainable future for all, we focus on those where we can have the greatest impact.



# The Fundamental Question

Is the Advice Attorneys Provide to Clients about SDGs Legal or Non-Legal (i.e. “Business”) Advice?



# United Nations Sustainable Development Goals

## What Is “Legal” Advice?

### In a nutshell, legal advice has the following characteristics:

- Requires legal knowledge, skill, education and judgment
- Applies specific law to a particular set of circumstances
- Affects someone’s legal rights or responsibilities
- Creates rights and responsibilities in the advice-giver

Source: Findlaw



## In re Anderson

75 B.R. 482 (S.D. Cal. Bankr. Nov. 5, 1987)

After considering the testimony of Kavanaugh and debtor in light of the *Landlords* and *Sipper* opinions, the conclusion that Kavanaugh is engaged in the unauthorized practice of law is inescapable. Kavanaugh held himself out to be qualified to give advice concerning bankruptcies. He interviewed debtor and solicited information from her, from which he selected and prepared bankruptcy schedules. He advised Anderson of her legal rights vis-a-vis secured collateral and of the differences between a Chapter 13 filing and one under Chapter 7. He further (incorrectly) advised her regarding the necessity to file amendments to her schedules to accurately **[\*\*9]** reflect an increased tax refund. It also appears that he selected her exemptions. All of these acts require the exercise of legal judgment beyond the knowledge and capacity of the lay person. *In re Arthur*, 15 B.R. 541, 8 B.C.D. 459 (Bankr. E.D. Pa. 1981); *O'Connell v. David*, 35 B.R. 141 (Bankr. E.D. Pa. 1983).



# Attorneys Providing Advice Regarding UN SDGs

## Ethics Rules Applicability for Law-Related or Non-Legal Advice

**“A lawyer shall be subject to the Rules of Professional Conduct with respect to the provision of law-related services . . . if the law-related services are provided: (1) by the lawyer in circumstances that are not distinct from the lawyer’s provision of legal services to clients[.]”**



Source: American Bar Association Model Rule of Professional Conduct 5.7(a)

# Attorneys Providing Advice Regarding UN SDGs

## Ethics Rules Applicability for Law-Related or Non-Legal Advice

“A lawyer shall be subject to the Rules of Professional Conduct with respect to the provision of law-related services . . . if the law-related services are provided: (1) by the lawyer in circumstances that are **not distinct** from the lawyer’s provision of legal services to clients[.]”



Source: American Bar Association Model Rule of Professional Conduct 5.7(a)

# Attorneys Providing Advice Regarding UN SDGs

## Ethics Rules Applicability for Law-Related or Non-Legal Advice

**“With respect to lawyers or law firms providing nonlegal services to clients or other persons: (1) A lawyer or law firm that provides nonlegal services to a person that are not distinct from legal services being provided to that person by the lawyer or law firm is subject to these Rules with respect to the provision of both legal and nonlegal services.”**



Source: New York Rule of Professional Conduct 5.7(a)

# Attorneys Providing Advice Regarding UN SDGs

## Ethics Rules Applicability for Law-Related or Non-Legal Advice

“With respect to lawyers or law firms providing nonlegal services to clients or other persons: (1) A lawyer or law firm that provides nonlegal services to a person that are not distinct from legal services being provided to that person by the lawyer or law firm is subject to these Rules with respect to the provision of both legal and nonlegal services.”



Source: New York Rule of Professional Conduct 5.7(a)

# Attorneys Providing Advice regarding UN SDGs

## Ethics Rules Applicability for Law-Related or Non-Legal Advice

**“As a rule, lawyers can engage in any lawful business, including providing non-legal services to clients. If the lawyer provides non-legal services unconnected to the practice of law, then he is not bound by any specific ethical rules regarding disclosure.”**



Source: <https://www.sdcb.org/?pg=FTR-Apr-2018-9>



# Attorneys Providing Advice regarding UN SDGs

## Ethics Rules Applicability for Law-Related or Non-Legal Advice

“As a rule, lawyers can engage in any lawful business, including providing non-legal services to clients. If the lawyer provides non-legal services unconnected to the practice of law, then he is not bound by any specific ethical rules regarding disclosure.”



Source: <https://www.sdcb.org/?pg=FTR-Apr-2018-9>

## Attorney Professional Forum

New York State Bar Association Journal (Vol. 91, No. 2 – March 2019)

**“If the legal and nonlegal services are not distinct, then the RPC always apply.”**





## Attorney Professional Forum

New York State Bar Association Journal (Vol. 91, No. 2 – March 2019)

**“[W]hen a lawyer seeks to provide both legal and nonlegal services[,] the lawyer must determine whether there is a significant risk that the lawyer’s professional judgment will be adversely affected.”**



## Formal Opinion No. 1995-141

### California State Bar Committee on Professional Responsibility and Conduct

In addition, the Supreme Court has directed the application of rule 3-300 and its predecessor, rule 5-101, <sup>1</sup> to transactions in which there exists an actual or potential conflict of interest between the lawyer and the client. (See [Rose v. State Bar 4 \(1989\) 49 Cal.3d 646, 662-663 \[262 Cal.Rptr. 702\]](#).) In light of the principles on which the rule is founded, it is apparent that the rule is intended to apply to transactions that arise out of the lawyer-client relationship or the trust and confidence reposed by the client in the lawyer as a result of the lawyer-client relationship. (See [\*12] [Beery v. State Bar, supra, 43 Cal.3d 802, 813](#); see also L.A. Cty. Bar Assn. Formal Opn. No. 477.)

**\* Note: effective Nov. 1, 2018, Cal Rule 3-300 (“Avoiding Interests Adverse to Client”) was replaced by 1.8.1 (“Business Transactions with a Client and Pecuniary Interests Adverse to Client”)**

# Formal Opinion No. 1995-141

## California State Bar Committee on Professional Responsibility and Conduct

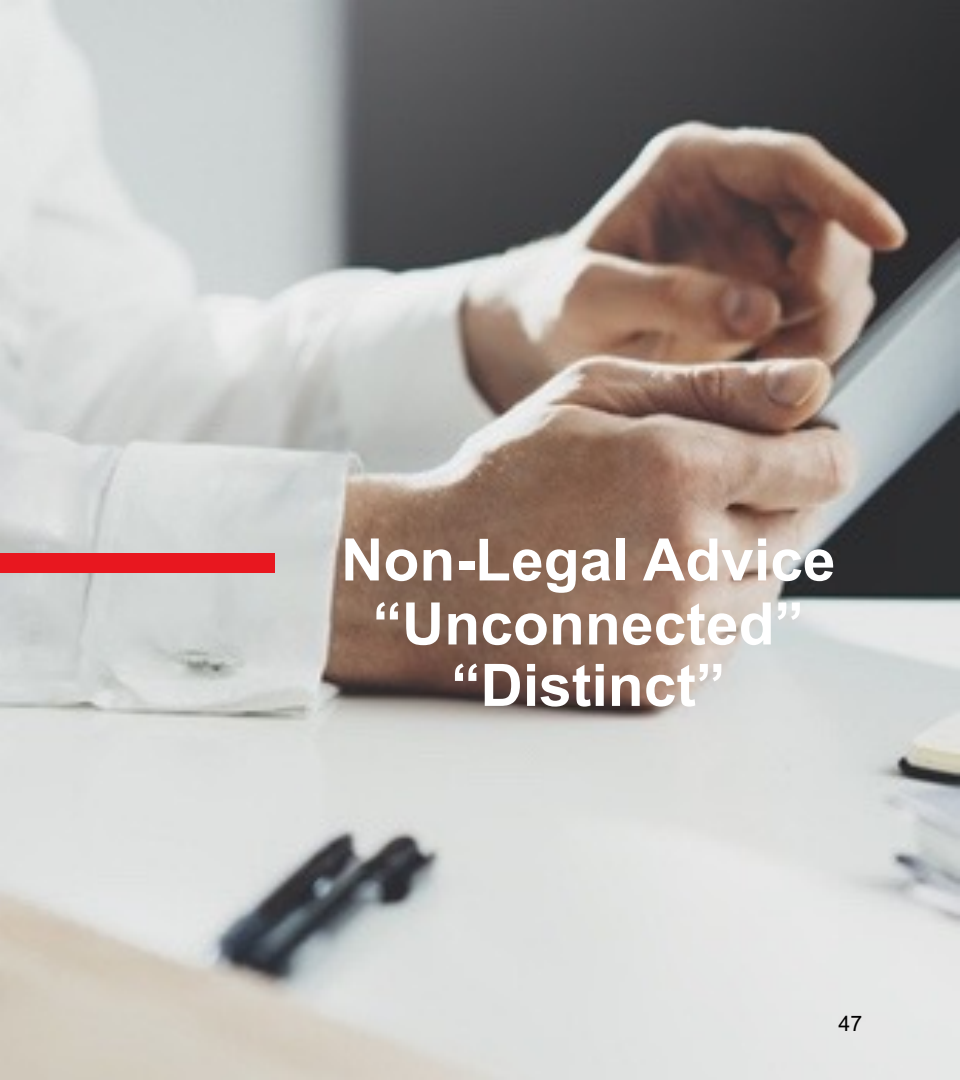
In addition, the Supreme Court has directed the application of rule 3-300 and its predecessor, rule 5-101, <sup>1</sup> to transactions in which there exists an actual or potential conflict of interest between the lawyer and the client. (See *Rose v. State Bar* 4 (1989) 49 Cal.3d 646, 662-663 [262 Cal.Rptr.

2] <sup>2</sup> Rule 3-300 applies when a lawyer enters into a business transaction with a client. It does not apply when a lawyer-client relationship has not yet arisen; although it does apply to transactions that occur after a lawyer's representation of the client has concluded. ( *Beery v. State Bar*, *supra*, 43 Cal.3d at pp. 811-812.) Thus, if a lawyer or the lawyer's entity is first retained to provide non-legal services and there is no pre-existing lawyer-client or other fiduciary relationship, rule 3-300 does not apply. However, if the lawyer has had a lawyer-client relationship with the client and later proposes to render non-legal services, rule 3-300 may be applicable based on the factors set forth in this opinion.

**\* Note: effective Nov. 1, 2018, Cal Rule 3-300 (“Avoiding Interests Adverse to Client”) was replaced by 1.8.1 (“Business Transactions with a Client and Pecuniary Interests Adverse to Client”)**



**Non-Legal Advice**  
**“Connected”**  
**“Not Distinct”**



**Non-Legal Advice**  
**“Unconnected”**  
**“Distinct”**

# Advice Regarding United Nations Sustainable Development Goals

## When Do Rules of Professional Responsibility/Conduct Apply?

- 1. Legal Advice (if deemed to be), or**
- 2. Non-Legal Advice that is not distinct from (i.e. is connected to) Legal Advice**



# Rules of Professional Responsibility

## The ABA's Rules of Professional Conduct\*



\* Adopted by 49 states (see: [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/alpha\\_list\\_state\\_adopting\\_model\\_rules/](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/alpha_list_state_adopting_model_rules/) (as of March 28, 2018); California modified its Rules of Professional Conduct, effective November 1, 2018 (see <https://www.calbar.ca.gov/About-Us/News/News-Releases/new-rules-of-professional-conduct-effective-november-1>) – and though they are not identical to the ABA's rules, they are very similar).

# United Nations Sustainable Development Goals

(Possibly)-Applicable Ethical Rules When Attorneys Provide “SDG Advice”

**1.3 / 1.4 / 2.1**

Source: [americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/model\\_rules\\_of\\_professional\\_conduct\\_table\\_of\\_contents/](https://americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/)



## ABA Model Rule of Professional Conduct 1.3

### Diligence

**“A lawyer shall act with reasonable diligence and promptness in representing a client.”**



Definitions of “Diligence”

Context (As Discussed by the Courts)

# **Expedite Litigation**

## **Keep a Client Informed in a Timely Manner**

# Definitions of “Diligence”

**Context (As Discussed by the Courts)**



## ABA Model Rule of Professional Conduct 1.3

### Commentary 1 to Rule 1.3

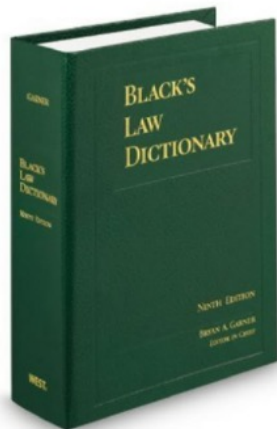
**“[1] . . . A lawyer must also act with commitment and dedication to the interests of the client.”**



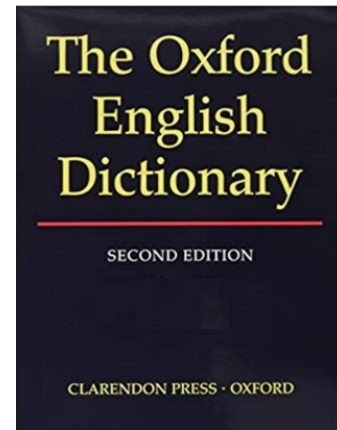
# Definitions of “Diligence”

From Legal and Non-Legal Dictionaries

**“1. A continual effort to accomplish something. 2. Care; caution; the attention and care required from a person in a given situation.”**




**“[C]areful and persistent work or effort.”**



## Atty. Griev. Comm'n v. Edwards

462 Md. 642, 699 (Ct. of App. Feb. 26, 2019) (**Failure to investigate a client's matter**)

[\*699] **MLRPC 1.3: Diligence**

**HN8**  **MLRPC 1.3** requires an attorney to "act with reasonable diligence and promptness in representing a client." MLRPC 1.3 can be violated by failing to "advance the client's cause or endeavor," *Attorney Grievance Comm'n v. Smith*, 457 Md. 159, 216, 177 A.3d 640 (2018); failing "to investigate a client's matter," *Attorney Grievance Comm'n v. McLaughlin*, 456 Md. 172, 192, 171 A.3d 1205 (2017); and repeatedly failing "to return phone calls, respond to letters, or provide an accounting for earned fees," *Moore*, 451 Md. at 80. The same rationale that supports a **Rule 1.1** violation can support a **Rule 1.3** violation. *Attorney Grievance Comm'n v. Mooney*, 359 Md. 56, 94, 753 A.2d 17 (2000).

# Atty. Griev. Comm'n v. Monfried

368 Md. 373, 385 (Ct. of App. March 22, 2002) (**Failure to ascertain hearing date**)

## Rule 1.3 Diligence

2. Respondent violated Rule 1.3 when respondent failed to act with reasonable diligence and promptness when he failed to interview his client or undertake any investigation from the date respondent entered his appearance, July 2 or 3, 1999, until the date of Terrell's second hearing, September 17, 1999.

[\*\*99] 3. Respondent violated Rule 1.3 when respondent failed to act with reasonable diligence and promptness when he failed to make any effort to ascertain the date of Terrelle Hartley's hearing from the date respondent entered his appearance, July 2 or 3, 1999, until the date of Terrelle's second [\*\*14] hearing, September 17, 1999.



## In re Ault

728 N.E.2d 869 (Ind. Supreme Ct. May 26, 2000) (**Failure to arrange for continue or the like before trial**)

interests in the first lawsuit, and by failing to answer the employer's counterclaim or otherwise defend the second lawsuit, the respondent violated HN3 ↗ Ind. Professional Conduct Rule 1.3, which requires lawyers to act with reasonable diligence and promptness while representing clients.

The respondent argues that he made a prompt and diligent effort to make arrangements regarding the January 10 trial of the first lawsuit. However, those arrangements consisted primarily of a hasty last-minute phone call to the court advising that he would not be present. Had the respondent truly been diligent, he would [\*\*7] have sought a continuance or other judicial relief before the time the trial was to begin. As for his failure to defend the second lawsuit, the

## In re McCann


752 So.2d 155 (La. Supreme Ct. Feb. 11, 2000) (**Failure to seek reimbursement/repayment of client's lost money**)

25,000 default judgment against respondent. Respondent failed to pay the judgment. As of the date of the filing of [Pg 2] the formal charges, respondent had made no effort to reimburse or repay the amounts his client has lost.

The ODC alleges that respondent's conduct violates Rules 1.3 (failure to act with diligence and promptness in representing a client), 1.4 (failure to communicate with a client), 1.15(b) (failure to account for and promptly deliver funds of a client or third person), 1.16(d) (termination of the representation), and 3.4(c) (knowing disobedience of an obligation under the rules of a tribunal) of the Rules of Professional Conduct.

## In the Matter of the Appeal of Basic American

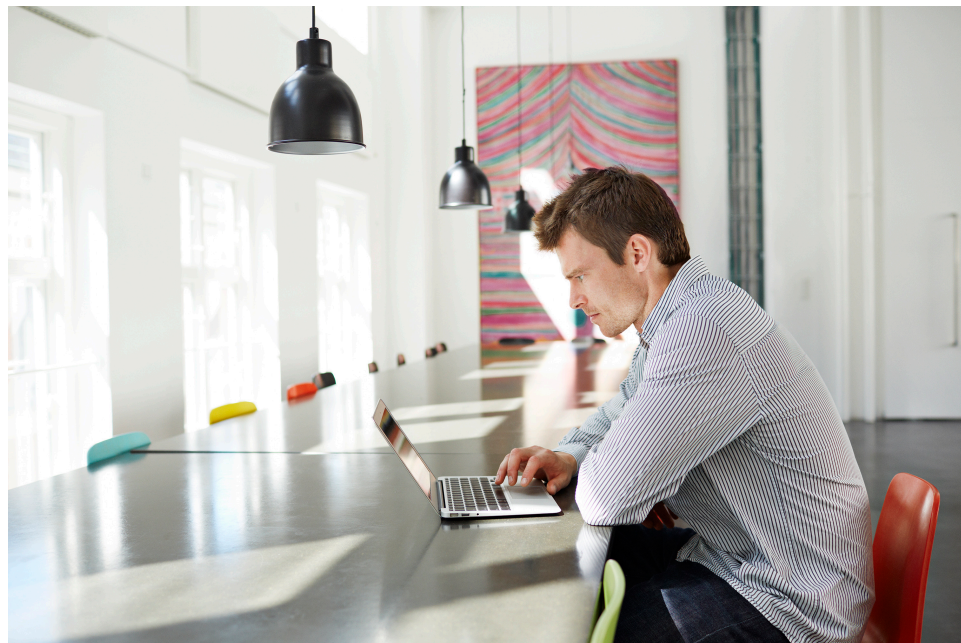
P20021112012 (Id. Bd. of Tax Appeals, Nov. 14, 2000) (**Collecting Information**) (**Not an Attorney Discipline Opinion**)

take into consideration the earning power and all other factors known or available to his knowledge in arriving at the value of the property assessed."  The assessor made diligent efforts to collect the necessary information to process the three approaches and to arrive at an informed opinion of market value. Even absent the Board's concerns regarding the taxpayer's appraisal, in the case at bar, it appears simply to be another individual's opinion of value. Where taxpayer's case mainly presented a cost approach, little new information is available for review.

## ABA Model Rule of Professional Conduct 1.4

### Communications

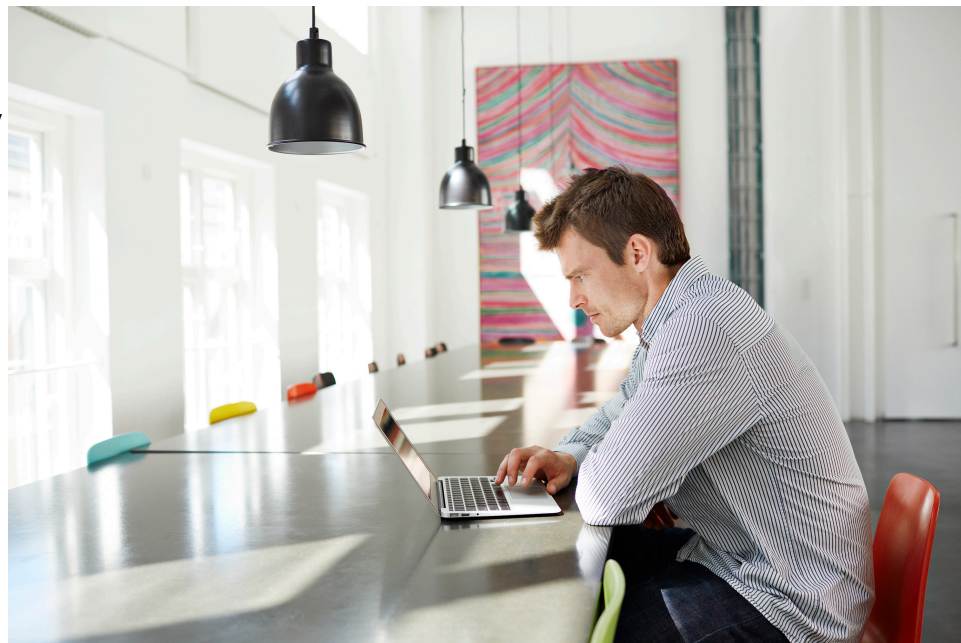
**“(a) A lawyer shall . . .  
(2) reasonably consult  
with the client about the  
means by which the  
client’s objectives are  
to be accomplished.”**



## ABA Model Rule of Professional Conduct 1.4

### Commentary 5 to Rule 1.4

**“The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved.”**



## ABA Model Rule of Professional Conduct 2.1

### Attorney as Advisor

**“In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client’s situation.”**





## ABA Model Rule of Professional Conduct 2.1

### Commentary 5 to Rule 2.1

**“[A] lawyer may initiate advice to a client when doing so appears to be in the client's interest.”**





ABA Model Rule of Professional Conduct 2.1

Law Review Commentary on Rule 2.1 (in the context of Sustainability Advice)

## Denver Law Review

# Sustainable Development in Law Practice: A Lens for Addressing All Legal Problems

## ABA Model Rule of Professional Conduct 2.1

Law Review Commentary on Rule 2.1 (in the context of Sustainability Advice)

# Denver Law Review

**“[T]he ABA Model Rules of Professional Conduct also provide: ‘In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation.’ As a result, **lawyers may raise sustainability issues even when they are not grounded in specific legal rules.** At the same time, a lawyer is generally required to abide by a client’s decision about how to proceed in any matter.”**

# **Be Diligent**

**(Make a Suitable Effort)**

**Provide Information to Help Make  
Intelligent Decisions**

**Give Candid Advice Relevant to the  
Client's Interests**

United Nations Sustainable Development Goals

Providing Sustainability Advice Ethically

# Use an Effective & Appropriate Framework

# United Nations Sustainable Development Goals

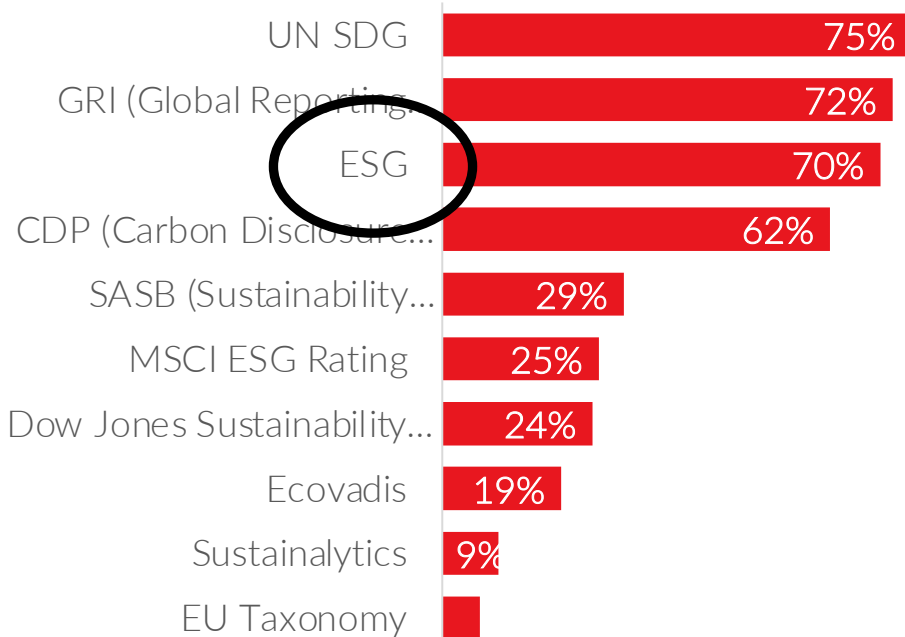
## The Need for a Standardized Measurement of Sustainability

“[W]ithout an appropriate framework, it [is] hard to measure and manage material performance and demonstrate impact.

Source: “Helping clients achieve sustainable business transformation,” Julia Hayhoe, *The Lawyer* (Nov. 23, 2020)

# United Nations Sustainable Development Goals

## The Most-Commonly-Used “Frameworks” for Sustainability Reporting



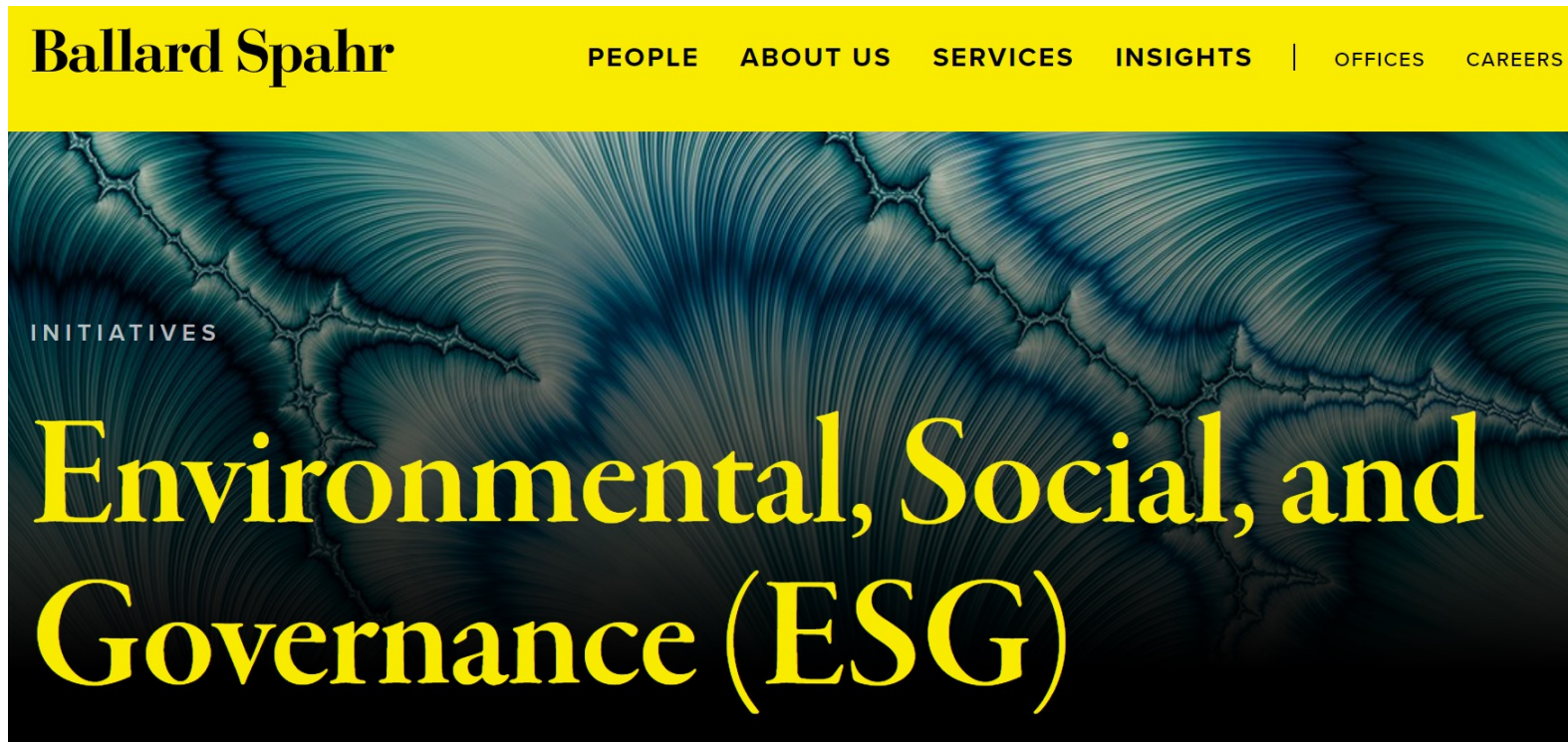
Frameworks most often mentioned by Top 100 Corporate Patent Owners

# ESG

Environmental, Social, and Corporate Governance (ESG) refers to the three central factors in measuring the sustainability and societal impact of an investment in a company or business.

# United Nations Sustainable Development Goals

## Some Firms Tout Their ESG Experience

The image shows a screenshot of the Ballard Spahr website. At the top is a yellow navigation bar with the firm's name 'Ballard Spahr' on the left and a menu of links: 'PEOPLE', 'ABOUT US', 'SERVICES', 'INSIGHTS', 'OFFICES', and 'CAREERS'. Below the navigation bar is a large banner with a dark blue, textured background that resembles cracked ice or water. The word 'INITIATIVES' is written in small white capital letters on the left side of the banner. The main text of the banner, 'Environmental, Social, and Governance (ESG)', is written in a large, bold, yellow serif font, centered on the page.

**Ballard Spahr**

PEOPLE ABOUT US SERVICES INSIGHTS | OFFICES CAREERS


INITIATIVES

**Environmental, Social, and  
Governance (ESG)**



# United Nations Sustainable Development Goals


## Some Firms Tout Their ESG Experience






LAWYERS  
PRACTICES  
INSIGHTS  
LOCATIONS  
VALUES

---

FIRM  
NEWS  
CAREERS



# ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG)

HOME > INSIGHTS > ENVIRONMENTAL, SOCIAL, AND GOVERNANCE (ESG) SHARE   

As business issues involving climate change, sustainability, human rights, and shareholder activism continue to affect the global marketplace, corporations, investors, and board directors need to understand how these factors may impact their business and how they are driving regulatory and market change. Environmental, Social, and Governance (ESG) are the main factors in determining whether a company, investment, or country is sustainable, responsible, and ethical, and they extend beyond purely financial measures as influencers of long-term investments. Our insights cover a variety of issues related to matters commonly grouped under ESG, including climate change and related litigation, sustainable finance transactions, impact investing, supply chain and human rights issues such as human trafficking, corporate governance, and shareholder activism.

### FEATURED INSIGHTS

NOVEMBER 2021   NEWSLETTERS <b>The Climate Report   Fourth Quarter 2021</b>	SEPTEMBER 2021   ALERTS <b>Landmark Proceedings Challenge Veracity of Climate Change Commitments by</b>	AUGUST 2021   COMMENTARIES <b>The Impact of French and German ESG Due Diligence Laws on Business</b>
--	--	---

# United Nations Sustainable Development Goals

## Sustainable Innovation “Frameworks”

# ESG

- No global definition, social and corporate ESG Governance (ESG) refers to the three central factors in measuring the sustainability and societal impact of an investment in a company or business.
- Not target-oriented, focused on processes
- No standardized metrics to calculation or presentation of ESG metrics

# United Nations Sustainable Development Goals

## The ESG Challenge

**“Without a consensus on the metrics to be used when disclosing ESG information . . .”**

KIRKLAND & ELLIS

ARTICLE — LEXISNEXIS PRACTICAL GUIDANCE

Corporate ESG Disclosure: Recent Trends and Developments

08 OCTOBER 2021

Source: <https://www.kirkland.com/publications/article/2021/10/corporate-esg-disclosure-orr-martos> (Oct. 8, 2021)

# United Nations Sustainable Development Goals

## The ESG Challenge

**“In the annual ranking of top U.S. companies on ESG metrics conducted by research nonprofit Just Capital . . . Meta Platforms dropped 691 spots due to concerns about spread of misinformation on Facebook and Instagram’s negative social influence[.]”**



Source: <https://www.cnbc.com/2022/01/13/the-no-1-esg-issue-for-americans-isnt-climate-change.html> (January 13, 2022)

# United Nations Sustainable Development Goals

The ESG Challenge: “Greenwashing”

**Bloomberg Green**

Finance

**Regulators  
as Greenw**

**MarketWatch** Latest Coronavirus Watchlist Markets Investing Barron's Personal Finance Economy Reti

Sustainable Investing

**Opinion:** For ESG investors, the newest  
g fact from

**Greenwashing in finance:  
Europe's push to polic  
investing**

**Forbes**

**Exxon And ESG Investing:  
Who's Greenwashing Whom? 4  
Key Questions**

# United Nations Sustainable Development Goals

## The ESG Challenge: “Greenwashing”




**Figure 1. When do CP companies lose consumer trust?**

*Percentage of executives who agree consumer trust is lost in CP companies when . . .*



# United Nations Sustainable Development Goals

The ESG Challenge: “Greenwashing”



No greenwashing



# United Nations Sustainable Development Goals

## The Need for a Standardized Measurement of Sustainability

“[W]ithout an appropriate framework, it [is] hard to measure and manage material performance and demonstrate impact.

Fortunately, there is light through the materiality and metrics jungle.

The UN Sustainable Development [G]oals act as a universally adopted standard, providing common language and material priorities around which to organize.”

Source: “Helping clients achieve sustainable business transformation,” Julia Hayhoe, *The Lawyer* (Nov. 23, 2020)

# United Nations Sustainable Development Goals

## The Need for a Standardized Measurement of Sustainability

“[W]ithout an appropriate framework, it [is] hard to measure and manage material performance and demonstrate impact.

Fortunately, there is light through the materiality and metrics jungle.

The UN Sustainable Development [G]oals act as a universally adopted standard, providing common language and material priorities around which to organize.”

Source: “Helping clients achieve sustainable business transformation,” Julia Hayhoe, *The Lawyer* (Nov. 23, 2020)

# United Nations Sustainable Development Goals

## The Need for a Standardized Measurement of Sustainability

“[W]ithout an appropriate framework, it [is] hard to measure and manage material performance and demonstrate impact.

Fortunately, there is light through the materiality and metrics jungle.

The UN Sustainable Development [G]oals act as a universally adopted standard, providing common language and material priorities around which to organize.”

Source: “Helping clients achieve sustainable business transformation,” Julia Hayhoe, The Lawyer (Nov. 23, 2020)

# United Nations Sustainable Development Goals

## The Need for a Standardized Measurement of Sustainability

“[W]ithout an appropriate framework, it [is] hard to measure and manage material performance and demonstrate impact.

Fortunately, there is light through the materiality and metrics jungle.

The UN Sustainable Development [G]oals act as a universally adopted standard, providing common language and material priorities around which to organize.”

Source: “Helping clients achieve sustainable business transformation,” Julia Hayhoe, The Lawyer (Nov. 23, 2020)

# United Nations Sustainable Development Goals

SDG Compliance Is Based on Objective Data

Tracking SDG compliance based on measurable, objective data enables corporations to counter claims of greenwashing



# United Nations Sustainable Development Goals

## Sustainable Innovation “Frameworks”

# ESG

Environmental, Social, and Corporate Governance (ESG) refers to the three central factors in measuring the sustainability and societal impact of an investment in a company or business.

# SDG

The United Nations Sustainable Development Goals collection of 17 interlinked global goals designed to be a "blueprint to achieve a better and more sustainable future for all". The SDGs were set up in 2015 by the United Nations General Assembly and are intended to be achieved by the year 2030.

# United Nations Sustainable Development Goals

## Sustainable Innovation “Frameworks”

# ESG

- No global definition and framework for ESG
- Not target-oriented, focused on processes
- No standardized metrics to calculation or presentation of ESG metrics

# SDG

- ✓ Globally accepted and acknowledged framework
- ✓ Goals defined in the agenda 2030
- ✓ Clearly defined by 17 global goals, 169 targets, 231 detailed indicators and accompanying metadata



# United Nations Sustainable Development Goals

## SDGs Provide an Objective Finish Line



# United Nations Sustainable Development Goals

## Law Firms Know That Corporations Should Promote Their Sustainability Efforts

ARTICLE



Share



Follow



Question



Print



Translate

## United States: Global Aims For Sustainable Gains: The United Nations Sustainable Development Goals, Part I

28 September 2021

by [Stinson Woodward Ferguson](#)

Haynsworth Sinkler Boyd

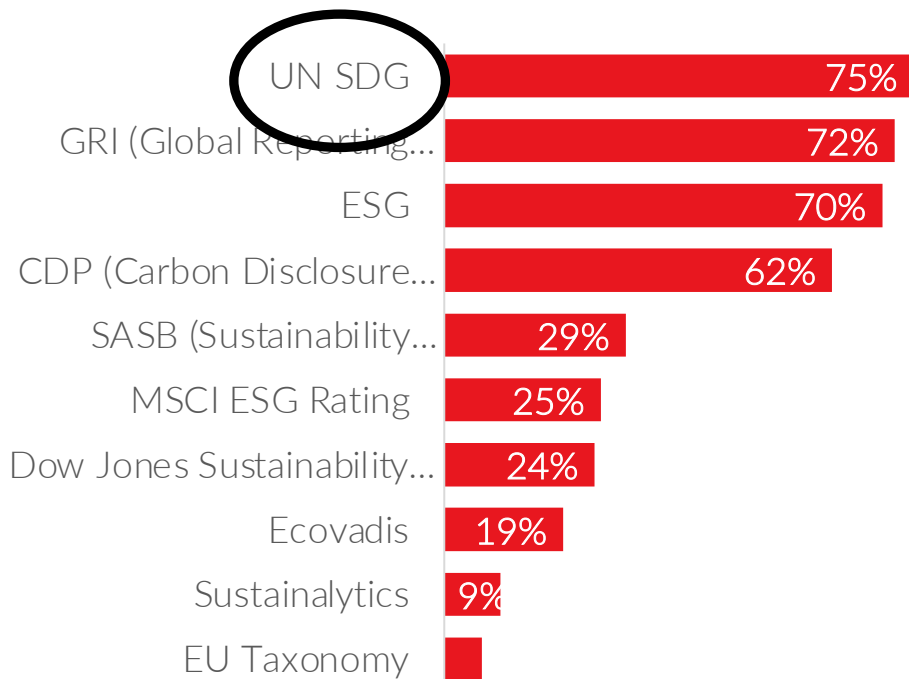


Corporate sustainability encompasses a wide range of economic, environmental, and social concerns. As an organization, you may reasonably ask yourself where to start as you endeavor to address this topic. A plan tailored to your business model and industry will help position you for success. Additionally, you should consider widely recognized standards and metrics to enable stakeholders, investors, and existing and prospective customers to evaluate your organization's sustainability efforts.

The United Nations' (UN) Sustainable Development Goals (SDGs) are internationally recognized, respected tools worth integrating into your plan. The world's governments unanimously adopted the SDGs at the [United Nations Summit on](#)

# United Nations Sustainable Development Goals

## The Most-Commonly-Used “Framework” for Sustainability Reporting– Why?



Frameworks most often mentioned by Top 100 Corporate Patent Owners

1. The UN SDGs are globally-accepted and acknowledged
2. The UN SDGs provide clear goals and targets with detailed indicators (and even offer additional metadata and policy guidance)
3. The UN SDGs cover not only climate change but also other requirements for sustainability, such as socioeconomic factors and resource stewardship

# United Nations Sustainable Development Goals

## The SDG Framework and the ESG Pillars Are Not Mutually Exclusive

### Different Attempts At Trying To Show Overlaps & Gaps Between SDGs & ESGs



Source: Berenberg, Understanding the SDGs in sustainable investing



Source: Foresight Analytics, ESG & Sustainability Analytics



Source: DiligenceVault, DV Looks at ESG

# United Nations Sustainable Development Goals

## SDG Quantification

**Although the SDG framework provides necessary definitions and metrics, “quantifying the SDG impact of a business and its decisions is not always easy.”**



Source: <https://boardclix.com/esg/csr-esg-sdgs/>



# United Nations Sustainable Development Goals

SDG Quantification



# United Nations Sustainable Development Goals

## SDG Quantification

**“Enabling technology is critical to tracking our progress against each of the SDGs[.]”**

Source: <https://kennedyslaw.com/media/6738/kennedys-sustainability-report-2021.pdf>





# ABA Model Rule of Professional Conduct 1.1

## Client-Lawyer Relationship

**“A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”**



# ABA Model Rule of Professional Conduct 1.1

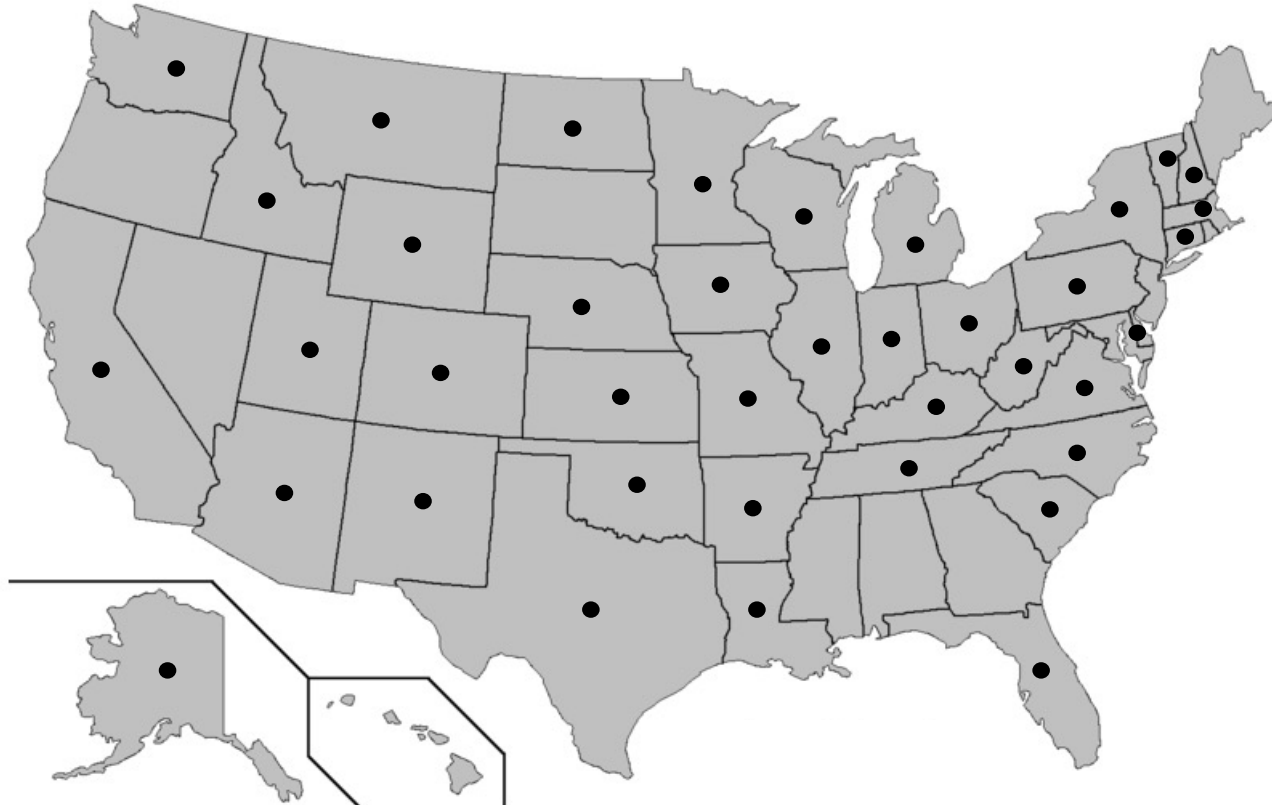
Commentary 8 to Rule 1.1 (with emphasis added)

**“To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes and the law and its practice, including the benefits and risks associated with relevant technology.”**



# States with a Duty of Tech Competence = 39

as of March 18, 2022



# ABA Model Rule of Professional Conduct 1.1

**Example: Video-Conferencing Technology**



# ABA Model Rule of Professional Conduct 1.1

## Claimed Violation of Rule 1.1 (in a Motion Relating to a Fee Dispute)

44. In the instant case, Jacobson stated at the May 20, 2020, creditor meeting that he did not know how to electronically file his client's documents. His failure to operate this most basic technology is a breach of his duty to provide competent representation to his client.

## ABA Model Rule of Professional Conduct 1.1

Article in *The Business Lawyer* (Winter 2019-20) – written by a former Chief Justice of the Supreme Court of DE

# Protection of Client Confidential Information from Cyberattacks Is a Compelling Business and Ethical Priority for Inside and Outside Corporate Counsel

*By E. Norman Veasey\**

# United Nations Sustainable Development Goals

## Many Corporations Specifically Reference SDGs in Their Reporting

“Some 40% of the world’s largest companies reference the [UN SDGs] in their corporate reporting.”

Source: “Reporting the SDGs: How to get it right,” KPMG



# United Nations Sustainable Development Goals

Many Corporations Specifically Reference SDGs in Their Reporting – **But . . .**

“Some 40% of the world’s largest companies reference the [UN SDGs] in their corporate reporting.”

Source: “Reporting the SDGs: How to get it right,” KPMG



<sup>1</sup> The wording of this target has been updated in FY20 to reflect the wording published in our T22 strategy document.



# United Nations Sustainable Development Goals

Many Corporations Specifically Reference SDGs in Their Reporting – But . . .

“Some 40% of the world’s largest companies **reference** the [UN SDGs] in their corporate reporting.”

Source: “Reporting on SDGs: How Well? Worth It? KPMG Survey of 1,100 corporations)

Our SDG goals and targets



\* The wording of this target has been updated in FY20 to reflect the wording published in our T22 strategy document.

# Some SDG “Measuring” Platforms

(Not a Comprehensive List)

- LexisNexis® PatentSight® (for corporations with patent portfolios)
  - SDG patent mapping, in combination with the industry-proven and validated patent value indicator Patent Asset Index™, enables a corporation to measure its progress towards SDGs while avoiding “greenwashing”
  - [www.patentsight.com/en/](http://www.patentsight.com/en/)
- SDG Monitor
  - “[A] cloud-based tool that helps to pair your sustainability actions with the United Nations Sustainable Development Goals (SDGs) and use the SDG indicators for measurement. With SDG Monitor you can easily follow where your company is making progress and where you are falling behind”
  - [www.sdgmonitor.co](http://www.sdgmonitor.co)
- SDG Action Manager (from B Lab)
  - “[A] unique impact management solution can help every business set goals, track progress, and stay motivated on specific actions to support the SDGs”
  - [www.bcorporation.net/en-us/programs-and-tools/sdg-action-manager](http://www.bcorporation.net/en-us/programs-and-tools/sdg-action-manager)

# Measuring SDGs Through Types of Data

## Analysis of Data Types

Data Type	Forward Looking	Output Metric	Objectively Measurable	Third Party Assessment	Commonly Accepted Definition	Publicly Available Data
Energy consumption	X	✓	✓	X	✓	X
Waste & pollution (CO2, ..)	X	✓	X	X	X	X
Water management	X	✓	✓	X	✓	X
Employee metrics (wellbeing, diversity, ..)	X	✓	X	X	X	X
Sales	X	✓	✓	X	✓	X
R&D Spending	✓	X	✓	X	X	X
Patents	✓	✓	✓	✓	✓	✓

# Measuring SDGs Through Patent Portfolios

## Tracking Objective Data



# Mapping Patent Portfolios to SDGs

Provides Corporations . . .



## Measurability

Most sustainability metrics include subjective and qualitative sources, such as "expert" interviews, conversly **patent data is factual comparable data source.**



## Transparency

**Patent data provides a unique objective windows into a company,** their investments and developments, free of spin or "greenwashing".

# United Nations Sustainable Development Goals

## Corporations Need To Be Transparent



**Figure 1. When do CP companies lose consumer trust?**

*Percentage of executives who agree consumer trust is lost in CP companies when . . .*



# United Nations Sustainable Development Goals

## Corporations Need To Be Transparent

**Deloitte.**



2022 consumer products  
industry outlook

Overcoming new challenges in the battle for trust

Becoming more transparent isn't just a matter of changing a company's overall approach or attitude toward openness. Transparency requires an underlying infrastructure. Data needs to be sensed and captured in the first place. Sensing the data can come in the form of manual reports from suppliers or more sophisticated IoT instrumentation. The data won't do any good if it stays in its own silo. It also should be interconnected and shared in a common standard with other systems inside and out. Finally, providing a sea of raw data is unlikely to have the intended effect. Companies should understand and communicate the meaningful data, in context. Intelligence, artificial or otherwise, is needed to help with sensemaking for those who need to consume the data.

# Measuring SDGs Through Patent Portfolios

## Using Patents to Measure SDG Progress -- A Sampling of Corporate Reaction



Intends to use mapping of its patent portfolio to SDGs to implement a “sustainability-related patent KPI for performance monitoring.”



MITSUBISHI GAS CHEMICAL

“Being able to classify patents by SDG categories is **very useful** to easily promote the strengths of our technology or complement its weaknesses from a different perspective.”

**RICOH**

“It is not easy for us to create and analyze the search query for 17 [SDG] goals by ourselves, so we feel that it is **very useful** for us to understand our own patent strength and to compare with other companies by providing it as a new function. We immediately compared our company with our competitors.”

**JVCKENWOOD**

“Having just been asked by top management to check our portfolio in relation to SDGs, this is **very useful**. The objective criteria of SDGs is very important because we tend to create results that fit our own good image.”



# Measuring SDGs Through Patent Portfolios

## Using Patents to Measure SDG Progress -- A Sampling of Corporate Reaction



Intends to use mapping of its patent portfolio to SDGs to implement a “sustainability-related patent KPI for performance monitoring.”



MITSUBISHI GAS CHEMICAL

“Being able to classify patents by SDG categories is very useful to easily promote the strengths of our technology or complement its weaknesses from a different perspective.”

**RICOH**

“It is not easy for us to create and analyze the search query for 17 [SDG] goals by ourselves, so we feel that it is very useful for us to understand our own patent strength and to compare with other companies by providing it as a new function. We immediately compared our company with our competitors.”

**JVCKENWOOD**

“Having just been asked by top management to check our portfolio in relation to SDGs, this is very useful. The objective criteria of SDGs is very important because **we tend to create results that fit our own good image.**”

# Measuring SDGs Through Patent Portfolios

## Using Patents to Measure SDG Progress -- A Sampling of Corporate Reaction



Intends to use mapping of its patent portfolio to SDGs to implement a “sustainability-related patent KPI for performance monitoring.”



MITSUBISHI GAS CHEMICAL

“Being able to classify patents by SDG categories is very useful to easily promote the strengths of our technology or complement its weaknesses from a different perspective.”

**RICOH**

“It is not easy for us to create and analyze the search query for 17 [SDG] goals by ourselves, so we feel that it is very useful for us to understand our own patent strength and to compare with other companies by providing it as a new function. We immediately compared our company with our competitors.”

**JVCKENWOOD**

“Having just been asked by top management to check our portfolio in relation to SDGs, this is very useful. The **objective criteria of SDGs** is very important because **we tend to create results that fit our own good image.**”

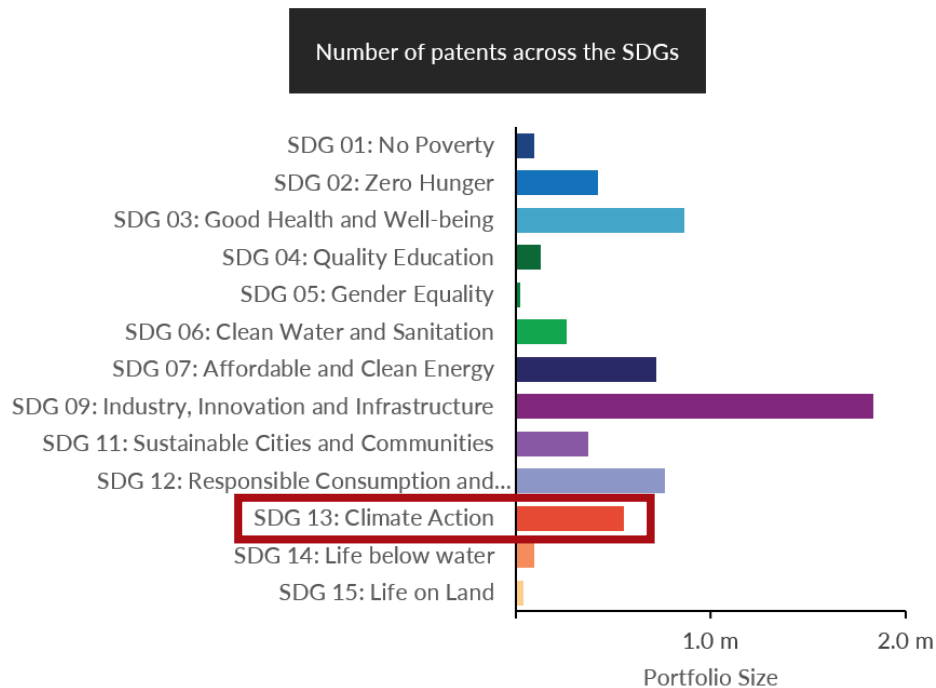
# Measuring SDGs Through Patent Portfolios

## Using Patents to Measure SDG Progress



# Measuring SDGs Through Patent Portfolios

## Using Patents to Measure SDG Progress

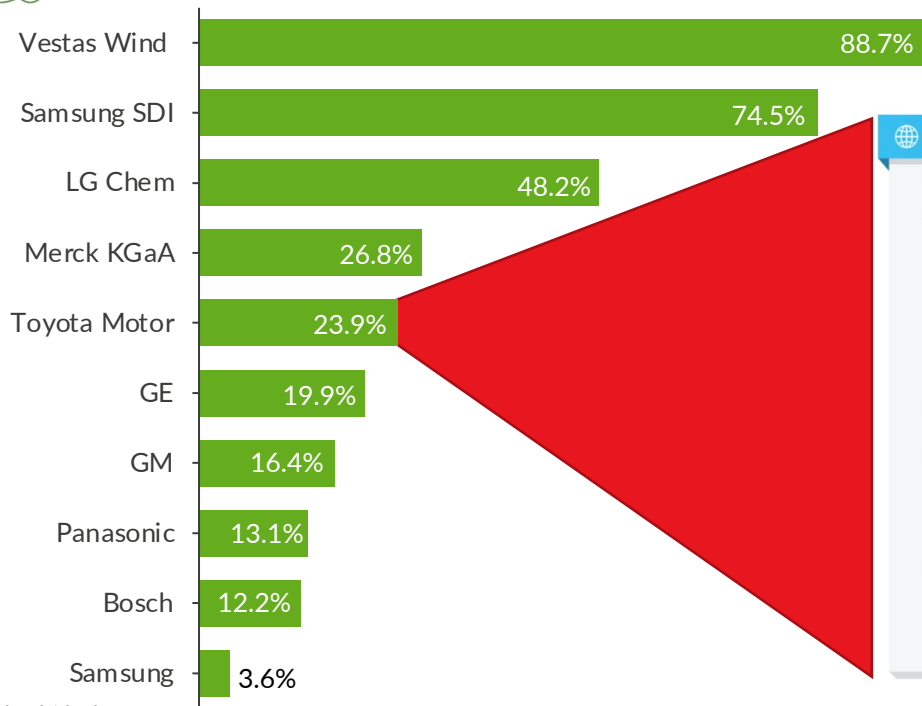


# United Nations Sustainable Development Goal #13 (Climate Action)

## Patent Data Reveals the True (Objective) Effort Corporations Put into Sustainability



Share of Patent Asset Index™ in entire company portfolio belonging to Climate-friendly Technologies (Top 10 Companies in SDG 13 related inventions)



**Contributing to solving social issues**

**Through businesses** Improving value by adapting to CASE

**Safe and reliable** Environment

- Zero deaths and injuries from traffic accidents
- Comfortable and congestion-free travels
- No one lacking access to means of transportation
- Spread of cars serving also as power sources
- Use of hydrogen to promote energy diversification

**TOYOTA ENVIRONMENTAL CHALLENGE 2050**

- Zero emissions (zero CO<sub>2</sub> emissions)
- Recycling/reuse of resources

**By social contribution activities** Aiming to become a reliable corporate citizen

**Enhancing ESG**

- Tackling human rights issues
- Promoting diversity

**Waku-doki (heart-pumping excitement)**

Fun and pleasure of sports and movement

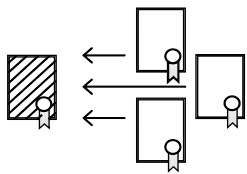
# The Patent Asset Index (used in LexisNexis® PatentSight®)

The Only Scientifically-Developed, Peer-Reviewed, and Industry-Wide-Adopted Patent Indicator

## Technology Relevance

Worldwide citations received from later patents, adjusted for age, patent office practices and technology field

Average value: 1



## Competitive Impact

(Individual patent strength)  
The relative business value of a patent family

X

Σ

## Patent Asset Index™

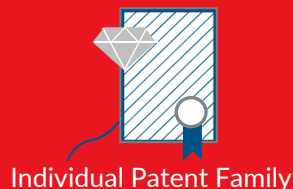


Innovative strength of a company or portfolio  
(ability to achieve competitive advantage!)

## Market Coverage

Market size protected by active patents and pending patent applications on a certain invention

Value of granted US patent: 1



Individual Patent Family

Source: "The Patent Asset Index – A New Approach to Benchmark Patent Portfolios," Ernst, H & Omland, N., World Patent Information (pp. 34-41) (2011)

# The Patent Asset Index (used in LexisNexis® PatentSight®)

The Only Scientifically-Developed, Peer-Reviewed, and Industry-Wide-Adopted Patent Indicator

**“In this paper, we develop a new benchmarking methodology that overcomes limitations of existing approaches [of benchmarking patent portfolios] and offers a more accurate assessment of a firm’s patent portfolio vis-à-vis its competitors.”**



World Patent Information

Volume 33, Issue 1, March 2011, Pages 34-41



## The Patent Asset Index – A new approach to benchmark patent portfolios

Holger Ernst <sup>a</sup>, Nils Omland <sup>b, 1</sup>

[Show more](#) ▾

[+](#) Add to Mendeley [🔗](#) Share [🗒](#) Cite

<https://doi.org/10.1016/j.wpi.2010.08.008>

[Get rights and content](#)

Source: “The Patent Asset Index – A New Approach to Benchmark Patent Portfolios,” Ernst, H & Omland, N., World Patent Information (pp. 34-41) (2011)

# United Nations Sustainable Development Goals

## “Harmonization” Work



US 20090083328A1

(19) **United States**

(12) **Patent Application Publication** (10) **Pub. No.: US 2009/0083328 A1**

**Vivona et al.** (43) **Pub. Date: Mar. 26, 2009**

(54) **SYSTEMS AND METHODS FOR PROFILED AND FOCUSED SEARCHING OF LITIGATION INFORMATION**

(75) **Inventors:** **Michele Vivona**, Seattle, WA (US); **Donald G. Peterson**, Kirkland, WA (US); **Jeffrey Pfeifer**, Denver, CO (US); **Kevin Stehr**, Charleston, SC (US); **David Dilenschneider**, Centennial, CO (US); **John Nash**, San Rafael, CA (US); **William Hagy**, Raonor, PA (US); **Duane Wald**, Kent, WA (US); **Ryan Sanders**, Kent, WA (US); **Travis J. Olson**, Snoqualmie, WA (US)

Correspondence Address:  
**FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP**  
901 NEW YORK AVENUE, NW  
WASHINGTON, DC 20001-4413 (US)

(73) Assignee: **LexisNexis**

(21) Appl. No.: 12/016,777

(22) Filed: **Jan. 30, 2008**

### Related U.S. Application Data

(60) Provisional application No. 60/898,720, filed on Feb. 1, 2007.

### Publication Classification

(51) **Int. Cl.**  
**G06F 17/30** (2006.01)  
(52) **U.S. Cl.** ..... **707/104.1; 707E17.01**  
(57)

### ABSTRACT

Systems and methods for profiled and focused searching of litigation information allow a user to access specific legal information for use during litigation. The user can connect to a web site and access particular information from multiple sources based on the litigation task the user wishes to accomplish. One litigation task is to create a litigation profile for a target, such as a particular litigant, attorney, judge, court, or firm. In this way, the user can perform focused and task-based searching to receive information about particular filings in particular locations, made by particular entities without knowing which sources contain certain pieces of the litigation information. For example, the user can receive all documents relating to summary judgment for patent infringement filed by a particular attorney in a particular court without specifying the source of information. In one aspect, the user can also access the source(s) upon receiving the results.

Family of US2009083328.A1 et al.



In force

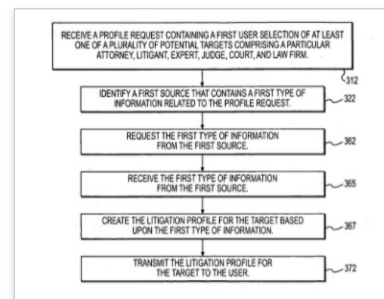
## Systems and methods for profiled and focused searching of litigation information



First filing in family 1/29/2008

First publication in family 8/6/2008

Systems and methods for profiled and focused searching of litigation information allow a user to access specific legal information for use during litigation. The user can connect to a web site and access particular information from multiple sources based on the litigation task the user wishes to accomplish. One litigation task is to create a litigation profile for a target, such as a particular litigant, attorney, judge, court, or firm. In this way, the user can perform focused and task-based searching to receive information about particular filings in particular locations, made by particular entities without knowing which sources contain certain pieces of the litigation information. For example, the user can receive all documents relating to summary judgment for patent infringement filed by a particular attorney.



Inventors **Dilenschneider David, Hagy William T, Nash John, Olson Travis,**



# United Nations Sustainable Development Goals

## “Harmonization” Work

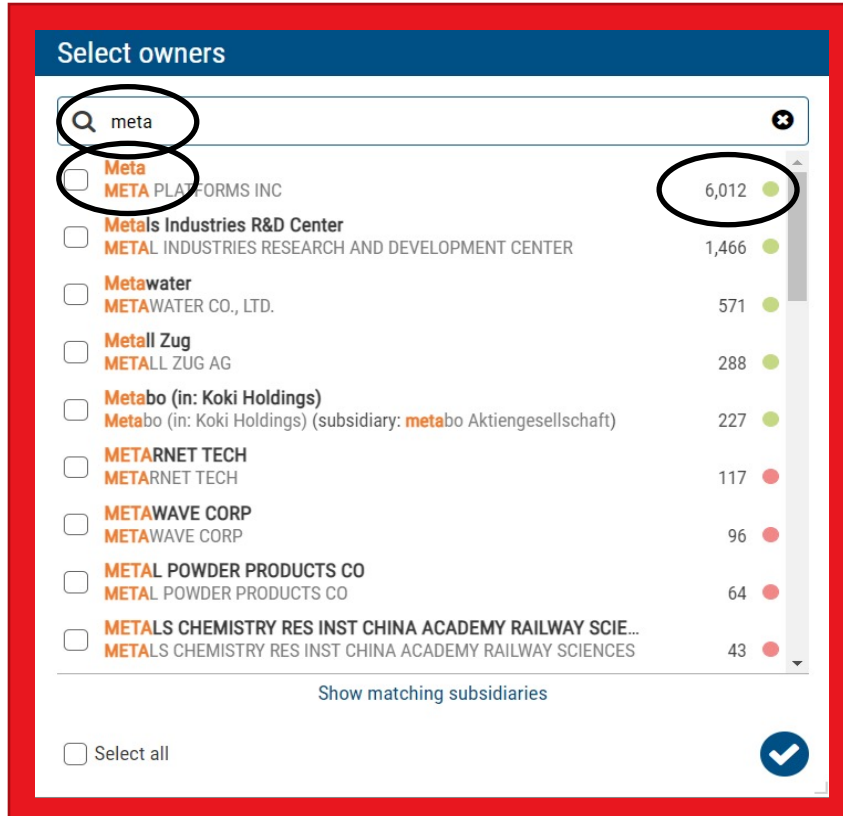
Select owners

meta

<input type="checkbox"/>	<b>Meta</b> META PLATFORMS INC	6,012	●
<input type="checkbox"/>	<b>Metals Industries R&amp;D Center</b> METAL INDUSTRIES RESEARCH AND DEVELOPMENT CENTER	1,466	●
<input type="checkbox"/>	<b>Metawater</b> METAWATER CO., LTD.	571	●
<input type="checkbox"/>	<b>Metall Zug</b> METALL ZUG AG	288	●
<input type="checkbox"/>	<b>Metabo (in: Koki Holdings)</b> Metabo (in: Koki Holdings) (subsidiary: metabo Aktiengesellschaft)	227	●
<input type="checkbox"/>	<b>METARNET TECH</b> METARNET TECH	117	●
<input type="checkbox"/>	<b>METAWAVE CORP</b> METAWAVE CORP	96	●
<input type="checkbox"/>	<b>METAL POWDER PRODUCTS CO</b> METAL POWDER PRODUCTS CO	64	●
<input type="checkbox"/>	<b>METALS CHEMISTRY RES INST CHINA ACADEMY RAILWAY SCIE...</b> METALS CHEMISTRY RES INST CHINA ACADEMY RAILWAY SCIENCES	43	●

Show matching subsidiaries

Select all



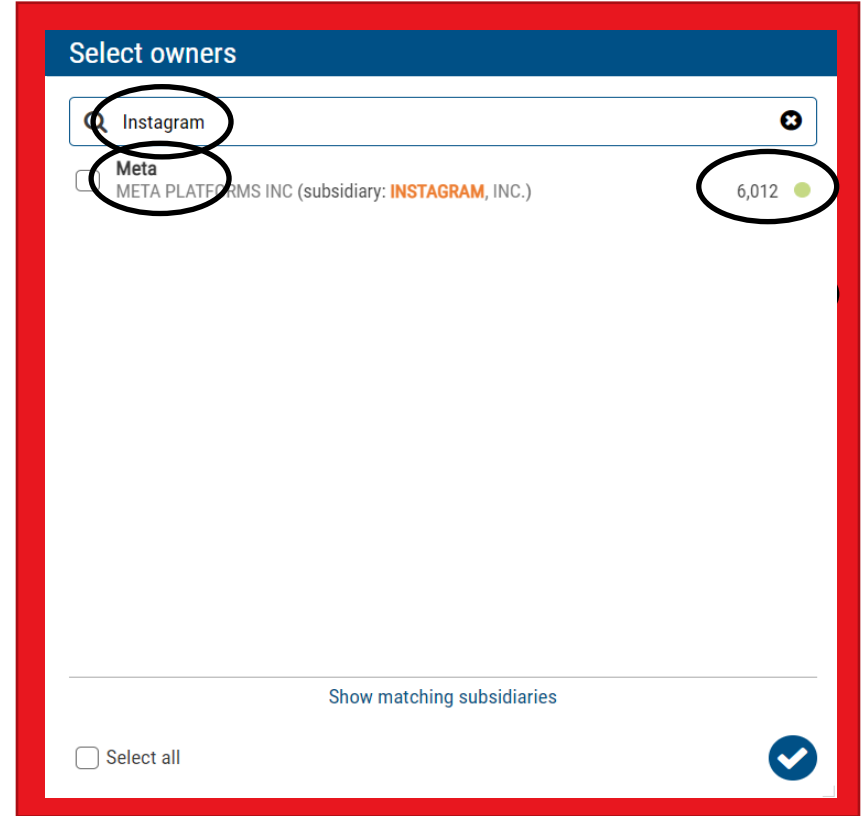
Select owners

Instagram

<input type="checkbox"/>	<b>Meta</b> META PLATFORMS INC (subsidiary: INSTAGRAM, INC.)	6,012	●
--------------------------	---	-------	---

Show matching subsidiaries

Select all



# United Nations Sustainable Development Goals

## “Harmonization” Work

(12) **United States Patent**  
Lu et al.

(10) Patent No.: US 11,277,856 B2  
(45) Date of Patent: Mar. 15, 2022

(54) **SYSTEMS AND METHODS FOR DYNAMIC SCHEDULING**

(71) Applicant: Facebook Technologies, LLC, Menlo Park, CA (US)

(72) Inventors: Gang Lu, Pleasanton, CA (US); Dong Zheng, Saratoga, CA (US); Qi Qu, Redmond, WA (US); Yuting Fan, Redmond, WA (US)

(73) Assignee: FACEBOOK TECHNOLOGIES, LLC, Menlo Park, CA (US)

(\* ) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 86 days.

(21) Appl. No.: 16/778,488

(22) Filed: Jan. 31, 2020

(65) **Prior Publication Data**  
US 2020/0288492 A1 Sep. 10, 2020

**Related U.S. Application Data**

(60) Provisional application No. 62/815,834, filed on Mar. 8, 2019.

(51) **Int. Cl.**  
H04W 72/12 (2009.01)  
G06F 3/14 (2006.01)

(52) **U.S. Cl.**  
CPC ..... H04W 72/1273 (2013.01); G06F 3/14 (2013.01); H04W 72/1268 (2013.01)

(58) **Field of Classification Search**  
CPC ..... H04W 72/1273; H04W 72/1268; H04W 72/1263; G06F 3/14; G06F 3/147; G09G 2370/16; G09G 2354/00; G09G 5/12; H04N 21/816; H04N 21/41265; H04N 21/42201; H04N 21/42222; H04N 21/43637; H04N 21/437; H04N 21/438; H04N 21/4436

See application file for complete search history.

(56) **References Cited**  
U.S. PATENT DOCUMENTS

2014/0349745 A1\* 11/2014 Russ... A63E 13/37

2014/0349745 A1\* 11/2014 Russ... A63E 13/37

CN 103632495 A 11/2014 Zhong... H04W 72/1273

WO 2019/185447 A1 10/2019 Lu... H04W 72/1273

(57) **Abstract**

Disclosed herein a system, a method and a device for dynamic scheduling between a head wearable display and a console is provided. The head wearable display can initiate, at a first time instance, a first downlink transmission to the console. The head wearable display can dynamically indicate, to the console, an end of the first downlink transmission, at a second time instance when transfer of data of the first downlink transmission is complete. The head wearable display can dynamically cause, relative to the second time instance, the console to begin an uplink transmission.

(74) **Inventors** Fan Yuting, Lu Gang, Qu Qi, Zheng Dong

**Applicant** Facebook Tech Llc

**Family members (5)**

Document #	Title	Publication date
EP3935863.A1	Systems and methods for dynamic scheduling	1/11/2022 Pending E
CN113632495.A	Systems and methods for dynamic scheduling	11/8/2021 Pending E
KR20210137083.A	Systems and methods for dynamic scheduling	11/16/2021 Pending E
US2020288492.A1	Systems and methods for dynamic scheduling	9/9/2020 In force E
WO/2020/185447 A1	Systems and methods for dynamic scheduling	9/16/2020 Pending E

**USPTO PATENT FULL-TEXT AND IMAGE DATABASE**

Home Quick Advanced Pat Num Help

Meta 0/0

11,277,856  
March 15, 2022

**Abstract**

for dynamic scheduling between a head wearable display and a console is provided. The head wearable display can initiate, at a first time instance, a first downlink transmission to the console. The head wearable display can dynamically indicate, to the console, an end of the first downlink transmission, at a second time instance when transfer of data of the first downlink transmission is complete. The head wearable display can dynamically cause, relative to the second time instance, the console to begin an uplink transmission. The head wearable display can dynamically start a second downlink transmission to the console when transfer of data of the uplink transmission is complete.

**Inventors** Dong (Saratoga, CA), Qu; Qi (Redmond, WA), Fan; Yuting Fan (Redmond, WA)

**Applicant** Facebook Technologies, LLC (Menlo Park, CA)

# The Patent Asset Index (used in LexisNexis® PatentSight®)

## Example of Top 100 Most-Innovative Corporations (in the past 2 years)

PatentSight
Workbook Import Export Insert Options Tools
Innovation Momentum 2022
david.dilenschneider@lexisnexis.com

Overview
Methodology and Top 100
Pharmaceuticals
Electronics
Semiconductors
Academics and Public Research

### The Top 100 List

<input type="checkbox"/>	Owner	Patent Asse...	Portfolio Size	Technology Relev...	Market Coverage
<input checked="" type="checkbox"/>	1 Samsung	239,968	110,383	1.5	1.2
<input checked="" type="checkbox"/>	2 Huawei	125,114	65,266	1.1	1.4
<input type="checkbox"/>	3 Qualcomm	110,814	29,425	1.8	1.8
<input type="checkbox"/>	4 LG Electronics	97,071	51,590	1.3	0.9
<input type="checkbox"/>	5 Johnson & Johnson	95,165	13,401	3.1	1.7
<input type="checkbox"/>	6 Apple	70,376	20,221	2.1	1.3
<input type="checkbox"/>	7 BOE	66,347	32,523	1.4	1.2
<input type="checkbox"/>	8 Alphabet	57,431	23,524	1.6	1.4
<input type="checkbox"/>	9 Bosch	55,294	53,247	1.0	0.8
<input type="checkbox"/>	10 Medtronic	46,808	13,658	2.1	1.4
<input type="checkbox"/>	11 Intel	46,757	29,067	1.2	1.2
<input type="checkbox"/>	12 Tencent	45,799	34,653	1.4	0.8
<input type="checkbox"/>	13 LG Chem	43,167	25,209	1.2	0.9
<input type="checkbox"/>	14 Ford	40,286	19,190	1.5	1.3
<input type="checkbox"/>	15 Raytheon Technologies	36,878	24,668	1.1	1.3
<input type="checkbox"/>	16 Roche	35,379	6,411	2.5	1.9
<input type="checkbox"/>	17 TSMC	33,988	19,123	1.3	1.2
<input type="checkbox"/>	18 VW Group	30,717	35,152	1.0	0.6
<input type="checkbox"/>	19 Hyundai Motor	29,707	31,933	0.9	0.7
<input type="checkbox"/>	20 Boeing	28,167	14,994	1.2	1.4
<input type="checkbox"/>	21 InterDigital	25,063	5,212	2.2	1.7

100 total rows....(more)

Analysis based on 893,676 patent families active at 12/30/2021.

### Methodology and Top 100

Roboto Co... 14pt

**Innovation Momentum** | To demonstrate their Innovation Momentum, the patent portfolios have to increase their Technology Relevance over a two-year period. As this is easier to achieve for small portfolios than it is for the large portfolios, the Technology Relevance increase for small portfolios has to be significantly higher than for larger portfolios; and for large and growing portfolios, maintaining Technology Relevance can be sufficient. On top of that, a change in Technology Relevance has to outperform all other patent families in the same technology field.

Thus, the Innovation Momentum reflects the dynamics of technology development, and this year's contenders have to work to maintain their Top 100 status.

**Calculation of the Innovation Momentum** |

$$\text{Innovation Momentum}_{t_2} = \text{PS}_{t_2} \cdot \overline{\text{MC}}_{t_2} \cdot \left[ \overline{\text{TR}}_{\text{aep}, t_2} - \frac{\overline{\text{TR}}_{\text{aep}, t_1} \cdot \text{PS}_{t_1} + (\text{PS}_{t_2} - \text{PS}_{t_1}) \cdot 1}{\text{PS}_{t_2}} \right]$$

**Variables** |

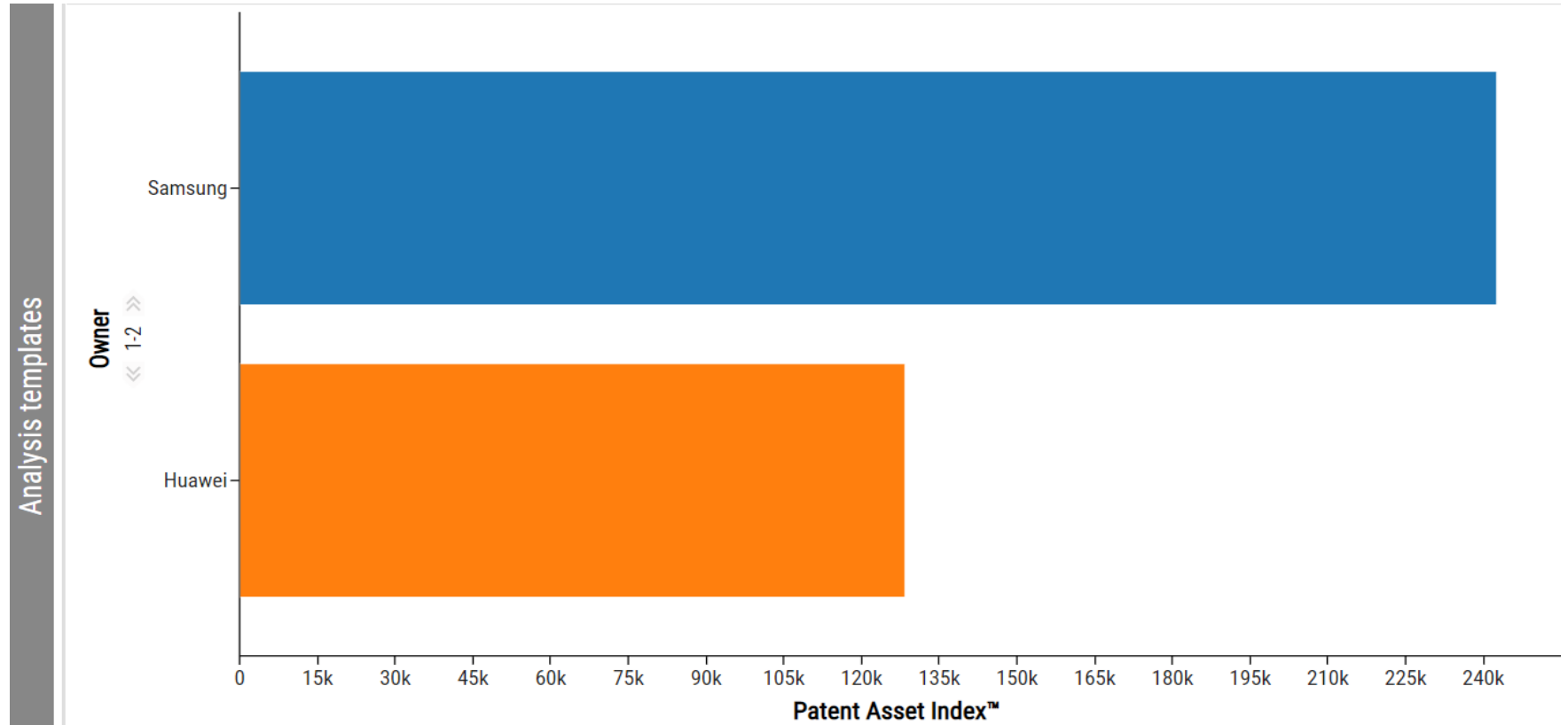
- PS\_t1 - Portfolio Size of the Reporting Date 2019-12-31
- PS\_t2 - Portfolio Size as of today the Reporting Date 2021-12-31
- MC\_t2 - Average Market Coverage of the Reporting Date 2021-12-31

Search: 893 676 (2021)

Analysis templates

# The Patent Asset Index (used in LexisNexis® PatentSight®)

Example of Top 100 Most-Innovative Corporations (in the past 2 years): Samsung & Huawei



# The Patent Asset Index (used in LexisNexis® PatentSight®)

## Example of Top 100 Most-Innovative Corporations (in the past 2 years)

PatentSight®
Innovation Momentum 2022
david.dilenschneider@lexisnexis.com

Overview
Methodology and Top 100
Pharmaceuticals
Electronics
Semiconductors
Academics and Public Research

### The Top 100 List

<input type="checkbox"/>	<input checked="" type="checkbox"/> Owner	Patent Asse...	Portfolio Size	Technology Relev...	Market Coverage
<input type="checkbox"/>	1 Samsung	239,968	110,383	1.5	1.2
<input type="checkbox"/>	3 Bosch	55,294	53,247	1.0	0.8
<input type="checkbox"/>	4 LG Electronics	97,071	51,590	1.3	0.9
<input type="checkbox"/>	5 VW Group	30,717	33,102	1.0	0.6
<input type="checkbox"/>	6 Tencent	45,799	34,653	1.4	0.8
<input type="checkbox"/>	7 BOE	66,347	32,523	1.4	1.2
<input type="checkbox"/>	8 Hyundai Motor	29,707	31,933	0.9	0.7
<input type="checkbox"/>	9 Qualcomm	110,014	29,425	1.8	1.8
<input type="checkbox"/>	10 Intel	46,757	29,067	1.2	1.2
<input type="checkbox"/>	11 LG Chem	43,167	25,209	1.2	0.9
<input type="checkbox"/>	12 Raytheon Technologies	36,878	24,668	1.1	1.3
<input type="checkbox"/>	13 Alphabet	57,431	23,524	1.6	1.4
<input type="checkbox"/>	14 Apple	70,376	20,221	2.1	1.3
<input type="checkbox"/>	15 Ford	40,286	19,190	1.5	1.3
<input type="checkbox"/>	16 TSMC	33,988	19,123	1.3	1.2
<input type="checkbox"/>	17 vivo Holdings (Donggu...	23,040	15,350	1.3	0.9
<input type="checkbox"/>	18 Boeing	28,167	14,994	1.2	1.4
<input type="checkbox"/>	19 Medtronic	46,808	13,658	2.1	1.4
<input type="checkbox"/>	20 Johnson & Johnson	95,165	13,401	3.1	1.7
<input type="checkbox"/>	21 Amazon	21,840	12,002	1.4	1.1

100 total rows....(more)

Analysis based on 893,676 patent families active at 12/30/2021.

### Methodology and Top 100

**Innovation Momentum** | To demonstrate their Innovation Momentum, the patent portfolios have to increase their Technology Relevance over a two-year period. As this is easier to achieve for small portfolios than it is for the large portfolios, the Technology Relevance increase for small portfolios has to be significantly higher than for larger portfolios; and for large and growing portfolios, maintaining Technology Relevance can be sufficient. On top of that, a change in Technology Relevance has to outperform all other patent families in the same technology field.

Thus, the Innovation Momentum reflects the dynamics of technology development, and this year's contenders have to work to maintain their Top 100 status.

**Calculation of the Innovation Momentum** |

$$\text{Innovation Momentum}_{t_2} = \text{PS}_{t_2} \cdot \overline{\text{MC}}_{t_2} \cdot \left[ \overline{\text{TR}}_{\text{aep}, t_2} - \frac{\overline{\text{TR}}_{\text{aep}, t_1} \cdot \text{PS}_{t_1} + (\text{PS}_{t_2} - \text{PS}_{t_1}) \cdot 1}{\text{PS}_{t_2}} \right]$$

**Variables** |

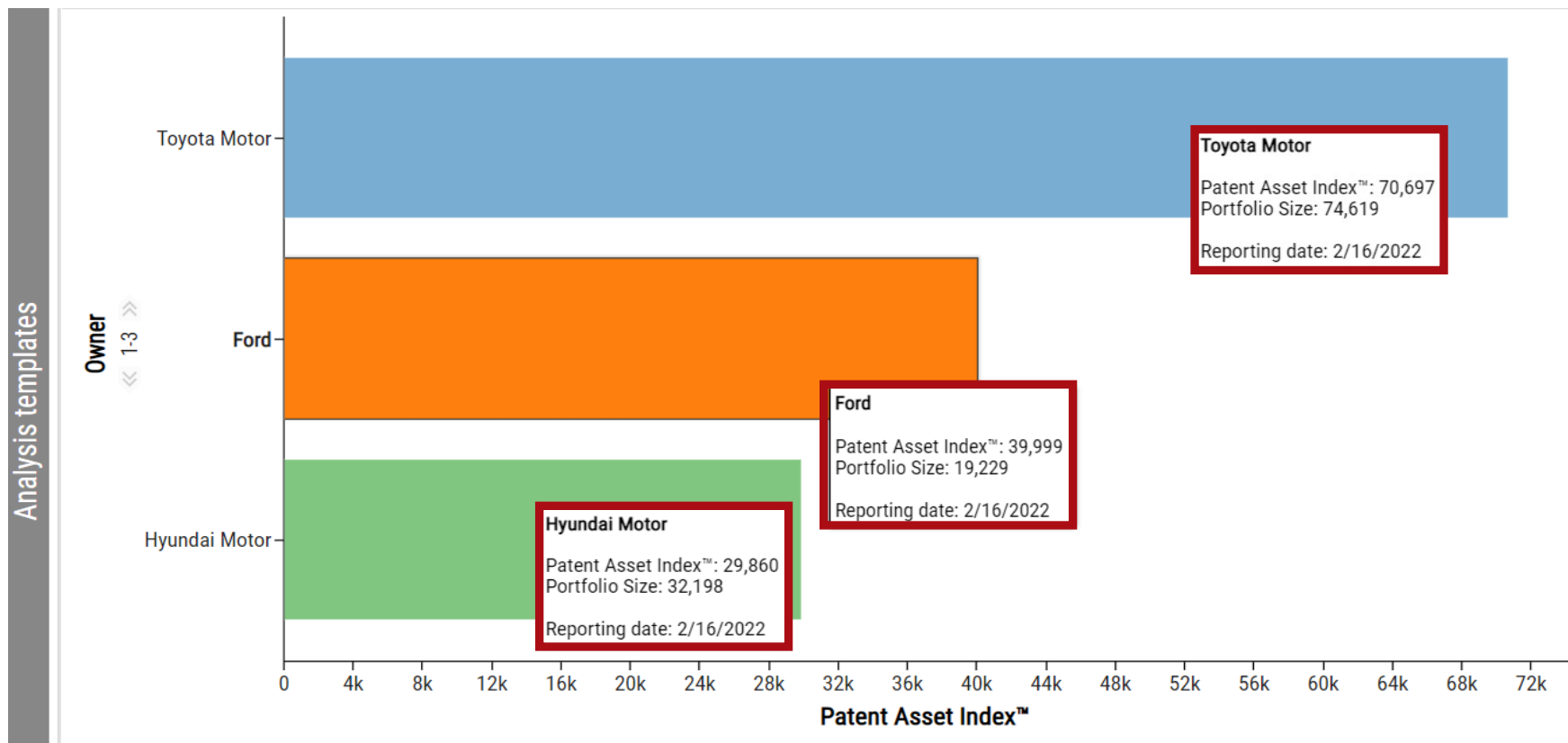
- PS\_t1 - Portfolio Size of the Reporting Date 2019-12-31
- PS\_t2 - Portfolio Size as of today the Reporting Date 2021-12-31
- MC\_t2 - Average Market Coverage of the Reporting Date 2021-12-31
- TR\_aep.t1 - The average Technology Relevance of the Reporting Date 2019-12-31

Search: 893 676 (2021)

Analysis templates

# The Patent Asset Index (used in LexisNexis® PatentSight®)

Example of Top 100 Most-Innovative Corporations (in the past 2 years): Toyota, Ford & Hyundai



# Using Objective Data (e.g. Patents) to Assist with Providing SDG Advice

## Benefits

- Ensures Compliance with Rules of Professional Responsibility
- Enables Advice Based on More-Effective (and Accurate) Reporting on Sustainability Efforts
  - Esp. when the Patent Asset Index is utilized
- Can Help Inform / Guide a Client's Research & Development Efforts
- Provides a Client with Proof Points When Seeking External Investment
- Supports a Client's Corporate Communication – with its Employees, Customers and Shareholders



# Thank You

David V. Dilenschneider, Esq.

[www.LexisNexisIP.com/sdg](http://www.LexisNexisIP.com/sdg)

