IP Strategy General Overview

For Startup Founders:

This document was designed to serve as a **guide** for identifying, protecting, and leveraging your IP assets. Your IP strategy is a critical part of your overall business strategy that can give your startup a competitive edge and support the long-term growth of your company.

Throughout this process, your active involvement is essential. By working closely with your IP strategist, you'll ensure that the document reflects your business's specific needs and visions. As the Founder, your involvement in developing this strategy will depend on where you are in your IP journey: whether you're just starting to explore IP protection, or looking to expand an existing portfolio. This document will evolve as your business grows to ensure your strategy remains relevant and effective.

For Service Providers:

The enclosed IP strategy framework has been developed in alignment with the guidelines set out by the Canadian intellectual Property Office (CIPO).

Elevate IP Alberta will evaluate all strategies, funded through the program or otherwise, based on the information provided in the key areas outlined in this document. As an IP strategist, your role is crucial in collaborating with the entrepreneurs to ensure that their IP strategy aligns with the business goals of the new venture.

Introduction	
Company Name & Incorporation Date	• Has the company established a name and branding? • Is the company incorporated? If not, is there a timeline to do so?
Industry	• Which sector do you operate in? • Are there supplementary/follow-on sectors planned?
Purpose of Template	• Why are you crafting this strategy (e.g., guide business growth, attract investment, etc.)? • Define the purpose of the strategy. Clearly state the intended goal(s).
IP Inventory	
Documentation in Place for IP Ownership	• Is ownership of IP, or access to IP rights, documented? ◦ Is technology assigned or licensed to the startup? ◦ Can the company provide documentation of assignment or ownership of the technology? • Are there any revenue or reporting obligations to third parties?
License Agreements *If not applicable, mark N/A.*	• Do the license agreements providing IP access support the business's operational needs? ◦ Do the terms of the license enable the company to freely commercialize the technology? ◦ Any revenue or equity obligations to third parties?
Reporting *If not applicable, mark N/A.*	• Is the IP under reporting obligation? • Any reporting obligations to third parties? • If yes, what are they, how frequent, what information needs to be provided?
Revenue Sharing *If not applicable, mark N/A.*	• Is the IP under revenue sharing obligations? If yes, please provide details of the revenue sharing obligations.
Trademark Assets	• Are there any registered Trademarks? • Are there any Trademarks pending registration? • If not, have you considered Trademarks? ◦ If yes, what is the pathway to doing so? (What are the steps considered for a Trademark search? Which jurisdictions are you considering?)
Copyright Assets	• Is Copyright applicable to your business? If yes, please explain. • Have you explored both registrable or unregistered copyrightable IP?
Trade Secret Assets	• Will Trade Secrets play a part in your overall IP strategy? If yes, please explain. • Are there any provisions or plans to protect them? ◦ Discuss confidentiality agreements or employment agreements related to Trade Secrets.

Prior Art	

Prior Art Search
If not applicable, mark N/A. Please provide justification as to why this was not performed.
	• Have you performed a prior art search? Was it performed by a professional?
	• If yes, please include the following:
	  ◦ Keyword strategy: a list of the keywords that were used in the search;
	  ◦ The number of results;
	  ◦ The patent status of the most relevant patents to the company's technology;
	  ◦ Considerations on the potential risk of the most relevant patents.

Prior Art Mapped to Business Concept & Value Proposition(s) *If not applicable, mark N/A. Please provide justification as to why this was not performed.*	• Is the prior art (found through the search conducted above) relevant to your *business concept and value proposition(s)?* Identify relevant prior art. • Is there an actual, recognized, technological space the authors are working in? • How is your business concept and value proposition(s) unique or superior to those listed in the prior art?

Prior Art Mapped to Final Product
If not applicable, mark N/A.
	• Is the prior art relevant to a final *product* you intend to market?
	  ◦ Highlight innovations that set your final product apart from the prior art.
	  ◦ What features of your product are patentable based on prior art?
	  ◦ Identify where your product may overlap with existing patents (signalling potential infringement risks).
	  ◦ Identify the technologies and map features of the product to the prior art patents.
	  ◦ Identify gaps in prior art where your product is different/avoids the prior art. Identify gaps where your product offers unique improvements or innovation to prior art.

Prior Art Risk	• Is there any prior art that immediately threatens the commercial viability of your technology (freedom to operate, novelty, etc.)? Specifically, does the proposed technology infringe any existing IPs, claims or is it identical in any way to an existing public domain solution? • Are there any formal issues with the patent stemming from the prior art? If so, can they be overcome easily, or will they strongly limit patentability?
Are existing patents being managed/docketed by IP professionals?	• Is your IP portfolio managed by a professional patent counsel?
Patent Life	• Is potential protection at least as long as the intended life of the business? • Does the remaining patent life give the project sufficient time to build a business? • Do you have a plan for follow-on IP and line extensions?
Competitor Landscape	
Landscape Trends	• Define the competitor landscape and how it relates to the technology and/or business model. • Key competitors: List all direct or indirect competitors in your industry (Please include emerging players). ◦ Are there overlaps with the prior art search?

How does this affect claim strategy?	• How will your competition affect how and where your company will claim or assert the invention? How will it affect how you seek market opportunities?
Does exclusivity give pricing power?	• Is there sufficient potential market uptake for this technology? • Is there demand for a non-generic version? • Are there any collaboration opportunities or licensing deals that you are involved in or could explore?
Monitoring the Competition Landscape	• How is your company planning to keep its competitive advantage over time? Are provisions put in place to maintain this for the life of the IP? • Please describe the plan for monitoring patent applications, products, and literature. • What is the plan for periodic monitoring of competition (periodic review and trigger-based review)? How does this help the company keep competitive advantage over time?
Is your IP enforceable and to what extent?	• Is the IP enforceable? Where? For how long? • Is the enforcement likely to be economically justifiable against costs of infringement or copycat competitors?
IP Assessment	
Does IP strategy support strengths?	• What are the strengths of your business? • How does the IP plan support the market strengths of the business? • How will your IP enable the startup to leverage the technology in the market?
Does the IP strategy leverage opportunities?	• What are the opportunities? • How does the IP strategy relate to pre-existing needs or opportunities in the market?
Does the IP strategy address weaknesses?	• Are there identified weak points in the technology and/or business plan? Would the business benefit? • How does the IP strategy account for these?
Threats	• Does the IP strategy account for the identified market threats? • How does the strategy map out a strategy to counteract them?
IP Protection Strategy: Integration of all Aspects	
Patents *If not applicable, mark N/A.*	• **If applicable,** is there a patent strategy?
Trademarks	• Is there a trademark strategy?
Copyrights *If not applicable, mark N/A.*	• **If applicable,** is there a copyright strategy?

Trade Secrets *If not applicable, mark N/A.*	• **If applicable,** is there a trade secret strategy?
Jurisdictional and Market Considerations	• Are there jurisdiction aspects that are addressed? • Discuss the importance of jurisdiction to your business strategy. • Have you considered several markets? • Identify follow-on markets to broaden protection of IP.
IP Monetization and Licensing Opportunities	
IP Monetization and Licensing Opportunities	• Does the strategy support the stated opportunities? • Map out your strategy to enable the business plan to take advantage of defined market opportunities.
IP Training and Culture Development	
IP Training and Culture Development	• Have you considered developing an IP culture in your business? • Describe your plan for developing and maintaining an IP culture in detail. • How does your IP culture plan support your business plan?
Periodic Review and IP Strategy Iteration	

Periodic Review and IP Strategy Iteration	• Has a review schedule been put in place?
	    o Periodic review and trigger-based reviews. (Are adjustment triggers indicated?)
	    o Are the conditions for initiation of a review set out?
	• Is the review schedule in alignment with the business plan?
	    o Is your review schedule aligned with budgetary goals?
	    o Are the conditions for their initiation set out?
	
	Adjustment triggers should include budget and business plan alignment.

Contingencies	
Contingency Planning	• If the complete scope of claims is not issued, does your business plan make contingencies for the failure to secure IP protection as planned? • Are there opportunities to consider alternative IP protections like Trade Secrets, Copyright or Trademarks? • Is there an opportunity for partnership or licensing? • Can your business be maintained without IP protection, and if so, to what degree? Was a FTO analysis performed to ensure that without patent protection, you can operate without infringing others IP?
Defense Against Infringement	• What is the likelihood of others infringing on your IP (or you infringing on someone else's IP)? • What are the steps for defending your IP against infringement or attack against the IP (i.e. nullity proceedings)? Are concrete steps defined, or merely hypothesized? • Are there contingencies for legal challenges? (e.g. financial risks, legal resources, etc.)

	• Is there a process for monitoring potential infringement? • Is there a strategy to detect when and how to act against infringement? (e.g. cease & desist, mediation, litigation, etc.)
IP Budget	• What are the costs associated with protecting, managing, and monetizing intellectual property over the next 2-3 years.
Team and Capacity	
Legal and Advisory Team	• Is there a legal team or advisor to support IP initiatives? Is the team accredited and/or experienced? If not, is there a plan on how to manage IP moving forward?
Startup Team Capacity	• Is your team capable of carrying out the strategy both in the short term and long term? • If not what competencies does the team need to onboard in the near and long term?