

What's Keeping In-House Lawyers Up At Night And How To Sleep Better



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Agenda

- Introduction
- Causes of Insomnia and Some Warm Milk
 - Data Privacy and Security
 - Enforcing and Maintaining IP Rights
 - Crisis Management
 - Litigation
 - Outside Costs
- A Regular Sleep Schedule – How Annual Check-Ins Can Help
- Questions

Data Privacy and Security

- Not just GDPR and CCPA
- Guarding against Data Breach
- 27% of companies surveyed by ACC CLO 2018 survey suffered data breach
- How to Manage the Risk
 - Update Policies
 - Proactive Incident Response Plans
 - Employee Training
 - Allocate Responsibility – Building a Team



Enforcing and Maintaining IP Rights

- The volatile political and global economic environment
- Lack of resources and expertise
- Lack of budget and time
- Theft of Trade Secrets cost companies more than \$600 billion/year in the US
- Spikes in IP protection need

Managing the Risk/Adding Value

- Trade Secret Identification and Management
- Trade Secret Policy
- Patent/Trade Secret Committee
- Restrict Access
- Defend Trade Secrets Act of 2016 created federal civil cause of action

Crisis Management

- Cybersecurity
- Internal Investigations
- Reputational Damage
- Cost
- Lack of Technology
- Operational



Managing the Risk

- Reputational Risk is Constant
- Social Media Policies
- Relationship between compliance and risk
- Response Plans
 - Do you have them?
 - Where is the legal department in the food chain?
 - Do you know who your outside counsel will be for each?

Litigation – Labor and Employment Disputes

- Aftermath of the #MeToo movement
- Emergence of New Jobs and Culture
- Pay Equity
- Wage and Hour laws
- Misclassification risk associated independent contractors
- Arbitration provisions and fee-shifting provisions

Managing the Risk

- Training, training, training
- Partnership with HR to audit wage and hour discrepancies
- Prepare policies for the treatment of independent contractor, work from home, alternate schedules



Outside Costs

- Limited Budgets
- Limited Relationships
- How to get the most out of Outside Counsel
 - Are they the right resources?
 - Skillset v. price
 - Relationships
 - RFPs
 - Training



Annual Check-Ins

- Governance Documents
 - Know what and where your essential documents are
- Review and update Employee Handbooks
 - State updates
 - Pay equity
 - Drug testing
 - Marijuana in the workplace
 - Biometric data privacy policy

Annual Check-Ins

- Review and update forms and policies
 - When was the last time they were reviewed?
 - Is optional language uniform?
 - Have business operations changed?
- Review processes
 - Are contracts reviewed efficiently to meet client needs
 - Are there process changes that can be made?

Annual Check-Ins

- Data Privacy/Data Security Updates
- Review Crisis Management Plans
- Intellectual Property Management
- Regulatory Updates
- Compliance Programs
- Plan a Calendar of Training
- Marketing and Communications updates
- Review social media use

Questions



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