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4 Steps to Better Protect Your Ideas

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OF THE SCORES of items that VCs review, the one that they often care most about — after a solid business plan, of course — is intellectual property (IP). It's a startup's most valuable asset, and the companies that bake IP protection into their businesses from the start make for more attractive investments. But IP is more than just a patent or registered trademark. I've outlined four additional — and simple — steps you should take to protect, preserve and enhance this asset.

1. IP-assignment and nondisclosure agreements

Require all founders, employees and third-party service providers to enter into some type of IP-assignment agreement before starting any work. It should state that anything created while working for the company is the property of the company. Without this, the company might not be able to claim, or have proper rights to use, key portions of the IP required to drive the

business. And when you try to line up investors, finance or even sell the company, a lack of these agreements can cause havoc — forcing renegotiations or, worse, killing deals outright. These IP assignments are simple and standardized, and there's no excuse not to have them.

You should also obtain nondisclosure agreements from all parties, including all founders and employees, who may have access to any of the company's confidential or proprietary information. These nondisclosure agreements should contain restrictions on disclosure of the company's confidential information, and extend to any third-party vendor with access to the company's confidential information.

2. IP registration

It is never too early to develop a plan for evaluating if and when you should submit applications for patents, copyrights and trademarks. Some actions can be done cheaply and quickly, such as locking down your web URLs and social media-account names. You may — and I stress may — be

able to delay submitting some applications to save on the cost and hassle of filing, depending on the types of IP you create, what portion of the IP can potentially be registered, and whether it would be advantageous to pursue such registration. This especially applies to patents and copyrights of products and services that you have in development and that therefore might change.

3. IT-systems security

Many free cloud storage, email and file-transfer applications are attractive to startups with no money, but they rarely provide the level of security we like to see. If you use them, look into the risks involved and minimize using them for your most critical or proprietary IP — the stuff you can't afford to lose or see stolen. And then, as early as possible, move your operations to secure and encrypted providers. Require employees to use appropriate passwords on computers and mobile devices, and encrypt all flash drives and other portable media that your staff uses.

Extend the same level of vigilance to your potential business partners — vendors and other strategic partners with access to your company's digital files. In fact, require it: It's not out of line for you to seek contractual provisions, making sure these partners are using their own safeguards. It's also not out of line for them to demand the same of you.

4. Post-termination obligations

Former employees, especially disgruntled ones, are more likely than a hacker to misuse or misappropriate a company's proprietary information. Everyone you hire should be subject to noncompetition, nonsolicitation and nondisparagement covenants that extend for a reasonable period of time after employment ends. (That is, except in states where they're not permitted. Call your lawyer.) If you don't ask for these up front, a departing employee may demand substantial severance payments in exchange for signing. We've seen it many times — and it's avoidable. □