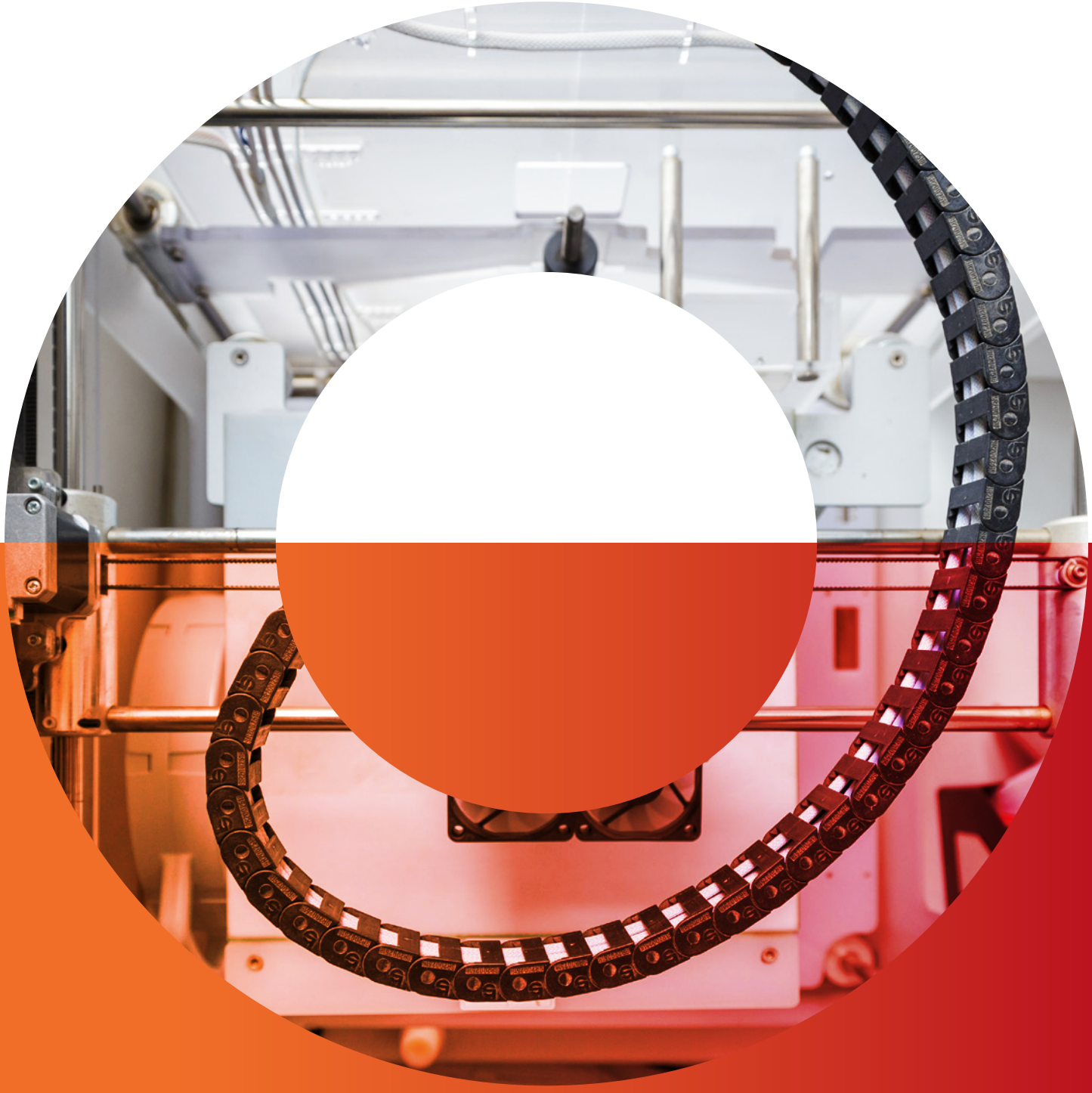
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IP Strategy *for Start-ups*



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The value of a start-up often lies solely in intellectual property. Despite this however, IP does not rank highly on the priority list for start-ups, due to the overabundance of mission-critical tasks that are usually prioritised.

We have provided some pointers that can help start-ups make valuable IP decisions right from the start of their journey.

IP strategy development basics

Good decisions to make early:



IP leadership

Consider who within your organisation will be responsible for driving, reviewing and updating the IP strategy over time. If the skills don't exist in-house, consider outsourcing.



Your products and services

Estimate the lead-time for your products or services to get to market, the location of the market, and their lifecycle once they arrive. Include all current, in-development, and 'pipe-dream' activities as part of this process so that the IP strategy is forward-looking.



Licensing and distribution

Consider what your distribution network will look like if all goes to plan. Identify those outside your organisation who will be in some way involved in your IP, and consider the appropriate measures (transfer terms for contractors, confidentiality provisions, founder agreements etc.)



Competitors

Identify your competitors, what their IP portfolios look like, the aggressiveness and sophistication of their IP strategy, and what challenges they have faced in securing or enforcing their IP. This can provide some indication on the potential difficulties you may also encounter.

IP goal setting

Once you have gathered key information for your IP strategy and development, you can set your IP goals. These goals can be:

- **Minimalist** Identify and avoid IP risks at minimal cost.
- **Defensive** Secure core IP, deterring second movers, maintain IP intelligence.
- **Offensive** Defend core IP, secure secondary IP and tangential licensing.

We recommend the following basics for each approach:

Minimalist

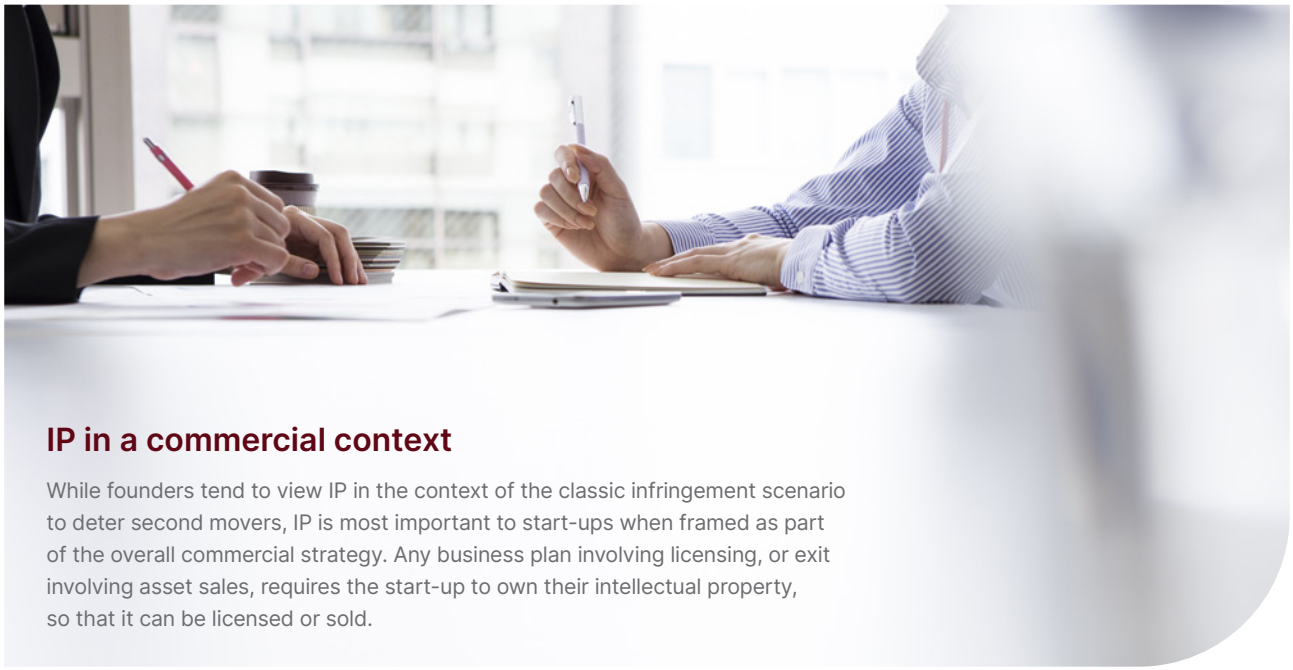
- Check that works created for the company (e.g. website content, images and software code) are not copied.
- Conduct clearance searches against IP databases in core markets and consider competitor searches/watches.
- Develop a basic IP schedule determining who, within and outside your company, owns what IP and consider necessary assignments.

Defensive

- Ensure IP developed for the company is owned by or otherwise licensed to the company. This is particularly important for independent contractors or other individuals who were not employees at the time works were created.
- Identify and seek protection in respect of critical IP, where available.
- Ensure that persons handling confidential information are aware of disclosable and non-disclosable details of your operations.
- Seek protection in respect of secondary IP. Consider broad and/or defensive filing programmes.

Offensive

- Maintain watches on IP databases and core markets.
- Monitor competitor activity, oppose problematic IP filings and enforce IP to impede competitor activity, stymie market incursion, or capture market share.
- Send letters of demand and/or letters putting competitors on notice of your company's IP.
- Conduct routine portfolio reviews and take steps to address any gaps in protection.



IP in a commercial context

While founders tend to view IP in the context of the classic infringement scenario to deter second movers, IP is most important to start-ups when framed as part of the overall commercial strategy. Any business plan involving licensing, or exit involving asset sales, requires the start-up to own their intellectual property, so that it can be licensed or sold.

IP strategy checklist

Have you identified (in writing) the IP that provides a commercial advantage?

- [ ] Innovative products, processes, or services
- [ ] Trade marks and branding
- [ ] Domain names
- [ ] Trade secrets
- [ ] Data, including customer and client lists
- [ ] Exclusive agreements with suppliers/customers

Do you own that IP?

- [ ] Have you filed a patent/design application for your innovative products, processes, or services?
- [ ] Have you filed a trade mark application for your brand?
- [ ] Have you assigned any externally created IP?
- [ ] Have you executed a founder agreement?
- [ ] Do the employment contracts have IP clauses?
- [ ] Do the contractor agreements have IP clauses?
- [ ] Are the assignments made to the correct entity (e.g. Pty Ltd)?
- [ ] Are social media accounts, domains, hosting agreements, and exclusive agreements with the correct entity?
- [ ] If IP is co-owned, has the risk been assessed?

Do you manage your IP risk?

- [ ] Do you search patent, designs, and trade mark databases for incumbent or disruptive IP?
- [ ] Have you de-risked your branding strategy against existing rights in Singapore and abroad?
- [ ] Have you identified registered designs or patents that present risk before product launch?
- [ ] Have you checked foreign-specific issues, e.g. database protection in UK, copyright in USA?

Contact us

Missing any of the above? Contact us to de-risk your IP assets and optimise your IP strategy moving forward.

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