



# IP due diligence – intellectual property audit

Intellectual property encompasses a group of intangible rights that have a proprietary nature and which constitute an important part of a company's assets. They are rights of measurable value that constitute an element of a company's business strategy. Failure to adequately protect or manage this valuable resource may, in the long term, expose the company to losses. For this reason, every business owner that cares about the future development of their company should conduct an analysis of its intangible assets when assessing the benefits and potential risks of future activities before carrying out a capital transaction or starting an investment. An intellectual property audit (IP due diligence) is a tool which allows companies to conduct business activity responsibly and in a forward-thinking manner.

## IP due diligence

A due diligence study related to intellectual property rights constitutes an in-depth analysis of the state of the company, which is used to identify and assess the quantity and quality of all intangible assets owned by the company, as well as current or future benefits and associated risks.

Such an audit may include an analysis of industrial and intellectual property rights, unregistered/undeclared objects of industrial property and know-how, as well as innovative projects that are being implemented, marks used, services provided, goods produced, copyrights and related rights owned, and agreements concerning intellectual property rights.

Due diligence studies related to intellectual property rights may form part of a general audit of the company's assets, accompanying a financial or strictly legal audit.

The study is typically conducted when formulating a company or project development strategy, conducting a property transformation or reorganization, entering into commercial agreements, launching new products on the market, and during investment processes.

## Who is it for?

An intellectual property rights audit is recommended for:

- company owners and management, to allow them to identify and verify the condition of the company and to build development strategies;
- managers, to help them properly manage intellectual property resources in order to determine the legitimacy of obtaining and maintaining the protection of exclusive rights, thereby eliminating unnecessary expenses, establishing proper management structures and procedures, and assisting with drawing up agreements and rules;


- potential buyers of intellectual property rights;
- investors who intend to invest in innovative undertakings, such as technology start-ups;
- business partners interested in entering into licensing agreement;
- companies wishing to use the intellectual property rights to obtain a loan.

## Personalized IP due diligence services

Our IP due diligence audits are characterized by our comprehensive and individual approach. Before we begin the audit, we talk to the client in order to fully understand the nature and circumstances of the entity audited or the project implemented, and together we determine the objectives of the audit.

IP due diligence audits are conducted by JWP's field experts – lawyers, patent attorneys, and researchers. The audit team is carefully chosen each time to suit to the purpose, scope, and field of study to be conducted.

The IP due diligence audit offered by JWP consists in particular of the following:

- Identification of intangible assets (IP map);
  - Verification and analysis of ownership of intangible assets and exclusive rights;
  - Verification and analysis of the validity of exclusive rights;
  - Verification and analysis of the limitations in terms of disposing of intellectual property;
  - Verification and analysis of potential infringement of intellectual property;
  - Verification and analysis of other encumbrances related to intellectual property;
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- Carrying out freedom to operate (FTO) searches for selected solutions;
- Carrying out other studies concerning industrial property rights;
- Identification of potential threats;
- Evaluation of strengths and weaknesses of the entire IP portfolio;
- Recommendations concerning risk management and minimizing risks.

#### **Advanced research in IP due diligence**

One of the aspects analysed in IP due diligence study is the potential of innovative solutions developed by the audited entity. Patent research is essential to assess the novelty of a technical solution, its patentability and the possibility to effectively transfer the technology to business, to launch it on the market in order to gain financial benefits or to commercialize it.

A key element in building the company's reputation, market advantage, as well as the safe and informed IP protection strategy is to use proper marking of goods and services offered by the company. In order to find out whether our mark is distinctive and to avoid infringing our competitor's trademark, it is required to carry out a relevant search in the databases containing trademarks submitted for registration and protected before making a decision on starting the registration process/using a trade mark.

#### **Modern analytical tools**

Collecting, verifying and assessing data and information regarding objects of industrial and intellectual property of an audited company is a key stage of IP due diligence.

This may be done with a questionnaire, which helps to summarize and verify issues covered by the IP due diligence and to identify information and documents that should be provided to the entity conducting the audit.

We carry out studies of the industrial property rights (patent trade mark and industrial design searches) conducted as a part of the IP due diligence audit using professional search tools that are a modern instrument of personalized analyses.

#### **■ Experts**



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Have you decided to carry out the IP due diligence study? Good call! It will allow you to find out what you have and what you invest in. But that is not all. Take care of your assets, model them, control them, stay alert and keep managing your IP portfolio!



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