

INSIGHT
Guest Perspective

Recognizing the value of intellectual property in your business

Various forms of protection

Many great businesses begin with a great idea. Intellectual property rights protect your idea as a viable form of property that can be owned, bought, sold, licensed and even bequeathed. Recognizing how to harness intellectual property rights, such as patents, trademarks, copyrights, and trade secrets, can help turn your great idea into a great business.

Patent Protection

A patent is one of the strongest forms of intellectual property protection. While you may not need a patent to sell your invention, a patent may help protect the time, money and effort invested in bringing your invention to market. A patent grants you the exclusive right to make, use and sell your product for a fixed period of time. A patent is also transferable. For example, you could license your patent rights to others if, for example, you do not have the manufacturing capabilities to fully exploit your invention's potential.

However, you should consult with legal counsel before making any public disclosures about your invention, as patent rights can be lost (both here and abroad) should disclosures be made prior to formally filing a patent application.

Patent Licensing

Not all great ideas necessarily involve a new invention. Some great ideas

involve recognizing the potential value of existing patented technology to your business. Of the millions of patents currently in force, many of the inventions described therein are not practiced for one reason or another, such as the patent owner's lack of business acumen, manufacturing capabilities, financial wherewithal or desire to monetize their patented invention. Such patent owners may be looking to enter into a beneficial relationship with a business through a licensing arrangement. In one historical example of such a relationship, in 1790, President George Washington (as part of his duties with the newly-established Patent Office) reviewed and signed a patent for an automated gristmill for flour production. As a farmer himself, Washington recognized the value of the patent to his own business and within a year purchased a license to the patent and installed the system at his Mount Vernon plantation. Similarly, your business could be improved via a license to existing patented technology.

Trademark Protection

The licensing of the gristmill patent was not President Washington's first foray into intellectual property. Several years earlier, in 1772, Washington had the foresight to record a trademark of "G. Washington" for his flour. He realized that consumers remember a quality product by its name. This

association in the mind of a consumer between a product or a service and its source is precisely what trademark law is designed to protect. Thus, the ability to assert your trademark rights against a competitor who tries to trade off your good name is crucial in protecting your business's reputation. As such, your trademarks are a valuable asset for your business and that value should be protected.

Copyright Protection

Copyrights are another form of intellectual property that can apply to many aspects of your business. Typical works that may be copyrighted include computer code, logos, advertising, website design, brochures, photographs and forms, among others. Compared to patent or trademark registration, registering a copyright with the U.S. Copyright Office is a relatively simple and inexpensive process. However, the quantity of business-related material eligible for copyright protection may cause registration costs to quickly add up, so developing a clear strategy for determining what to copyright is advisable.

Trade Secret Protection

Finally, while the above-described forms of intellectual property involve public disclosure, the best protection for your great idea may be to simply keep

it a secret. If your great idea cannot easily be reverse-engineered or involves a unique manufacturing technique not readily apparent in the finished product, you may not need to limit yourself to the fixed term of a patent. Instead, by keeping your recipe, technique, know-how, etc., secret, you may be able to retain the competitive advantage of your trade secret indefinitely. Enforcing documents such as employee agreements, confidentiality agreements, and noncompete agreements and implementing further policies for keeping practices secret may be critical to protecting the value of your company.

This article provides only a small introduction to the world of intellectual property and the ways in which it can benefit your business. Indeed, whether your business is a startup or an ongoing concern, intellectual property rights can add considerable value to your company.

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The views expressed are those of Naill's and Kale's and do not necessarily represent those of the Rockford Chamber of Commerce.



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