

Top 10 critical intellectual property strategies for startups

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Dive into the top 10 strategies for securing an innovation's treasure trove with IP

India's startup ecosystem is vibrant and multifaceted, playing a crucial role in the nation's economic development and technological progress. Over the past decade, there's been a significant rise in startups, driven by a blend of advanced technology, youthful ambition, and favourable government policies.

Since 2016's launch of the Startup India initiative, the nation has seen a rapid increase in businesses. As of February 2023, a total of 92,683 startups were officially recognized by the Department for Promotion of Industry and Internal Trade (DPIIT). Additionally, India had one of the highest numbers of unicorns in the world with a market

valuation of just over USD 340 billion in 2023. However, amidst the frenzy of development, funding, and marketing, one critical aspect often receives less attention than it deserves: Intellectual Property (IP).

Navigating Intellectual Property: The Strategic Importance

To thrive in this lucrative yet competitive market, founders must secure their services and products using appropriate IP tools early on. IP is more than just a legal necessity; it serves a larger purpose. It acts as a safeguard and provides a competitive edge. Thus, a well-crafted IP strategy can become a fundamental pillar for financial stability and global growth.

Here are the top 10 critical IP strategy advice, tailored specifically for start-ups.

1. Don't Procrastinate: Seize the Opportunity

Innovation is the key differentiator in the marketplace, but timing is equally important for inventors to have a competitive advantage in the market. That's why founders should not procrastinate when it comes to securing their intellectual property (IP). Remember, while innovation is important, it's IP that secures your first-mover advantage and protects your ideas from competitors.

2. Look for Government Support

For many, the procrastination is perhaps due to the price factor, but most founders don't realise that the central government and most state governments run various grant programs for IP for startups. Programs have various models and support can go up to almost USD 20,000. Unfortunately, these funds remain underutilized. Make the most of this opportunity.

3. Have Clear IP Ownership

IP ownership must reside with the startup, not individuals, because this unambiguous ownership attracts investors and also ensures the IP stays with the company, aligning with long-term goals. Founders must draft clear agreements with all stakeholders, ensuring IP is owned by the startup. This not only safeguards the startup's future but also strengthens its position in legal and financial negotiations.

Clear IP ownership structures can also facilitate partnerships, mergers, or acquisitions, as they assure potential partners that the startup has full control over its intellectual assets.

4. Select Inventors Carefully

Not everyone who contributes to a project deserves the title of inventor because, unlike authorship in a scientific journal, inventorship has specific legal connotations.

Essentially, those who have contributed substantially to the conception of an idea are to be included. Therefore,

the altruistic temptation to extend this title to others, accurately identifying inventors helps avoid future issues in the long run.

5. Disclose Wisely

Writing a patent specification requires careful consideration to strike the right balance between disclosure and protection. Disclosing enough information to accurately describe the invention without revealing so much that trade secrets are compromised is key. Over-disclosure might lead to the loss of valuable secrets, while under-disclosure could result in a weak patent or failure to obtain one. Recognizing that both too much and too little information could jeopardize your intellectual property rights is a fundamental aspect of an effective IP strategy.

6. Embrace Multilayer Protection

A robust IP strategy recognizes an innovation's multifaceted nature and embraces multiple layers of IP protection to secure its competitive position. Consider the example of a medical device: it may be patented to secure its unique technical attributes, and its aesthetic design could be protected by a design registration, valuing its visual appeal. And finally, its brand identity may be safeguarded through trademarking.

These interwoven layers form a resilient shield around the product, reflecting not just its functionality but its design and brand significance as well, which ensures resilience and adaptability, laying a solid foundation for success in today's rapidly changing business environment.

7. Know the Relevant Markets

Startups often face challenges in identifying their key markets for IP protection due to limited resources. However, it is crucial to align IP strategies with market opportunities.

To attract investors, startups must strive to establish a monopoly in key markets by protecting their innovations through relevant IP rights.

Therefore, thoughtful integration of IP strategy with business goals can provide a competitive edge, foster various growth paths like partnerships and market expansion, and ensure long-term success.

How do you use your patents?

It is very important for a startup to appreciate that owning a patent doesn't always mean that it has the freedom to practice an invention sitting in that patent. It is so because there could be a situation where one of the components of your own invention might have already been patented by someone else. Hence, you might need to take a licence from that person or employ a different strategy to practice your own patent.

9. Size Does Matter, but Quality is King!

Quality trumps quantity. Especially when budget constraints are at play, a smaller but more robust and strategic IP portfolio can offer essential protection to protect a business's most relevant needs. Regular IP audits can keep the portfolio fresh and prevent it from becoming a white elephant. In the end, a well-strategized and quality-focused IP approach can prove more valuable and effective than mere size.

10. Getting the right price

Sensible IP valuation is vital for startups, as it reflects the innovation's potential. While a high valuation is desired, achieving it requires careful methodology, including an understanding of the technology's uniqueness, market competition, and alignment with business strategies.

However, without solid and defensible IP, valuation can become mere speculation, resembling a white elephant that's impressive in size but lacking in value. The key is to balance ambition with reality, ensuring that the IP's worth



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is credible, robust, and truly reflective of the startup's potential.

As the startup ecosystem continues to evolve, IP emerges not merely as a legal necessity but as a vital instrument for growth, valuation, and global expansion. The challenge now lies in how these startups will harness IP to carve their unique path towards success and contribute to the nation's economic advancement. Will they seize the opportunity?

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