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DECODING IP RIGHTS FOR STARTUPS



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Vlingo Story

Timeline of a startup

Launched
Android app.

- \$ 6.5 M in round A

Patents Lawsuit
by Nuance in
2009

- Nuance wanted to take over Vlingo since it was founded

3 years of patent
battles till 2012

- Acquired by Nuance by end of 2012 for undisclosed terms

2007

2008

2009

2010

2012

Growth with
Series B

- \$ 20 M in round B
- Exclusive Yahoo deal

Gains close to 5
M User by 2009

- Exclusive deals with Yahoo, Samsung, Nokia, and RIM

Value of intellectual property



- Intangible assets account for 80% of a business's value. For early-stage companies, that number is more like 90%.¹
- IP is a legal framework to safeguard firms intangible assets such as
 - Know how – Trade Secrets
 - Innovation - Patents
 - Message - Copyright
 - Reputation – Trademark
- There are various ways IP values can be actualized.

Do investors value IP?

- **Venture capitalists/ Investors prefer to invest in tech startups who patent their ideas**

- *According to a 2008 Berkeley Patent Survey, venture-backed startups had a median of 6 patents or applications, while startups without venture capital tended to hold no patents or applications*

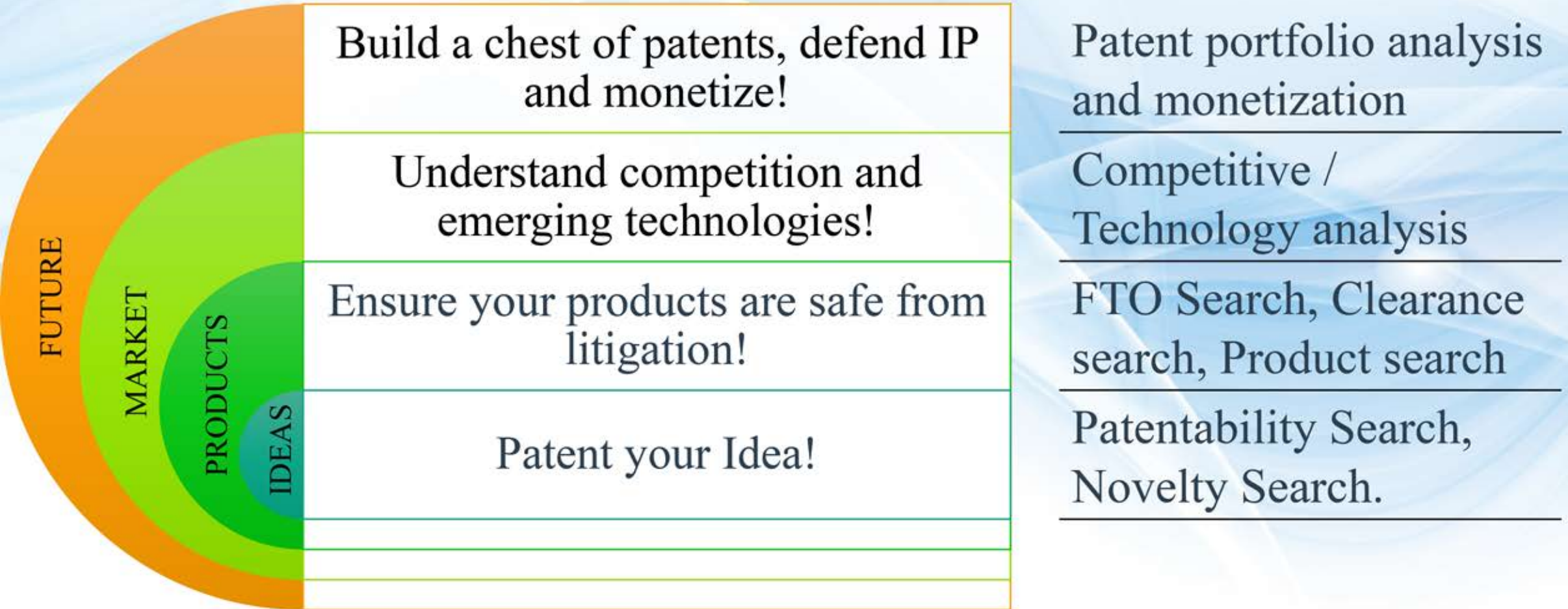
- **VCS/Investors would very often ask these questions**

- What IP have you already protected or can you still protect?
- Do you have freedom to operate?
- Do you own the IP you purport to have?
- What kind of IP you have
 - Trade secrets – Risky
 - Patents – Expensive
 - Me too – IP only on brand and reputation



What should a startup do?

Effective IP strategy for a startup must be decided by business reasons rather than budget constraints



Best Practices for Startups

WRITE YOUR AGREEMENTS

IP Assignment, NDAs, Employee confidentiality and non compete clauses, Partner/vendor agreements

LOOK BEFORE YOU LAUNCH

Make sure you are not infringing on others IP rights. Also check if your ideas are well protected

DO NOT DIY

Understanding IP rights are important and it is better to take advice from experts rather than DIY or use a cheap alternative



BEWARE OF THE EPD

One year after an Enabling Public Disclosure (EPD), you CANNOT patent that product or invention

ADDRESS, LOCATION & DATE

Understand in which geographies you are protected and know your priority dates for right protection

CULTURE OF AWARENESS

From the beginning create and enforce a company culture where IP is respected and protected

Thank You!



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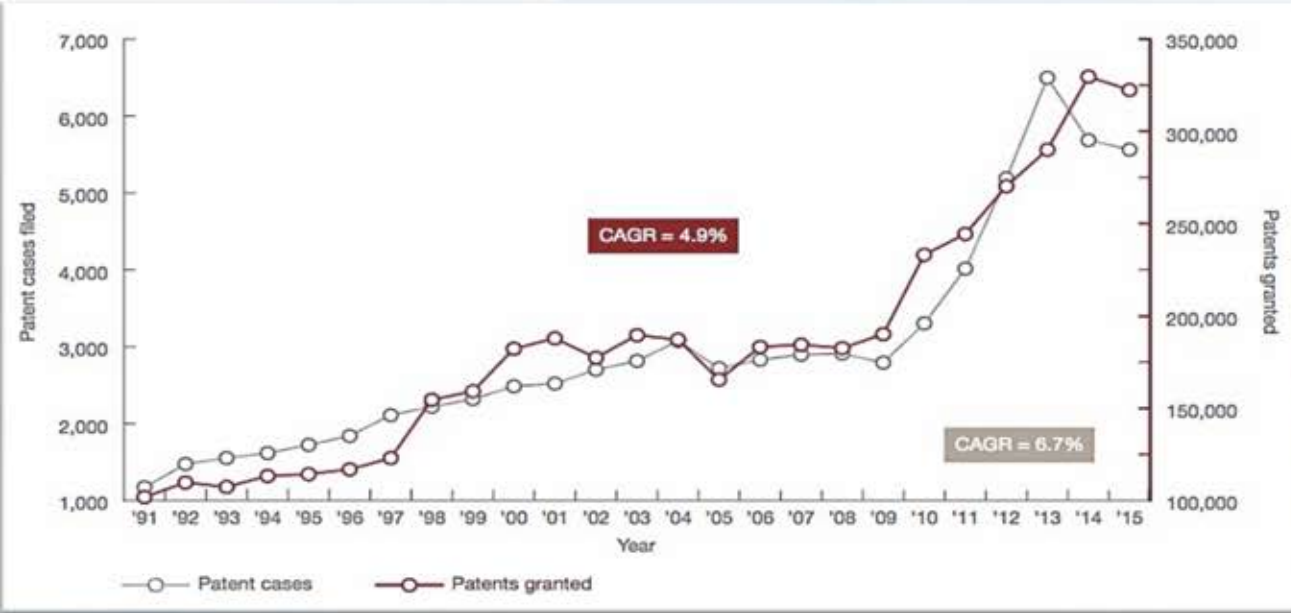


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Value of a Patent



- **300,000+** patents are granted every year
- **6000 +** patent litigations are fought every year and number is increasing

Fig 2: Top ten largest initial adjudicated damages awards: 1996–2015

| Year | Plaintiff | Defendant | Technology | Award (in \$M) |
|------|-----------------------------|--------------------------------------|---|----------------|
| 2009 | Centocor Ortho Biotech Inc. | Abbott Laboratories | Arthritis drugs | \$1,873 |
| 2007 | Lucent Technologies Inc. | Microsoft Corp. | MP3 technology | \$1,538 |
| 2012 | Carnegie Mellon University | Marvell Technology Group | Noise reduction on circuits for disk drives | \$1,189 |
| 2012 | Apple Inc. | Samsung Electronics Co. | Smartphone software | \$1,049 |
| 2012 | Monsanto Company | E. I. du Pont de Nemours and Co. | Genetically modified soybean seeds | \$1,000 |
| 2005 | Cordis Corp. | Medtronic Vascular, Inc. | Vascular stents | \$595 |
| 2015 | Smartflash LLC | Apple Inc. | Media storage | \$533 |
| 2004 | Eolas Technologies Inc. | Microsoft Corp. | Internet browser | \$521 |
| 2011 | Bruce N. Saffran, M.D. | Johnson & Johnson | Drug-eluting stents | \$482 |
| 2014 | Masimo Corporation | Philips Electronics N. America Corp. | Device measuring blood oxygen levels | \$467 |

- **Microsoft paid \$ 1.53 billion to Lucent for infringing the patent for MP3 Technologies**
- **Samsung paid more than \$ 1 billion to Apple for infringing their patent for Smartphone software**

Table 1. Aspects of patent value: patents as corporate assets and commercial tools

| Aspect | Value |
|------------|--|
| Offensive | <ul style="list-style-type: none">• generate patent license revenues• increase market reach• support technology licensing• establish monopoly• litigation and enforcement• protect market share |
| Defensive | <ul style="list-style-type: none">• deter others from copying• discourage potential infringers• improve balance of patent power• forestall third-party lawsuits |
| Strategic | <ul style="list-style-type: none">• acquire venture capital• improve chances of securing other investment• improve negotiating position• licensing/cross-licensing of third-party technology• license for other business value• improve quality of liquidity• assist in initial public offering or other exit event, such as merger or acquisition |
| Leadership | <ul style="list-style-type: none">• enhance product/quality image• underscore innovation culture• demonstrate technology leadership• establish technology ownership |