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CTA SPECIAL REPORT

PROTECTING INNOVATION

The value of patents and trademarks

BY LEO DARDASHTI, PRESIDENT AND CEO, ATLANTIC, INC.

Every week, we are exposed to many trademarked brands such as Coca-Cola, Apple, Google and AT&T. And, according to the United States Patent and Trademark Office (USPTO), there were 629,000 patent and 504,000 trademark applications filed in 2015.

Recent patents have launched well-known, billion-dollar enterprises. For example, Dropbox patented the ability for multiple clients to share and synchronize folders and their contents across a network in 2010. That same year, Square Systems patented the method of swiping credit cards using a mobile phone. And FireEye patented a method of detecting computer viruses in 2005.

Where the Value of Patent Protection Is

The challenge for tech entrepreneurs is determining if a patent is worth the investment. The USPTO defines a patent as "a grant of a property right to the inventor ... the right to exclude others from making, using, offering for sale or selling" an invention. After a patent is issued, the patentee must enforce the patent at his or her own expense.

Utility patents, which expire 20 years after the application date, protect a new and useful process, machine, manufactured product or composition of matter. Thomas Edison patented the long-lasting, incandescent lamp in 1880. Design patents, which last 15 years, protect new, original and ornamental designs for manufactured items. An example is Apple's original 2007 iPhone design patent, which was reviewed by the U.S. Supreme Court last year.

Determining if you have a patentable idea may take significant research. It is important to first determine if similar

products exist or if there are applicable granted patents, called "prior art." Perform preliminary research online using the search terms "patent" and "search."

Having personally been granted numerous patents, my advice is to always use a patent attorney. Before contacting an attorney, save money by creating detailed hand drawings that explain the novel features. Consider why the invention is innovative, where it will be used and how it will improve existing solu-



tions. Write down the applications and functions; specify the shape, material, dimensions and other important characteristics. Such preparation will result in a more productive filing process with your patent attorney.

The patent must be filed no more than one year after the invention became public. Filing for a less-expensive provisional patent allows delaying the full patent filing for 12 months. Patents for other countries must be filed within 12 months of the U.S. filing date. Be sure to use "patent pending" on your product packaging and promotional materials to alert potential competitors.



The Need for Trademarking

The USPTO defines a trademark as "a word, phrase, symbol, and/or design that identifies and distinguishes the source of goods of one party from those of others." Trademarks protect brands that can build product identities and reputations over time. Consumers' buying decisions are often influenced by desirable, well-known brands.

Trademarks are assets that, with time and support, can appreciate in value.

Trademarks never expire. Consider Pepsi-Cola, which registered its trademark in 1896 and had revenues of \$63 billion in 2016. Forbes rates Pepsi's brand value at \$19 billion.

You should register your trademark with the USPTO. During the application process, use an unregistered trademark or service mark simply by using TM for goods and SM for services. The options to register a trademark include hiring a trademark attorney, using a legal service or filing an application on your own.

Manufacturers can protect innovative products and designs by patenting them. Logos and marks can be protected with registered trademarks. Dealers can benefit from selling products and services with brands whose product and service innovations are protected and widely promoted. ■

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