# IP Proficiencies Matrix - Litigation

## Intellectual Property Proficiencies
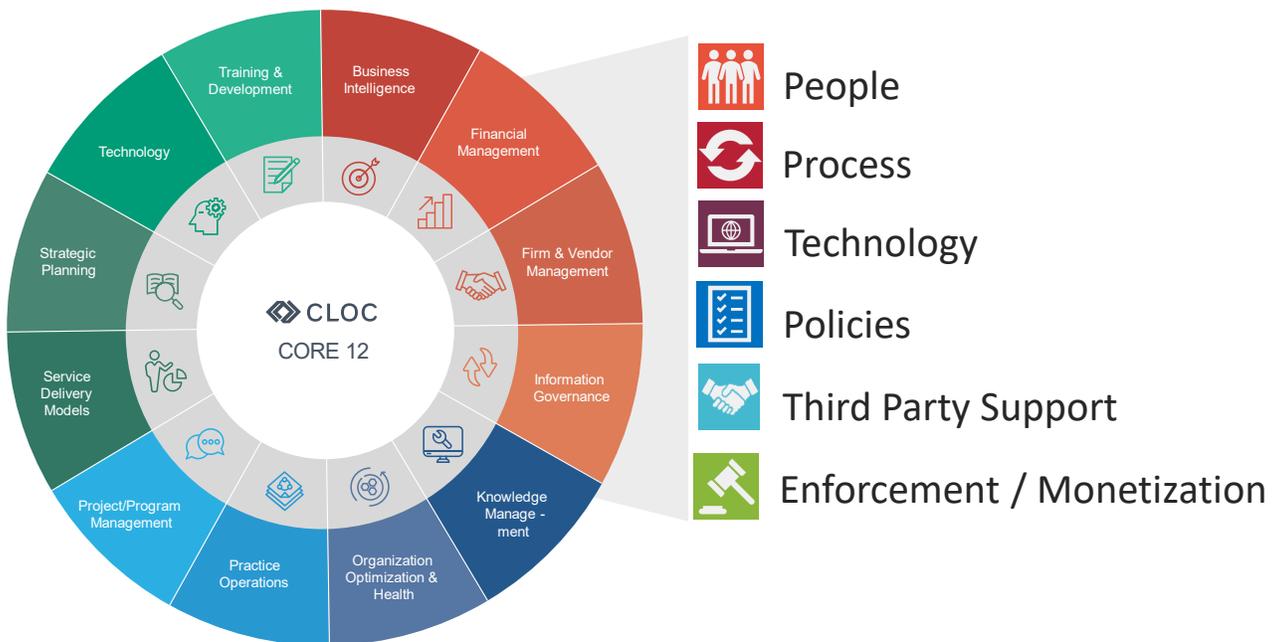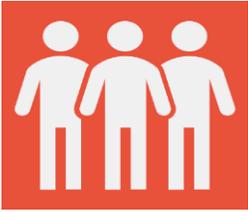
# PEOPLE

# PEOPLE Proficiency Assessment

| Developing | Foundational | Advanced | Mature |
|---|---|---|---|
| • General litigators/general counsel handle defensive IP matters.<br><br>• No assigned project manager.<br><br>• Individual contributors with no coordination or management, including lack of centralized management focusing on efficiency and/or balance of work.<br><br>• No prioritization of work to be performed - fire hose vs. faucet.<br><br>• No deep subject matter expertise litigation, e-discovery, litigation hold or office procedures.<br><br>• No development roadmap for skills growth or career advancement.<br><br>• No defined approach or assigned responsibility of general office management tasks (HR, billing, records, IT, systems, etc.).<br><br>• No established invoice management/billing review. All functions managed manually and individually. | • Hiring of an attorney with IP litigation experience to manage matters and select and manage outside counsel.<br><br>• Practices shared informally within working groups or decentralized teams.<br><br>• Administrative support staff for routine general tasks and word processing needs.<br><br>• Decentralized managers/lack of discrete teams for various functions (paralegals, collections, admin/WP, IT, records).<br><br>• No centralized individual(s) who establish skill set roadmaps and coordinate development efforts.<br><br>• No single point of contact or ownership/SME for various work streams or records management.<br><br>• Ad hoc training and development in use of research/analytics databases.<br><br>• Invoicing support to review and manage invoices. In house, invoices reviewed by individual practitioners; OC invoices managed by central individual.<br><br>• General core HR individual(s) to manage employee relations, payroll and performance. | • Dedicated IP litigation team established, perhaps including paralegal, administrative assistant, records manager, docket clerk.<br><br>• Attorney or paralegal assigned to project management roles.<br><br>• Dedicated teams formed to provide services within functional areas (e.g., eBilling, collections, witness interviews, legal holds, IT systems support, records management), with established functional managers.<br><br>• Centralized function to establish skill set roadmaps and coordinate development efforts.<br><br>• Single point of contact or ownership/subject matter expert (SME) for various work streams or records management.<br><br>• Coordinated training and development in use of research/ analytics databases and best practices.<br><br>• Centralized invoice and billing management individual(s) responsible for all aspects of eBilling, inquiries, and serves as an escalation point.<br><br>• Basic LPO/PMO individuals to manage projects across the department and provide updates to management. | • Enterprise level team established with team charter, clear roles and responsibilities, led by a professional with a seat on the relevant management teams.<br><br>• Certified project manager assigned to matters.<br><br>• Security/Privacy officer to ensure ongoing understanding and compliance with GDPR, export control and other global regulations.<br><br>• Dedicated individuals or teams focused on research and analytics.<br><br>• Established LPO/PMO to manage projects across the department/ organization. This individual works with practice management and leadership to map projects to strategy and manage resource allocation, budget/scope and project reporting/dashboards.<br><br>• Training and development individual to drive adoption of tools, processes and other key learning opportunities, also leading the change management function and compliance. |

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# PEOPLE Proficiency
## Actions & Tasks to Move to a More Mature Level

| Developing | Foundational | Advanced | Mature |
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| | • Exchange operational practices informally to share knowledge and develop common ways of working<br><br>• Establish an administrative support team for routine general tasks.<br><br>• Provide ad hoc training for systems and the use of research/analytics databases.<br><br>• Establish a process for invoice review and support<br><br>• Identify an HR business partner to manage team development, payroll and performance | • Separate budget established; metrics tracked separately from general litigation; project manager trained in LPM assigned to matters (attorney or non-attorney); regular, on-going project management meetings with outside counsel team<br><br>• Establish a centralized IP operations team including functional teams led by dedicated functional managers in the areas of docketing, annuities, filing, eBilling, IT systems, records management and vendor management<br><br>• Identify SME/SPOC in the areas of IP litigation and docketing<br><br>• Develop skill set roadmaps for team members to coordinate and encourage professional development efforts.<br><br>• Create and deliver coordinated training to team members and customers on relevant IP litigation operations systems, processes, research/analytics databases and best practices.<br><br>• Centralize responsibility for invoice and/or billing management and identify a SPOC responsible for all aspects of eBilling and all related inquiries<br><br>• Identify team member(s) with basic project management skills to manage operations-related projects and provide updates to management. | • Develop dedicated onboarding portal providing customized materials for each new hire based on their individual role/responsibilities and assigned mentor to assist with training and relationship-building internally and with OC.<br><br>• Create an enterprise-level team with a team charter with clear roles and responsibilities for team members and led by a professional with a seat on the relevant patent executive/management committee.<br><br>• Hire a dedicated Security/Privacy officer to ensure ongoing understanding and compliance with global regulations (e.g., export control, GDPR).<br><br>• Hire a dedicated professional to oversee training, development and change management to drive understanding and adoption of tools, processes and other key learning opportunities.<br><br>• Establish a project management function to manage operations-related projects across the organization. Ensure projects align with and support IP strategy and are managed within budget.<br><br>• Establish a team to focus on business intelligence, legal research and analytics.<br><br>• |

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# PROCESS

# PROCESS Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
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| **General/ Workflow** | • Informal/inconsistent and undocumented workflows and processes.<br><br>• Workflows based on individual preferences.<br><br>• No automation of process/workflows. | • Primarily standardized process/workflows and documentation/SOPs implemented.<br><br>• Hybrid use of automation and manual processes/workflows.<br><br>• | • Defined process/workflow documentation for manual and electronic workflows.<br><br>• Emphasis on automation as a general approach when defining process/workflows; most processes automated.<br><br>• Ability to monitor for compliance and identify trends | • Robust, well-defined processes implemented electronically.<br><br>• Documented workflows for each business process within a department.<br><br>• Process ownership and escalation/approval path for changes. |
| **Budgets** | • No up-front budgets for each matter.<br><br>• Spend reviews only when finance department raises questions; estimates adjusted after work is done | • Estimates obtained from outside counsel for annual spend by matter, which inform overall department budget.<br><br>• Budget adjustments made pro-actively on an ad hoc basis, based on actual spend. | • Quarterly/annual budgets set by in-house team for each matter and strictly enforced.<br><br>• Different budget models considered for each matter (e.g., task-based, retainers, flat fee, stage-based) | • Budgets anticipate inflection points and include projections and risk analysis capabilities with measurable/reportable metrics.<br><br>• Components of alternative-fee arrangements (AFAs) (e.g., success fees) included in budgets. |
| **E-Discovery** | • Outside counsel or ad hoc vendors perform document collection and processing. | • Central collection sources and methods established; processes and vendors managed internally by lead attorneys or paralegals; use of outside counsel to perform e-discovery tasks is minimized. | • Centralized in-house e-discovery team established; costs reduced by leveraging volume discounts and establishing preferred vendors, possibly by performing certain functions in-house.<br><br>• Vendors may assist with collections in a structured and managed model that includes lead litigation project managers, attorneys, paralegals, and/or information technology experts. | • Function in-sourced entirely with no vendor support required; optionally, a single vendor is retained to handle all needs across the legal dept., possibly for a flat fee; hybrid model possible combining internal and external resources, where in-house participants are highly knowledgeable on the process and understand the best hybrid model to minimize cost, time and risk factors.<br><br>• Defined SLAs for deliverables.<br>Clear process documentation and audit measures in place to ensure compliance. |

# PROCESS Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| Document Review | • Reviews performed in-house or by outside counsel on the particular matter; technology-assisted review (TAR) not utilized.<br><br>• Ad hoc process for each case. | • Reviews performed by specialized vendors, whether managed by in-house or outside counsel. | • Managed reviews are part of legal project management, leveraging a preferred vendor network.<br><br>• A repeatable and measurable process is documented for chain of custody, analysis and validation of reviews, and evolving requirements. | • Optionally, responsiveness reviews only selectively performed - robust keyword searches or TAR relied upon for responsiveness determinations to save costs<br><br>• Single review solution used.<br><br>• Standardized human QC processes to be conducted consistently across matters with regimented protocols for outside counsel and support vendor collaboration. Sufficient process and technology familiarity to support flexibility to use the right tool/approach at the right time.<br><br>• Production/privilege decisions may be tracked across company on a document basis.<br><br>• Defined KPIs tracked across matters for cost and throughput monitoring.<br><br>• Standardized baseline coding panel used consistently across projects. |
| Litigation Holds | • Holds sent by email, possibly by outside counsel in each matter; reminders not sent consistently or automatically. | • Litigation hold solution in place; hold notices coordinated in-house; reminders sent consistently. | • Fully automated litigation hold solution that can manage witness interviews, collection identification and issue reminders.<br><br>• Compliance strictly policed (100% acceptance rate regularly achieved); employee base educated about responsibilities. | • Hold solution integrated with HR to populate automatically with employee base and trigger workflows; single in-house employee manages all holds. |

# PROCESS Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| Project Management | • No active project management processes or practices in approaching litigation matters. | • Lightweight project management, limited to complex litigation matters that may be primarily guided and controlled by outside counsel.<br><br>• Occasional project update meetings with outside counsel. | • Deliberate, defined and regular project management of most litigation matters coordinating with outside counsel.<br><br>• Includes budget, resource and time management with some basic level of metric reporting and program overview. | • Full-fledged Project Management Organization (PMO) with established best practices in managing all project types with an emphasis on litigation matters. Incorporate litigation planning, risk analysis, after-action reviews, both internally and with outside counsel, of every matter to improve processes and best practices. |
| Records Management | • Paper file system. | • Hybrid paper and electronic processing of litigation matters. | • Primarily paperless, limited use of paper files. | • Digital files wherever possible and established method for securing and tracking original signature documents. |
| Change Management | • No standard operating procedures and in-house change management expertise. | • Central repository for procedures with reviews at a defined cadence and basic change management process for advising organization of changes. | • Annual strategy planning process to identify change needs or address new opportunities. | • Established change management/knowledge management practices for all processes and data.<br><br>• Active knowledge management and change management committees.<br><br>• Routine reviews and compliance checks for adoption of new processes. |
| Knowledge Management | • No system in place to share best practices / best-in-class work product.<br><br>• Templates based on individual preferences. | • Various processes shared between small group. | • Basic knowledge management program to bring consistency across similar work groups; repository for information sharing. | • Formalized knowledge management program with single-sourced repository, ability for cross-team input, possibly including Q&A bots and chat features. |

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# PROCESS Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
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| Outside Counsel Management | • Each in-house attorney selects OC and negotiates their own retention agreements; no centralized coordination and no consistency of standards.<br><br>• No formalized review or feedback process<br><br>• OC retains experts/consultants, receives invoices, and manages their budgets without input from in-house counsel. | • Management of OC selection is centralized.<br><br>• Ad hoc quality reviews of in-house and OC work.<br><br>• Formal OC billing policy in place; fee discounts encouraged. | • Routine assessment and feedback process for ongoing management of quality and timeliness.<br><br>• Retention agreements centrally negotiated by Operations; AFAs regularly pursued.<br><br>• Operations may directly retain experts and consultants so the billing policy can be applied to their invoices, which are submitted directly to in-house team; budgets may be also be managed directly. | • Extensive/in-depth analytics across bills, matters, OCs to identify issues/trends and extended audit capabilities.<br><br>• ML/AI capabilities for analyzing OC impact against strategy, and value propositions/results against cost.<br><br>• Preferred provider network established; retention agreements cover entire legal dept. to leverage volume discounts.<br><br>• Sophisticated, results-oriented AFAs regularly utilized, and may cover multiple, inter-related matters (e.g., District Court litigations and IPRs). |
| Vendor/OC Billing Arrangements | • No structured review of invoices and payments. | • Basic process for reviewing invoices and managing payments.<br><br>• Some analytics around reviewing multiple bills across matters handled by one OC. | • Group-wide, standardized process for reviewing invoices and payments process.<br><br>• Analytics around reviewing multiple bills across matters and across OCs. | • Sophisticated, automated system for reviewing invoices, processing payments, and interacting with vendors related to errors.<br><br>• Extensive/in-depth analytics across bills, matters, OCs to identify issues/trends and extended audit capabilities. |
| Vendor Feedback | • No process for soliciting feedback internally or externally. | • Ad hoc feedback solicitation process. | • Routine feedback solicitation process with ongoing in-house reviews to address quality, compliance and cost issues with OC/vendors. | • Established OC/vendor feedback committee who routinely reviews and shares feedback, driven by quality and timeliness metrics.<br><br>• Standardized Service Level Reports, including benchmarking and performance improvement tracking, regularly shared with OC/vendors. |

# PROCESS Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
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| Cease and Desist/ Demand Letters | • No consistent practice for responding to notice/cease and desist letters. | • Most letters responded to, by outside counsel and/or in-house attorneys. | • In-house team responds to letters with consistent form; noninfringement/ invalidity opinion need determined strategically; state laws prohibiting bad faith assertions/abusive tactics considered.<br><br>• Tracking of all matters in collaboration with outside counsel. | • Routine risk assessment discussions with outside counsel to discuss strategy and determine exposure level.<br><br>• Declaratory judgment/PTO reviews considered as part of letter response strategy.<br><br>• Business units routinely contacted regarding market role/importance of patent owner and value of accused technology. |
| Policy Team Integration | • No integration with policy team for patent reform efforts or amicus briefs. | • IP litigation team regularly educates policy team about key issues. | • Policy team treated as strategic partner, with regular meetings. | • IP litigation team is active with patent reform initiatives (e.g. public speaking, meeting with Congress). |
| Reporting | • Reporting done manually through spreadsheets on as-needed basis.<br><br>•<br><br>• | • Basic reporting capabilities through system or simple reporting platform.<br><br>• Subscription reports may be available.<br><br>• | • Well-established reporting platform providing ability to produce real-time.<br><br>• Rich data/analytics around matter contents, timing and motions.<br><br>• Both self-service and subscription reports available. | • Advanced reporting capabilities enabling deeper data analytics and business intelligence by combining multiple data sources, e.g., marrying patent data with finance data, ability to generate specialized dashboards with advanced representations of data. |
| Analytics | • No metrics, quality review, or KPI's for in-house legal professionals and staff and OC/vendors. | • Basic data quality and performance metrics generated for management. | • Bucketized technology classifications/taxonomies to allow deeper analysis of matter risk and jurisdiction.<br><br>• Ability to monitor process metrics for compliance and to identify trends. | • Robust and well-defined data quality and audit capabilities/measured KPI's managed on routine basis with centralized ownership.<br><br>• Regular strategy-driven planning sessions based on data/metrics that allow the organization to respond proactively to opportunities and challenges. |

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# PROCESS Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
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| **General/ Workflow** | | • Standardize basic/required process for general use by internal staff<br><br>• Develop Standard Operating Procedure (SOP) documents for each process managed by operations (including processes driven/executed by external vendors (e.g. outside counsel) | • Develop process and mechanism for operations to monitor compliance with standard processes and identify trends<br><br>• Engage with business groups to improve team-specific processes and expand number of standardized processes | |
| **Budgets** | | • Annual budget requested from each firm, by matter, then perhaps quarterly updates requested; budgets should encompass entire spend for case from all billers (e.g., local counsel, experts, vendors) | • Periodic budget review meetings between outside counsel and matter lead attorneys or litigation department leader; budgets adjusted based on forecasted case outcomes; quarterly caps instituted in matters with overages to keep department spend within set budget | • AFA's may include flat fees, case caps (hard or soft), phase caps, fixed monthly fees, success fees (e.g., case-narrowing, case-ending, settlement), or a hybrid of these, and are included in the budget based on expected case results. |
| **E-Discovery** | | • All document and data sources identified and collection process established for each; work with vendors to upload collected data, and vendors handle searching and further processing for production. | • Centralized team, which may include Internal or outsourced project managers, manages collections, custodian interviews, and processing handoff. Initial searches may be handled internally to reduce data sent to vendors. | • Coordinated process and internal best practices for E-Discovery management with ongoing review to ensure compliance<br><br>Dedicated in-house team implements defined and consistent processes for collecting, processing, and minimizing data, whether single vendor or in-sourced entirely. |

# PROCESS Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
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| **Document Review** | | • 3rd party vendors or contractors/support staff perform responsiveness and privilege reviews; in-house counsel involved peripherally (e.g., keyword selection; creation of attorney list for privilege search) | • In-house counsel drafts/reviews training document for document-review vendors; TAR often utilized; in-house team controls central attorney list for privilege searches for every matter. RFP used to establish preferred review vendors. | • Tracking mechanisms utilized that capture KPI's, decisions and cost vs. throughput |
| **Litigation Holds** | | • 3rd party solution used to track and send holds; hold template conformed across matters; reminders sent regularly; court requirements understood and followed | • Retention responsibilities reviewed with every hold recipient when interviewed; hold process included in employee training/onboarding; custodian lists maintained by business unit to facilitate hold recipient selection; process in place with OC to submit new names to add to each hold | • Integration with HR or external systems trigger workflows related to employee status and automate collections based on status |
| **Project Management** | | • Designated lead(s) to coordinate projects within the business without formal structure or defined best practices | • Established project management function with defined best practices and structure in place.  Routine project status meetings established with leadership for visibility. | • Leverage professional litigation project managers and legal professionals for dedicated and routine project management. Defined metrics and KPI's are used to drive sustained improvements. |
| **Change Management** | | • Identify internal individual/support team with specialization in CM? | • Consider and deploy CM support on projects/implementation which require high-level of adherence and/or adoption | • Develop process ownership matrix with escalation/approval paths for changes |

# PROCESS Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
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| **Knowledge Management** | | • Create documentation/SOPs for all aspects of the process which require adherence and repeatability | • Update and expand on SOP documentation | • Collate SOP documentation and other KM into a single-sourced repository having ability for cross-team input, possibly including Q&A bots and chat features |
| **Cease and Desist/ Demand Letters** | | • Letters generally responded to, to request additional information (e.g., file histories, license status, infringement reads); ad hoc determinations whether to enter license negotiations or pass | • Form letter created and sent in response to most, if not all, letters; establish factors used to determine whether or not to respond (e.g. identity of patentee, country, etc.). Outside counsel retained to assist on more complicated assertions or ones likely to go to litigation. | • Designated SME's in each business unit assigned to interface with Legal regarding threat risk assessment |
| **Policy Team Integration** | | • Litigation team coordinates with policy team about challenges that could be addressed by Congress or the courts in third-party cases | • Amicus brief, lobbying, and speaking opportunities identified | |
| **Reporting** | | • Develop reports for general use (e.g. attorney docket report) & management (e.g. metrics on number of cases assigned to each attorney to monitor workload). | • Expand report library to include cross-functional reports and deeper management reports based on improved metrics | • Develop advanced reporting capabilities enabling deeper data analytics and business intelligence by combining multiple data sources. |

# PROCESS Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
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| **Analytics** | | • Identify metrics for determining satisfaction of operational goals and adherence to procedures. | • Evolve and expand metrics to ensure operational goals are being met at deeper level and derive business operational intelligence. | • Evolve and expand metrics to ensure operational goals are being met at deeper level and derive business operational intelligence<br><br>• Manage KPIs on routine basis with centralized ownership |
| **E- Billing** | | • Billing structure options include mandating discounts; requiring task-based billing (codes); pdf vs electronic invoice submission. | • Formalize retention agreement for litigation matters; centralize for use across all matters. Billing policy may include sections on conflicts of Interest; staffing, expense prohibitions, task prohibitions, invoicing, and Travel policy | • Implement policies that support a robust AFA program, including preferred structures, % of work to be provided under AFAs, and value analytics |

# TECHNOLOGY

# TECHNOLOGY Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Workflows** | • No established workflows or consistency of work product. Ad hoc management of day-to-day work with no direct oversight or measurement. | • Generally established workflows with basic procedural documentation.<br><br>• Light touch or minimal oversight of compliance with general workflows, but stronger management of key risk areas. | • Workflows in place to manage process steps with clear documentation and compliance audits.<br><br>• Automation and optimization of workflows for routine tasks.<br><br>• Introduction of AI/ML capabilities to workflows and portfolio analysis | • AI/ML capabilities applied to workflows and routine tasks.<br><br>• Majority of routine tasks fully automated with KPI's and audit abilities to ensure quality. |
| **E-Discovery Data Management** | • Discovery collections done ad hoc with no coordination, routine tracking or consideration of various technology formats. | • Discovery workflow and lifecycle is understood and tracked through some defined process and may or may not use a technology tool to assist in this process.<br><br>• Collection is likely completely outsourced or managed by an internal technology team with minimal understanding of the various technologies and how to most efficiently source collections and store them securely.<br><br>• Minimal level of tracking chain of custody. | • Technology tools used to assist with storage and management of collected data; vendors still likely to process and produce data.<br><br>• Technology tools integrated with legal hold management system to track custodian collections, semi-automate compliance with retention policies (halt automatic purging), and provide metrics on collections | • Fully managed e-discovery lifecycle leveraging internal project managers and established technology tools. Resources likely include flexible hybrid (internal/external vendors) working teams to manage routine documented collection practices that include secure storage, strict chain of custody and the ability to produce materials in multiple formats.<br><br>• TAR and AI/ML capabilities likely utilized for document processing. |
| **Document Review** | • No technology in place for review or analysis of collected documents; inadequate or no review conducted. | • Ad hoc spreadsheets or databases used to track document sets, status, and reviews. Minimal in-house technology because reviews conducted by outside counsel or vendors. | • Use of enterprise solution to facilitate review and analysis; basic TAR capabilities for collected documents either in-house or through a vendor with a reportable chain of custody. | • Balanced and adept process with defined scenarios for use of TAR and other machine-learning tools to expedite review and production. Sufficient process and technology familiarity to support flexibility to use the right tool/approach at the right time. |

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| **Billing** | • Light touch or no invoice management system and/or no electronic billing solution ("e-billing"). | • Invoice management or e-billing solution allowing for invoice review and scalable payment system. | • E-billing solution that allows full visibility (e.g., client/matter, task level spend), with established approval workflows and escalations.<br><br>• Ability to customize solution to fit different business models, billing requirements (e.g., monthly v. project completion), and fee arrangements (e.g., fixed fees, block billing, flat fees, accounting potential future success fees, etc.)<br><br>• Light-touch outside counsel feedback mechanism to measure and analyze effectiveness in view of overall spend. | • Electronic feedback mechanism for capturing input on vendors/OC fed into reporting platform.<br><br>• Extensive analytic capabilities to track spend/feedback/practice area/geographic region/ and output for a full view of vendors/OC impact and effectiveness. |
| **Matter Management** | • No technology or unsophisticated matter management system (e.g., spreadsheets) for tracking litigation matters and document collections. | • Matters and collections tracked in electronic matter management system with full deadline tracking capabilities (technology kept current: no more than 2 upgrades behind). | • Queries, reports and templates available for managing docket, including filing/response deadlines and reminders; matter management may be integrated into legal hold management systems. | • Dashboard(s) available to litigation and project management professionals for real-time visibility and management of litigation matters, collections and legal holds.<br><br>• Automation component added to manage deadlines, document destruction, and chain of custody between in-house and OC, to ensure accuracy and compliance with jurisdictional requirements. |

# TECHNOLOGY Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Reporting** | • No reporting platform or capabilities to extract relevant data without manual interventions. | • Ability to produce real-time reports, track deadlines, matter and litigation metrics in-house or through OC. Ability to provide basic portfolio data and metrics through system reporting or basic platform/tool. | • Comprehensive reporting platform enabling ability to combine data sources, produce evolving metrics around litigation matters, and track costs associated with matters, in-house or via OC.<br><br>• Data analysis expertise sufficient to establish reports and data models/cubes.<br><br>• Integrations/APIs between LOB tools and other key business tools (e.g., with finance data). | • Sophisticated reporting platform with cross-group integration providing ability to accurately forecast spend and predict trends through use of technology and data models, in-house or via OC, also enabling visibility to litigation risk analysis, etc.<br><br>• Six Sigma quality metrics around docketing/data processing with automated reporting/audit capabilities.<br><br>• Machine Learning/AI capabilities applied to portfolio analysis/strength and review of competitor landscape.<br><br>• Established data science practices and expertise |
| **Research Tools** | • Research done through Internet or other free sources. | • Use of research tools/subscriptions relevant to practice area. | • Suite of research tools/systems for portfolio and legal analysis. | • Custom-tailored research solutions and integrations. |
| **Security/ Privacy** | • Little or no security/privacy focus leaving information generally unprotected. | • Basic security and privacy standards applied to all tools. | • Export control and GDPR restrictions applied to all LOB tools.<br><br>• Security review of all LOB tools and systems housing MBI/HBI data.<br><br>• Basic periodic security reviews performed. | • In-depth security reviews performed on all systems with assigned data stewards, expanded beyond EU data.<br><br>• Established compliance standards for security/privacy with strict oversight.<br><br>• AI capabilities to search across systems and documents for unprotected or unsecure data/information. |

# TECHNOLOGY Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Infrastructure** | • No IP-focused tools. | • Minimal/out-of-the-box IP-specific tools and no defined cloud strategy. | • Custom-tailored IP-specific tools. Cloud-leveraged tools based on defined strategy and risk profile.<br><br>• IP-specific tools integrated with standard business tools (communications, plug-ins, DMS, billing, etc.) | • Use of AI and Machine Learning technologies (automated program or other technology) to replace routine manual tasks or answer questions. |
| **IT Support Model** | • No IT support in the areas of security, privacy, systems integrations and systems management for office systems. | • Designated IT resource(s) to manage in-house tools and mitigate issues, with no development capabilities.<br><br>• General knowledge/ understanding of privacy and security. | • Dedicated IT group with expertise in privacy and security as demonstrated through high standards applied to system.<br><br>• Litigation-focused IT experts to manage systems and integrations with some support and development capabilities, and responsibility for ensuring best practices applied to security/privacy standards.<br><br>• Regular training and knowledge around general tool/software usage.<br><br>• Basic security/privacy practices are established and managed. | • Developer expertise and proficiency in security/privacy and developer expertise and proficiency to build, implement and integrate and manage tools in-house. |

# TECHNOLOGY Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **General Tools** | | • On premise management of tools/IPMS and possibly some Cloud adoption<br><br>• | • Establish productivity tools for use in various work streams, and use of ML/AI to gain insights into further optimization opportunities.<br><br>• Leverage cloud hosted solutions | • Use of BOTS/automated technology to replace routine manual tasks and inquiries.<br><br>• |
| **Workflows** | | • Basic level of workflows established within business tools | • Establish workflows with high levels of automation across workstreams, documentation and defined audit steps for compliance measurement | • Develop workflows that are primarily automated with ML/AI capabilities applied for further learning and optimization. |
| **E-Discovery Data Management** | | • Formalized process created to track witnesses and related collections and interviews, and chain of custody | • Formalized, metrics-driven RFP process conducted by internal/external expert to select a vendor for provision of an e-discovery data management system that can be integrated with other legal dept. systems (e.g., legal holds); vendor or outside consultant oversees integration; coordinate retention policy for collected data with company-wide retention policy; implement metric capturing and reporting process | • [Tools likely leverage simultaneous collection and processing, providing full search and analytics. AI/ML capabilities may be utilized to drive smart-searching and predictive analytics (e.g., concept search capability, facet search, fuzzy search, Boolean search, predictive coding and email traffic analysis.). This may also include ability to globally label critical designations such as privileged or confidential material, and apply across all matters. |
| **Document Review** | | • A consistent minimal level of human based review performed in-house or through a vendor. | • [Technology - Document Review] Enterprise solution for review selected through RFP or other robust process. | • High level of automation of document review leveraging TAR/AI/ML |

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# TECHNOLOGY Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Billing** | | • Purchase/license enterprise solution for vendors and outside counsel to submit invoices, and permit in-house staff to review and process invoices for payment. | • Billing solution used to track matter budgets and integrate directly with Accounts Payable for invoice payment | • Establish electronic invoice management system with extensive automation and feedback mechanisms to measure spend against OC performance. |
| **Matter Management** | | • [Technology – Matter Management] Informal RFP process conducted to select a vendor for provision of the matter management system | • Formalized, metrics-driven RFP process conducted by internal/external expert to select a vendor for provision of a matter management system that can be integrated with other legal dept. systems (e.g., legal holds); vendor or outside consultant oversees integration | • Management-level reporting implemented to assist in decision making across litigation technology ecosystem |
| **Record Management** | | • File management system for paper and/or electronic management of litigation files, with simple tracking mechanism | • Establish electronic file management/document management system with possible integrations for management of IP litigation files and other business documentation with established data retention standards and ability to manipulate permissions based on business needs | • Establish fully integrated document management system with the ability to identify and mark confidentiality of information, and automate data retention. AI capabilities to search across systems for unsecured/trade secret information and escalations. |
| **Reporting** | | • Establish basic reporting system for extraction and manipulation of litigation information from docket management system | • Establish reporting platform for extraction and manipulation of information from litigation management system and other systems, with data science expertise sufficient to build data models for extraction. | • Fully integrate extensive reporting platform across business groups; integrated data models leveraging data science expertise, ML/AI; automated audit functionality capable of measuring to six sigma quality standards. |

# TECHNOLOGY Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Research Tools** | | • Basic level research tool system or subscription for searching of IP data | • Establish suite of in-house research tools or subscriptions for searching of IP litigation data and legal research purposes. | • Implement a variety of research and analytics tools, licensed or homegrown, to support various business practice areas.[is this necessary? Seems redundant to the advanced activity] |
| **IT Support Model** | | • Establish IT support model that manages in-house tools with defined standard level of security practices established | • Establish IT support model incorporating industry best practices for security/privacy, with expertise sufficient to manage integrations and minor development activities | • Establish IT support model operating under industry best practices, with deep expertise in integrations, security and system development. |

# POLICIES

# POLICIES Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Billing** | • No policy regarding number or types of OC/vendors or fee structures. | • Establish basic fee and billing structure requirements, applied across all litigation matters; limitations on number of different OC/vendors established.<br><br>• OC work is primarily billed hourly; limited AFA use. | • Litigation-specific policy requirements included in formal, fully vetted billing policy, incorporated into retention agreements and enforced consistently.<br><br>• Hybrid of AFA and billable hour work. | • AFA's are considered, or mandated, for most litigation matters. |
| **Defensive Tactics** | • Minimal or no defensive portfolio. | • Defensive patents acquired to address competitor lawsuit risk; budget established for acquisitions.<br><br>• Analysis of potential plaintiff characteristics (e.g., non-practicing entities) when developing defensive strategy. | • Opportunities sought to challenge the validity of key competitor patents/trademarks, whether during litigation or not<br><br>• Developments in IP law tracked. Separate IPR counsel selected.<br><br>• Proactive monitoring of relevant third-party litigation; one or more third-party patent risk mitigation entities subscribed to | • Active monitoring of issued patents, published patent and trademark applications, and competitor portfolios to assess future risk.<br><br>• IP litigators integrated with IP transactions/corporate development teams to review indemnity provision. |
| **Privacy and Security** | • Undefined privacy and security standards. | • General privacy and security policy as supported by line of business tool(s) and permissions provisioned. | • Well defined security/privacy policy that addresses GDPR and other privacy issues as they relate to litigation practice group. Semi-regular audits to ensure compliance. | • Best in class security/privacy policies incorporating all aspects of GDPR and privacy best practices relating litigation with established audits.<br><br>• Automated escalations for identified breaches or risks. |
| **Training/ Education** | • No materials or training. | • Onboarding and training materials provided to new hires regarding the litigation and e-discovery process, employee obligations and ongoing education re: developments/trends in the industry. | • Employee orientation includes section on IP litigation best practices.<br><br>• Ensure consistency of training across the organization. | • Regular, ongoing company-wide education conducted, or reminders sent. |

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# POLICIES Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Billing** | | • Billing structure options include mandating discounts; requiring task-based billing (codes); pdf vs electronic invoice submission. | • Formalize retention agreement for litigation matters; centralize for use across all matters. Billing policy may include sections on conflicts of Interest; staffing, expense prohibitions, task prohibitions, invoicing, and Travel policy | • Implement policies that support a robust AFA program, including preferred structures, % of work to be provided under AFAs, and value analytics |
| **Defensive Tactics** | | • Key competitors analyzed to inform development of defensive portfolio | • Utilize PTAB post grant procedures (IPRs, CBMs, PGRs) in defensive strategy. | • Monitoring outsourced or supplemented with technology. |
| **Privacy and Security** | | • Establish and implement basic permissions in support of the general privacy and security policy.<br><br>• Work with IT to define and distribute general privacy/security policy to IP team. | • Perform semi-regular audits to measure compliance with privacy and security policies.<br><br>• Implement basic GDPR-compliant privacy and security policies. | • Schedule audits at regular intervals to measure compliance with privacy and security policies<br><br>• Research and implement best-in-class privacy (including GDPR) and security policies that relate directly to the IP group.<br><br>• Implement automated escalations of identified breaches or risks |

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| **Training/ Education** | | • Work with HR to include basic written materials in new employee orientation that explain litigation hold responsibilities, basic behavior to minimize patent and trade secret risks. | • Formalize onboarding materials for each IP functional area with required trainings (e.g., privacy/security, ethics, export control, trade secret and other items deemed business critical)<br><br>• Expand written materials in new employee orientation to teach best practices regarding litigation holds, responding to patent assertions, trade secret protection, and other behavior to minimze risks; potentially have a member of the IP litigation team attend orientations to present in person | |

# ENFORCEMENT / MONETIZATION

# ENFORCEMENT / MONETIZATION Proficiency Assessment

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| *Enforcement/ Monetization* | No outbound licensing or enforcement program. | Outbound license terms established/form created; targets monitored informally and contacted ad hoc.<br><br>Company products are marked with applicable patents, or virtual patent marking established online. | Formal licensing program established; targets systematically contacted; litigation filed when necessary; business units consulted regularly to coordinate with, and avoid harming, strategic relationships. | Comprehensive strategy formed as to all targets in relevant markets; license tracking integrated with other document management systems; licensees audited regularly for payment term compliance. |

# ENFORCEMENT / MONETIZATION Proficiency
## Actions & Tasks to Move to a More Mature Level

| CATEGORY | Developing | Foundational | Advanced | Mature |
|---|---|---|---|---|
| Enforcement/ Monetization | | • Consult with business units before contacting any target to protect strategic relationships. | • Educate management/finance about the risks/rewards, and financial support needed, for the licensing program, including funding litigation and defending company patents.<br><br>• Consult regularly with business units to protect strategic relationships and to learn about market participants and threats.<br><br>• Hire dedicated employee(s) to focus on licensing program.<br><br>• Create license database. | • Establish committee that includes Legal, Finance, and business units to form comprehensive strategy (e.g., license, litigate/seek injunction, seek JV/partnership, status quo) as to all market participants.<br><br>• Integrate license database with other document management systems (e.g. patent portfolio, contracts), to track encumbrances on company patents.<br><br>• For running royalty/lump sum installment licensing fee arrangements, regularly audit licensees to ensure compliance with payment terms. |

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