

IP Audits: exploring your company for hidden assets.

Businesses are often unaware of the extent of their IP assets, making it impossible to exploit them fully. IP can be as simple as customer databases, or as complex as outcomes of research and development projects protected by patents. IP is diverse and the circumstances surrounding its creation often makes it difficult for a company to be aware of the extent of its IP

A formal IP audit will serve two purposes: it will identify intellectual assets that have not been exploited at all, or not to their full potential, and it will assist management to understand the risk associated with creating, buying and using intellectual assets. It is a systematic review of the IP owned, used or acquired by your company. The goal is to identify all the IP your company has, including:

- Whether or not your IP rights are registered;
- Who owns the IP, and if this is an external party, the rights and any conditions that apply to their use;
- Whether the IP is being used effectively, and its importance to your business;
- Whether your rights are being challenged or threatened by others, and whether you challenge and threaten other IP rights;
- Whether there is an effective IP management and maintenance plan in place; and
- Establishment of records of IP creation and ownership.

When should you do an IP audit?

IP audits are generally undertaken:

- As part of the ongoing asset management plan in a business
- When a business is being bought or sold
- When a business is preparing for a stock exchange listing
- To prepare for a joint venture
- To enforce or defend IP

Types of intangible assets to be considered as part of the IP audit

Intellectual Property

Patents
Trade marks, domain, company & business name registrations
Copyright
Confidential information including business processes and inventions
Designs
Circuit layouts
Plant breeders' rights

Other Intellectual Assets that can be considered in an audit

Marketing material
Client lists/databases
Intellectual capital
Human capital
Enterprise knowledge
Enterprise innovation
Enterprise relationships (including contractual rights, licences, permits, franchises, distribution rights, non-compete covenants)
Goodwill
Future benefits from unidentifiable assets (those assets that are not capable of being individually identified and recognised specifically)

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Would your business benefit from an IP audit?

- Do you know what IP your business owns?
- Are you certain that all IP used within your business is owned by your business or that you have a right to use it in the way that you do?
- Do you have the contracts and other proof that a court of law would require to demonstrate that you own the IP or have a right to use it?
- Have you ever conducted an IP audit of the assets held or used by your business?
- Do you have an inventory or register of IP assets?
- Is all the IP you have developed or acquired properly identified and protected?
- Are your IP assets considered from both a "commercial" and "legal" perspective?
- Do you know the percentage of IP assets to tangible assets in your business?
- Do you know the value of all your IP?
- Do you include IP assets on the balance sheet?
- Are you developing any new products or services?
- Are you claiming all relevant tax benefits associated with your development or acquisition of IP?
- Do you communicate the value of your IP assets to shareholders and the investment community?
- Do you and your staff understand how powerful and essential IP assets are to the profitability of your business?
- What are the processes or knowledge critical to your business success?

If you have answered "no" or "unsure" to more than 4 of the above questions, your business would benefit from an IP audit.

Benefits of completing an IP audit include:

- Identification of your IP assets and the level of protection they currently have
- Knowledge of how to exploit your IP assets through an appropriate commercialisation strategy, use of the IP or a combination of both
- Identification of competitive advantage
- Identification of opportunities for growth
- Identification of opportunities for strategic investment
- Accountability of resources
- Improved operational performance
- Improved financial performance
- Improved risk management

For more information contact your Watermark Patent or Trade Marks Attorney

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