

AN INTELLECTUAL PROPERTY (IP) STRATEGY: *The Ultimate Game-Changer for Start-Ups!*

Among a company's most valuable assets are its intellectual property (IP) rights, e.g., patents, trademarks and copyrights. However, while entrepreneurs at start-up companies eagerly kick off their new business with passion and perseverance, they often do not appreciate what IP assets they have created and the intrinsic value in them until unfortunately it is too late.

With more than 25 years of IP law experience, both in private practice and as an in-house IP counsel, John Maldjian, Esq., founding member of Maldjian Law Group LLC, has had the privilege to counsel dozens of start-up companies about their IP legal matters. Through those experiences, Maldjian has witnessed exciting achievements, but also has had to help some clients resolve costly IP issues, which could have been avoided if they had only established an IP strategy early on.

For instance, some companies are unaware an inventor has only one year to file a patent application after first publically disclosing it, offering it for sale or selling it. Clients who've retained Maldjian's firm more than a year after selling an innovative product on the internet had to hear the bad news; they were barred from obtaining a U.S. patent. Other clients who came to Maldjian's firm after using a trademark in commerce but never conducted a trademark search were unpleasantly surprised to receive a cease and desist letter from a company who owned a federal trademark registration for the same/similar trademark. They demanded his client to immediately stop selling products with the trademark and destroy all inventory.

Having an IP strategy will inevitably help reduce the issues described above and is crucial when launching a new business. Including an IP strategy in the initial business plan will ensure alignment with a company's short- and long-term business objectives.

Maldjian has seen new ventures put most of their efforts and resources into marketing plans, investment capital, prototypes, software development and SEO strategies, while protecting IP assets are at the bottom of their priority list. Eagerness to put products/services into the market takes precedence over fundamental steps of identifying, procuring, protection and asserting IP assets. Failure to take these steps may cause IP assets to lose their value or

become unintentionally abandoned, which often proves fatal for a start-up business. An IP strategy should include at least the following efforts.

A Non-Disclosure Agreement (NDA) should be entered into before meeting with manufacturers, investors and buyers. It can help protect a company's proprietary information, e.g., business plans, innovative products, processes/ methods and other proprietary IP assets. The NDA should be followed up shortly after with a comprehensive IP asset assessment.

Next, patents, which cover ideas and inventions, are especially crucial for high-tech companies who need to differentiate products/services from competitors. This will strengthen a company's marketing position, provide collateral for commercial loans and attract investors, as well as deter competitors from entry into similar technologies or market sectors.

Furthermore, federally registered trademarks protect words, symbols, designs and slogans that are used to identify the source of goods or services. Obtaining a U.S. federal trademark registration gives a company trademark rights throughout the entire United States.

Finally, there are copyrights, another important category of IP asset protection a start-up should not overlook, especially if it is involved in software development. Copyright protection covers software, as well as website

designs, printed or online media content. Obtaining federal copyright registrations for the most valued creative works of art or authorship can offer a company a significant advantage, should a competitor attempt to copy the creative works.

In sum, there are undoubtedly numerous steps to get a fledgling business off the ground. In Maldjian's experience, through his help, clients who have ultimately succeeded have taken these proactive steps early in the life cycle of the business to lay out a comprehensive IP strategy in line with their business plan.

If you are an entrepreneur with a start-up business, speak with an IP counsel to help develop an IP strategy and do it now to avoid potentially losing your company's IP rights! It is the ultimate game changer for a successful start-up business.

Including an IP strategy in the initial business plan will ensure alignment with a company's short- and long-term business objectives.



PHOTO CREDIT: KYLE MALDJIAN

To learn more about Maldjian Law Group LLC, visit mlgiplaw.com.