The Role of Information Governance in an IP Practice

Presented by: Professor Sharon K. Sandeen
Director of IP Institute
Mitchell Hamline School of Law, St. Paul, MN, USA

© 2018 Sharon Sandeen
All IP begins with an idea and information

- Businesses and their attorneys need to manage this information.
- But it is not just about the ethical obligations of attorneys to protect their client’s secrets or how IP attorneys can help their clients protect trade secrets.
- It is about the role that attorneys can play in helping their clients develop and employ an information governance strategy.
Defining “information governance” or IG

• “IG is a sort of super discipline that has emerged as a result of new and tightened legislation governing businesses, external threats such as hacking and data breaches, and the recognition that multiple overlapping disciplines were needed to address today’s information management challenges in an increasingly regulated and litigated business environment.”
What are the overlapping disciplines/concerns?

Lawyers

• Help client to:
  • Meet business objectives
  • **Identify, protect, and own information**
  • **Obtain patents**
  • Comply with legal obligations
  • Respond to data breaches
  • Avoid liability
  • Respond to e-discovery
  • Meet contractual obligations

Others

• **Business leadership**
  • Value, costs, risks
• **Research & Development (R&D)**
  • Open vs. closed innovation
• Corporate compliance
  • Legal obligations, including privacy laws
• Records & Information Management (RIM)
  • Document retention and destruction
• **Information Technology (IT)**
  • Efficiency and security
• Employees, vendors & contractors
  • Ownership and License Obligations
• Public relations & media

© 2018 Sharon Sandeen
Information Governance Reference Model (IGRM)

Linking duty + value to information asset = efficient, effective management

**Duty:** Legal obligation for specific information

**Value:** Utility or business purpose of specific information

**Asset:** Specific container of information
What can be the role of IP attorneys in the IG process?

• 1. Think more broadly about how information might obtain value and be protected; there is more than one way to protect a great idea, invention, or compilation of information.

• 2. Consider the costs and benefits of information and never assume that more information is better; with some information comes risks.

• 3. Learn to conduct an information audit and how to develop an information governance plan.

• 4. Understand the information governance interests of the different stakeholders.

• 5. Facilitate conversations between the different stakeholders and effectively translate a client’s information-related concerns to those parties.