Intellectual Property Ontario

Documenting and communicating your intellectual property (IP) strategy and assets helps ensure that your business can leverage its IP effectively.

1. **Conduct an IP audit.** Identify all the IP assets your business owns, and create a detailed inventory of these assets.

2. **Develop an IP strategy**. (see "What is an IP strategy and why do you need one?")

    a. Objectives: Define what you aim to achieve with your IP (e.g., market exclusivity, revenue generation through licensing).

    b. Protection: Strategies for protecting IP, including filing for patents, trademarks, and copyrights, and maintaining trade secrets.

    c. Enforcement: Plans for monitoring and enforcing IP rights, including dealing with infringement.

    d. Commercialisation: Approaches for monetising IP, such as licensing, selling, or using IP to attract investment.

    e. Innovation Management: Processes for encouraging and managing innovation within the company.

3. **Document the IP strategy**. The report (and content) will vary depending on the recipient/audience. A memorandum template facilitates this communication by ensuring consistency, clarity, efficiency, comprehensiveness, and proper documentation. An IP strategy report can include:

    a. Executive Summary: A brief overview of the IP strategy.

    b. IP Assets: summary of patents, industrial designs, trademarks, copyrights, trade secrets.

    c. Detailed Strategy: In-depth sections covering each component of the strategy.

    d. Action Plan: Specific actions, timelines, and responsibilities for implementing the strategy.

    e. Review and Update Schedule: A plan for regularly reviewing and updating the strategy document to reflect new developments and ensure it remains aligned with your business goals.

4. **Communicate the IP strategy**. A company communicates its IP strategy to internal and external interest holders. It is important to consider the recipient/audience to tailor the communication accordingly – particularly given sensitive and competitive nature of IP.

    a. **Internal communication:** Internal recipients should already have confidential obligations to the company. This should be confirmed before sharing sensitive, confidential information.

    b. **Board and senior management:** Effectively communicating the IP strategy to the board of directors and senior management is vital for aligning IP initiatives with business goals,

informed decision-making, resource allocation, and risk management. Internal recipients should already have confidential obligations to the company.

c. **Employee training, awareness and engagement**: Educate employees about the importance of IP and their role in developing, identifying, and protecting it. Provide regular updates on IP-related activities and achievements. Ensure that the IP strategy document is easily accessible to relevant employees. Communicating the IP strategy can include information about incentives and recognition for employees who contribute valuable IP, thereby motivating them to innovate.

d. **External communication:** External recipients may not have confidential obligations to the company. An IP strategy report generally contains **sensitive confidential information** and should be clearly marked confidential and only communicated to external recipients that have an obligation of confidence to the company. If a recipient does not have an obligation of confidence to the company then a **non-confidential communication** of an IP strategy may be used. The non-confidential communication should only include public information (e.g. patent publications, published trademarks) and should not include any sensitive or confidential information.

e. **Investors:** Communicating your IP strategy to investors shows that you have a structured approach to managing and leveraging IP, which can enhance their confidence in the potential return on investment. Investors are more likely to invest in a company that has a clear plan for protecting its IP, as this reduces the risk of IP-related disputes and potential financial losses.

f. **Partnerships and collaborations:** Communicate the IP strategy to partners and other collaborators can help build trust. It helps in defining the terms of collaboration, including ownership, usage rights, and revenue sharing, which can prevent conflicts and ensure smooth cooperation.

g. **Public announcements**: Use press releases, website updates, and other public communications to announce significant IP milestones, such as new patents or trademarks. Avoid sensitive information and statements that can be later used to (mis)characterize

Why is a non-confidential IP summary useful?

It allows companies to share their approach to IP management with various interest holders while protecting sensitive information.

Investors or strategic partners often look for companies with a clear and robust IP strategy. A non-confidential summary can provide them with enough information to understand the company's approach to IP without disclosing sensitive details that could compromise competitive advantage.

When entering into discussions with potential partners or collaborators, a non-confidential summary can serve as a starting point for conversations about IP without the need for immediate non-disclosure agreements (NDAs). This can streamline the initial stages of negotiation and collaboration.

In some cases, regulatory bodies may require a summary of the company's IP strategy as part of compliance or reporting requirements. A non-confidential summary can fulfil these requirements without exposing sensitive information.

If more detail is requested then the parties can enter into an NDA before confidential, sensitive information is shared.