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Welcome!



Intellectual Property from the Start-up's Perspective

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Three Rivers Entrepreneur Network

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Intellectual Property from the Start-up's Perspective

Intellectual Property = High Cost Services and Legal Fees,
requiring considerable input and time
from company personnel

Start up = Limited Resources and Time

**Just how does the start-up or early stage project
address intellectual property concerns.....**



But we don't have to stick our heads in the sand.
We can make Intellectual Property work for you.

We don't have to stick our head in the sand

- ❖ What is Intellectual Property
- ❖ Why it is important to start-ups and early stage projects
- ❖ How to approach building an IP portfolio that
 - Adds value to the company
 - Grows with the company
 - Aligned with other development initiative of the company
- ❖ How to use IP counsel
- ❖ When to get started
- ❖ Common Pitfalls

Consider all forms of IP

- ❖ Patent – protects new and useful products and processes
- ❖ Design Patent – protects ornamental features
- ❖ Copyright – protects expression
- ❖ Trademark – protects brand and logo
- ❖ Domain Name – establishes identity on the Web
- ❖ Trade Secret – what you don't want the world knowing
- ❖ Know-how – what you've learned along the way

Develop an IP Strategy Early and Review Regularly

- ❖ Develop Overall IP Strategy
- ❖ Identify Goals of Portfolio
 - Protect commercial product
 - Add Value
 - Licensing
 - Competition
- ❖ Alignment with technical development and business plan
- ❖ Identify types of IP to pursue
- ❖ Budget and schedules

Involve IP Counsel Early

- ❖ IP counsel is not a vendor but a business partner
- ❖ Many decisions made in the formation and early development stages have direct consequences on IP
 - Confidentiality and public disclosure
 - Fund raising and representations to investors
 - Protection of trade secrets
 - Employee agreements and IP ownership/assignment
 - Joint development and contributions

Provide adequate IP budget

- ❖ IP can be core value of start-up or early stage endeavor
- ❖ Skimping on budget can lead to additional costs later on
- ❖ Budget should be realistic – ask for input from IP counsel
- ❖ Consider IP budgeting separately from other legal costs

Avoid short cuts and detours

- ❖ Beware of perfunctory provisional patent applications
 - Provisional applications have a purpose
 - Risk in filing a narrow or incomplete disclosure
- ❖ Beware of IP filings that are not part of an overall strategy
- ❖ Beware of unnecessary or premature product clearance and prior-art studies
- ❖ Plan for international filings, avoid last minute decisions regarding international portfolio development

Conduct TM and domain name searches early

- ❖ Trademark and Domain Name searches are relatively cheap.
- ❖ Secure product and company names and logos early
- ❖ Risks:
 - Added expense
 - Wasted effort
 - Rebuilding brand identification and goodwill
 - Litigation

Avoid narrow focus of patents

- ❖ Building a portfolio is a process not a check list
- ❖ Avoid focusing solely on your technology, product or market
- ❖ Work toward broad but detailed disclosure
- ❖ Include multiple embodiments and ways to commercialize
- ❖ Continuation practice
- ❖ Re-alignment with technology, market, business strategy

Do Not avoid competitors patents

- ❖ A patent gives right to exclude others, not to practice invention.

- ❖ Finding Competitors Patents

- ❖ Freedom to operate searches and opinions
 - Timing
 - Use during fund raising
 - Use during development
 - Cost

Benefits from a well thought through intellectual property plan

- ❖ Control Costs
- ❖ IP aligned with business and technology
- ❖ Flexible IP
- ❖ Validation
- ❖ Tangible expression of complex ideas/technology for evaluation in diligence

Final Thoughts

- ❖ IP is a critical aspect in the growth cycle of an early stage endeavor.
- ❖ IP plan should be done early and revisited
- ❖ IP counsel should be a business partner not a vendor, choose a lawyer you can work with.

Thank you!

Questions?