



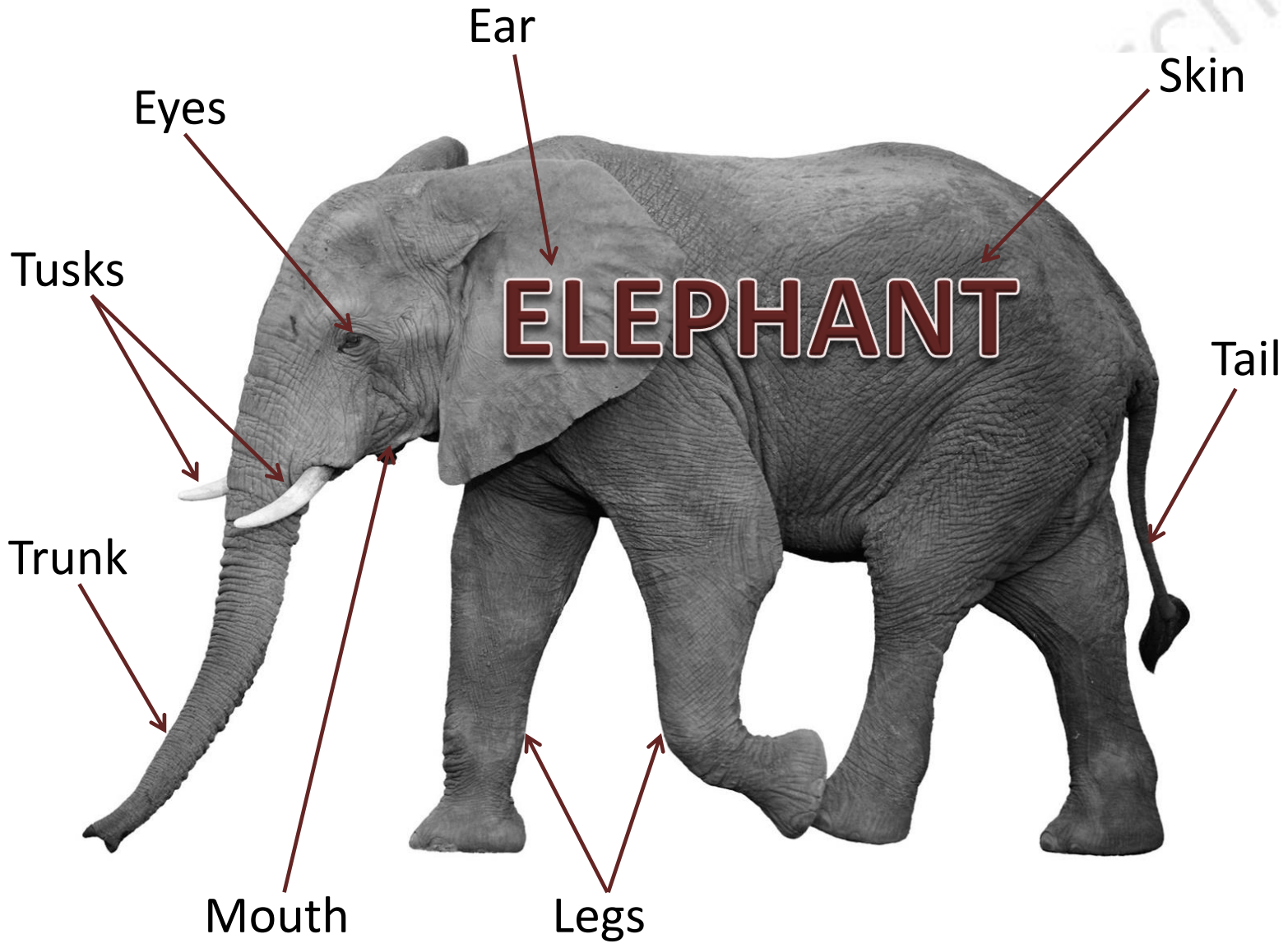
PG Technology Research

# Freedom-To-Operate Analysis



**LET'S START WITH A  
KNOWN STORY**

PG TechnoVest Research



# ELEPHANT

Eyes

Ear

Skin

Tail

Legs

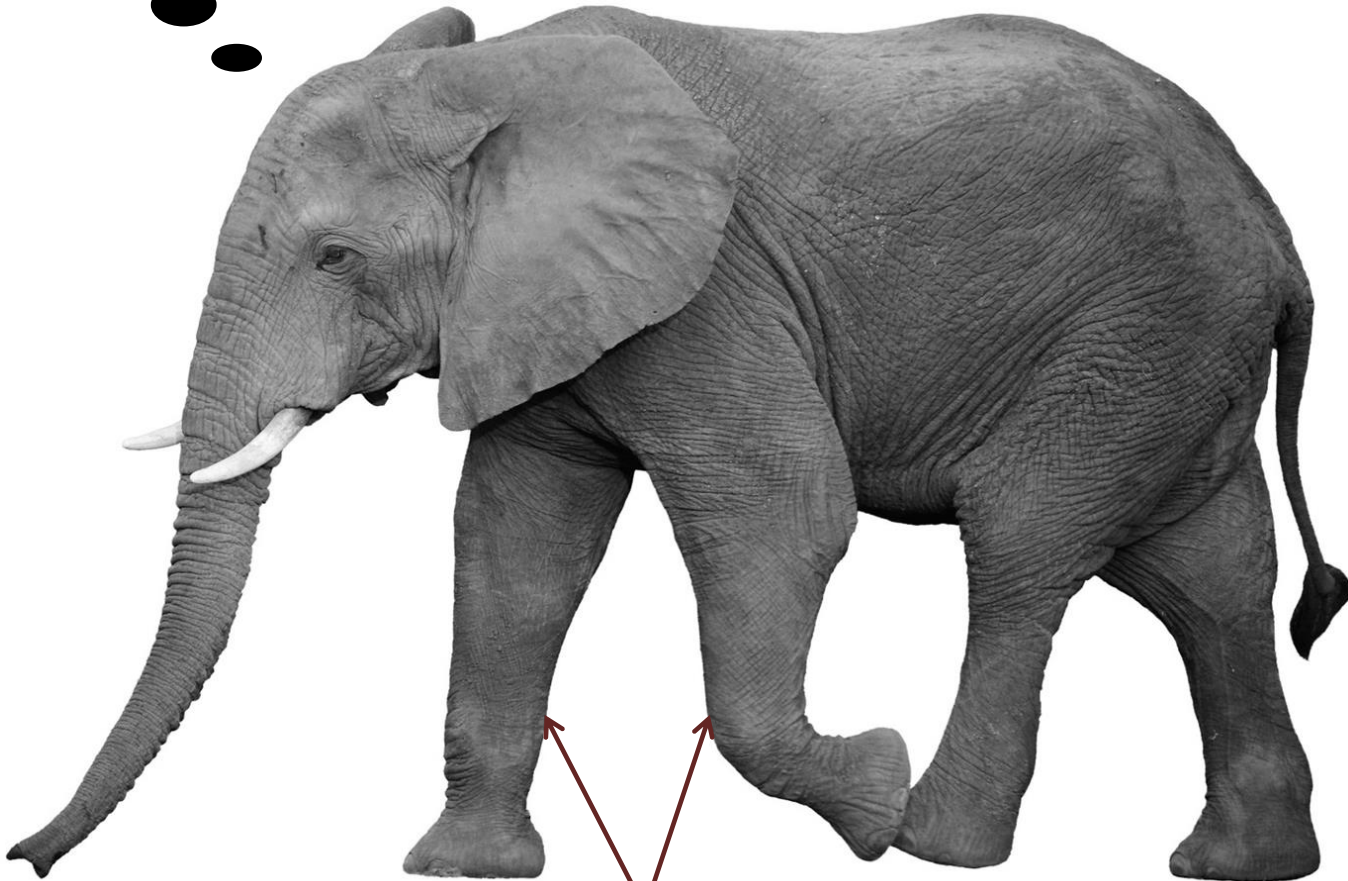
Mouth

Trunk

Tusks

## THE WRONG BELIEF

I have strong legs, nobody can defeat me

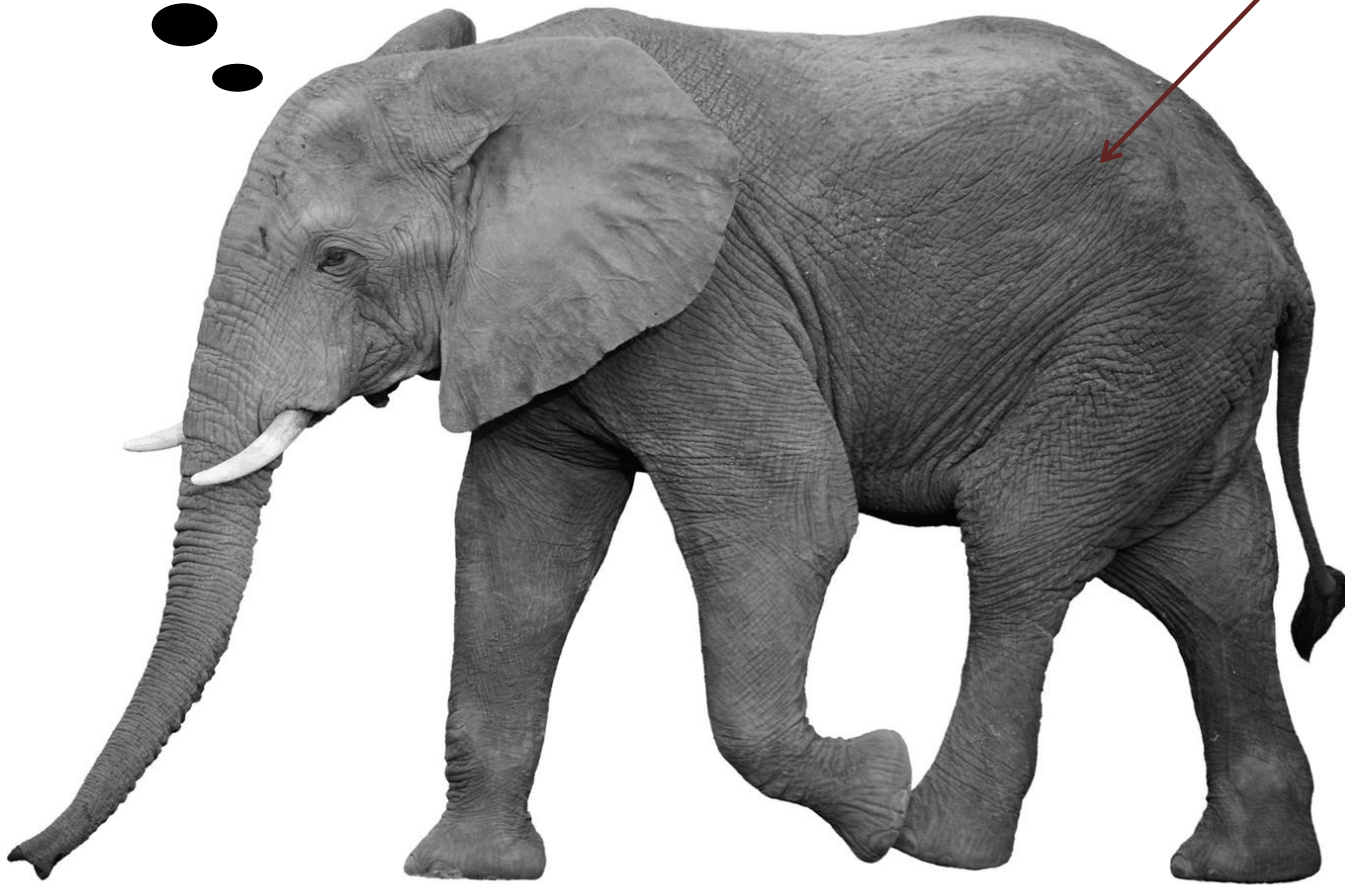


Legs

## THE WRONG BELIEF

My strong skin  
will protect me  
from all dangers

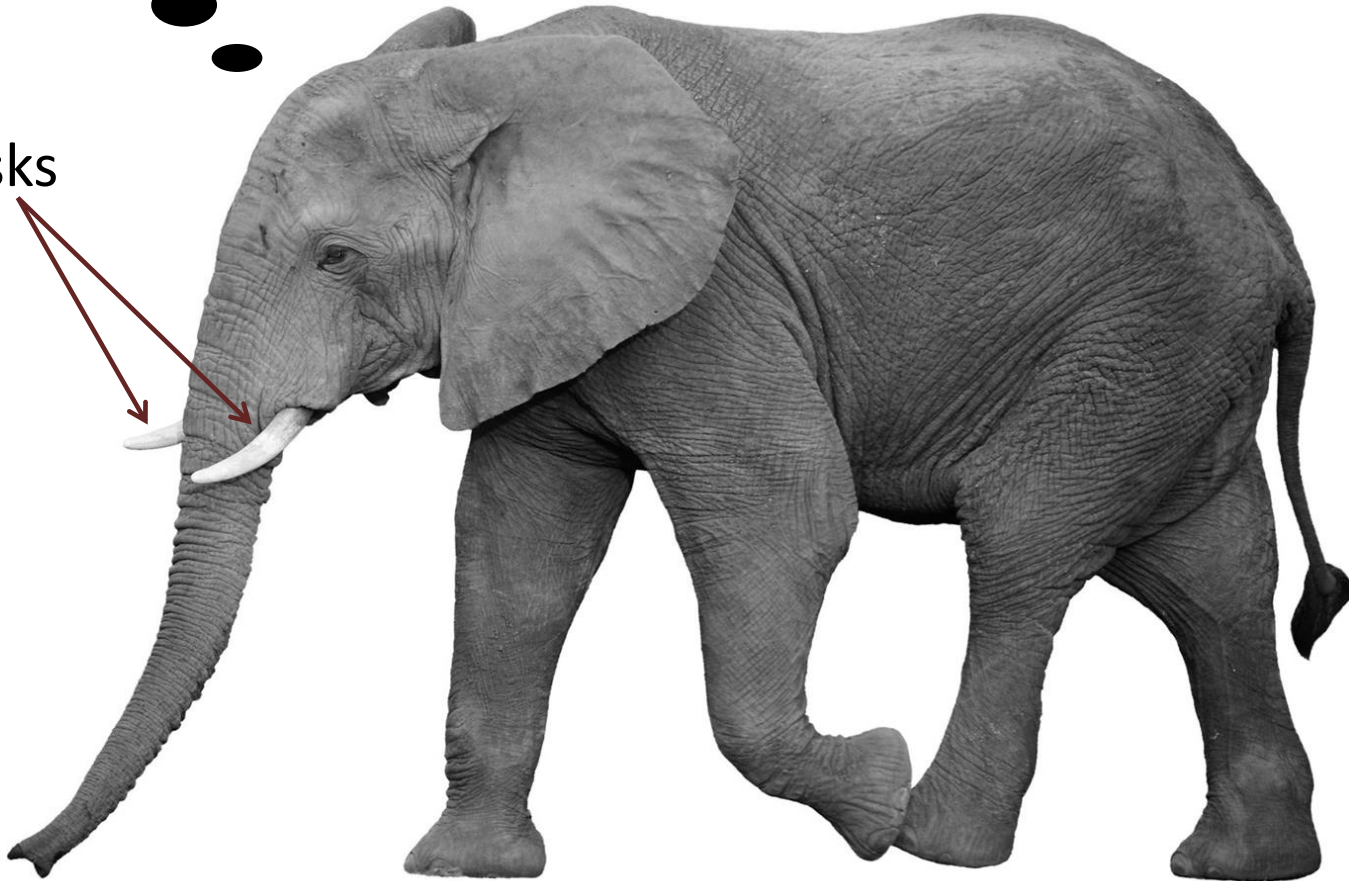
Skin



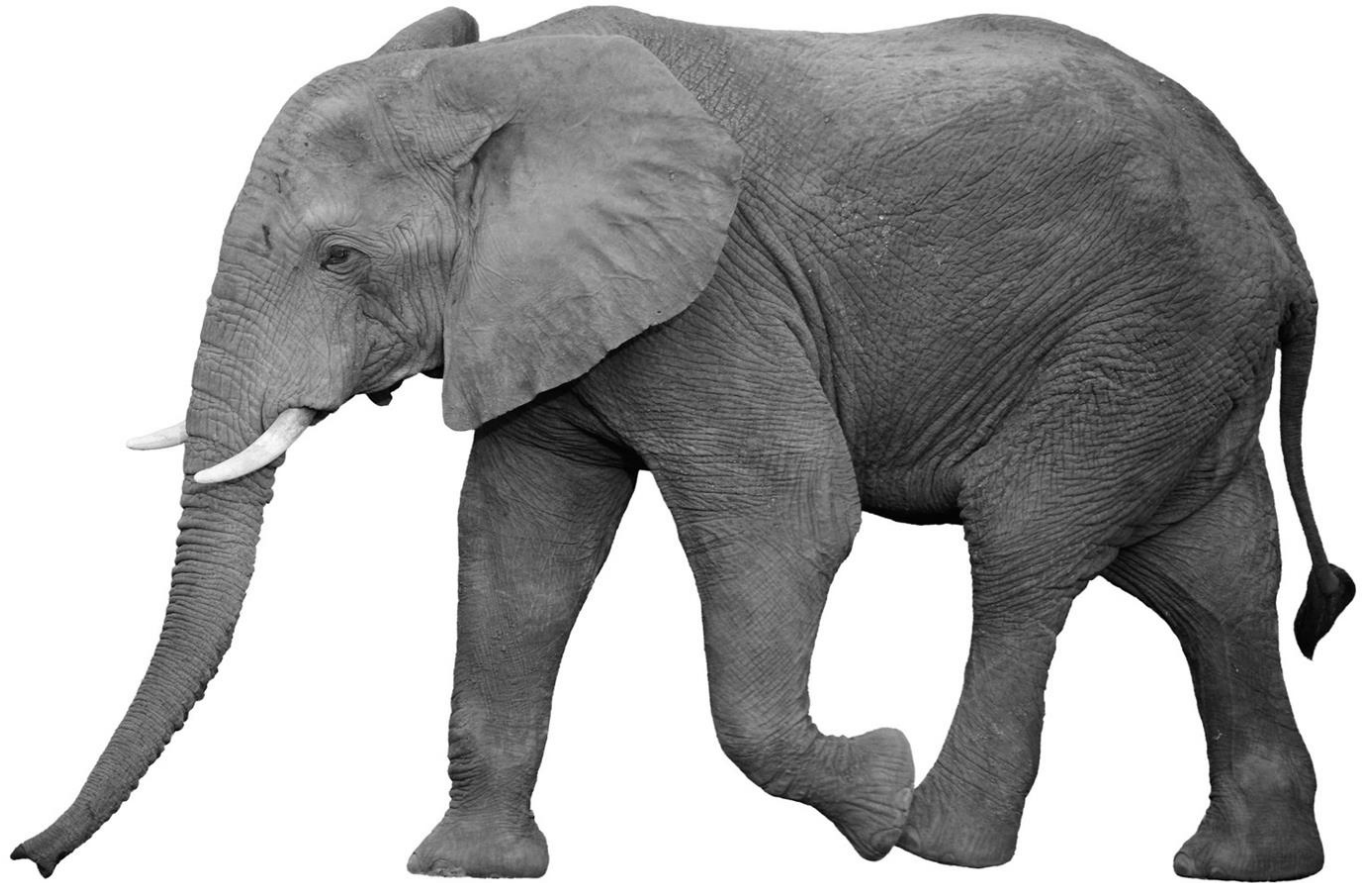
## THE WRONG BELIEF

I have strong  
tusks to kill  
anybody

Tusks



# THE POTENTIAL RISK



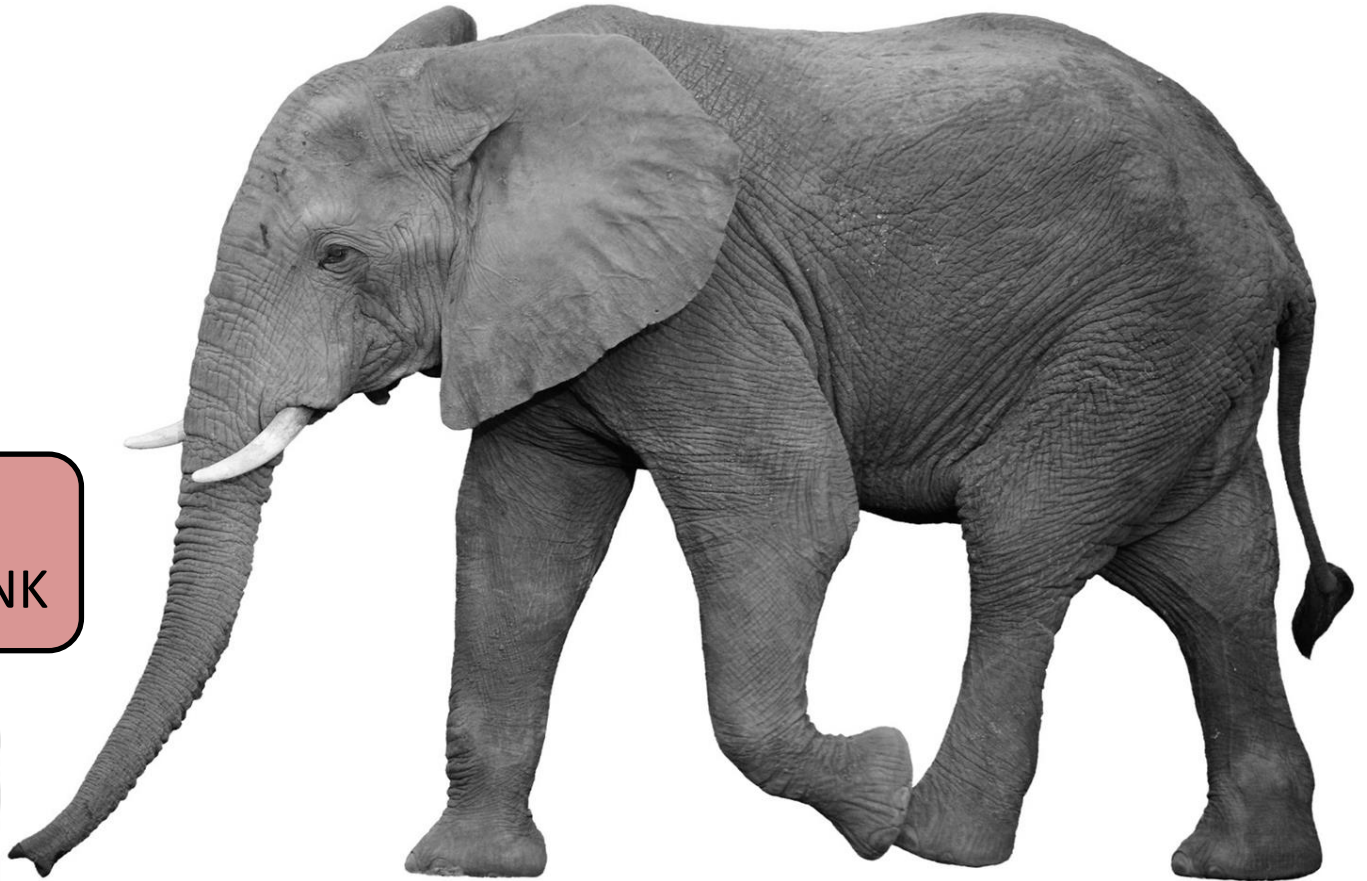
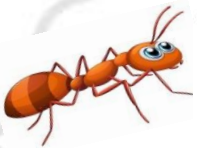
I will teach  
him a lesson



A small Ant

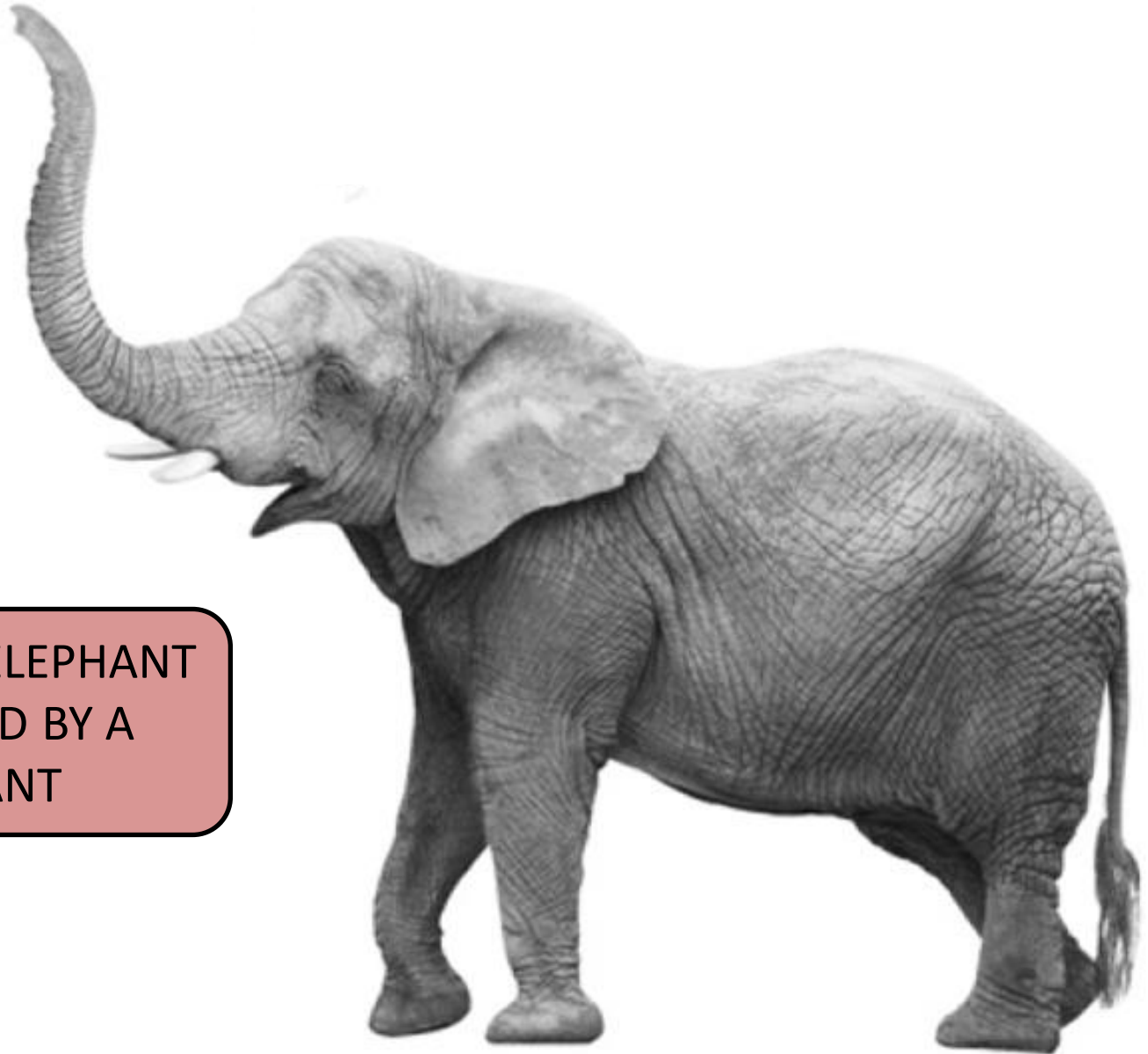
# THE POTENTIAL RISK

ANT ENTERS  
ELEPHANT'S TRUNK





## THE RESULT

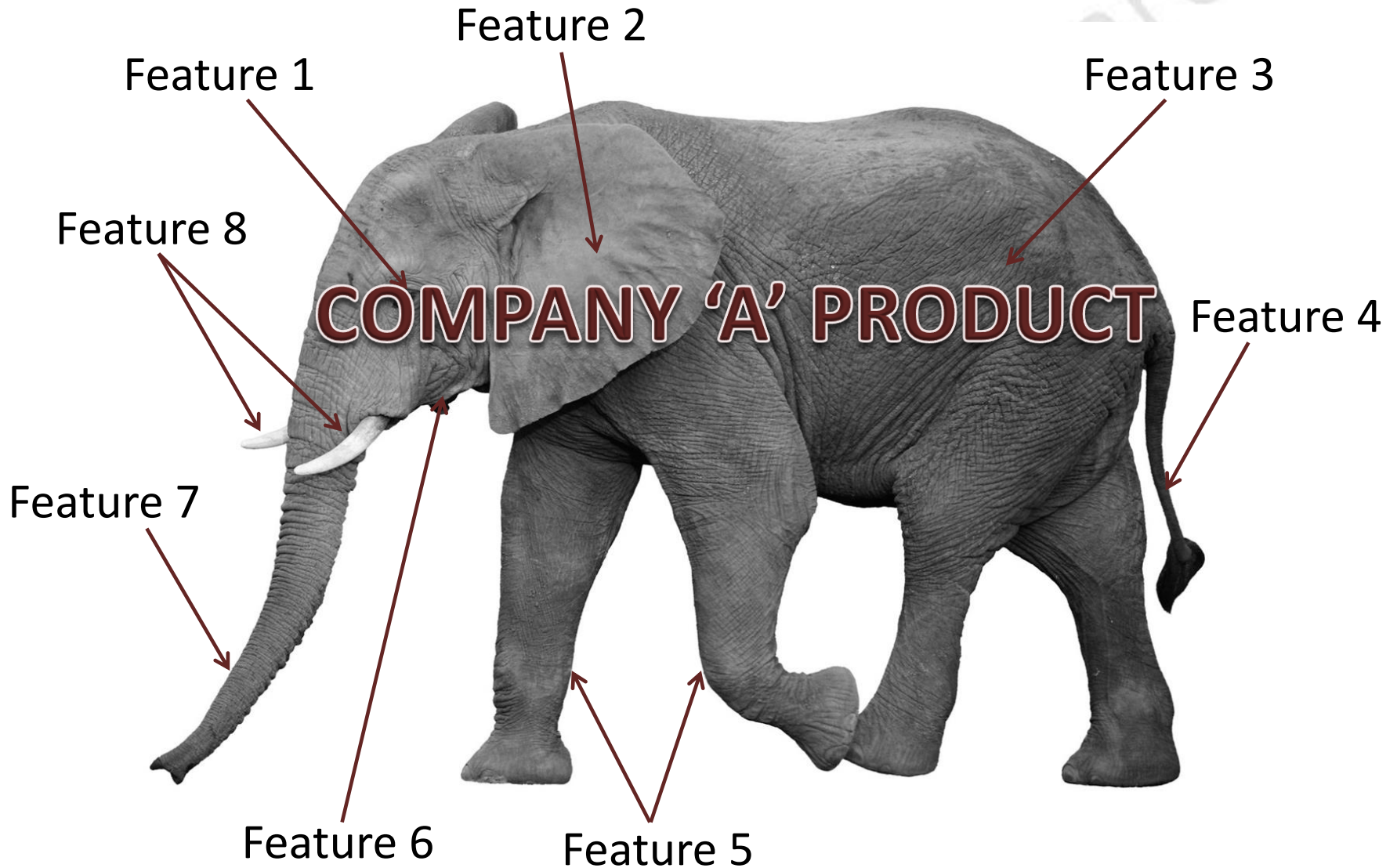


A POWERFUL ELEPHANT  
CONTROLLED BY A  
SMALL ANT

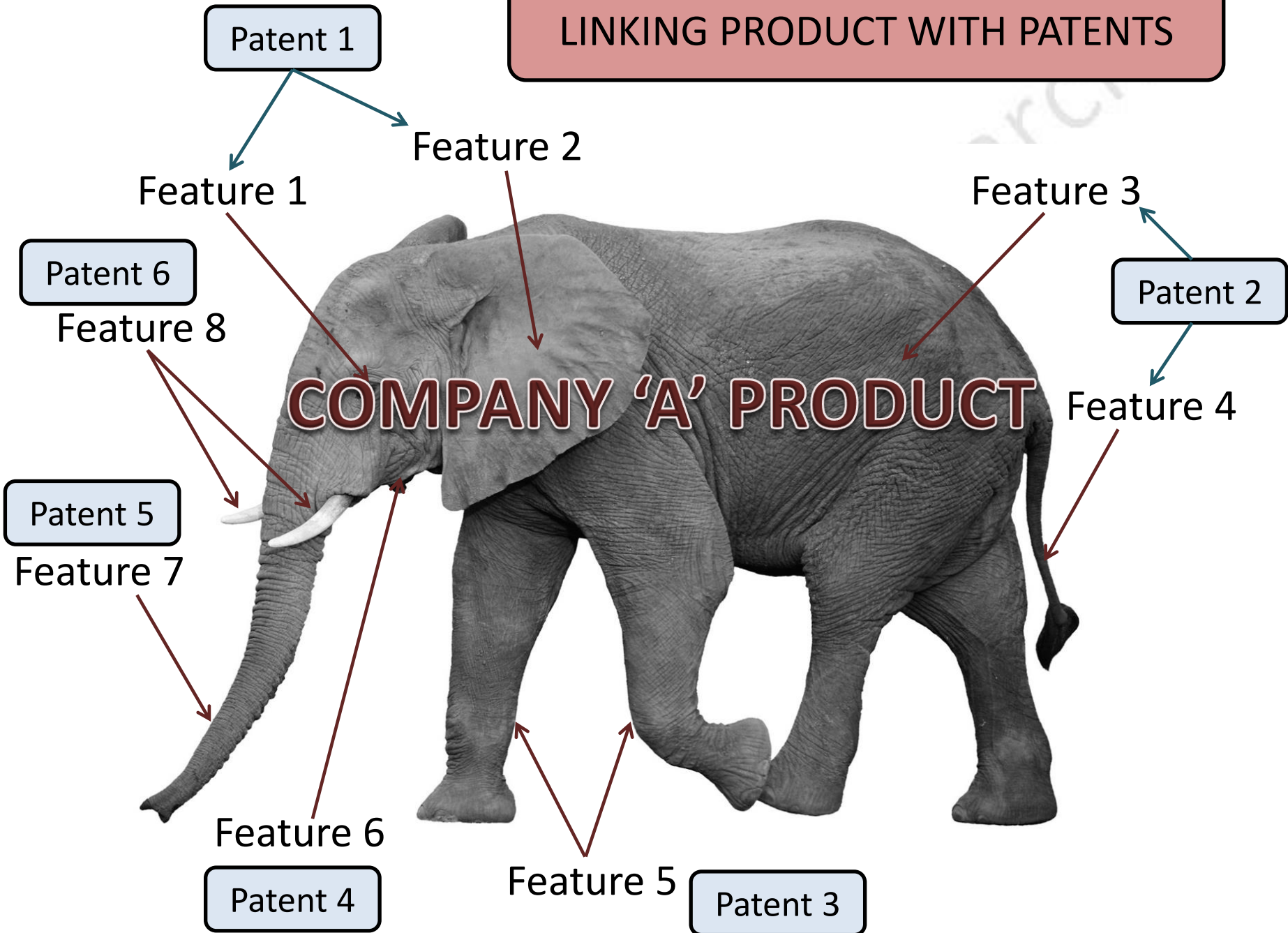
# **THE CORPORATE STORY**

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# A HIGH REVENUE GENERATING PRODUCT OF COMPANY 'A'



# LINKING PRODUCT WITH PATENTS

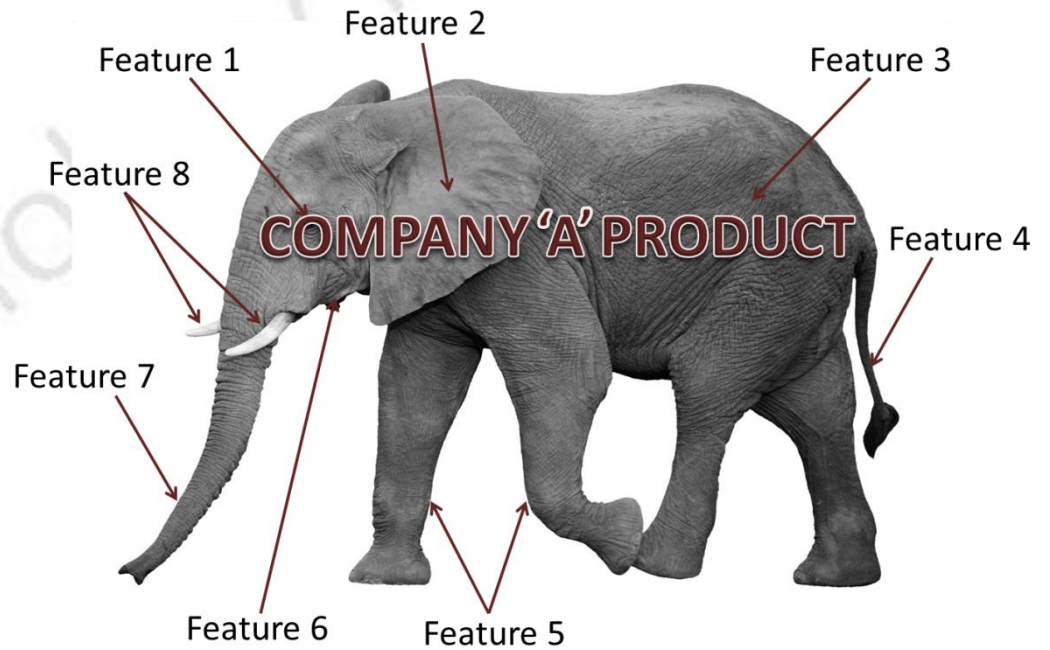


# THE WRONG BELIEF

We have a patent for Feature 1 and 2, it will protect the product from all dangers



COMPANY 'A'  
MANAGEMENT



## REMEMBER!!!

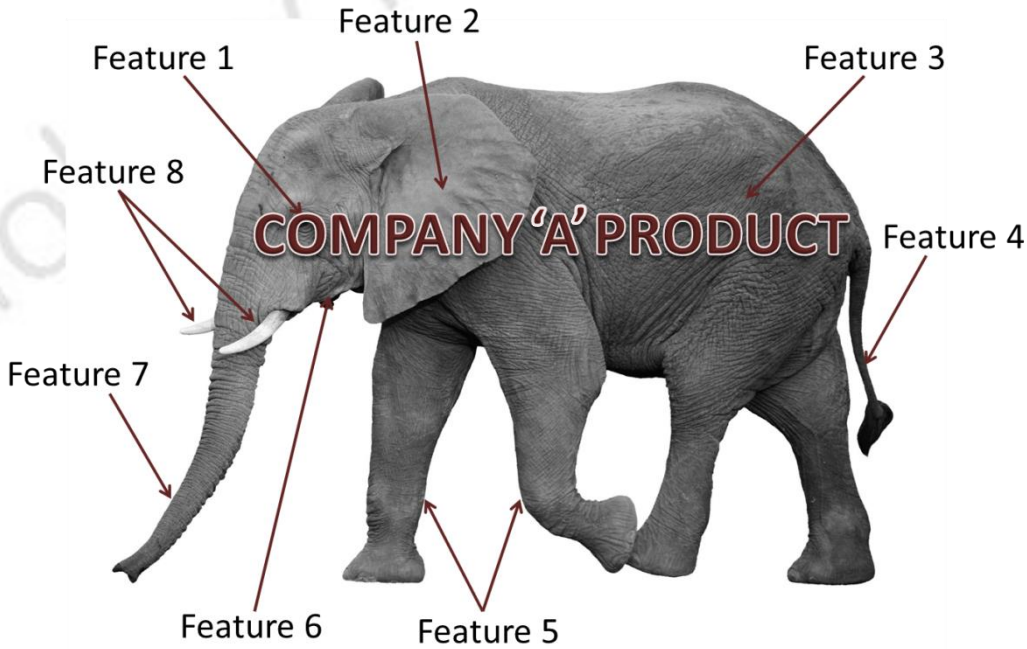
A patent ONLY gives the patent owner the right to STOP ANYONE ELSE from making, using, selling, or importing the patented invention. A patent DOES NOT give right to the owner to operate the invention.

# THE WRONG BELIEF

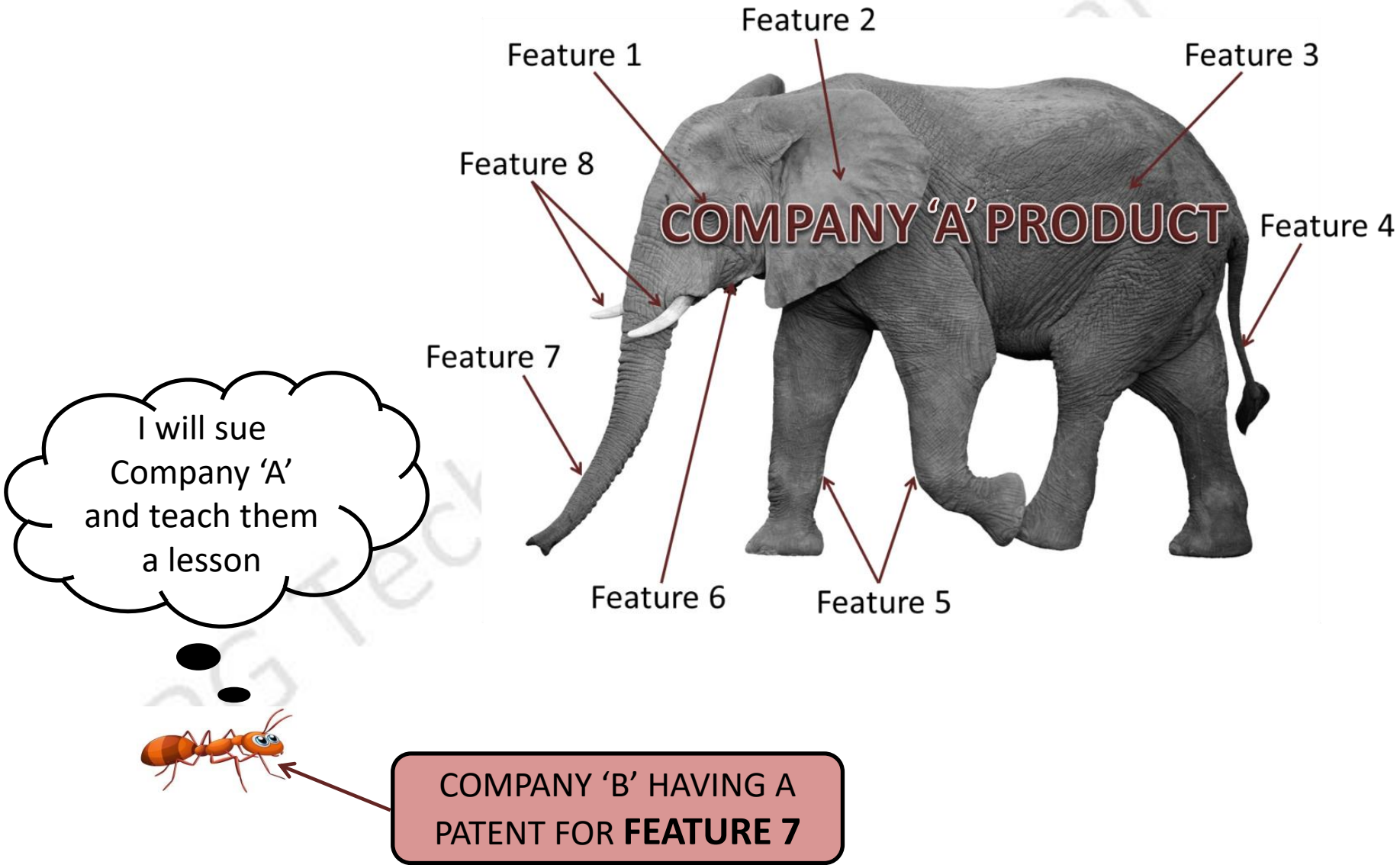
We do not believe in IP Protection



COMPANY A  
MANAGEMENT

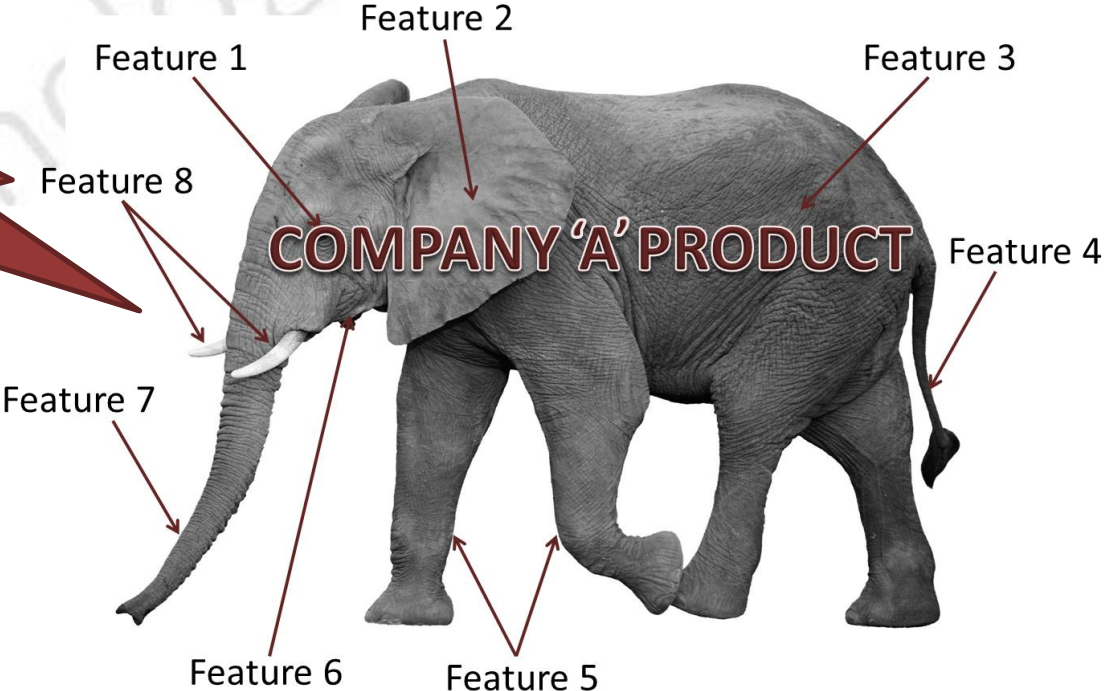
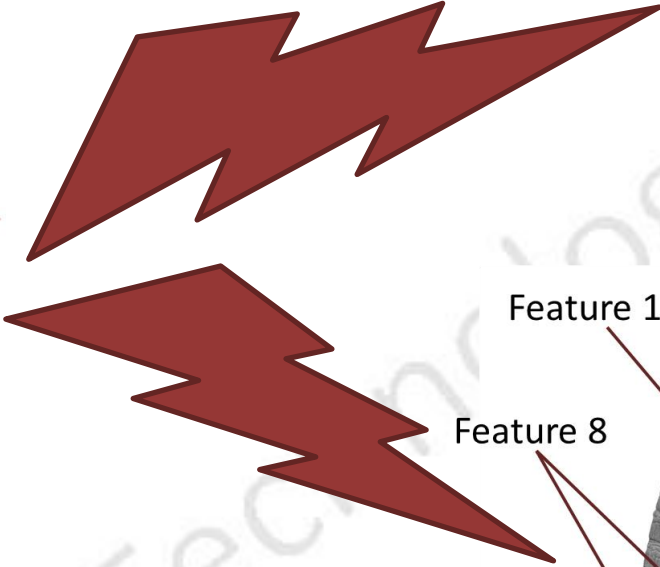


# THE POTENTIAL RISK





# THE POTENTIAL RISK



COMPANY 'B' FILES A CASE AGAINST COMPANY 'A' FOR PATENT INFRINGEMENT

# THE RESULT

PRODUCT  
CAN BE  
STOPPED FOR  
SALE

COMPANY A  
CAN BE  
FORCED TO  
PAY DAMAGES  
AND/OR TAKE  
LICENSE

DETRIMENTAL  
TO  
COMPANY 'A'  
REPUTATION

CUSTOMERS  
MIGHT GET  
AFFECTED  
FOR PRODUCT  
SERVICES

SALE OF  
AUXILIARY  
PRODUCTS  
MIGHT GET  
AFFECTED



5

# **FREEDOM-TO-OPERATE ANALYSIS**



## WHAT IS FREEDOM-TO-OPERATE ANALYSIS???

Freedom-to-Operate refers to the ability to sell one's products or services without infringing the patent rights of another party

Freedom-to-Operate analysis is a due diligence process to identify the infringement of third party patents through the commercialization of products/services

# ADVANTAGES OF FREEDOM-TO-OPERATE ANALYSIS

Helps to assess the risk involved in commercializing the product/service

Prevents spending of time and money on developing a product having risk of infringement

Helps to avoid costly and damaging infringement cases

Helps to craft strategies through the list of patents obtained

Enables to know the potential licensing deals and patent buying opportunities

# FEATURES OF FREEDOM-TO-OPERATE ANALYSIS

## Territorial in Nature

FTO study for a product/process is specific to a territory

Patents of a jurisdiction are analysed where the product/service is intended to be commercialized

## ONLY Alive Patents are Relevant

Only active granted patents and published applications are relevant for analysis

Non-Active (Expired / Abandoned / Withdrawn) patents are not considered for analysis

## Analysis through Claims

Patent Claims are analysed to check for infringement

Patent Specification matter is NOT considered for establishing infringement

# WHAT SHOULD WE DO IF INFRINGEMENT IS FOUND THROUGH FTO ANALYSIS?





## Design Around

- Modification of the product/service features which are found to be infringing
- The modification is done very carefully considering the **market value** of the product and **claims** of the infringed patent

## Invalidate Infringed Patent

- Invalidation is the process of finding a document reference which describes the same technology as the infringed patent and predates it
- Invalidation is not guaranteed and subject to the existence of predated document and skills of the analyst

## Take License/Buy Infringed Patent

- Licensing deals with the patent owner to use the technology for commercializing product/service
- Buying the infringed patent

# THANK YOU

## Any questions?

You can write us at [praveen@pgtechresearch.com](mailto:praveen@pgtechresearch.com) or  
call us on +91-8860709915