INTELLECTUAL PROPERTY PROTECTION FOR PUBLIC HOSPITALS AND THE IP AUDIT

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As the role for public hospitals changes in the healthcare sector, some have adopted an intellectual property protection strategy to capitalize on their efforts to remain competitive as well as attractive for private partnering. By realizing on their intellectual property, hospitals are generating new income streams to help keep them in the black and at the cutting edge.

How does one go about developing an intellectual property policy for a hospital? There are a number of steps, beginning with the intellectual property ("IP") audit. The purpose of the IP audit is to:

(a) be proactive in defining and protecting the hospital’s intellectual property in a cost effective manner, rather than reacting defensively at an elevated cost, or lost opportunity; and

(b) identify "intellectual property risk hot points" that expose the hospital to the danger of appropriation of intellectual property, or attacks on the same by third parties.

The IP audit consists of the assessment of a wide array of items which can include: any type of intellectual property applications and/or registrations (patents, trade-marks, industrial designs and copyrights); regulatory requirements and registrations; terms of existing licence agreements, distribution agreements, inventors agreements, co-development agreements; employment arrangements, particularly for those persons essential to research and development; and current policies and procedures.

The information gathered from the IP audit will then be used to develop a business-minded intellectual property protection strategy or plan that will address outstanding issues and ultimately lead to the hospital's self-management of their intellectual property and the development of supporting policies. Although it is often difficult to predict the outcome of the audit, one can anticipate uncovering issues such as the following: branding issues involving the hospital’s trademarks, copyright issues surrounding programs, manuals and educational materials, patents relating to business methods, medical device issues, methods of medical treatments and trade secrets. Even though the hospital may not be a research-based hospital, the IP audit may reveal intellectual property opportunities such as patenting, that would result in revenue streams for items such as business methodologies and diagnostic treatments.
Once the intellectual property plan is developed the hospital must become educated on the relevant intellectual property issues not only from a legal standpoint but more importantly from a business standpoint. As funding becomes the evermore important issue for hospitals it is critical that potential revenue streams are capitalized at their infancy stage. Education of key hospital personnel will allow for early detection of relevant intellectual property and realization of their revenue streams.

Finally, equipped with relevant knowledge, the hospital will now be able to assess and spot relevant issues on an ongoing basis, thereby avoiding potential litigation while protecting and profiting on its intellectual property. At the end of the day, by implementing an intellectual property protection policy, hospitals can profit from their efforts to remain competitive while providing state of the art services to the public.

ABOUT THE AUTHOR:

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