

# SELLING TECHNOLOGY OUT OF A BANKRUPTCY

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# AGENDA

- Background
- Bankruptcy
  - Process
  - Case Studies
- Success Criteria



# WHAT CODE SECTIONS APPLY TO IP?

- § 362 (Automatic stay)
  - In patent cases in which the debtor is a defendant, litigation may be stayed with respect to the debtor but allowed to proceed with respect to the other defendants. If, however, the claims against all of the defendants are "hopelessly intertwined," the entire patent infringement action may be stayed.
- § 363 (Use, sale, or lease of property)
  - A trustee in bankruptcy may enter into contracts "in the ordinary course of business" without the need for court approval. Any contract for the sale of IP outside the ordinary course of a debtor's business will require court approval.
- § 365 (Executory contracts and unexpired leases)

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