

SABA
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Intellectual Property Rights and Entrepreneurship

Amal Abdallah
aabdallah@sabaip.com

SABA
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Saba & Co. Intellectual Property was founded in 1926

We operate through an extensive network of branches and representative offices across the Middle East, North Africa as well as worldwide.

We are active in all areas of prosecution, registration, and enforcement of intellectual property rights, and provide a full range of related legal and paralegal services.

Intellectual Property and Entrepreneurship

Intellectual property is vital to the business process.

Assessing the quality of a startup idea is one of the most critical steps in the evolution of the venture, before the founders take the idea a step too far. The success of an idea hinges on the ability to turn it into valuable intellectual property (IP).

All entrepreneurs / startups have IP rights arising from their ideas/ projects.

Knowing how to protect an idea, whether it's an invention or a brand name, a copyright or a quasi right* is the start of the invention process through all its cycles.

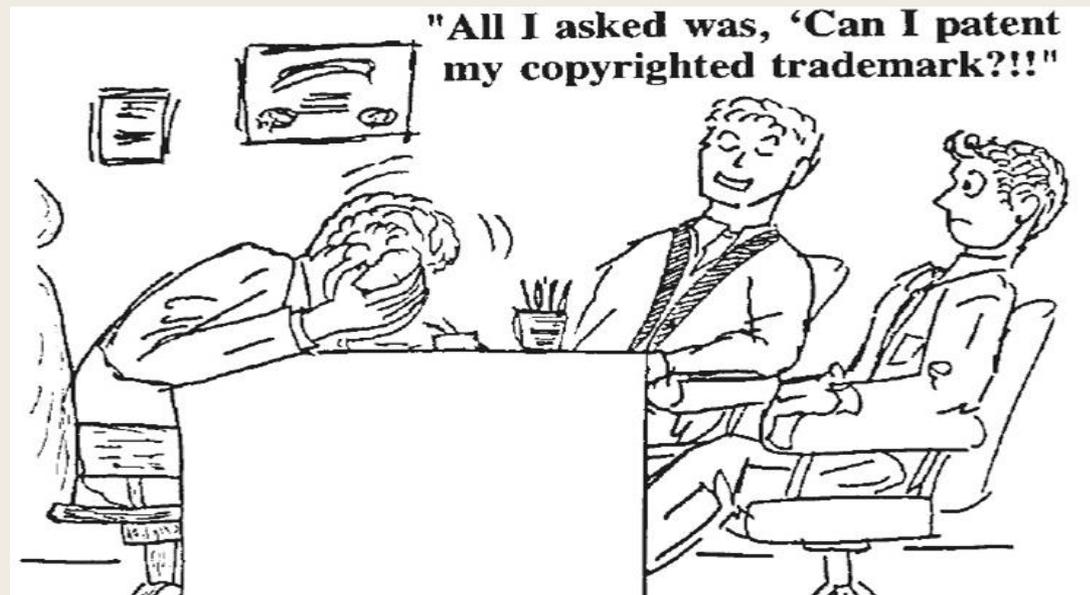
Yet because Intellectual Property is not a physical asset, it can easily be overlooked. Safeguarding an entrepreneurship intellectual property is crucial to developing and maintaining a successful business.

* Confidential Information, Know How, Trade Secrets, Reputation/Passing off, Traditional knowledge

Intellectual Property and Entrepreneurship

As a consultant to entrepreneurs, I come across a common situation: An entrepreneur may have a good idea and a good market, but he does not know what type of Intellectual Property rights he may have or even he does not know that he has an Intellectual Property Right.

Some entrepreneurs dismiss ownership as something important, others think that they may find their ways by not having a proper protection.



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Most entrepreneurs / startups are focused on ideas and bringing them to the market. The growth of business and survival are their immediate priorities. They often overlook intellectual property protection.

Entrepreneurs consider matters related to intellectual property (IP) as time-consuming and expensive. They fail to acknowledge the invaluable intangible asset that they may have.

Some common pitfalls that entrepreneurs should avoid in matters related to IP:

Considering IP as Unimportant: Most entrepreneurs mark IP as an unimportant matter; not knowing that delaying matters can result in loss of rights and liabilities. Also, disclosing the information related to their invention or product is a serious mistake that hinder them from registering it at a later stage.

Failure to conduct sufficient research: Conducting a search to identify prior similar or identical trademarks /tradenames and conducting prior art searches for inventions is the first step to be taken prior to investing on a name or invention. Conducting such searches and making sure that the IP is unique prevent legal clashes over brand names and inventions for a third party.

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Not paying attention to the business name: When selecting a trademark or a tradename, entrepreneurs should consider the legal consequences and not only the marketing perspective. A strong, not descriptive and unique name that can be registered as a trademark will increase the IP value and will save the entrepreneurs the extra cost arising from a rejection of the trademark or a litigation by a third party.

Failure to determine ownership and having agreements in Place: Often there is more than one founder collaborating to launch a startup; in addition to consultants retained to help with business processes, design logos, design websites, write code, etc. Unless the underlying IP in what all these individuals create is properly assigned, in writing and in the correct form (agreement), the startup company itself will not own it, the rights will remain with the individuals.

Ownership of the idea is a legal question, and a very important one to figure out early on to avoid disputes over ownership that could prevent full exploitation of the idea down the road.

Failure to having the idea legally protectable: once ownership and merit have been satisfied, the last hurdle in turning the idea into valuable IP is the ability to legally protect the idea. Many entrepreneurs discovered that they did not create any significant IP (patents) along the way, preventing them from being able to license the technology, which left them with not bringing the right return on investment to the shareholders.

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Following the common pitfalls entrepreneurs are experiencing, Intellectual Property education is a key to increase the entrepreneur awareness in IP.

- What types of IP protection are available
- The IP System
- How to protect their ideas
- How to legally enforce their IP rights

This education should start at schools and Universities. We should equip students with a basic understanding of the IP value proposition that gives them a competitive advantage after they graduate. In the entrepreneurial context, the difference between success and failure turns on IP.

The Ministry of Economy and Trade has been doing an effort by visiting rural schools to promote IP awareness. This should be an ongoing process due to its important impact.

Some universities in Lebanon are seeking the IP specialists' advice for their students while preparing their projects for graduation.

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The challenge for entrepreneurs / startups is that **resources (financial and human)** are generally limited, and so, hard decisions need to be made about how to allocate them.

This makes it more critical that startups think about their IP strategy earlier, and be cleverer to keep their costs down. By keeping the details of their innovation confidential, an inventor can protect it as a trade secret, and so, defer the costs of applying for a patent until the startup is funded.

A good IP strategy is based on the needs not only of the business in the present, but also provides a framework for protecting the business as it grows. It will put simple processes in place to identify a business's IP as it is created, then capture it, and finally protect it.

Most startups will not have the luxury of applying to protect all of their potentially registrable IP rights at the outset. Financial constraints will mean that difficult decisions will need to be made regarding which IP right or rights to prioritize. This is where a clear strategy comes into play. It enables a business to plan step by step, and budget sequentially.

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In our region at large, and in Lebanon, many accelerators and incubators are supporting entrepreneurs by assisting them for an equity Stake.

The accelerators /incubators working with entrepreneurs in Lebanon are: Berytech; Speed; UK Lebanon Tech Hub; Alt City; Smart ESA; BIAT; Flat Labs; South BIC

The assistance and support comes in many forms, to list a few:

Acceleration; capacity building; business support; networking events; hosting; access to markets (outreach); training; mentoring and coaching; marketing services.

Some accelerators are also providing coaching in Intellectual Property rights through IP specialists. However, they do not assist in developing and protecting Intellectual Property rights for entrepreneurs; nor they help them have a well grounded IP strategy based on their business plan.

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The efforts made by the private sector should be complimented by the Lebanese government through its National IP Strategy. Lebanon is in the right direction as it recently started working towards implementing a National IP Strategy.

Some of the areas that can be included in the Lebanese National IP Strategy are:

Legislation :

- Amend IP laws to ensure that we remove barriers to innovation
- Amend IP regulatory framework
- Introduce automation to the IP office
- Issue a strategy for Funding research and development by the government and the private sector with incentives
- Draft policies to encourage universities -public sector-entrepreneurs relationship

Education and Advice:

- Launch programs to help improve IP literacy among Lebanese entrepreneurs

Tools:

- Provide tools to support entrepreneurs as they learn about IP and pursue their own IP strategies

It is to be mentioned that in August 2014, BDL announced Circular 331, injecting the potential of 400 million dollars into the Lebanese enterprise market. The Circular guarantees 75 percent of the banks' investments in the knowledge economy through direct startup equity investment or indirect startup support entities.

Intellectual Property and Entrepreneurship

To conclude, when entrepreneurs recognize their IP rights, protect it, exploit it (Licensing, valuation, marketing), and enforce it properly, they will gain a competitive advantage in the market and over the competition.

Recognition + Protection + Exploitation + Enforcement
=
Competitive Advantage

An environment that encourages entrepreneurship will provide sustainability, economy growth and competitiveness.



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