



MISTAKES TO AVOID FOR TECHNOLOGY START-UPS

- **Sharing information too quickly**

The pressure to share information can come from investors, suppliers, partners, and/or manufacturers. Information should only be shared under a non-disclosure agreement. Further, the non-disclosure agreement should include a non-use (non-compete) clause. Your rights in the technology can be made more secure by filing a provisional patent application on the technology before any disclosure.

- **Failing to secure ownership in improvements to the technology**

Improvements to your technology may come from employees, consultants, suppliers, partners, and manufacturers. All of these parties should be required to assign to you all intellectual property related to the technology, especially improvements that are conceived using your resources (employees and consultants) or while filling orders from you (suppliers and manufacturers).

- **Believing a business registration adequately addresses all trademark issues**

Registering your business does not necessarily elevate the name of your business to a trademark that can be enforced against others. Further, the name you select may expose you to liability for trademark infringement. Trademark disputes often result in the infringer having to change its mark, which means that business cards, brochures, products, packaging, letterhead, phone listings, signage, domain names all have to be changed. Conduct a trademark search before selecting a name for your business.

- **Seeking a patent without first considering the prior art and possible design-arounds**

A patent can be powerful tool for your business or a tremendous waste of resources. Before having a patent application prepared determine with precision what has been done before; know the state of technology in your market. When assessing a new invention, demand that your patent attorney provide you with a proposed patent claim if he/she believes the invention is patentable. Examine the proposed claim carefully to determine how difficult it would be for your competitors to design a product that avoids your patent but attracts your customers.

- **Confusing the relationship between your patent and the patents of other parties**

Possessing a patent does not shield you from liability for patent infringement. Your product may be covered by your patent, but it may also fall under the claims of another party's patent. This concern provides another basis for knowing the state of technology in your market.