

PROTECTING INTELLECTUAL PROPERTY (IP) ON A BOOTSTRAP BUDGET

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AGENDA

IDENTIFYING YOUR INTELLECTUAL PROPERTY (IP)

FOCUSING YOUR R&D ON VALUABLE IP

BUDGETING FOR PROTECTING IP

PLANNING FOR PROTECTING IP

APPROACHING POTENTIAL FINANCIERS AND IP

AVOIDING IP OWNERSHIP ISSUES

PRESERVING YOUR RIGHTS AND IP



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IDENTIFYING YOUR IP

IF YOU ARE SOLVING A PROBLEM YOU ARE LIKELY CREATING IP.

TECHNICAL PROBLEMS: TRADE SECRETS AND PATENTS.

BUSINESS PROBLEMS: IP FORMS VARY

BUSINESS METHODS CAN BE PATENTED (IN RE BILSKI: U.S. SUPREME COURT 2010).



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Identifying Your IP

SUGGESTIONS FOR WHERE TO LOOK FOR IP:

BUDGETARY LINE ITEMS

SCHEDULE TASKS, EVENTS, MILESTONES

IMPROVEMENTS, PATCHES, LESSONS LEARNED,
ETC.

COMPONENT LISTS (BOMS, WBSS, PARTS LISTS,
OOD DECOMPOSITION ANALYSES, CONTROL/DATA
FLOW DIAGRAMS, ETC.)



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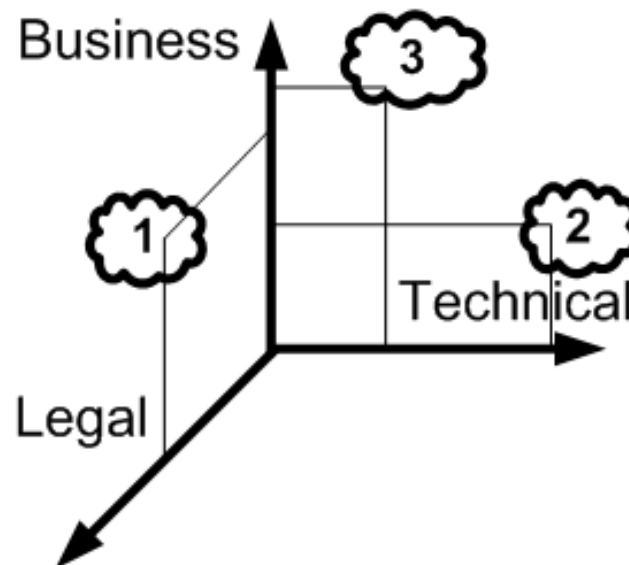
Focusing Your R&D on Valuable IP

3 GENERAL CRITERIA TO JUDGE IP

LEGAL CONSIDERATIONS

TECHNICAL CONSIDERATIONS

BUSINESS CONSIDERATIONS



Budgeting For Protecting IP

BUDGET NOW FOR WHEN YOU ARE FUNDED

INCLUDE FUNDS FOR PROTECTING IP IN YOUR
FUNDING REQUESTS

CASH FLOW IS THE NEW VENTURE CAPITAL –
INCLUDE IP PROTECTION IN YOUR
BOOTSTRAPPING TIMELINE



Budgeting For Protecting IP

COPYRIGHTS: FILING FEES ARE MINIMAL

TRADE SECRETS: COST(S) OF SECRECY DEPEND ON THE NATURE OF THE SECRET

TRADEMARKS:

GOVERNMENT FEES ARE SEVERAL HUNDRED DOLLARS“PER CLASS”

ATTORNEY FEES FOR FILING ARE TYPICALLY A COUPLE THOUSAND DOLLARS

ADDITIONAL FEES WILL USUALLY BE INCURRED DURING “PROSECUTION” AND SUBSEQUENTLY



Budgeting For Protecting IP

PATENTS

PRO SE APPLICATIONS ARE IRONICALLY THE MOST EXPENSIVE IN THE LONG RUN

PROVISIONAL APPLICATIONS CAN BE EXPENSIVE IN THE LONG RUN TOO

ATTORNEY FEES TYPICALLY > \$10,000

GOVERNMENTAL FILING FEES VARY BUT ARE TYPICALLY MANY HUNDRES OF DOLLARS (FOR SMALL ENTITIES)

ADDITIONAL FEES LIKELY DURING PROSECUTION AND SUBSEQUENTLY



Planning for Protecting IP

COPYRIGHTS

MINIMAL EFFORT

TIMING IS USUALLY MORE OR LESS YOUR CHOICE

BEWARE: USE OF OPEN SOURCE SOFTWARE

TRADEMARKS

RESERVE YOUR DOMAIN NAME (.COM)!

LEVEL OF EFFORT DEPENDS ON LEGAL COMPLEXITY

TAKES 1-3 YEARS TYPICALLY

“UNCONTESTABLE” AFTER 5 YEARS



Planning for Protecting IP

TRADE SECRETS: HOW TO MAINTAIN SECRECY?

PATENTS (OVERVIEW)

ONE YEAR STATUTORY BARS

OFFERS FOR SALE AND ATTEMPTS TO COMMERCIALIZE

PUBLIC DISCLOSURES

ATTORNEYS TYPICALLY NEED 3-4 MONTHS TO WRITE

TYPICALLY TAKES 2-4 YEARS



Potential Financiers and IP

FINANCIERS DO NOT WANT

YOUR DETAILED IP (UP FRONT)

TO SIGN AN NON DISCLOSURE AGREEMENT (NDA)

THEY DO WANT TO HEAR ABOUT

THE PROBLEM SOLVED AND

THE BENEFITS OF YOUR SOLUTION

YOUR MARKET AND ENTRY BARRIERS

IP CREATES ENTRY BARRIERS

THUS, FINANCIERS WANT TO SEE IP (OR AT LEAST AN IP PLAN)



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Avoiding IP Ownership Issues

CREATOR/AUTHOR USUALLY OWNS IP INITIALLY

WRITTEN ASSIGNMENT (TRANSFER) CONTRACTS

REQUIRED FOR SOME IP (e.g., COPYRIGHTS)

ADVISABLE IN ALL CASES

INCLUDE IP CLAUSES IN YOUR EMPLOYMENT AND
THIRD PARTY CONTRACTS

IP CLAUSES CAN BE NEGOTIATED

GET A LEGAL REVIEW



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Preserving Your Rights and IP

COPYRIGHTS:

COPY OF WORK FOR REGISTRATION

EVIDENCE OF CREATION AND DATE

TRADEMARKS: DATED “SAMPLES”

PATENTS

INVENTOR’S NOTEBOOKS

TWO CORROBORATING WITNESSES

DATES OF COMMERCIALIZATION AND DISCLOSURE

IMPROVEMENTS AFTER “BARS”



Protecting Intellectual Property (IP) on a Bootstrap Budget

QUESTIONS AND ANSWERS

FOR MORE INFORMATION SEE:

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