



Why Does My Startup Need Patents?

A patent is a legal monopoly granted by a government in return for public disclosure of an invention. A granted patent gives the proprietor the right to prevent others using the invention in the territory to which the patent applies.

A patent can be very valuable to its proprietor. A patent allows the proprietor to exploit his or her invention free of competition from others. They can choose to work the patent themselves, for example by manufacturing the patented product, or they can choose to license other people to use the invention, usually for a fee. If anyone uses the patented invention without a licence, they can be sued by the proprietor. If an infringer is successfully prosecuted, they can be stopped and ordered to pay damages and costs.

A patent can therefore reserve the marketplace for the patent proprietor, and/or be used to generate revenue for the proprietor. While these benefits are important to a businesses of any size, patents can confer a number of additional advantages that are particularly significant for startups.

Improved Prospects for Investment

A key patent, or indeed a comprehensive patent portfolio, can help to attract investors for several reasons. As well as serving as an entry barrier against potential competitors, patents can demonstrate that the start-up is of a certain quality. This can help to offset the liabilities that are often associated with being a new enterprise, and strengthen the startup's position in negotiations. It comes as no surprise, therefore, that while around 40% of all startups reportedly hold patents, this percentage has been documented to rise to about 80% among those receiving venture capital investment.

Protection of Innovation

Patents can help to prevent larger rivals from hijacking a startup's innovations. In addition to providing a means for redress against infringing competitors, a patent can deter a larger company from appropriating a startup's inventions in the first place.

Defence Against Incumbent Competitors

It is not uncommon for larger, existing companies in a particular field to attack a startup competitor by launching a patent infringement suit against them. In particular, an incumbent company can attempt to litigate a startup rival out of business by quickly running down their more limited resources. A robust

patent portfolio can help to safeguard against such an attack by reinforcing a startup's intellectual property position, allowing them to negotiate with competitors and fight back more effectively.

Increased Market Share

Patents can enable a startup company to quickly increase its market share. For instance, a startup itself may have a limited capacity to manufacture its innovative product. Rather than restricting output to the startup's capacity, a patent allows the technology to be licensed to other players in the field. As a result, production may be increased together with the startup's overall market share.

Freedom to Operate

Patents can also help to maintain a startup's freedom to operate. If the startup is an early entrant to a particular field, its patent(s) can act as a barrier to entry against potential competitors. This can prevent "copycat" rivals from entering the field and filing their own patent applications, reserving it for the startup.

Facilitating Partnerships

Manufacturing and service firms frequently develop their products or services using inventions brought in from outside of the firm. Start-ups are an important source of such inventions. The possession of a patent can bring a startup's existence and technology to the attention of other firms, and serve as a legal framework for constructing joint ventures and research-and-development partnerships.

Improved Prospects for Acquisition

As discussed above, patents are a valuable asset for any business. Accordingly, patents may increase the likelihood that a start-up will be acquired. Furthermore, start-ups that own substantial and valuable intellectual property may be able to use this to negotiate a lucrative acquisition deal.

Initial Public Offering

Finally, patents can help a startup to prepare for an Initial Public Offering (IPO). A robust patent portfolio can serve to allay investor concerns over a startup's legal risk in advance of its IPO. In addition, a startup's own patent portfolio can assist in fighting off alleged infringement attacks launched by competitors, which may be timed to disrupt the IPO, and can also protect the startup from further litigation later on.

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