



In the News

An Entrepreneur's Guide to Intellectual Property Law Firms

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Entrepreneurs have a myriad of tasks to conquer as they begin their journey to launch a successful business. Too often in the chaos, protecting [intellectual property](#) is overlooked. When there's so much to do, who wants to research intellectual property law firms?

Some entrepreneurs avoid speaking to a knowledgeable IP attorney, thinking that it will be too costly. Others use online and packaged "do-it-yourself" legal products to save on legal costs. While these approaches can appear to save money in the short term, in the long term they can create grim consequences.

Talking with an intellectual property attorney who works regularly with startups can help you identify risks and set up strategies to protect your business in the long run.

Working With Intellectual Property Law Firms

Trademarks, patents, copyrights and trade secrets are important assets and often possess significant value. That means entrepreneurs need to be aware of third parties in order to avoid infringing intellectual property while at the same time protecting their own intellectual property before it goes public.

Many intellectual property attorneys who work regularly with startups understand the challenges of starting a new business and can work with you on a fixed fee or deferred payment approach. Benefits from this approach include having a legal advisor who is also a stakeholder in your business.

Below are just a few examples of IP law that entrepreneurs should invest thought and time into with a legal advisor before their launch.

Trademarks

The name, logo, and other design elements of your company are all fundamental components that need to be protected. The initial development and procurement of these trademarks can be relatively inexpensive. Vigorous trademarking early on will help you establish a brand and make future defense of your mark stronger and less expensive.

Strong brand identity will help draw in both customers and investors. Developing clear and recognizable trademarks will also help avoid confusion with similar companies and make it easier to prevent future imitators.

Research other companies before developing a company's identity. Avoiding possible trademark infringement is essential for entrepreneurs, as legal challenges could drain capital before even getting off the ground. Entrepreneurs don't want to establish their brand and then find out that they need to change their name because of a trademark conflict.

Patents

Entrepreneurs may know that it is good to get a patent when developing new products and technologies but timing matters. Waiting to file a patent application can mean not getting that patent. Patent laws honor the first inventor to file a patent, not the first person to make the invention. Additionally, the material should not be publicly disclosed prior to filing. That is why consulting with a patent attorney as early as possible is vital to growth and sustainability. Entrepreneurs also must develop dynamic strategies for deciding when and what to patent.

While it may be tempting to try and obtain a patent for every single innovation, the cost can quickly become burdensome.

Identify which innovations are at the core of the business. Innovations that are not going to help grow a company may not be worth the time and expense of the patent process.

Focus on quality over quantity. A well-stocked patent portfolio may draw initial attention from investors, but high-quality patents bring in investments.

Research competitors' patents to avoid wasting resources on products that may not be unique enough to patent and to inspire ideas for future research towards new innovations.

Copyrights and Intellectual Property Law Firms

The registration of copyrights allows for prosecution of infringement claims and facilitates the sale, transfer, and licensing of copyrights. Entrepreneurs need to make sure they own the copyright to their works and that their business doesn't infringe the copyrights of others. A legal advisor can guide entrepreneurs on the registration, licensing, sale and protection of their creations.

What does a copyright protect? Copyrights protect works that are fixed, original and creative, including music, art, writings, computer software, and more. Once a copyright is secured, the rights generally last for the life of the creator plus 70 years. That's a long time. And in some situations, it can be even longer.

How do you secure a copyright? Copyrights vest as soon as someone creates an original work and reduces it to a tangible medium (such as a writing, saved on a hard drive, recorded on tape, etc.). Entrepreneurs should register their work with the Copyright Office to ensure they are deemed the copyright owner of that work. They also need to consider the works of employees who create under their employment and have clearly defined parameters on who owns the work (employer or employee). This is critical, especially when hiring independent contractors.

Responding to copyright infringement allegations involves an intellectual property law firm enforcing the entrepreneur's copyrights and defending them against infringement claims. IP lawyers represent clients in federal court, as well as in proceedings before administrative agencies such as the Copyright Office or U.S. Customs agencies. IP lawyers can also work with clients to address issues raised by business and trade associations such as software developers (e.g., Business Software Alliance), the recording industries (e.g., Recording Industry Association of America), movie studios (e.g., Motion Picture Association of America) and the like.

Trade Secrets

A trade secret is a piece of information that is essential to the core of a business. This can be anything from recipes to special manufacturing processes to lists of clients. Trade secret protections are different than patents and will lose protection if disclosed. For instance, claiming a trade secret cannot stop a competitor from independently developing a similar technology. However, an entrepreneur can—and should—take steps to prevent this information from falling into the hands of others. Just because the information is unable to be patented doesn't mean that it isn't just as valuable to an entrepreneur.

Consider having employees sign non-disclosure agreements. NDAs are a highly effective and routine part of safeguarding a startup's trade secrets and can be tailored to avoid being too restrictive for current and former employees.

Don't neglect seemingly obvious forms of security. Taking steps to ensure that information is clearly labeled as secret, securing a company's information both digitally and physically, and restricting outside access to potentially sensitive material will all help guard trade secrets.

The tips and strategies provided here for safeguarding an entrepreneur's intellectual property are only meant as a primer on the kinds of problems that intellectual property law firms can help with. If an entrepreneur wishes to effectively protect their IP, there is no substitute for seeking legal advice on these issues.