

Every start-up company faces the challenges of being pulled in multiple directions. Competing interests consume your precious resources including time, people and the thing that is most precious to a start-up, cold hard cash.

When evaluating an intellectual property (IP) investment, a start-up needs to consider where to place its resources. Intellectual property protection is essential for your start-up to be successful and garner third-party investments. However, with a limited bank account, every dollar a start-up spends on IP protection is a dollar less to spend on expenses for going to market and advertising. A savvy start-up balances its resource spending on IP protection, product development and marketing. If a start-up doesn't get to market, then it might have a nice IP portfolio that it can auction off, but no on-going business.

A start-up trying to decide where to spend its precious resources should consider the following items:

1. **Timing** – How quickly are you going to market? Make sure to obtain your IP protection **before** you go to market or publicly disclose your innovation. Unless you are in a fast moving area, you may want to consider waiting to file for IP protection until you are further in the development process. If you can test the market for a significant amount of time following your initial filing, you will be able to see how your product sells and what causes your product to gain traction. Then, you will be better equipped to make the more costly choices of what types of IP to fully pursue.
2. **Cost** – How much do you have to spend? Ask your attorney about your expected costs, not just for the immediate filing, but for the life of the IP you want to obtain. Learn what it will cost to get your IP on file and when you will incur additional costs going forward. It can often be difficult to get a firm estimates on total IP expenses because attorneys can't always predict how involved your IP prosecution will be for your particular innovation. However, you can usually get a rough estimate. In some cases, creative IP attorneys can develop ways to push some of your IP costs down the road. If you can't afford the rough estimate that is given, consider spending your money where it will produce the greatest value for your company.

3. **Future Investment** – Do you need outside investors and when will you need this outside investment? Typically, outside investors want IP on file before they invest in a start-up. This helps give the investors piece of mind. Also, if you have granted rights such as issued patents and registered trademarks, your company valuation will likely increase. This benefits you because you will likely have to give up less ownership for investment dollars. However, getting issued rights prior to investments is linked to timing and cost as previously mentioned.
4. **Relationships** – Having a good working relationship with your IP attorney is one of the most important things to remember when deciding how best to handle your IP needs. Choose someone that you can work with and who cares about the success of your start-up. Make sure your attorney is willing to discuss when, how much and where you should seek IP protection at each stage of your company's development. Don't be afraid to ask questions or to even find out from your IP attorney what questions you should be asking.

"To raise new questions, new possibilities, to regard old problems from a new angle, requires creative imagination and marks real advance in science."

*Albert Einstein*