Seeing Around the Corner:

USING INTELLECTUAL PROPERTY DATA TO PROACTIVELY MONITOR FOREIGN INFLUENCE RISK

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By now, universities and colleges are very aware of the increased federal and state scrutiny around relationships between U.S.-funded researchers and foreign entities. Many institutions have taken or are considering taking steps to strengthen controls for conflicts of interest and commitment disclosures, information security and export controls, and the foreign gifts and contracts reporting process. Additional federal regulation and guidance may further establish expectations for institutions.[1] However, concerns persist about adding more tasks to already-strapped research administrators and compliance professionals as institutions strive to balance necessary compliance controls with process efficiency and the realities of resource availability.

Insights From Data

Data analytics has long been an area of opportunity for research administration and compliance,

providing the potential to identify variances and patterns in research activity and to hone controls and monitoring efforts accordingly.

Specifically relating to foreign influence, colleges and universities can leverage data in existing systems to review grant, conflict, export, travel, human resources and procurement information to enable robust risk management and conflict monitoring.

A less common strategy — but one that has great potential to help institutions see around the corner — is using technology transfer offices and their data and intellectual property (IP)-related data sources to identify research areas that may be at high risk for undue influence. The federal response to foreign influence grew largely out of concern about the diversion of U.S.-funded intellectual property.[2] Leveraging IP-related data to identify risk areas can help universities and colleges focus their response on areas of interest to foreign governments and organizations.

Three key opportunities to use IP data to inform foreign influence risk include:

- **Identifying IP leakage.** Analytics platforms allow institutions to identify inventors who have assigned IP to outside entities, including foreign entities, giving insight into existing development and commercialization activity that may not have been identified through

standard institution invention disclosure or patent prosecution processes.

· **Assessing IP value.** While not all high-value IP is associated directly with high-risk technologies, high-dollar-value IP may suggest an increased likelihood of diversion because of the technology's commercial market potential. An assessment of the patent portfolio can also result in a benefit of identifying new licensing opportunities and research programs with lucrative commercialization potential.

· **Conducting a technology tracing analysis.** Using technology, institutions can match publications and papers related to critical technologies to English translations of Chinese patents. This analysis can help identify potential IP theft and find inventors or foreign collaborators working in related spaces who may be conduits for foreign technology transfer.

Institutions can layer these analyses with external information about high-risk technologies, such as those on the Commerce Control List, to methodically identify areas with higher likelihood of potential IP diversion. Armed with these data, institutions can focus controls, monitoring and faculty support resources on these areas to ensure faculty are aware of various disclosure obligations and educated on best practices for secure global collaboration.

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1 The White House Office of Science and Technology Policy. "Recommended Practices for Strengthening the Security and Integrity of America's Science and Technology Research Enterprise." https://trumpwhitehouse.archives. gov/wp-content/uploads/2021/01/NSTC-Research- Security-Best-Practices-Jan2021.pdf.

[2] U.S. Senate Committee on Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations. "Threats to the U.S. Research Enterprise: China's Talent Recruitment Plans." https://www.hsgac. senate.gov/imo/media/doc/2019-11-18%20PSI%20Staff%20 Report%20-%20China's%20Talent%20Recruitment%20 Plans.pdf.

Key Takeaways

To identify high-risk research areas and inform institutional risk management approaches, institutional leaders should:

Think differently.

Recognize external data sources as potential data troves that enable institutions to "see around the corner."

Plan differently.

Leverage IP-related analytics to inform highrisk research areas backed by objective data.

Act differently.

Use analytics to focus scarce resources on high-risk areas and support faculty in meeting their obligations.

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