HOW LEAN IN-HOUSE IP TEAMS ARE BUILDING CONTINUOUS FTO MONITORING

Freedom to operate in a world where everyone is filing more

The cost of filing a patent has dropped significantly over the past two years. So has the cost of searching one. Both of those changes are happening simultaneously, across every competitor in every technology-intensive market — which means the landscape a team cleared six months ago may already have new claims in it that read on a current product.

Freedom to operate used to be something IP teams did at defined moments: before a product launch, before a major fundraise, before entering a new market. The analysis was expensive, the results had a reasonably long shelf life, and treating it as a milestone event made sense. That calculus is shifting. When AI makes it faster and cheaper for competitors to file and for investors to search, clearance becomes less of a milestone and more of a practice.

This guide covers what that practice looks like for in-house IP teams building FTO into lean operations — drawing on a panel discussion featuring Marcia Chang, Vice President of AI Legal & Customer Success at Tradespace; Keith Jurek, Assistant General Counsel for IP at GRAIL; Kavita Aggarwal, Vice President of Legal at Coupa Software; and Elizabeth Morris, Chief IP Counsel at Everpure. The panel was moderated by Elizabeth Jordan, editor in chief of Patent Lawyer Magazine.

You can read this guide alongside the webinar replay or independently.

Watch the webinar replay →

Why point-in-time clearance is losing its shelf life

The poll results split between reactive only and routine product milestones. Marcia Chang at Tradespace put it plainly: if you're in either of those categories, this webinar is your permission to rethink.

The traditional FTO model — outside counsel engaged near product launch, patents reviewed, formal opinion delivered — still exists. But it was built for a slower-moving filing environment, one where the landscape between a commissioned search and a product launch didn't shift dramatically. That assumption is harder to hold now.

Kavita noted the data: patent applications worldwide have gone up sharply in the last two years, with AI contributing directly as a factor in lowering the cost and effort of filing. In Australia, applications roughly doubled in two years. US numbers have risen as well. Companies that had maintained a stable filing rate in their technology areas are discovering that the landscape around them has densified.

The practical consequence, as Keith Jurek at GRAIL described it, is a shift from point-in-time assessment to continuous stance — setting up active monitoring so that when a specific assignee publishes a new application, you're reviewing it immediately rather than catching it in a quarterly sweep. That lets you stay educated, allocate attention proactively, and avoid the scramble that happens when leadership asks about the competitive landscape and you're starting from a six-month-old picture.

Marcia's framing for this: it's no longer about whether you can find the relevant patents. It's about whether you can develop the capability to distinguish signal from noise across a fast-moving, increasingly dense landscape — where products are layered systems and risk isn't contained to a single domain.

What continuous monitoring looks like for a lean team

The obstacle to continuous FTO monitoring has historically been cost and capacity. A formal clearance analysis from outside counsel is expensive. Running one quarterly is prohibitive for most in-house teams. Running one annually leaves too much time uncovered.

AI-assisted search changes the economics of ongoing monitoring without changing the economics of formal analysis. The formal opinion — where outside counsel reviews the landscape, provides documented conclusions, and takes legal responsibility for the assessment — still has a clear role at high-stakes decision points. What AI enables is the monitoring layer between those moments.

Keith at GRAIL described the approach his team uses: rather than doing a comprehensive review at a fixed interval, they set up active monitoring tied to specific assignees, classifications, and technical areas. When something new publishes that matches those criteria, the team reviews it in the moment and decides whether it needs immediate attention or can go on a watchlist. This lets them arrive at formal clearance analyses with a narrower scope and better-informed starting point — having already filtered out what isn't relevant.

Kavita's suggestion for teams with limited resources: consider running parallel tools. Even in day-to-day work, different AI tools return meaningfully different responses to the same query. Having two tools covering the same territory can surface things either one would miss. She also raised a staffing approach that doesn't require adding to the IP team: seconding technical experts from the product team to help analyze monitoring results. Engineers from the relevant area can do triage before the IP team has to conduct legal assessment — staying within privilege, but distributing the volume.

One point the panelists agreed on firmly: general-purpose AI tools are not adequate for this work. Marcia cited a March 2026 controlled study in which a purpose-built patent AI identified 40+ active US patents with FTO risk assessments, while general tools found between 4 and 12 — some of them fabricated. The specialized tools aren't using fundamentally different techniques, but they have the fine-tuning, domain expertise, and data access that general models lack. The budget math works in the tool's favor: enterprise licensing for a specialized tool is a fraction of the cost of involving outside counsel, or of adding headcount.

Connecting invention evaluation to the decisions that follow it

Most IP teams treat evaluation as a discrete step. This piece covers why what happens before and after that step — how disclosures are prepared and how findings get handed to outside counsel — matters as much as the review itself, and how getting those handoffs right changes the quality of what gets filed.

Read the article →

How to get traction internally when budget is the constraint

The audience poll at the start of the webinar showed budget as the leading barrier to a more proactive FTO practice — ahead of headcount, tooling, and exec buy-in. The panelists pushed back on treating budget as fixed.

Kavita's practical suggestion: go back to your leadership with the historical cost comparison. Five years ago, these landscape studies were done by outside counsel at hundreds of thousands of dollars. A specialized AI tool covers the same ground at a fraction of that. If you frame the tool as a cost replacement rather than a new line item, you're presenting leadership with a choice between two ways of covering the same ground — not asking for more.

Keith at GRAIL described a different framing that worked for his team: embedding FTO into a company-wide enterprise risk management process. GRAIL's compliance team runs regular risk assessments across a long list of categories — security, patient data, privacy, physical and cybersecurity. FTO is one of those components. Being pushed into a continuous approach by a company-wide risk management cadence makes budget justification significantly easier, because the IP team is responding to an institutional mandate rather than making a standalone request.

Elizabeth Morris at Everpure made the point that matters most for individual IP leaders who don't have that institutional support: if it's not happening, it falls to you. You may need to create the case, build the relationships with technical and research leadership, and get yourself involved early enough in product development that you understand the fine technical details before they become clearance problems. At Everpure, that relationship-building is how the team stays ahead — not because leadership was already sensitized to IP risk, but because the IP team invested in making those connections.

Embedding FTO into the product development cycle

The most durable FTO practice is one embedded in product development, not running parallel to it.

Elizabeth at Everpure described the approach her team uses: monitoring tied to product development milestones, where the triggers for updating search terms or running new landscape sweeps come from the product team, not from a fixed calendar. When engineering is locking down a version of a component, that's the trigger. When someone has a promising new idea, that's another trigger. IP owns the assessment, but the inputs come from the product conversation.

Keith made a related point about timing. Getting involved in product development early enough to potentially influence product direction — steering toward white space, identifying areas where competitors are filing densely — is a different role than simply clearing what engineering has already built. The teams that have made this shift describe it as going from reactive to proactive: not saying no, but being present early enough to say here are the other options.

This requires the kind of close relationship with engineering leadership that Kavita described building through education and transparency. When you explain to engineers why they shouldn't be running their own patent searches — and offer them alternatives for finding technical information that won't inadvertently expose them to knowledge they're better off not having — you build the trust that keeps them bringing things to you early rather than after the fact.

Marcia's takeaway from the whole conversation: the companies that navigate this environment best won't necessarily be the ones with the largest budgets or the most headcount. They'll be the ones that learn to do more with less — by embedding IP risk management into the product cycle, developing the capability to distinguish signal from noise, and using AI to sustain that vigilance without proportional increases in attorney time.

When filing volume outpaces the strategy behind it — lessons from rapid portfolio growth

Xero grew its patent portfolio quickly after entering the US and European markets, then hit a decision point: continue at an unsustainable pace, or redesign around business priorities. Senior Patent Counsel James Richardson-Bullock covers what that redesign looked like and what it changed about how filings get made.

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