

PatentPC Advises on When To Obtain Patents

Many founders and startup business owners wonder when it is best secure patent protection. PatentPC shares valuable insights from serving innovative clients.

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/EINPresswire.com/ -- Sometimes it can be hard to know when it is time to speak to a lawyer. This is especially true for early stage businesses and founders looking for tractions and investors.

To answer this question, looking at examples can help. Recently Facebook was sued by a defunct startup called Phhphoto for allegedly violating antitrust laws. The lawsuit claimed that Facebook copied Phhphoto's popular app, which allowed users to create looping videos similar to the popular app Boomerang, and integrated it into Instagram without giving credit or compensation to Phhphoto. The suit alleged that this action effectively killed Phhphoto's business and violated antitrust laws by using its dominant market position to crush competition.

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Before you share your idea with the world, speak with an IP lawyer. We can help you determine whether your idea is patentable, and can guide you through the process of applying and monetizing your IP.”

Bao Tran

The lawsuit revealed details about how Facebook and Instagram executives allegedly discussed and planned the cloning of Phhphoto's app. Emails and internal documents showed that they were aware of the similarities between the two apps and even discussed whether to give credit to Phhphoto or not. However, in the end, they decided to launch the cloning app on Instagram without giving any credit or compensation to Phhphoto.



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Patent PC Office

For a startup, it's important to think about patents early on. Had Phhphoto secured patents for its product earlier in the game, they may have weathered the storm. With protection under patent

law, the company would have been able to go after infringers and claim all provable damages in a patent suit and be in a far stronger position than the current unfair competition allegations.

Bao Tran, a Senior Principal at [PatentPC](#), notes that “This lawsuit shines a light on the challenges faced by smaller startups in nimbly dancing with these giants while getting market traction and possible investments from strategic players in the space. Overall, securing a patent early can provide valuable legal protection and commercial opportunities for the first-to-file innovator. The patent can prevent the competition from selectively copying ideas that gained rapid traction and avoid the R&D expenses by being a fast second-to-market company.”

ADVANTAGES OF EARLY FILING -----

- * Some advantages of securing a patent early in the development of an invention or idea include:
- * Establishing legal ownership of the invention and preventing others from using, making, or selling it without permission.
- * Securing an early date of invention, which can be important in the event of any future disputes over applicable prior art.
- * Allowing the inventor to publicly disclose the invention and seek investment or licensing opportunities without fear of losing the ability to obtain a patent.
- * Creating a barrier to entry for competitors and potentially increasing the market value of the invention.
- * Providing a potential source of income through licensing or enforcement of the patent rights.

One advantage of securing a patent early is that it can provide early warning of potential infringement and allow the patent owner to take action to prevent it. Early filing also allows the patent owner to claim priority from the filing date, which can be important in establishing the date of invention and determining the scope of the rights granted by the patent. Additionally, filing early can provide a strategic advantage in the marketplace, as it can deter competitors from entering the market and can provide leverage in negotiations with potential licensees. Finally, early filing can allow the patent owner to begin generating revenue from the invention earlier, as it can allow the owner to begin licensing the technology or selling products incorporating the invention.

Another advantage in filing early is that there is no commercial best mode yet that must be disclosed. This is important for founders who prefer not to tell the world about how their commercial deployed system works. The best mode requirement is a requirement under United States patent law that the inventor must disclose the best mode contemplated by the inventor for carrying out the invention at the time of the [patent application](#). This requirement is intended to ensure that the inventor does not keep the best mode of practicing the invention secret, but instead shares it with the public in the patent application. The best mode requirement is set forth in 35 U.S.C. 112(a), which states that the specification of a patent application must include a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the invention. The specification must also set forth the best mode contemplated by the inventor of carrying out the invention. This requirement applies to all types of patent applications, including utility, design, and plant applications.

Advantageously, if an early inventor files when the idea just popped into her mind and she is doing technical evaluations of alternatives to implement her invention, as long as she discloses all those variations at the time of filing, the inventor has satisfied her obligation with the law. A year from this filing when the inventor has more details on the commercial implementation, that information is not in the public domain. Thus, filing early can enable the founder to have her cake and eat it too.

BRAINSTORM FOR ALL POSSIBLE IMPLEMENTATIONS AND PUT THEM IN THE APPLICATION

There are a few reasons why it's important to brainstorm for all possible implementations of an invention and include them in a patent application. First, including all possible implementations in the application can help to prevent others from obtaining patents on similar or related implementations of an invention. This can help to protect IP rights and prevent potential infringement issues in the future. Additionally, including all possible implementations in a patent application can help to ensure that the patent is as broad as possible, which can give the company more flexibility in how it uses and commercializes the invention. Finally, including all possible implementations in the patent application can also help to demonstrate the novelty and non-obviousness of the invention, which can improve the chances of the patent application being granted by the patent office.

IMPRESS INVESTORS AND GET VALUATION BUMP WITH PATENT APPLICATIONS -----

Having a patent application can be a valuable asset for a startup, as it can provide protection for the company's innovative ideas and technologies. This can be particularly important for attracting investors, as it can demonstrate the company's commitment to protecting its intellectual property and can potentially increase the company's valuation. Additionally, having a patent application can also help to prevent competitors from copying the company's ideas and can provide leverage in negotiations with potential partners or licensees. Overall, securing a patent application early on in a startup's development can be an important step in protecting and growing the business.

RELY ON PATENT PROTECTION RATHER THAN ASKING FOR INVESTOR NDA -----

Asking potential investors for an NDA is a sign a founder a complete novice to fundraising.

Smart investors won't sign a Non-Disclosure Agreement, or at least not very early on. Potential investors, particularly institutional investors, want to determine quickly if a company is worth investing in. They are able to meet many potential business partners because it is a numbers game. They would be taking on unnecessary risk if they signed the NDA for everyone.

So how can one protect intellectual property without an NDA. With a patent filing, the founder can talk openly about his or her vision and the overall approach and have the patent system backing the entrepreneur. The founder can openly communicate without being secretive will go along way to convincing investors that the founders are bold and can move quickly to achieve the objectives in the investor pitch.

The founder can also have a belt-and-suspender approach to disclosing information to potential investors: use the patent and the trade secret system. Don't tell them the secret recipe! Most investors don't need to go there, and if they insist, then it is fair to request a signed NDA.

TIME TO FULFILL YOUR ENTREPRENEUR DREAM IN 2023 -----

Now it's time to take action, particular with the arrival 2023. Many successful businesses were launched during recessions, so don't let that temper enthusiasm. Some possible new year resolutions for a new business might include:

- * Incorporating the new startup
- * Protecting the new startup with the patent system
- * Identifying and prioritizing key growth opportunities for the business.
- * Developing a robust marketing and sales strategy to drive revenue and growth.
- * Building and nurturing a strong team to support the company's goals and objectives.
- * Investing in training and development to help team members grow and succeed.
- * Focusing on customer satisfaction and retention to build a loyal customer base.
- * Implementing effective financial management practices to help the business stay on track and reach its financial goals.
- * Strengthening relationships with key partners and stakeholders to support the company's growth.
- * Keeping up with industry trends and innovations to stay competitive and relevant.
- * Building a strong online presence and leveraging digital marketing to reach new customers and expand the company's reach.
- * Staying true to the company's core values and mission to drive success and growth.

It's always a good idea to set personal goals and strive to improve in the coming year. Some possible new year's resolutions for 2023 might include:

- * Eating healthier and exercising more
- * Learning a new skill or hobby
- * Saving more money and reducing debt
- * Traveling to new places and experiencing new cultures
- * Building and maintaining positive relationships with friends and family
- * Focusing on personal growth and self-improvement

Remember that the key to achieving goals is to be specific, realistic, and consistent in efforts. Good luck!

About Patent Professional Corporation (PatentPC) -----

PatentPC assists clients big and small in protecting their inventions in a variety of practice areas including software, digital health, and medical devices. Our specialized expertise covers a broad range of technical areas. We focus our practice on strategic guidance and services, including patent prosecution and strategic patent counseling. Our experience includes prior art searching, clearance searching, product licensing, and enforcement of patents and other intellectual property rights.

Our patent attorneys have a technical background that gives us the ability to create patent applications that capture a novel invention and also provide coverage beyond the boundaries of the invention. Our combined experience as patent lawyers and our knowledge of patent litigation allows us to prepare and file all types of patent applications that can withstand scrutiny and maximize enforceability. Our expertise also extends to negotiating and drafting licensing arrangements.

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