

Protecting your ideas: Intellectual Property 101

Starting early and categorizing your Intellectual Property (IP) assets strengthens your market position, builds trust with investors, and prevents ownership problems with third parties. In other words, a strong IP strategy to govern your assets goes a long way in ensuring your startup's viability and growth.

So, it is important to understand what IP rights are available to your startup and the first steps you need to take to protect them.

Importance of IP for Startups

IP forms the core value for technology-driven startups, acting as both a shield against competitors and a lever for growth, by granting exclusive rights over their creations. So, it is important to start by understanding the different tools and rights at your disposal. These main ones include:

1. **Patents:** they provide exclusivity over your technical inventions, creating important market barriers. In Portugal and the EU, a patent is granted for inventions that are novel, involve an inventive step, and have industrial applicability.
2. **Trademarks:** they protect your brand's identity, by allowing owners to prevent unauthorized use of identical or similar signs, protecting against consumer confusion and unfair competition.
3. **Design protection:** these rights protect your product's appearance and design innovation, including 2D, 3D, digital, and animated designs.
4. **Copyright:** it automatically protects original works such as software code and documentation without the need for formal registration. However, voluntarily registering or depositing copyrighted materials through official deposit services provides a dated record that can serve as valuable evidence in the event of disputes.
5. **Trade secrets:** they protect confidential information that brings competitive advantage to your start-up, on the condition that it remains secret, has commercial value, and is safeguarded through reasonable protective measures. These measures include non-disclosure agreements (NDAs) with employees, partners, and other individuals who access sensitive information, clear labeling of confidential materials, restricting access to authorized personnel only, and maintaining access logs.

Practical first steps

To make sure your startup takes a good first step in protecting its assets, all IP created by founders, employees, or contractors must be expressly assigned to the startup in

writing. This is needed since Portuguese law specifies that IP belongs to the company only if this written assignment exists. So, it is critical that you secure these assignments near incorporation and maintain signed agreements as part of the onboarding processes of team members, contractors, etc.

Besides this, it is also good to:

1. **Perform an early and thorough audit of all IP assets.** This includes inventions, brands, code, designs, and confidential material.
2. **Manage your patentable assets, if they exist.** Start with a search in the INPI or ESPACENET databases to confirm whether your invention is not already patented and file a provisional patent application, if not. This can secure early rights at lower cost and provide 12 months to validate the invention before committing to a full application. For international protection, the Patent Cooperation Treaty (PCT) allows for a single filing, deferring local filings in up to 158 countries for up to 30 months.
3. **Register trademarks and designs early.** National trademark registration through INPI offers protection within Portugal, while the EUIPO grants a unified protection across the EU's 27 member states. For design protection, registration through national offices, EUIPO, or internationally via the Hague System, gives your startup rights over their usage, which goes a long way to help you stand out in crowded markets.
4. **Keep information confidential.** This means implementing confidentiality clauses or NDAs with employees, freelancers, other contractors and third-parties, as well as adopting effective security measures to protect confidential information, such as access controls.
5. **Leverage your rights.** This means monitoring the market for infringements and enforcing rights when necessary, as well as taking advantage of and protecting your IP assets when i.e. selling your services and products.

It is also good to have in mind that Portugal and the EU support startups through active incentive programs, such as:

1. The SIID ([System of Incentives for Research and Development](#)), which funds R&D and IP projects.
2. The [SME Fund](#), offering financial aid for patent and trademark registrations.
3. Innovation vouchers aimed at accelerating the development of new products and technologies.
4. Targeted grants such as for deep tech startups.

So, staying up to date with these developments and public programs can help you take the steps above and protect your ideas and creations. Early registrations, well-documented ownership rights, internal policies, and the use of public incentives and

support programs helps you secure your place in the market, setting you on a path of growth amid today's evolving innovation landscape.

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