

## Developing an IP Strategy

### **Stage 1: The Ideation Process**

1. *Commercial application*- Does the idea/concept have commercial application?
2. *Identifying intellectual property assets*- Does the business have processes and/or procedures for identifying IP assets within the business? (IP Audits, due diligences and utilizing IP checklists)
3. *Capturing intellectual property assets*- Does the business have processes and/or procedures for capturing IP assets?
4. *Confidential information*- Does the business have processes and/or procedures for preventing disclosure of the idea/concept? (NDAs, trade secrets, restricted access, other agreements)
5. *Likelihood of intellectual property protection*- Does the business have processes and/or procedures to identify the likelihood of obtaining IP protection (preliminary patent, design, trademark, copyright, domain name, plant breeders' rights searches)?
6. *Partnerships*- Does the business have potential partners to collaborate with in the development and commercialization of the idea/concept?

When collaborating with third parties, has/will the business secure ownership or access to the IP?

7. *Identifying competitors*- Does the business have processes and/or procedures to identify competitors or the likelihood of infringing third party rights by applying the idea/concept?

### **Stage 2: Product / service development**

1. *Freedom-to-operate search*- Does the business conduct IP landscape, Freedom to Operate (FTO) searches or competitor analysis to identify any potential competing IP rights or technologies?
2. *Intellectual property searches*- Does the business conduct regular IP and technology searches to determine the likelihood of obtaining IP protection for the incremental innovations or improvements?
3. *Third party rights*- Does the business have processes and/or procedures for addressing IP ownership considerations when collaborating with third parties to develop its product and services? (marketing, employer, R&D, licensing agreements)

When collaborating with third parties, has the business secured the rights to use the results of the IP developed during the collaboration?

Does the business use IP of third parties? If so, has the business acquired the rights to use the IP?

4. *Intellectual property strategy implementation*- Does the business have technical or an IP review committee to decide on product or service development, taking into account the overall business and IP strategy.

### **Stage 3: IP Protection**

1. *IP protection strategy*- Has the right protection strategy been identified? (i.e., patent, trade secret, design, trademark, open source, plant breeder's rights, copyright IP).
2. *Prioritization of IP protection*- Does the business have processes and/or procedures for prioritizing IP protection? I.e. the order in which IP rights and protection are prioritized.

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3. *Technology landscaping*- Does the business conduct IP searches and/or technology landscape studies for patent, design, trademark, plant breeders rights searches conducted before seeking protection?
4. *IP Strategy Development*- Does the business have processes and/or procedures for developing an IP strategy including market, cost or timing considerations?
5. *Monitoring ownership*- Does the business have processes and/or procedures for monitoring inventorship, authorship and ownership considerations?
6. *Non-registerable IP Protection*- Does the business have processes and/or procedures for protecting non-registerable forms of IP know-how, trade secrets, goodwill etc.
7. *Intellectual Property advice*- Is advice sought from IP professionals before seeking IP protection?
8. *IP Strategy alignment*- Is the IP strategy aligned with the commercialization strategy?

### Stage 4: IP Commercialization

1. *Commercialization vehicle*- Does the business have processes and/or procedures to identify the appropriate commercialization vehicle? (manufacture, sale, license, etc.)
2. *IP asset valuation*-Does the business have processes and/or procedures valuation of IP assets, especially for those to be licensed as part of business model / pricing strategy for products? (e.g., claim charting vis-à-vis competitor products/services)
3. *Freedom to Operate*-Has a Freedom to Operate search been conducted to determine the potential to infringe third party rights?
4. *Competition monitoring*-Does the business have processes and/or procedures for monitoring competitor activities, potential commercialization partners or enforcement of IP rights?
5. *Branding*- Is the product and/or service appropriately branded (trademark, packaging, websites, domain names)? Is descriptive or distinctive branding considered?
6. *IP review*-Does the business have an IP & innovation review board within company to periodically review IP assets, portfolio structure, new innovations & disclosures, competitive landscape, IP budget, etc.?
7. *IP audit*- Does the business have processes and/or procedures for periodic audits of all IP assets and portfolio optimization, portfolio pruning, possible divestitures?
8. *IP policy and education*-Does the business have processes and/or procedures for periodic IPR and IP policy and education trainings for employees?