

Industrial property in entrepreneurship and start-ups

Melissa I. Del Busto, Associate at Arias, Fábrega & Fábrega, explains the importance of educating entrepreneurs and start-ups on the topic of IP to assist in protecting future innovation.

In recent years there has been an influx of innovation from entrepreneurs and start-ups globally; Panama is no exception. This growth phenomenon is set to continue with no limits to the creativity of innovation and original concepts with scope for application across different markets.

However, as this desire for entrepreneurship has grown, so too has our awareness of the general lack of familiarity within this developing community of innovators for correctly protecting assets. There are regular procedures for setting up start-ups and new companies, but there is one more extremely important step outside of this routine and that is to determine what industrial property can be protected and commercialized such as patents of invention, industrial models, or designs, among others.

Several questions arise when talking about industrial property in entrepreneurship or start-ups, such as: can I protect my name, my logo, my creations, or inventions? These questions open a door and are the engine for the community to begin to reflect on innovations and inventions that they are considering, have in development, or that are emerging to later protect as valuable assets such as trademarks, patents, utility models, and industrial models, among others.

Industrial property, although sometimes forgotten or unknown, is one of the most valuable assets an organization can have, a value that is sometimes overlooked due to a lack of knowledge about how to identify and/or register assets. The registration of industrial property is extremely important since said protection grants value not only of ownership but of use rights, and the commercialization of the same. Likewise, protected assets facilitate enforcement



against and protection from third-party use.

That is why this developing curiosity around entrepreneurship must go hand in hand with education on the subject of industrial property, and this must be guided by both state institutions dedicated to intellectual/industrial property as well as IP associations and others from the private sector that have the essential tools to bring this knowledge and guidance to the interested public. Education will also be fundamental for continuing the development, protection, and creation of a culture of innovation that will allow growth across different fields, such as science, industry, and technology. Education and training mean empowerment and progress.

We know that sometimes identifying the industrial property to be registered, and more specific tasks such as drafting patents of invention, a utility model, or a model or industrial design, can be challenging since it entails a series of steps and documentation in order to present the creation for its subsequent registration. This highlights the importance of educating on the subject to cultivate and raise general knowledge of the IP field and for creating greater competition between entrepreneurs and start-ups, with the rest of businesses, to encourage innovation.

It should be noted that Panama recognizes the importance of this message and knowledge in the patent field. Through various institutions, such as the General Directorate of the Industrial Property Registry, the Universidad Tecnológica de Panamá, and the National Secretariat of Science, Technology, and Innovation, Panama is imparting this knowledge through workshops to nurture people's understanding. In addition, these educational resources provide a very significant guide for drafting and presenting techniques, either for present or future practices for patents of invention, utility models, or industrial designs/models, to achieve adequate protection, which then allows exclusivity or commercialization of these innovations.

Similarly, we have come across entrepreneurs or small local companies that initially support larger foreign companies with the registration of an invention, and along the way have been able to acquire that patent at the local level. In this instance, there is a need for guidance on the transfer of the same, but also, depending on the stage of the registration at the time of transfer, modifications in specific subjects, in something as precise as the claims of a patent of invention, may be required. At this moment, the entrepreneur or start-up company must receive, as we have provided to our clients, the support and guidance in the *do's and don'ts* at the time of composition and development in order to achieve the main objective: the registration of the industrial

Résumé

Melissa Irene Del Busto has been an associate of the firm since 2016. Ms Del Busto provides comprehensive IP counseling for large international and domestic companies requiring first-class services with an in-depth understanding of Panamanian IP law. She has a wealth of experience representing clients in securing and maintaining patents, trademarks, or copyrights; franchise, licenses of use, and distribution contracts; and related litigation procedures to fully protect their intellectual property assets. She is a member of the Inter-American Association of Intellectual Property (ASIPI) and of the *Asociación Panameña de Derecho de la Propiedad Intelectual* (APADEPI).

Ms Del Busto has a Master of Human Resource and Management Skills from CESTE Business School, Zaragoza, Spain, and a Bachelor of Laws, summa cum laude, from Santa Maria la Antigua University, Panama.

She has been recognized in the 2023 editions of Chambers Global, Chambers Latin America, Legal 500 Latin America, and Leaders League.

Author email: mdelbusto@arifa.com



Melissa I. Del Busto

property for its use and commercialization. In other words, there is no exact stage where the entrepreneur or start-up will enter the registration process, but they need to have the tools and knowledge to be able to follow such a path until they obtain the due protection of their innovation.

I would like to conclude that, we find ourselves in such a globalized world where technology allows us to reach all the corners of the globe, and no one escapes the threat of a possible third party who might want to take advantage of, for example, a patent or trademark that has been created, developed, and positioned by the entrepreneur or start-up, in order to profit improperly from these creations. That is why our message conveys the importance of protecting industrial property as a main and valuable asset and ensuring the due protection of inventions, through registration, in order to multiply the value of the industrial property creation and also to prevent third parties from misappropriating assets which were created with so much effort by the entrepreneur or start-up.

At ARIAS, FABREGA & FABREGA we have vast knowledge and expertise in industrial property matters and can support you in the registration process of your precious assets. Whether an entrepreneur, start-up, medium, or large company, we have the tools to support you in the determination of your possible industrial property assets and further protection of your inventions and creations.

Contact

Arias, Fábrega & Fábrega

Panama

Tel: +507 205 7000

www.arifa.com