
BLACKTECHSTARTUP EDUCATION

Protect the Invention Before You Spend Like a Big Company

A founder-friendly IP playbook: what to document, when a provisional application can help, how to use patent pro bono resources, and why trademarks solve a different problem.

Intellectual property strategy is not “patent everything.” It is deciding what creates defensibility, what should stay secret, what must be disclosed to customers or investors, and where a filing can preserve options. The USPTO offers free education, pro se assistance, and a nationwide Patent Pro Bono Program that can match financially underresourced inventors and small businesses with volunteer patent practitioners.

Inventory before filing

Create an IP inventory with four buckets: inventions, software/code, data and know-how, and brand assets. For each item, identify the creator, date, ownership agreement, public disclosures, third-party dependencies, and whether competitors could reverse-engineer it. This exposes ownership holes before they become financing problems.

If contractors wrote critical code or designed core technology, confirm the company has signed assignment rights. If university research is involved, identify institutional rights. If open-source components are used, know the licenses. A patent filing does not repair broken ownership.

Understand what a provisional application does—and does not do

A U.S. provisional patent application can establish an earlier filing date and does not require formal patent claims, but it is not an examined patent and it does not become a patent by itself. The usefulness depends on the quality and completeness of what you disclose. A thin placeholder can create false confidence.

Before major public demos, papers, sales materials, or investor events, ask whether the disclosure affects your filing strategy in the U.S. or abroad. Build an “IP gate” into launches: no one publishes technical detail until the team has checked whether it should be filed, withheld, or safely disclosed.

Use free and lower-cost USPTO infrastructure

The Patent Pro Bono Program operates through regional programs across the country for financially underresourced inventors and small businesses. USPTO also runs the Inventors Assistance Center and education on patent searching, provisional and nonprovisional applications, and claim drafting. Use those resources before paying someone who promises a “patent package” without understanding your technology.

For trademarks, do a clearance search before spending heavily on naming, packaging, domains, or advertising. Trademark rights and patent rights protect different things; a memorable brand does not protect the invention, and a patent does not give you a usable brand.

A practical sequence

Day 1: inventory ownership and disclosures. Week 1: search prior art and competing products. Week 2: decide what is potentially patentable, what should be trade secret, and what is merely execution know-how. Week 3: speak with a qualified patent practitioner or pro bono program if eligible. Before launch: complete the filing/disclosure decision and document it.

The goal is not the most filings. It is a clean, defensible IP position that survives diligence and preserves the company’s options.

The ownership test

Ask four questions before every major decision: Does this create an asset the company controls? Does it increase switching cost or repeatability? Does it reduce dependence on one customer, platform or vendor? Does it leave the company with better data, IP, distribution or proof than before?

Growth without accumulated assets can be fragile. The strongest moves produce revenue today and make the next sale, hire, financing or product decision easier tomorrow.

Use an IP triage matrix before filing anything

Put every valuable asset into one of four buckets: invention, confidential know-how, brand and creative/software expression. Patents can protect qualifying inventions; trade-secret practices can protect valuable information that remains secret; trademarks identify source and brand; copyright can protect original expression such as code and content. These tools solve different problems. Paying to file the wrong protection is not sophistication—it is waste.

Create an invention record before public disclosure: dated description, inventors, diagrams, prototypes, test results, prior art you know about, contractors involved and where the work was funded. Then ask a qualified patent professional about filing strategy and foreign-right implications before publishing, pitching technical details broadly or demonstrating publicly. A provisional application can create a filing date, but it is not a magic placeholder for material you never adequately described.

Audit ownership contracts. Confirm employees and contractors have appropriate invention-assignment and confidentiality terms; confirm university, employer, grant or partner agreements do not create conflicting rights. A beautiful patent application is much less useful if the company never owned the underlying invention.

SOURCE DESK

Research behind this guide

Use the primary sources below to verify current rules, eligibility and program details before acting. Program terms can change.

USPTO — Patent Pro Bono Program



USPTO — Provisional patent applications



USPTO — Applying for patents



USPTO — Trademark glossary / clearance search



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