




Intellectual Property Audit

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Why conduct an IP Audit?

Modern businesses need to think carefully about how their IP is identified, protected, commercialised and enforced. Every business has IP. These assets are often undervalued and under-utilised. The real value of IP is the way it can be integrated as part of strategic business planning, marketing, capital raising, research and development or business development. IP can provide a business with a commercial edge which sets it apart from competitors.

The value of an IP Audit can be substantial

An IP Audit will:

- **Identify** IP assets, including those which can be used as security for the business;
- **Confirm** ownership of IP. Where ownership is not established, provide a strategy to obtain ownership;
- **Ensure** intellectual effort is translated into financial value through strategies to maximise performance of your IP assets – such as capturing the value of unknown or hidden IP;
- **Improve** accountability and management of resources through recognising and facilitating more accurate internal and external reporting and registration of its IP assets;
- **Minimise** infringement of third party IP;
- **Address** any gaps in inbound and outbound licensing, to ensure that existing licences keep pace with the needs of the business and are cost effective or revenue generating.

WHEN SHOULD YOUR BUSINESS CONDUCT AN IP AUDIT

IP Audits are often triggered by specific events, such as:

- Mergers or acquisitions;
- Internal restructuring;
- Joint ventures;
- Capital raising;
- Development of new products or services;
- Significant licensing arrangements;
- Impending litigation which touches on IP.

However, there is no need to wait for a trigger. An IP Audit can get the business ready for any of these events to occur, well before they do. This reduces pressure during time sensitive business events, makes your business a more attractive proposition for an investor or purchaser, and avoids the needs to make a 'quick fix' down the track.

Where a business recognises that IP is an integral part of operations, a regular stock take can be used to ensure that rights are being captured and leveraged consistently and effectively.

The IP Audit is a knowledge management initiative. It focuses on providing a high level view about the IP used or created by the business as part of its activities, and how it protects and manages that IP.

What is an IP Audit?

Our IP Audit considers key questions, including:



- What are the business' IP assets?
- Are the assets adequately protected?
- How are the assets being used?
- How can the business enhance the protection and commercialisation of the IP?

REVIEW AND ANALYSIS

The IP Audit includes a comprehensive review and analysis of:

- The IP owned by the business and what's essential to its core activities;
- Use of third party IP;
- Inter-company licence arrangements to determine whether the business using IP is the legal owner;
- Employee and contractor arrangements to ascertain who owns the IP it creates, procures and/or uses;
- Whether IP owned by the business is adequately and/or formally protected – this will look at the mechanisms protecting unregistrable forms of IP (including copyright materials), and whether any further registration should be considered;
- Whether the business is infringing a third party's IP – whether current use of IP is contrary to any agreements, and whether there are registered forms of IP that the business may be infringing (excluding patents);
- Whether the business' IP is being effectively utilised;
- The business' understanding of how IP can be protected, managed and utilised to enhance the value of the business, and providing recommendations on internal IP management strategies; and
- Any 'hidden' IP the business has created or uses.

Stages

There are five stages to our IP Audit:



1 Planning

This stage involves confirming your goals and setting out the scope of the audit with you based on your existing knowledge and records.

We identify key people within the business to participate in the IP Audit (Participants). This generally includes:

- Business owners;
- Directors and key management staff;
- Research and development personnel;
- Marketing and branding personnel; and/or
- Website or IT personnel

2 Investigating

This stage involves investigating and gathering further information about the business' assets. We work collaboratively with you to understand your business needs and to ensure key issues concerning ownership and protection of the IP are identified. We generally conduct our investigations via:

- Interviews with the Participants;
- Site visits;
- Gathering existing documents, records and agreements relating to IP;
- Written questionnaires;
- Searching various external IP registers throughout the world.



3 Reporting

We will analyse the information revealed during the investigation stage and produce a comprehensive and easy to follow report of our findings. We will identify any issues and risks in relation to the way in which the business uses its IP and formulate what we hope will be useful recommendations that can be implemented.

The Report will identify the five most immediate actions requiring implementation by the business. We will also identify short and long term goals, typically through a 100, 200 and 300 day goal breakdown.



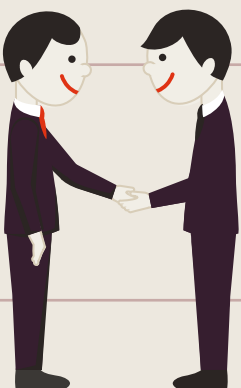
4 Presentation

Once we have finalised the Report, if appropriate, we can present our findings and have a discussion with you about our proposed implementation plan. This may be to the business owner and key management personnel or to staff more widely – that part is up to you and may depend on the findings of the audit.



5 On-going support

We can meet at each 100, 200 and 300 day mark to discuss how things are developing in the business. This assists you to stay on track, and ensures you get the most out of the Audit.





Sections of a typical audit report


Our IP Audit Report is broken up into different reporting sections, the focus of which will depend on your business and the findings of the Audit. Typical categories include:

- **Personnel:** looking at agreements with independent contractors and employees, and any outsourcing arrangements;
- **Ownership of IP:** looking at who created products, where ownership sits in the structure and whether there is more effective (including tax effective) way to structure ownership to protect and exploit the assets;
- **IP licensed in by the business:** looking at IP which is purchased or licensed by the business from third parties, whether the business has obtained the correct licences and is complying with them, whether the licences match the way the business is using an asset, and whether licences can be assigned or novated if necessary;
- **IP licensed to others:** looking at IP which is licensed or sold by the business, the terms on which end users purchase products or services and whether there is scope to further monetise business IP;
- **Product development:** looking at how products are developed by the business and what protection mechanisms are in place to identify, protect and exploit IP;
- **Trade marks:** looking at the trade marks used by the business world wide;
- **Website, domain names and social media:** looking at the marketing activities of the business and its use of electronic media;
- **Confidential information and privacy:** looking at how the business handles sensitive information;
- **Infringements and disputes:** looking at potential risks of IP infringement.

**Whether you're
embarking on
your first venture
or taking your
business to new
heights we'd love
to hear from you.**

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