

Five Things Every Entrepreneur Should Do Right Away: Protecting Intellectual Property Rights

Intellectual property is often the most important and valuable set of assets a startup possesses. Every entrepreneur has a million things to consider as they launch their new venture, but taking the proper steps to establish and protect your intellectual property rights is critical and must not be overlooked.

Here are five steps entrepreneurs should take right away to establish and protect their intellectual property rights:

- 1. Understand your IP assets:** As a first step, it is key that you understand what the different types of intellectual property are, and how they differ. Patents, copyrights, trademarks and trade secrets each protect different types of intangible “intellectual property” assets. To develop a strategy for maximizing the value of those assets for your startup, you will need to understand each of those concepts and the protections they can provide.
- 2. Secure ownership of your IP assets:** You need to secure your intellectual property assets from the start. That means ensuring that any intellectual property that has been created or developed by a startup’s founders is appropriately assigned to your company. It also means you will need agreements in place with all of your employees and with any independent contractors and consultants that you use, that assign their work product and associated IP rights to your company.
- 3. Protect your company’s trade secrets:** A trade secret is essentially confidential information that provides your business with a competitive advantage, including a process, procedure, formula, pattern, device, technique or method. In order for a trade secret to retain its status, you need to take reasonable steps to ensure its secrecy. That means ensuring that you have non-disclosure agreements in place with all employees, business partners, third party contractors and other parties which whom you might share your confidential information.
- 4. Establish a defensible brand:** Startups often select their name without first doing the proper intellectual property analysis. It is important to select a name for your brand that is a strong trademark. If your name is too descriptive, it won’t distinguish your products and services from those of your competitors. You must also run a trademark search in order to ensure that your use of the name will not infringe existing marks. Finally, when you have identified a strong, defensible name, you should file to register that mark as soon as possible. The same process applies to product names, logos and other marks you use in your business.
- 5. Invest in and protect your IP position:** In addition to registering your trademarks,

entrepreneurs should also consider whether to register copyrights in works of authorship they have created (such as software or written works) or whether they have inventions that warrant filing patent applications. Similarly, in addition to running a trademark search to ensure your marks are not infringing, you will want to consider whether to get a “freedom to operate” or “right to use” opinion with respect to existing patents, to limit the risk of later finding your startup embroiled in expensive patent infringement litigation.

Whether your start-up is technology-focused or not, every entrepreneur has intellectual property that is of critical important to your future success. By taking the necessary steps to establish and protect your intellectual property, you can help to prevent costly legal issues down the road and maximize your company’s financial success.