

**INTELLECTUAL PROPERTY,
PRIVACY
&
E-COMMERCE
AUDIT**

DO YOU KNOW WHAT INTELLECTUAL PROPERTY YOU ARE BUYING OR SELLING?

HAVE YOU DONE EVERYTHING POSSIBLE TO PROTECT YOUR MOST VALUABLE ASSETS?

ARE YOU READY FOR DUE DILIGENCE REVIEW AS PART OF ANY POTENTIAL PURCHASE? FINANCING? DISPUTE?

ARE YOU IN COMPLIANCE WITH DATA PRIVACY LAWS?

PREPARED FOR A DATA BREACH?

Reasons You Need an Audit:

1. To create an inventory of intellectual property assets that you own, use, have acquired, or will acquire
2. To identify the status and pedigree of such assets
3. To identify steps that have already been taken to protect and preserve the rights to such assets
4. To identify steps and processes that might be taken to further enhance protection of such rights
5. To make sure that you are in compliance with current privacy laws and regulations and best practices

You might be surprised to find that you can take some easy and inexpensive steps to enhance protection and mitigate risk. By taking these steps now you can avoid the fire drill that may result from a due diligence review as part of a potential sale or acquisition.

What Is Included In The Audit?

Information Gathering

The initial focus of the audit will be to gather information about the current status of your intellectual property portfolio, determine its relation to your business, identify risk and protection issues, and uncover opportunities to increase value and levels of protection.

The emphasis will be to ensure that your current assets and any future assets are properly maintained and protected, and that procedures are in place to avoid costly infringement litigation. The audit will try to uncover issues that might become problematic in the course of any due diligence review of your assets as part of a potential acquisition.

The first step of the audit will be to create an inventory of patents, copyrights, trademarks, domain names, and trade secrets. In addition to a review of public databases, in-depth interviews will be conducted with individuals who have knowledge of your intellectual property and/or are responsible for development, marketing, and distribution of your products and services.

Each audit is customized to your specific needs and requirements, and may also include a review of your data handling and privacy practices. A feature of this privacy audit will be to determine what you are already doing relative to the collection, storage, and use of personal information and to identify best practices and steps you can take before a data breach arises.

Ask for a free copy of "A Legal Guide to Privacy and Data Security."

The following areas may be covered during the interviews and information collection process:

- Business objectives and philosophy regarding intellectual property
- Inventory of products
- Development history
- Review of agreements with those who participated in development
- License agreements with customers
- Product documentation
- Names of patent, copyright, or trademark counsel and authorization to discuss matters with them
- Review of copyright registrations and processes
- Review use of copyright notices on relevant materials
- Past or current litigation or disputes regarding intellectual property
- List of patents issued or filed
- List of trademarks and domain names registered or used
- Review use of trademarks on marketing and other materials
- Relationship of patents, copyrights, and trademarks to actual products and services
- Review of procedures in place to protect patents, copyrights, trademarks, trade secrets, and confidential information
- Review policies regarding unsolicited submission of ideas
- Treatment of source code
- Review of non-disclosure and confidentiality agreements
- Review of corporate policies regarding use of copyrighted materials, and confidential and proprietary information
- A review of policies and processes regarding use of open source, free-ware, or shareware software
- Insurance policy coverage
- Special feature of audit—data handling practices including a review of Web site terms and conditions, privacy notices, policies, data breach planning, and training

Report

Upon completion of the information gathering process, a written report will be provided and include:

- Inventory of the intellectual property assets and processes
- Review of data handling and privacy practices
- Any issues identified with the specific asset or process
- Specific remedial steps necessary to correct any problems

Not Included: this audit focuses on legal obligations and requirements and is not a business audit. A valuation of any intellectual property assets is not included. Follow-up activities necessary to correct any problems, clear ownership, or otherwise perfect title with the intellectual property assets or to develop new privacy policies and processes are available at additional cost.

Why Use Gray Plant Mooty To Perform this Audit?

The simple answer is experience and cost. Gray Plant Mooty has considerable experience in performing due diligence reviews and advising businesses on necessary steps to take to protect intellectual property assets and comply with data privacy laws. These audits are being offered at a reasonable flat rate and tailored to fit your company's specific needs.

Michael Cohen is an attorney in our Minneapolis office with more than 25 years experience advising businesses on transactions involving intellectual property, information technology, privacy, and e-commerce. Michael is certified by the International Association of Privacy Professionals (IAPP) as a Certified Information Privacy Professional (CIPP). The CIPP certification has become the preeminent credential in the privacy field and covers a wide variety of subject matters including personal data protection laws, the regulation of marketing practices, data breach notification laws, and workplace privacy.

For more information and a cost estimate to perform an audit that meets your specific needs and requirements in a timely and cost effective manner, please contact Michael at 612.632.3345 or michael.cohen@gpmlaw.com.