



Accelerating entrepreneurial success.

## TwitterChat 7/15/15 Intellectual Property

### Q1

**Launch\_NY:** Q1 How do we decide what needs protection and what doesn't?  
#launchhour  
7/15/2015 4:05:55 PM

#### A1

**JordanWalbesser:** A1: At the end of the day, it's a business decision. What's valuable to your company? And what is unique about your idea? #LaunchHour  
7/15/2015 4:07:17 PM

**PhillipsLytle:** A1: If it has commercial advantage, consider patent, trademark, trade secret & copyright protection based on cost, importance #launchhour  
7/15/2015 4:07:49 PM

**BradleyTaub:** A1 for start-ups it's a balance of available resources with covering as much as possible #launchhour  
7/15/2015 4:07:54 PM

**BarclayDamonLLP:** A1. Protect what gives you a competitive advantage & will really grow your profit... #launchhour  
7/15/2015 4:07:57 PM

**JordanWalbesser:** A1: Sometimes that means protecting a product or a brand. Sometimes it's just keeping things secret. The key is when to protect. #LaunchHour  
7/15/2015 4:08:57 PM

**BradleyTaub:** A1 that's because most start-ups never fully know what final product is worth protecting when the decision needs to be made #launchhour  
7/15/2015 4:09:19 PM

### Q2

**Launch\_NY:** Q2 What are reasonable cost expectations to prepare and file a patent? What are the variables? #launchhour  
7/15/2015 4:11:20 PM

#### A2

**BradleyTaub:** A2 most patent applications cost between 7500 and 15000 depending on the number of embodiments described/claimed #launchhour  
7/15/2015 4:11:28 PM

**BarclayDamonLLP:** A2. Provisional patent app (~\$800 - \$3k), Design patent app (~\$2k- \$4k), Non-provisional utility app (~\$5k - \$10k)... #launchhour

7/15/2015 4:11:33 PM

**BradleyTaub:** A2 other variables: amount of detail provided to attorney, fast-track status, number of claims, and size of application #launchhour

7/15/2015 4:11:35 PM

**BarclayDamonLLP:** ...A2. Complexity of technology, how many alternative embodiments (variations of the product concept) to cover,... #launchhour

7/15/2015 4:11:46 PM

**BarclayDamonLLP:** ...A2. crowdedness of field – takes more time for strategic claim drafting. #launchhour

7/15/2015 4:11:57 PM

**JordanWalbesser:** A2: This one is tough, because it varies on the technology you want to protect and how thorough of a disclosure you provide. #LaunchHour

7/15/2015 4:12:11 PM

**JordanWalbesser:** A2: With startups we try to be flexible with costs. Sometimes that offloading work to the startup to decrease fees. #LaunchHour

7/15/2015 4:13:21 PM

### Q3

**Launch\_NY:** Q3 How is IP protection enforced? #launchhour

7/15/2015 4:16:40 PM

#### A3

**BarclayDamonLLP:** ...A3. Most parties settle IP suits before they go to trial. #launchhour

7/15/2015 4:16:50 PM

**PhillipsLytle:** A3 IP is enforced primarily by private civil litigation although some TM enforcement can be obtained through U.S. Customs #LaunchHour

7/15/2015 4:18:14 PM

**StartUpGrindBuf:** Interesting law in Florida protecting companies from #patent #trolls <http://t.co/bp5hekm1dp> via @Florida\_Today #launchhour

7/15/2015 4:18:22 PM

**JordanWalbesser:** A3: In court. IP is jurisdiction specific. You need to enforce in each county separately. #LaunchHour

7/15/2015 4:20:55 PM

### Q4

**Launch\_NY:** Q4 What is a viable, real low cost strategy to protect your invention?

#launchhour

7/15/2015 4:20:46 PM

#### A4

**BarclayDamonLLP:** A4. File a provisional patent app describing the main concept... #launchhour

7/15/2015 4:21:00 PM

**BarclayDamonLLP:** ...A4. Focus the description on what you feel is novel and nonobvious in view of existing technology... #launchhour  
7/15/2015 4:21:11 PM

**StartUpGrindBuf:** A4. Just crush the competition and get so far ahead competition cannot catch up i.e. google #launchhour  
7/15/2015 4:21:17 PM

**BarclayDamonLLP:** ...A4. File before public disclosure & before risky disclosure (e.g., disclosure to overseas vendor/partner under NDA)... #launchhour  
7/15/2015 4:21:21 PM

**BarclayDamonLLP:** ...A4. It's good to do patent search before filing, but it can be done afterwards if time does not permit. #launchhour  
7/15/2015 4:21:30 PM

**BradleyTaub:** A4 applicants can initially save on fees by filing a provisional application which has much lower filing costs #launchhour  
7/15/2015 4:22:00 PM

**BradleyTaub:** A4 but provisionals only last for one year and will then need to be converted to a nonprovisional with larger filing costs #launchhour  
7/15/2015 4:23:14 PM

**PhillipsLytle:** File provisional app disclosing single embodiment, try to sell/license invention within year before full app must be filed #LaunchHour  
7/15/2015 4:23:32 PM

**BradleyTaub:** A4 if the invention is hard to reverse engineer, keep it as a trade secret #launchhour  
7/15/2015 4:23:51 PM

**HRFMIPLaw:** Be careful with trade secrets, standards change with each state. #launchhour  
7/15/2015 4:24:17 PM

## Q5

**Launch\_NY:** Q5 What are the pluses and minus of using the low cost/do-it-yourself filing methods? #launchhour  
7/15/2015 4:25:20 PM

## A5

**BarclayDamonLLP:** A5. If you have no other means, filing something is better than filing nothing... #launchhour  
7/15/2015 4:25:28 PM

**BarclayDamonLLP:** ...A5. You might be missing strategic legal advice on the whole picture... #launchhour  
7/15/2015 4:25:39 PM

**BarclayDamonLLP:** ...A5. positioning your protection to overcome examination rejections, cover different types of competitors,... #launchhour  
7/15/2015 4:25:49 PM

**BarclayDamonLLP:** ...A5. avoid easy design-arounds by competitors & survive invalidity attacks.  
#launchhour  
7/15/2015 4:25:58 PM

**PhillipsLytle:** A5 Advantages are cost, disadvantage is delay to issuance of patent. Also bare bones provisional may be subject to later attack #LaunchHour  
7/15/2015 4:26:21 PM

**BradleyTaub:** A5 pluses: buys applicant 1 yr to add to disclosure, perfect invention, determine value in market #launchhour  
7/15/2015 4:26:59 PM

**BradleyTaub:** A5 minuses: longer time until examination on merits, adds to overall costs of prosecution #launchhour  
7/15/2015 4:27:14 PM

**JordanWalbesser:** A5: There's only disadvantages. Talk to an IP attorney. Buy them lunch (or a beer, \*hint hint\*). The idea is key to your success #LaunchHour  
7/15/2015 4:29:39 PM

## Q6

**Launch\_NY:** Q6 How can I pitch my product to an investor and keep my IP safe?  
#launchhour  
7/15/2015 4:31:18 PM

## A6

**BarclayDamonLLP:** A6. Ideally, file at least a provisional patent app or copyright registration app beforehand... #launchhour  
7/15/2015 4:31:25 PM

**BarclayDamonLLP:** ...A6. If that's not feasible, require the investor to sign an NDA...  
#launchhour  
7/15/2015 4:31:35 PM

**BarclayDamonLLP:** ...A6. If investor refuses, delay the pitch until you file your app.  
#launchhour  
7/15/2015 4:31:45 PM

**BradleyTaub:** A6 file a patent application before any outside disclosure and/or have the investor sign an NDA prepared by an attorney #launchhour  
7/15/2015 4:32:43 PM

**JordanWalbesser:** A6: Get a patent application (provisional) on file before you talk to the investor. Or stay high-level with your product. #LaunchHour  
7/15/2015 4:32:58 PM

**StartUpGrindBuf:** A6. Idea's are a dime a dozen, the only thing that matters is traction, and showing investors how they will make money #launchhour  
7/15/2015 4:33:27 PM

**PhillipsLytle:** A6 2-pronged approach, file provisional patent application and get signed non-disclosure agreement #LaunchHour  
7/15/2015 4:33:36 PM

**JordanWalbesser:** A6: Investors aren't in the business of stealing ideas. Maybe it happens, but very rare. #LaunchHour  
7/15/2015 4:33:39 PM

**ken\_rother:** A6 Same applies to pitch events, pre-seed workshops, etc be very careful what you disclose before filing #launchhour  
7/15/2015 4:33:54 PM

**ebizari:** A6: Trust the investors! #launchhour  
7/15/2015 4:34:14 PM

**StartUpGrindBuf:** A6, Investors see thousands of ideas, they are not in business to steal ideas but to support entrepreneurs #launchhour  
7/15/2015 4:34:21 PM

**glenn\_a\_allen:** ...A6. Aren't ideas a dime a dozen? It's only if you have done some work on it when it needs protection? See FB vs. Winklevoss #LaunchHour  
7/15/2015 4:35:03 PM

**ken\_rother:** A6 Institutional investors almost never sign NDA, they just see too many ideas. Be careful with angel investors #launchhour  
7/15/2015 4:35:57 PM

**bgouldthorpe:** From my experience:NDAs with investors is bad and unlikely. However, an investor stealing an idea is bad for the rep #launchhour  
7/15/2015 4:36:09 PM

**gen4dev:** A6: The investor wants to understand the business opportunity. It's about the use case more than the IP. Be discreet. #LaunchHour  
7/15/2015 4:38:18 PM

## Q7

**Launch\_NY:** Q7 Can IP be assigned a cash value? How? #launchhour  
7/15/2015 4:36:41 PM

## A2

**BarclayDamonLLP:** A7. Pre-launch value – usually a multiple (e.g., 1x or 2x) of total legal expense for procuring IP protection... #launchhour  
7/15/2015 4:36:52 PM

**BarclayDamonLLP:** ...A7. Post-launch value – accounting formula tied to actual and projected sales, and profit margin... #launchhour  
7/15/2015 4:37:03 PM

**BarclayDamonLLP:** ...A7. Can hire IP valuation firm but usually not required by investors because can be quite speculative. #launchhour  
7/15/2015 4:37:14 PM

**PhillipsLytle:** A7 There are patent expert consultants that can attempt to assign a monetary value to #IP, but hard at early stages #LaunchHour  
7/15/2015 4:37:26 PM

**JordanWalbesser:** A7: Of course! It's an art to appraise the value of IP. Easiest metric - what's someone willing to pay for it #LaunchHour  
7/15/2015 4:37:27 PM

**HRFMIPLaw:** valuation is tricky, 3 methods used, cost, income and market value. Hire an expert #launchhour  
7/15/2015 4:37:38 PM

**BradleyTaub:** A7 yes and some companies specialize in doing this, but it is NOT an exact science #launchhour  
7/15/2015 4:37:40 PM

**DevelopingMike:** High cost firm = high value? #LaunchHour <https://t.co/IEAG45VlwO>  
7/15/2015 4:38:13 PM

**StartUpGrindBuf:** A7. Value of IP is what someone is willing to pay for it #launchhour  
7/15/2015 4:38:44 PM

**HRFMIPLaw:** Most IP valuation experts are CPAs and they hold certification in this field #launchhour  
7/15/2015 4:38:55 PM

## Q8

**Launch\_NY:** Q8 What can I do if I'm worried that an employee or partner might exploit their knowledge of my IP for private gain? #launchhour  
7/15/2015 4:43:34 PM

## A8

**BarclayDamonLLP:** A8. File for protection early & often. Require NDA/IP agreement w/confidentiality, IP ownership & non-compete clauses... #launchhour  
7/15/2015 4:43:38 PM

**BarclayDamonLLP:** ...A8. Implement data security procedures. Restrict access to your critical IP. #launchhour  
7/15/2015 4:43:47 PM

**BradleyTaub:** A8 have a labor lawyer draft employment agreements and make each employee sign before starting any work #launchhour  
7/15/2015 4:43:57 PM

**BradleyTaub:** A8 the employment agreement can include non-compete clauses, IP assignment clauses, etc. #launchhour  
7/15/2015 4:44:09 PM

**PhillipsLytle:** A8 Make sure you have appropriate employee & independent contractor agreements protecting IP #LaunchHour  
7/15/2015 4:44:22 PM

**BradleyTaub:** A8 business partners can be asked to signed NDAs, but before disclosure all IP should be covered in a patent application #launchhour  
7/15/2015 4:44:26 PM

**JordanWalbesser:** A8: You should have NDAs, IP assignments, and other agreements set up with your contractors and employees. #LaunchHour  
7/15/2015 4:44:29 PM

**JordanWalbesser:** A8: And on a practical level, don't work with people that you can't trust - that's just bad business. #LaunchHour  
7/15/2015 4:45:00 PM

**HRFMIPLaw:** Strict employment agreements with tails. Watch for non-competes because many states won't enforce them unless reasonable #launchhour  
7/15/2015 4:45:10 PM

**thetechgarden:** A8. #LaunchHour We are talking about using "work-for-hire" employee agreements.  
7/15/2015 4:46:55 PM

**StartUpGrindBuf:** A8. It is awkward conversation for sure, but signing agreement w/ partner might save business #launchhour  
7/15/2015 4:47:01 PM

**gen4dev:** A8: An issue that keeps many ventures from putting an "A" team in place. Make NDA's/Non-Competes a priority #LaunchHour  
7/15/2015 4:49:48 PM

## Q9

**Launch\_NY:** Q9 What are differences in filing a US patent and a patent with Worldwide protection? #launchhour  
7/15/2015 4:49:05 PM

## A9

**BradleyTaub:** A9 US patents only provide protection in the US and a PCT or int'l app. acts as a placeholder for most countries #launchhour  
7/15/2015 4:49:11 PM

**BarclayDamonLLP:** A9. There is no patent w/ worldwide protection. To preserve foreign patent rights, you can file a PCT app... #launchhour  
7/15/2015 4:49:17 PM

**BradleyTaub:** A9 the PCT app; however, must be converted/nationalized into each foreign country you want to protect w/in 30-31 months #launchhour  
7/15/2015 4:49:19 PM

**BarclayDamonLLP:** ...A9. 1.5 yrs after the PCT filing, you can file specific foreign apps (e.g., EP, Canada, China)... #launchhour  
7/15/2015 4:49:35 PM

**BarclayDamonLLP:** ...A9. A US patent blocks competitor activity in USA only... #launchhour  
7/15/2015 4:49:44 PM

**PhillipsLytle:** A9 There's no patent w/worldwide protection. There's an intl patent filing system allowing for filing single patent app to...#launchhour  
7/15/2015 4:49:51 PM

**BarclayDamonLLP:** ...A9. A foreign patent blocks competitor activity in the specific foreign country only. #launchhour  
7/15/2015 4:49:55 PM

**PhillipsLytle:** A9/2 ...preserve right to file in most of world. Separate app required for each region/nation where patent protection desired. #launchhour  
7/15/2015 4:50:39 PM

**HRFMIPLaw:** There is a European Regional Patent application and once allowed you can validate in the individual countries #launchhour  
7/15/2015 4:51:41 PM

**StartUpGrindBuf:** A9. Almost easier to purchase a foreign startup... That is what Empire Genomics did I believe #launchhour  
7/15/2015 4:51:59 PM

**HRFMIPLaw:** Europe is close to having one patent that will cover all countries in the EU #launchhour  
7/15/2015 4:52:35 PM

## Q10

**Launch\_NY:** Q10 What are the most common mistakes that start-ups and entrepreneurs make? How can they be avoided? #launchhour  
7/15/2015 4:54:50 PM

## A10

**BarclayDamonLLP:** A10. Good idea but missing the right business people on the team. Skipped market research... #launchhour  
7/15/2015 4:55:00 PM

**BarclayDamonLLP:** ...A10. Over-priced the product/service... #launchhour  
7/15/2015 4:55:10 PM

**BradleyTaub:** A10 not obtaining signed employment agreements with IP assignment clauses #launchhour  
7/15/2015 4:55:10 PM

**BradleyTaub:** A10 not obtaining a specific assignment of patent rights for every application at the time of filing, inventors leave companies #launchhour  
7/15/2015 4:55:17 PM

**PhillipsLytle:** A10 Not protecting #IP and failing to get appropriate #IP assignments #launchhour  
7/15/2015 4:55:19 PM

**BarclayDamonLLP:** ...A10. Started business without contract between cofounders/team members, leading to disputes... #launchhour  
7/15/2015 4:55:19 PM

**BradleyTaub:** A10 public disclosure of invention without NDA or patent application on file #launchhour  
7/15/2015 4:55:26 PM

**BarclayDamonLLP:** ...A10. Disclosed IP w/out NDAs. Missed 12-month deadline to file patent app after public disclosure... #launchhour  
7/15/2015 4:55:32 PM

**BarclayDamonLLP:** ...A10. Educate self via online resources & support organizations for entrepreneurs. Get advice from MBA & attorney... #launchhour  
7/15/2015 4:55:41 PM

**BarclayDamonLLP:** ...A10. For central & upstate New York, see <http://t.co/RyAhNE58nB>, <http://t.co/VZKQrvQqcK>, <http://t.co/B05WZrp5vw> #launchhour

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**StartUpGrindBuf:** A10-@Launch\_NY , giving up. not giving up, raising too much money, not raising enough money, to many lawyers, not enough lawyers #launchhour

7/15/2015 4:56:20 PM

**PhillipsLytle:** A10...A good IP chain of title is critical to investors #launchhour

7/15/2015 4:57:05 PM

**PhillipsLytle:** A10...For software companies, understanding inbound licensing agreements is critical #launchhour

7/15/2015 4:57:38 PM

**thetechgarden:** A.10. #LaunchHour A.10. De-prioritizing hiring professionals (attorneys) as a cost avoidance / bootstrap maneuver. Tends to cost in long run

7/15/2015 4:57:38 PM

**PhillipsLytle:** A10...Syncing obligations between inbound and outbound agreements - also critical #launchhour

7/15/2015 4:58:04 PM

**PhillipsLytle:** A10...Don't be desperate - often causes problems later #launchhour

7/15/2015 4:58:51 PM

**DrSSatterwhite:** not making money before you run out of money #launchhour

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