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IP Audits Get Venture Capital Flowing Faster

By Silvia de Sousa



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If your technology start-up business is looking for venture capital financing, the performance of an intellectual property audit (“IP Audit”) is essential to avoid delays in obtaining such financing. IP Audits are an important mitigation strategy to consider prior to any licensing, financing, merger or transfer. After an IP Audit, you will have a better understanding of your intellectual property liabilities, risks and legal status. Intellectual property assets include such things as domain names, copyrights, trade secrets, trademarks, patents, branding and technology and software licences.

An IP audit can involve:

- onsite interviews to identify the products, services, technologies and intellectual property assets and rights;
- onsite interviews with individuals associated with the intellectual property assets;
- contract reviews (for example, employment agreements, service agreements and licence agreements) to determine if you own all intellectual property assets and rights;
- security reviews to determine if disclosures have occurred with respect to intellectual property assets and confidential information, together with a review of the internal procedures to protect confidential information and intellectual property assets;
- searches at the various Intellectual Property Offices to determine ownership, granting of security interests and assignments.

Performing an IP Audit in advance of a licensing, financing, merger or transfer transaction can ensure that you have adequately protected your intellectual property assets and rights prior to entering into negotiations with third parties. It also provides you with sufficient time to consider possible remedial actions to correct any defects that might otherwise impede or prevent the transaction. Venture capitalists and other third parties who are interested in your technology will be doing their own due diligence prior to completing a transaction with you. Be prepared, as inadequate protection of your intellectual property will delay these transactions and the flow of monies.

In addition, by determining in advance what intellectual property assets and rights you own, use or acquire, you can develop strategies to maintain and improve the market position of your business. You can maximize the future potential of your business by managing and exploiting the intellectual property assets and rights in the most effective way possible.

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Silvia's practice is concentrated in the area of business law with an emphasis on intellectual property law, life sciences law and technology law. Her practice also includes intellectual property transactions, commercial law, financings and licensing matters.