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