Protect Your Small Business’s Intellectual Property When Working With Strategic Partners

I was meeting with a small business CEO recently who was working on expanding her business. She had read this column a couple of weeks ago and gave me this great question, “how can I make sure that my business’s intellectual property is protected if I work with some potential partners in my growth strategies?”

I have suggested that one way to grow your business is by reaching out to strategic partners who offer complementary products or services or who otherwise can work with you to the mutual advantage of both your businesses. Strategic partnerships can expand your market reach and help you achieve more sales. But giving another business intimate knowledge about your company’s inner workings may make you a bit uneasy. There’s some inherent risk involved in sharing confidential information and intellectual property (IP).

I serve on National SCORE’s Learning Advisory Committee with Marc Goldberg, Chair of the Cape Cod & the Islands SCORE Chapter. Marc is a great SCORE mentor and has extensive business management expertise. Related to my topic today, Goldberg reminds us that “It is very easy to steal your ideas or even your unique approach to customer fulfillment. Very quickly you could generate a competitor by sharing information with the wrong people.”

For that reason, you need to take measures to protect your ideas, information, and innovations from theft.

Goldberg recommends you do these things before working with a strategic partner:

- **Determine what information should be considered confidential.**
  The list may be extensive, and for a small business it could include business plans, customer databases, pricing programs, strategic plans, financial records, employee files, R&D projects, marketing strategies, and new business development initiatives.
“Small businesses in the start-up phase that have proprietary information in the form of an invention or innovative approach should take precautions even with business partners in the case where one might leave before the business actually launches,” explains Goldberg.

- **Review the potential partner’s website and social media profiles.**
  Carefully examine how they position themselves and what they are saying about their company, team, products, services, accomplishments, and capabilities. You want to be sure you’ll be collaborating with a business that truly can act as a partner, not as a direct competitor.

- **Protect your intellectual property as you explore the potential relationship.**
  Goldberg advises, “Don’t send originals of anything. Use GoToMeeting or a similar vehicle to share your materials.”

It is very important to take official legal measures to protect your materials before you share original documents.

- **Ask for an NDA.**
  A non-disclosure agreement (NDA) will help protect your intellectual property when you’re ready to share it. You should get an NDA signed early on when exploring a strategic partnership opportunity.

An NDA should accomplish these three things:

  o Identify if the NDA is one-way or mutual (i.e., applicable to only one party or both parties).
  o Specifically define what confidential intellectual property will be included under the NDA (and consider addressing what is NOT included).
  o Define the term of the agreement. (Although you cannot protect your information indefinitely, you should specify a time when it can be renewed.)

In addition, Goldberg recommends, “Make sure everything you share has a copyright notice on it to protect yourself from IP theft.”
• **Make sure you own any work they do for you.**

Create a work-for-hire contract that states you will own any work they do for you. That will help prevent them from claiming they own it.

By leveraging the advantages of a well-researched, carefully selected strategic partnership, you might exponentially increase your brand awareness and sales. Remember, however, you should always look out for the interests of your business by protecting your intellectual property. In addition to considering the tips here and asking for input from a SCORE mentor, also consult an attorney knowledgeable about IP legal issues including copyright, trademark, patents, etc.

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