

Conducting a Museum IP Audit

Minnesota Association of Museums

Minnesota History Center
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Museum IP Audits

- Museums routinely create and use intellectual property (IP) as part of every functional aspect of their daily activities.

Museum IP Audits

- ◉ IP rights are involved in every aspect of Museum management.

Museum IP Audits

- Museums are:
 - Content Creators
 - Content Users
 - Content Managers

Museum IP Audits

- ◉ A basic understanding of IP concepts is necessary to –
 - protect Museum-owned IP
 - minimize the risks associated with using other people's IP
 - leverage the Museum's IP assets to further the Museum's mission and public purpose

Museum IP Audits

- *“Understanding how to manage and exploit IP assets...should be important parts of any museum’s business model.”*

Joh H. Falk and Beverly K. Sheppard, Thriving in the Knowledge Age: New Business Models for Museums and Other Cultural Institutions

Museum IP Audits

◎ Basic Forms of IP

- Patents
- Trade Secrets
- Copyrights
- Trademarks
- Content-based rights
 - Rights of privacy
 - Rights of publicity

Museum IP Audits

◉ A Few Key IP Principles:

- Ownership of IP rights can be lost through improper use
- Ownership of IP rights can be transferred
- IP rights can be licensed
- Privacy rights can be waived
- IP should be managed through written agreements –
 - Pay particular attention to representation and warranty provisions and indemnity clauses

Museum IP Audits

- ◉ Ideally Museum staff should be able to spot basic issues involving IP rights, including copyrights and trademarks, and know when to seek legal advice.

Museum IP Audits

- Museums should manage their IP assets – and those they are responsible for – using a mission-driven approach.

Museum IP Audits

- ◉ A Museum IP Audit can be a strategic part of managing the Museum's IP.

Museum IP Audits

◉ What is a Museum IP Audit?

- It is an assessment of a Museum's IP assets and management practices
- The Audit should focus on how best to manage those assets to further Museum mission, values and goals
- The Audit Report should recommend strategies to minimize risks and maximize the value associated with the creation, custody and care of the Museum's IP assets

Museum IP Audits

- Some areas where IP issues arise in the Museum context:
 - Collections Management
 - Programs and Exhibits
 - Marketing and Development
 - Human Resources
 - Museum Shops
 - Other?

Museum IP Audits

● A Few Museum IP Audit Takeaways:

- Register Museum trademarks
- Clear titles to programs and exhibits
- Examine rights and licensing procedures
- Address employee IP ownership (scope of employment)
- Provide guidance on use of Museum brand
- Establish procedures for use of names and likenesses
- Negotiate formal agreements with affiliated groups
- Review IP ownership provisions in grants and contracts
- Include “work for hire” language in independent contractor agreements
- Centralize contract management
- Post policies for use of Museum social media
- Adopt a comprehensive IP policy

Museum IP Audits

- ◉ Sustaining the Museum using an IP focused Development Cycle
 - Create IP
 - Manage IP
 - Market IP
 - Engage Audience
 - Capture Audience Information
 - Cultivate Audience
 - Generate Funding
 - Create More IP

Museum IP Audits

- Effective management of the Museum's IP assets will reinforce the Museum's brand, demonstrate stewardship, minimize disputes with vendors and partners, reduce risks, and enhance development opportunities.

walt@lehmannplc.com