IP audit checklist

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Intellectual Property Ontario

1. Identification of IP assets

Registered IP

Patents

- [ ] List all patents.
- [ ] List all pending patent applications.
- [ ] Check patent maintenance fees and ensure they are up to date.
- [ ] Check for any patents that are due for renewal.
- [ ] Ensure proper use of patent markings.

Trademarks

- [ ] List all registered trademarks.
- [ ] List all pending trademark applications.
- [ ] Review the use of trademarks in commerce for consistency with registrations and applications.
- [ ] Ensure trademark renewals are current.
- [ ] Ensure proper use of trademark markings.

Copyrights

- [ ] List all registrations of copyrighted works.
- [ ] List all pending copyright registrations.
- [ ] Review use of any third party owned copyright materials.
- [ ] Ensure proper notices are in place.

Industrial designs

- [ ] List all industrial design registrations.
- [ ] List all pending applications for industrial design registrations.
- [ ] Ensure proper notices are in place.
- [ ] Check industrial design maintenance fees and ensure they are up to date.

Domain names

- [ ] List all domain name registrations.
- [ ] Ensure domain name registration renewals are current.

Unregistered IP

Lack of registrations

- [ ] List material trademarks that are not registered
- [ ] List material copyrights that are not registered

Trade secrets

- [ ] Identify all trade secrets and confidential information.
- [ ] Review measures in place to protect trade secrets.
- [ ] Ensure non-disclosure agreements (NDAs) are in place with employees and third parties.

Data

- [ ] List data assets.
- [ ] Document source of data assets, rights of use.
- [ ] Document consents to use personal information.
- [ ] Review use of data assets to ensure consistency with rights of use and consents.

2. IP Ownership and Rights

Ownership verification

- [ ] Confirm ownership of all IP assets.
- [ ] Review agreements with employees, contractors, and third parties to ensure IP ownership is clearly assigned to the company.
- [ ] List all security interests.

Licensing agreements

- [ ] List all inbound and outbound licensing agreements.
- [ ] Review terms and conditions of each agreement.
- [ ] Ensure compliance with licensing terms.

3. IP Management and Protection

IP policies and procedures

- [ ] Review internal IP policies and procedures.
- [ ] Ensure there are processes for identifying and protecting new IP.
- [ ] Ensure there are processes for identifying use of third party IP.
- [ ] Ensure regular IP training programs for employees.

IP portfolio management

- [ ] Evaluate the current IP portfolio for relevance and value.
- [ ] Identify any IP that is no longer relevant or valuable.
- [ ] Consider opportunities for cost savings through IP portfolio pruning.
- [ ] Consider opportunities for IP monetisation, such as licensing or selling unused IP.

4. IP Enforcement and Litigation

Disputes

- [ ] List all any past or ongoing IP litigation or disputes.
- [ ] List all notices of third party claims.
- [ ] List all administrative proceedings.
- [ ] List all settlements and related agreements.

Infringement monitoring

- [ ] Implement systems to monitor for potential IP infringements.
- [ ] Assess the effectiveness of enforcement actions taken.

Litigation readiness

- [ ] Ensure documentation and evidence are in place to support IP enforcement.
- [ ] Review legal strategies for defending against IP infringement claims.
- [ ] Review process for handling potential IP infringement claims by third parties.

5. IP Valuation and Financial Considerations

IP budgeting and valuation

- [ ] Conduct a valuation of key IP assets.
- [ ] Assess the financial impact of IP on the company's balance sheet.
- [ ] Assess costs of IP and impact on future budget.

IP insurance

- [ ] Review existing IP insurance policies.
- [ ] Consider the need for additional IP insurance coverage.

6. Compliance and risk management

Regulatory compliance

- [ ] Ensure compliance with relevant IP laws and regulations.
- [ ] Review any industry-specific IP requirements.
- [ ] Perform risk assessment of compliance.

Risk management

- [ ] Identify potential IP risks and vulnerabilities.
- [ ] Develop strategies to mitigate identified risks.

7. Documentation and Reporting

Reporting to stakeholders

- [ ] Prepare a comprehensive report summarising the findings of the IP audit.
- [ ] Include recommendations for improving IP management and protection.