Your Startup Has Filed a Patent. Now What? The Commercial Value of IP

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A startup has developed a new technology, filed a patent application and begun building its product. The filing is an important milestone. But what happens next? Does the patent automatically make the business more valuable, attract investors or create a route to revenue?

Not necessarily. A patent can establish an important legal asset, but its commercial value depends on what the invention enables, who owns the rights, whether the technology has a market and how the business intends to use it.

For founders, the more useful question is not simply whether an invention can be patented. It is what the business can do with the resulting intellectual property.

A Patent Is an Asset, Not a Business Model

A patent gives its owner specified exclusive rights over the claimed invention for a limited period, subject to the Patents Act, 1970. It does not guarantee that customers will want the product, that the technology will be commercially viable or that competitors cannot develop alternatives.

A startup may hold a patent for a technically impressive invention that has no clear route to market. Another may use a narrower patent to protect a crucial component of a product that customers already need.

The difference lies in the relationship between the invention and the business.

A patent becomes commercially meaningful when it supports a defined objective: protecting a product, licensing technology, strengthening negotiations, attracting investment or enabling a strategic partnership. Filing is the beginning of that process, not its conclusion.

When Licensing Becomes a Route to Revenue

Not every startup needs to manufacture and sell a product itself. A company that develops a valuable process, material or technical component may be better positioned to license it to a business with manufacturing capacity, distribution networks or established customers.

Section 70 of the Patents Act permits a registered patent proprietor to assign or license patent rights,

subject to the applicable legal requirements. A licence can provide royalty income while allowing the startup to retain ownership. An assignment, by contrast, transfers the relevant rights.

The commercial outcome depends on the agreement. Exclusivity, territory, permitted applications, royalty structure, performance obligations and sublicensing rights can all affect the value of a deal.

For a resource-constrained startup, licensing may offer a route to commercialisation without the capital expenditure required to build an entire production or distribution operation.

What Bayer v. Natco Teaches About Commercial Value

The dispute in *Bayer Corporation v. Union of India*, concerning the cancer drug Nexavar, illustrates that patent ownership carries commercial rights as well as obligations under Indian law.

In 2012, the Controller of Patents granted Natco Pharma a compulsory licence to manufacture and sell a generic version of Bayer's patented drug. The decision was upheld by the Intellectual Property Appellate Board in 2013 and by the Bombay High Court in 2014.

The authorities considered whether the statutory grounds for compulsory licensing under Section 84 were satisfied, including the reasonable requirements of the public, affordability and whether the patented invention had been worked in India.

The case does not concern a startup valuation, but it highlights a wider commercial principle: owning a patent does not place its commercial exploitation beyond the reach of statutory conditions. The legal framework governing a patent can affect how its owner brings an invention to market, licenses it and earns a return.

Why Ownership Can Matter as Much as the Invention

A patent may be technically strong but commercially difficult to exploit if ownership is unclear.

Consider a startup whose technology was developed by founders, employees, consultants and an external research institution. If the relevant agreements do not clearly establish who owns the invention or who has authority to license it, negotiations with investors or potential commercial partners may become more complicated.

The same concern applies to co-developed technology. A startup should understand its contractual rights before representing that it can independently license, transfer or commercialise the invention.

Ownership documentation, assignment agreements and clearly defined licensing rights are therefore part of the commercial foundation of an IP asset, not merely administrative formalities.

From Patent Filing to Commercial Strategy

The next step after filing is to assess the patent against the business opportunity it is meant to support.

Does the invention solve a commercially significant problem? Is the claimed technology central to the product, or could a competitor work around it? Is licensing more viable than direct commercialisation? Are there third-party patents that could restrict the proposed product or process?

These questions serve different purposes. Patentability concerns whether the invention qualifies for protection. Freedom to operate concerns whether a planned commercial activity may infringe third-party rights. A patent of its own does not automatically provide freedom to operate.

The Real Value of a Patent

A patent is not valuable simply because it exists in a register. Its significance lies in the commercial opportunities it can support and the competitive position it can help create.

For some startups, that means protecting a core product. For others, it means licensing a technical breakthrough, attracting a strategic partner or building a portfolio that supports future growth.

The important shift is from viewing a patent as the endpoint of innovation to treating it as one part of the business architecture. The filing protects a legal position; commercial strategy determines what the business can build around it.

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