



Intellectual Property Rights, Investment And Trade Secret Protection In Startups

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Abstract

Startups are businesses that rely on creativity and innovation and try to convert their creativity into economic value in the most ambiguous conditions. Today, startups are one of the pillars of a dynamic and developing economy and the most important platform for commercializing ideas and innovations. In order to achieve success, it is necessary to legally protect creativity and innovation that is manifested in intellectual property. This dissertation, using a descriptive-analytical research method and using library resources, tries to examine intellectual property rights, investment, and trade secret protection in startups. Having intellectual property rights is not enough for success and competition in the market, and how to exploit and use these rights is more important. A company may have intellectual property but cannot commercialize it, but the licensee of the same property and with the help of investment and intellectual property (trade secrets) can turn it into a big business. In these circumstances, the question is how intellectual property rights, investment, and trade secret protection are explained in the success of startups? The findings indicate that paying attention to intellectual property laws, investment, and trade secret protection is effective in the success of businesses; however, in some areas we face legal shortcomings in this regard. The results also indicate that protecting trade secrets is a requirement for a new business and is necessary for its continuity and compensation for damages caused by disclosure. On the other hand, attracting investors from abroad also requires the development of regulations to maintain investor trust and, conversely, motivate and encourage founders. Finally, the pillars and organizations of startups are not exactly the same as other businesses, and the development of specific regulations is effective in the survival and rights of startups.

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1. Introduction

In addition to technical and managerial complexities, the development of Internet companies and the growth of startups also have legal issues and challenges that startup company managers should be aware of. Various definitions of startups have been provided so far, but if we want to define a startup very easily, we should say:

"A startup is one or more entrepreneurial individuals or a new company with little capital that, relying on the motivation and ability of its founders, seeks the idea of offering a unique new service or product to solve an old and unanswered problem or need."

The distinctive features of a startup are fast and easy business scalability (the ability to develop and grow a business quickly and without hassle), a recurring revenue model, and the use of ideas that are often technology-based.

According to our definition of a startup, it is clear how much legal information and awareness a startup needs to establish, grow, and develop.

Most people who start a new business do not deal with legal issues at first, and this leads to serious problems later. Entrepreneurs usually try to find problems in the market in the first steps of starting a new business and solve the problem they have identified by developing a new product or offering a service. In this regard, entrepreneurs use all their strength and, without paying attention to the legal aspects of the case and clarifying the rights and duties of the parties, spend day and night solving the market problem and developing their business.

Usually, after a period of cooperation when a startup is on the path to success, misunderstandings arise and cohesive and motivated teams of entrepreneurs come into conflict with each other due to the different ideas, goals and motivations they have been involved with. And they face many problems. Legal challenges do not end there. E-commerce and online business startups have legal requirements, the failure to pay attention to which can lead to filtering processes or court judgments and preventing the business from starting.

Some types of businesses on electronic platforms and traditional platforms are prohibited by the laws of countries, but if not paid enough attention; all the efforts and resources of the entrepreneurial team can be wasted. In addition, there is a possibility of being accused or punished by the activists. The reason for the emergence of such challenges can be considered lack of familiarity with startup laws or business laws, as well as lack of awareness of the mandatory requirement to obtain a license from competent institutions, failure to foresee some conditions in investment contracts, failure to disclaim responsibility for the actions of service providers in platform businesses, failure to establish contracts with service providers in platform-based startups, failure to foresee the tax aspects of the business, etc.

Small and large problems in different societies, especially in the economic sector, have created a new concept in creating a business; which today is called a startup. A startup is a group that offers a new solution to a problem, but there is no guarantee that the group will succeed through the solution provided. Large companies such as Microsoft, Google, and Facebook were initially a type of startup. Among small and medium-sized companies, startups play a key role in creating jobs and increasing the rate of growth and innovation. The primary role of startups in economic development, solving production problems, and creating jobs has given these companies great potential and opportunities in many countries. The reason for the technology-driven startup trend in today's world is the enormous potential created by information technology and the world of the Internet. In Iran, startup activities have also been pursued seriously in recent years. However, there is still no serious and supportive perspective for this type of business at the societal level, and many problems hinder its growth and development. On the one hand, given that this business does not have a long history of commercial activity and has been considered in Iran for a short time, on the other hand, the effective examination of legal gaps and legal problems of investment, the place of this type of business is not clear. Therefore, extensive research in this field seems necessary to determine the legal background and the status of primary rights and performance guarantees in concluded contracts.

2. Theoretical foundations and research background

Intellectual Property:

Today, the economic impact of intellectual property is well-known, and much has been written about it. The history of intellectual property represents a contest between two different descriptions of the legal ownership of knowledge and information. On the one hand, there is the belief that individuals should benefit from their intellectual activities, but on the other hand, there is an interpretation that states that these efforts are of such public value that there is a clear social benefit in their relatively free dissemination. In other words, the history of intellectual property represents the struggle and controversy between

monopoly power (restricting public access) and the free flow of information (at the cost of creators' rights). Between these two views, there is also a third view that emphasizes the public interest in the existence of incentives for innovation and creativity. This view is the limit and principle of individual and private rights and the collective benefit. Property rights can help innovation and enable small innovative firms to attract capital to commercialize their achievements. Of course, what has happened today is the expansion and strengthening of the monopoly theory.

Investment:

Investment is any sacrifice of value in the present (usually known) in the hope of obtaining some value in the future (usually unknown in terms of size or quality). In other words, the investor sacrifices a certain value in the present in order to obtain a specific value in the future that he wants; such as paying money to buy stocks in the hope of obtaining certain profits from it in the future. [1].

Investment is classified in different ways:

-Based on the subject of investment:

Depending on the subject, investments are divided into two categories: real investment and financial investment. Real investment is a type of investment in which a person acquires a real asset by sacrificing current value. In fact, the subject of investment is a real asset. Buying a property or apartment is an example of this investment. In financial investment, a person obtains a type of financial asset, which usually results in a cash flow, in exchange for sacrificing current value. Investment in securities such as common stocks or shares, which entitle an individual to receive a cash flow in the form of interest in return for payment, is considered a financial investment. [2]

-Based on the time or duration of the investment:

In terms of time, investments can be divided into short-term or up to one year and long-term or more than one year.

- Based on the risk or investment risk:

All types of investments face some degree of risk or risk because the results of the investment are future-oriented and there is no certainty about the performance of these products. Based on the extent or probability of future benefits (or risk) not being realized, three types of investments can be distinguished: proportionate risk investment, relatively high risk investment (speculation), and risky investment (gambling). Proportional investment, or in short, investment, is a type of investment whose risk is proportional to the expected return. A relatively high-risk investment, or speculation, is a type of investment in which the investor takes on a higher risk in order to gain returns, and finally, a very risky investment, or gambling, is a type of investment in which the individual takes on a very high risk in order to gain even a very low return. [2]

[3]In a book titled "Intellectual Property and Financing Strategies for Technology Startups," they believe that this book focuses on two important categories of financing and intellectual property in the stages of creation and formation, growth, and exit of startups, and discusses the importance and impact of financing strategies and intellectual assets on the success of new businesses. Especially startups that use innovative and technological business models, and for this reason, the share of intellectual property in their assets is of great importance. In addition to introducing and analyzing the intellectual property strategy for this type of business, the authors have discussed how to implement the strategy. The discussion of intellectual property valuation and the legal relationship in intellectual property investment and contracts such as licenses and franchises is also one of the important and notable topics of this book.

[4]In a book titled "Secrets of the Gods of Technology (Zero to One: A Note for Startups)," they believe that the present book is derived from the author's experiences, which is taught at Stanford University as a practical guide in the field of technology and startup entrepreneurship by giving practical examples of the secrets of successful companies and startups. By emphasizing innovation in order to gain a competitive

advantage and turn it into a monopoly advantage through creative monopoly and thinking in the way we have learned so far, the author shows the secrets and mysteries of creating a valuable and successful company and a different future. [5] In an article titled "Protecting the Intellectual Property of Startups from a Legal Perspective," they believe that this article has attempted to examine in detail the ways of protecting intellectual property and evaluate the weaknesses and strengths, characteristics, similarities and differences of each. Given that registering and protecting intellectual property is costly and time-consuming, many startups neglect this essential principle; a neglect that may lead to major material and moral losses or business failure. Therefore, today, having a deep understanding of intellectual property and adopting an appropriate intellectual property strategy seems essential to create a sustainable business and achieve maximum efficiency.

[6] In an article titled "A Structural Model of Factors Affecting the Survival and Growth of Startups in Iran," they believe that marketing capabilities and technological capabilities have a positive and significant impact on the survival and growth of startups, but the impact of market knowledge and network capabilities on the survival and growth of startups was not confirmed. The final achievement of the article is to provide solutions for the survival and growth of startups.

[7] In an article titled "Investigating the Legal Dimensions and Challenges of Establishing Startup Companies in the Light of Laws," he believes that common legal problems of startups exist at all stages, including launching startups, their advancement and development, and especially at the investment stage, and each of these startups seeks to achieve specific and different goals. Issues such as company registration, patenting a new product, drafting a contract between startup founders, issuing shares, etc. are among the legal issues that can be problematic for the owners of these startups. Therefore, awareness of startup rights can reduce legal problems for these individuals and smooth the path to their goals.

3. Methodology

The research method in this thesis is descriptive-analytic.

4. Review of Intellectual Property Rights and Startups

Startups can gain a lot of value by using their intangible assets. In general, the value of a new business is based more on intangibles; things like passion, brainpower, expertise, a unique business plan, and of course, intellectual property.

Protecting intellectual property requires adopting smart strategies in the field of "IP". In large technology companies, this issue is often used under the name of "intellectual property strategy". Perhaps from a critical perspective, it can be said that a small startup does not have such significant intellectual assets and significant financial resources and, as a result, it does not need to develop a specific and complex intellectual property strategy. Although this is partly true, it does not mean that we should completely abandon the issue of intellectual property; Rather, it is better to have a set of general strategies in mind to succeed in this field. The first principle is that you must act wisely with your most valuable assets. In fact, the main axis and structure of a startup is formed by a new and innovative idea and also by proving its effectiveness. Regardless of whether you are still developing your ideas or your business is already in operation, you need to protect your ideas and how they are used. At any stage, protecting intellectual property is essential, and you can learn how to protect your intellectual property by paying an experienced and knowledgeable IP lawyer. Protecting your startup's intellectual property allows you to turn your ideas and efforts into money and prevent them from being stolen by competitors. This will help secure your funding and give you a high score when your business is evaluated by investors, a large part of which will undoubtedly be due to your intellectual property rights. The second principle for success is to be strategic. You should strive to understand your competitors and the market well and take action to protect your intellectual property based on that. In fact, there is no one-size-fits-all intellectual property strategy for all companies and startups. Your ideal approach to intellectual property will depend on the market in which you want to commercialize your idea. This is not only true for startups, but also for large companies; in Coca-Cola's case,

we need a trade secret strategy, but if we were Apple, much of your activity would be based on patent protection. Therefore, before we create our strategy, we should keep the following in mind:

Know your fundamental technology owners and market leaders; who in your field is filing multiple patents and who is trying to acquire them?

Identify your innovation pace and patterns in your target market.

Identify strategic areas for growth and innovation.

What patents are most valuable to your product?

The third principle is to err on the side of caution when it comes to intellectual property issues, especially when developing your ideas. Keep in mind that if you are still in the brainstorming and product development stages, you will encounter intellectual property issues later in your career. For this reason, you should not completely abandon intellectual property or consider it a low priority for the future. Just try to look at the issue with a little caution so that you can make the right decision about how to protect your intellectual assets.

One of the pitfalls that many startup founders face is disputes over ownership of intellectual property acquired while working for other companies. In other words, many startups are formed after their founders developed an idea into a prototype or even a serious concept while working for other companies. It is obvious that there will be disputes between them and their former employers over ownership of these efforts. Therefore, it is strongly advised that if you are still employed by another company and are working on your new startup idea, you never use your employer's resources or time to do so. In almost all employment contracts, the assignment of the invention to the employer is guaranteed, and the intellectual property of anything developed during your employment will belong to your employer.

If your intellectual property was developed before your startup was incorporated, it will not automatically become the property of your startup. You will need to sign a written agreement to transfer ownership to the company. It is recommended that you do this as soon as possible after your company is incorporated. Then, choose a protection method based on the product or technology in question, the characteristics of the market, and your business model. Evaluate your product and then choose one of the intellectual property subsystems, including patents, copyrights, trademarks, or trade secrets.

5. Investment and Startups

5.1 The Importance of Patent Registration in Attracting Venture Capital for Startups

One of the factors that affects the ability of startups to secure financing and attract venture capital is the level of patent registration and publication activities. The number of patents held by a startup based on advanced technologies does not only help them protect their intellectual property, but also has other side functions. One of the most important of these functions is to attract the attention of venture capitalists and convince them to invest in the company's technological projects.

Assessing the quality and value of intangible assets, such as knowledge, business concepts, and technologies, is often much more difficult for external observers than for people inside the organization. This factor has led to the emergence of the risk of asymmetric information as one of the factors affecting technological exchanges and investment attraction. To limit the risks of asymmetric information, experts recommend that economic institutions and enterprises should link the quality of development and technological projects or available capital with investors, potential partners and customers. This is especially important in the field of entrepreneurship and encouraging venture capitalists to invest in more innovative ideas. Entrepreneurs and technologists must demonstrate the quality of their technical achievements and inventions to VCs, as one of the most important forms of financing in the startup ecosystem, in order to convince them to finance their ideas. Venture capital funds are a specialized set of entrepreneurial and commercialization skills that, relying on their vast financial resources, invest in

technological ideas with commercialization potential and earn significant profits from the multiple rate of return on their investment.

Compared to business angels, VCs are somewhat less risky and are considered one of the most important methods of financing startups due to two very key characteristics. First, VCs have much more resources than business angels and will therefore invest more money in technological projects. In addition, in exchange for their significant investment, venture capitalists will also take over the management of the startup and provide a range of financial, accounting, human resources, marketing and sales services to the founders. Given the 90% failure rate of startup companies, management support for them can be even more important than the amount of capital raised.

5-2 Comparative study of laws and regulations in the field of foreign investment in startups

United States of America:

The world's most successful venture capital industry is in the United States, largely because of a strong entrepreneurial culture that allows managers to take ownership of their companies. American managers are more likely (than their European and Asian counterparts) to work with growing startups that don't pay high salaries but attract managers by giving them a large stake in the company. In contrast, most European and Asian managers prefer to run large companies (which don't give anyone ownership) because of the job security. In fact, in many European and Asian countries, employee stock options are very limited. The United States also has the most competitive market in the world. This has led to the training of highly efficient managers, which has given the United States a great advantage in the global market, which is becoming increasingly competitive every day. The United States (unlike many European and Asian countries) also has a very developed stock market. Such a market is necessary for the proper functioning of the venture capital industry, because venture capitalists and entrepreneurs must have a good exit mechanism in order to be able to reap the benefits of their investments. [8].

The American venture capital industry also has other advantages, including the following:

- Easy access to financial institutions;
- Flexible labor market (which allows companies to hire and fire workers more easily than European and Asian companies;)
- Bankruptcy law (which does not prevent failed entrepreneurs from starting new companies;)
- Tax system (which allows entrepreneurs to keep a higher percentage of their profits than their European and Asian counterparts;)
- Strong protection of intellectual property;
- The world's most prominent business schools;
- Meritorious business culture (which directs capital to good ideas, regardless of the entrepreneur's background;)

On the other hand, the very close relationship of universities with government laboratories and with private companies has provided many benefits for American entrepreneurs. The transfer of research results and technological innovations from research universities (such as Stanford and MIT) and government laboratories (such as Oak Ridge in Tennessee) to the private sector has created a continuous network of entrepreneurial companies and venture capitalists in areas such as Silicon Valley (Southern California), Route 128 in Boston (Northern Virginia), the Durham Research Triangle Park (North Carolina), and Austin (Texas), which has led to many advances in the semiconductor, software, computer, biotechnology, and Internet industries in these areas. [8]

China:

The significant growth of investment in China in the past few years has attracted the attention of venture capitalists. This is what prompted INSIDE Business School to list the top ten drivers of venture capital growth in China in a report published in June 2018. Here are some of the more legal factors.

Strong government: The top-down approach adopted by China's trusted and stable government has always played a significant role in its economy. The current wave of public entrepreneurship is no exception, and investment is the engine driving the growth of entrepreneurship and innovation. Since 2011, China's GDP growth has slowed and youth unemployment has risen every year. Over the same period, the shift from a largely manufacturing industry to a service sector has complicated the economic recovery.

The Chinese government has realized that a long-term program to support innovation and entrepreneurship can be a one-stop solution to stimulate the economy, accelerate structural reform, and reduce unemployment. In September 2014, Premier Li Keqiang delivered a speech at the opening ceremony of the 8th World Economic Forum in Davos. This was the first time that the government had raised the theme of "innovation by all" and "people's entrepreneurship." Since then, Premier Li Keqiang has raised similar themes on several other occasions, including in the State Work Report, which strongly states that the government is leading the country toward mass innovation and entrepreneurship.

At the forefront of these new policies, some policies were implemented with the aim of improving fundamental mechanisms, providing financial resources in the form of government grants, investing in facilities and infrastructure, regulating the stock market in favor of technology companies, and protecting domestic companies with a closed economy policy.

Basic Mechanisms: Various indicators show that the push to develop basic mechanisms in China has been effective. For example, the removal of barriers to trademark registration has led to a boom in the establishment of new entities. Data released by the State Administration for Industry and Commerce of the People's Republic of China showed that in 2017, 19.25 million new entities were registered (including new companies and sole proprietorships), an increase of 16.6 percent from the previous year.

Financing: In what may be one of the most important experiments ever conducted in using state capital to rebuild a nation's economy, for 10 years the Chinese government has injected significant amounts of capital into startups, directly and indirectly, through what is called "subsidies." In 2008, the National Development and Reform Commission officially defined subsidies as "a type of budget policy established and administered by the government in a market-oriented manner with the aim of attracting more investment in startups." Most importantly, government subsidies are not designed for direct investment in companies, but rather to serve as seed capital or anchor capital for the establishment of a fund or group of funds that support a series of sub-funds with private capital to make direct investment in companies. The goal of government subsidies is to stimulate growth in areas where China hopes to innovate, such as the Internet, big data, and clean energy. [9] **Infrastructure and facilities:** National high-tech industrial development zones are very early examples of government-developed special zones to support technological innovation. In 1988, the Chinese government launched the TORCH program (a national high-tech industrial development program) and created the first national high-tech industrial development zone, which aimed to foster high-tech industries from biomedicine to electronics. According to statistics from the Ministry of Science and Technology, as of February 2017, China had established 146 state-owned high-tech advanced zones, generating trillions of yuan in output each year. The Chinese government also encourages the establishment of high-tech business incubators and markets where entrepreneurs can access the financing, training, sourcing and other resources they may need to accelerate their startups.

According to data released at a gathering to celebrate the 30th anniversary of the establishment of China's first high-tech business incubator, the country had 3,255 incubators and 4,298 markets by the end of 2016. These programs benefit approximately 223,000 small and medium-sized enterprises, among which 1,871 companies have been prepared or have started operations. [9]

India:

Startups and small and medium enterprises play a key role in the Indian economy. India ranks third in the world in terms of startups. According to the National Association of Software and Services Companies, the number of new companies launched in India grew by 45 percent in 2015. Similarly, by mid-2016, India was estimated to have over 45 million small and medium enterprises, accounting for almost 40 percent of GDP. According to an analysis by venture capital firm Traxion, startup funding in India reached US\$4.6 billion in the first nine months of 2015, with the online marketplace attracting almost US\$3 billion in 166 deals. [10.]

In India, the government launched the Startup India programme on 16 January 2016, with the aim of creating a strong ecosystem and fostering creativity in startups in the country. This programme has the strong support of Prime Minister Narendra Modi. With 19 action points, the programme focuses on simplification, financial support, partnership with industrial universities and incubators. The Department of Promotion and Industrial Policy is also taking necessary steps to encourage entrepreneurship and promote innovation. More than 14,600 startups have been recognised under the Startup India programme, spread across 479 districts across 29 states. A fund worth Rs 10,000 crore has been set up to finance the growth stage of startups. The fund supports innovators and risk takers on their journey towards building a new India. The government has already committed Rs 1,611.7 crore to 32 venture capital funds through funds of funds. The funds released by the government have enabled venture capital funds to raise over Rs 7,000 crore to make it available to startups. Once these committed funds complete their funding process, a total of Rs 13,888 crore will be made available to startups.

To improve the regulatory framework, an institutional mechanism has been set up within the Startup India programme. A Committee of Secretaries, headed by the Finance Secretary, has been constituted to look into the regulatory issues faced by startups. More than 22 legislative amendments have been made to support all stakeholders in the ecosystem. Here are some of the legislative amendments made since January 2016 to empower small businesses or start-ups across the country:

- Opening of foreign currency account by an Indian startup that has a foreign subsidiary and is allowed to open a foreign currency account with a bank outside India. (June 16)
- Regulations on foreign commercial borrowing for startups (October 16)
- Investment by foreign venture capitalists; Foreign venture capitalists registered with the Securities and Exchange Board of India can automatically invest in shares and stocks linked to Indian startup loan facilities. (October 16)
- Maximum investment by an angel increased from Rs 5 crore to Rs 10 crore. (March 18)
- Startups to be exempted from income tax for three years out of seven years. (February 17)
- Minimum periodic tax for the future increased to 15 years. (February 17)
- Corporate tax of 25% for companies with annual turnover less than Rs 250 crore (February 18)
- Exemption from income tax (angel tax) on premium received by eligible startups under Section 56 of the Act (April 18)

5-3 The Status of Startup Investment in Iran

Startup investment is a relatively new concept in Iranian economic and legal literature, and although it has been the focus of Iranian legislators, it can be said that it is underdeveloped according to global standards. There are various reasons for the lack of development of this industry in Iran.

Legal measures for startups:

Although there is a long and challenging path to launch a startup, and there must be sufficient mastery of startup requirements and laws, fortunately, today law firms have taken positive steps to provide legal advice regarding startup laws and regulations.

Iranian laws and regulations on foreign startup investment

In this section, an effort has been made to examine the legal status of Iran in the field of foreign investment and to identify the legal obstacles existing in Iran in order to attract foreign capital. In addition, the positive points in Iranian laws, which can lead to the attraction of foreign venture capital, are also mentioned. Iran has significant laws and regulations in the field of supporting knowledge-based and technology-based businesses. One of these laws is the Law on Supporting Knowledge-Based Companies and Institutions and Commercialization of Innovations and Inventions, approved in 2010. This law attempts to address various aspects of the activities of knowledge-based companies and provides considerable facilities and support for this category of companies. The reason for paying attention to this law in writing this thesis is that a start-up company is classified as a type of knowledge-based company and therefore enjoys the support and facilities available in this law. The regulation "Evaluation and Recognition of Knowledge-Based Companies and Institutions" in its second chapter divides the companies subject to this regulation into three categories:

- Companies producing knowledge-based goods/services;
- Start-up companies;
- Industrial companies with knowledge-based activities.

Then, in Article 3 of this regulation, the characteristics of start-up companies are mentioned.

Laws and regulations related to the privileges available in startup investment contracts:

This section mentions some points in investment contracts that, if taken into account in contracts concluded between the startup company and the investor, will increase the motivation of foreign investors and increase their willingness to enter the startup arena in Iran.

Incentive Stocks:

In order to develop their business activities, commercial companies are forced to accept and implement plans that have emerged in accordance with the social, economic and managerial goals of the companies. Among these plans, incentive stock plans can be mentioned as a widely used tool for companies to attract, retain and motivate their employees. The vast majority of American and British companies have incentive stock plans for their employees. Incentive stocks are granted to key employees of the company with the aim of encouraging them to participate and be loyal to the company, in addition to tax advantages, so that they can acquire a share of the company's ownership and contribute to the company's growth and optimal performance. These shares can also be used as a tool to attract people with special technical and managerial talents.

In the Iranian legal system, there is no mention of incentive shares in the Commercial Code and other related laws. Although some private companies, following foreign examples, plan and allocate incentive shares to their employees and sometimes to people who are effective in improving the quality level of the company, it can be said frankly that the institution of incentive shares is an unknown concept in the Iranian legal system. However, in recent years, as new businesses (start-ups) have entered the business and investment market, new concepts such as incentive shares, following foreign examples, have been included in investment contracts concluded for the purpose of commercializing the ideas and products of these companies. The incentive plan included in these contracts serves as a strong incentive for individuals active in start-up companies so that, alongside the founders and investors, they can do their best to grow the company by creating ownership in a portion of the company's shares and creating a sense of belonging to the business[11]. In Iran, most private companies resort to Article 10 of the Civil Code to use incentive shares. However, Article 61 of the Fifth Five-Year Development Plan Law 1390-1394 refers to "preferred shares," which, in line with the implementation of Article 44 of the Constitution of the Islamic Republic of Iran and with the aim of privatization, distributes the assets of state-owned companies among their employees. Although at first glance, preferred shares appear similar to incentive shares, their allocation to state-owned companies and a closer look at their nature, objectives, and method of transfer reveal the essential differences between these two types of shares[11].

Liquidity Priority:

This privilege is used to protect the investor's capital in investment contracts. According to this privilege, if all or a significant portion of the company's shares are liquidated (this liquidation can be positive, such as selling the entire company to a larger company, or it can be negative, such as liquidating the company and liquidating the company's assets), the investor has priority over the entrepreneur to acquire the amount resulting from the liquidation of the company's shares. Liquidation priority is also used in Iran, in such a way that the capital injected into the company by the investor is not considered as the company's registered capital, but is recorded in the company's long-term accounts payable, and the investor waives the right to demand its withdrawal. The only feature of this method is that when the company is liquidated, since according to the law, the company's debts must be settled first and then the shareholders' equity must be settled, in this method, the investor's principal is returned to him first, and then the remaining amount is divided among the investors in proportion to their shares[12].

6. Trade Secrets and Startups

After examining property rights and investment in startups, we will continue to explore trade secret rights in this chapter.

The trade secret system is one of the most important ways to protect intellectual property in startups. At the beginning of a startup, it may not have registered its intellectual property yet, or it may not be possible to register intellectual property at all. The trade secret system will be useful so that the startup can use its intellectual property without fear of losing it. The lack of registration for protection, low cost, lack of need to meet legal requirements such as novelty, an innovative step, and not being limited by time are some of the features of this protection method.

In very simple terms, a trade secret is information that the holder of the information does not want competitors to know. Laws and regulations generally protect not only confidential formulas and designs, but also include legal protection for even simpler examples of trade secrets, such as the characteristics of a product (such as iPhone products) that may be marketed or the name of a country that a business intends to enter in the future. As previously noted, the trade secret institution is a legal regime designed to protect relationships and relationships based on fiduciary responsibility. It should not be overlooked that the institution of confidentiality is a legitimate and legal tool for trade and businesses of all sizes, and it is important to note that the implementation of the trade secret system has nothing to do with the lack of transparency of affairs and relationships in government institutions. In fact, the policy of preserving trade secrets, especially in relation to information related to customers and their needs, interests, and priorities, is considered a fundamental strategy for small and medium-sized economic units to support their trade and business achievements. This is easier to understand by imagining a situation where no one can rely on the law to enforce confidentiality obligations, and what else could be considered a factor in creating interest and motivation for individuals in this environment... If the hiring of each new employee increases the risk of losing valuable and valuable information, the result will be that businesses and employers will hire fewer people, the cost of employing physical protection systems such as locks and fences and the like will probably increase, and more importantly, a large volume of transactions based on granting licenses and research partnerships will never materialize; Because there is no guarantee that partners and parties to the transaction will not violate the provisions of their agreements and will not take unfair action against the creator of the technology when a new technology comes into the picture. As a result, the general approach leads to information being blocked and progress and innovations being slowed down. For knowledge-based businesses that operate on the basis of patent protection, the institution of secrecy is a vital part of the innovation process, because most national laws and regulations on inventions consider the condition of absolute novelty to be essential, which means that the invention must be fully protected from any public disclosure until the day the patent application is submitted to the registration authority. Where the development of a technology requires modifications and experiments outside the laboratory, the issue of protection and non-disclosure is particularly complex and difficult. This is why discussions and disputes about harmonizing international patenting mechanisms often involve the idea of a "grace period" of up to

one year before filing a patent application, during which disclosures made by an inventor do not invalidate the subsequent filing of the patent application.

Different businesses adopt quite different policies to protect their intellectual and intangible assets. A company active in the printing and publishing industry prioritizes copyright, while an online sales company focuses on trademark registration, and a technology product manufacturer targets patent registration as its main strategy. Of course, a business enterprise may also use a combination of these.

A key question is what is the most common type of intellectual property that companies use to protect their intellectual assets? Most people will point to one of the above in response to this question. But this view is largely wrong. Contrary to popular belief, the most common form of protection in various businesses is confidentiality. Keeping knowledge, technology, and other intangible assets confidential in the form of trade secrets is one of the common and old strategies of various businesses.

In all businesses, there are intellectual assets that have economic value. Intellectual assets in startups have a much higher economic value than in other businesses. Some of these assets can be protected through specific related laws. For example, by registering a trademark, it can be protected and others can be prevented from misusing this mark. Trade secrets are among the most important intellectual assets that exist in a startup. Solutions for implementing ideas, planning for product development, information related to the business plan, product production methods, and marketing methods are among the trade secrets of a startup, the disclosure of which may cause irreparable losses to a startup.

Basic elements of a trade secret:

From the above definitions and characteristics, it is only understood that a trade secret is information and its identification requires consideration of several specific characteristics, and these definitions ignore things such as experience and skill. Among the characteristics mentioned in the definitions, the following can be mentioned:

- The information is known as a trade secret by competitors.
- The disclosure of part of the information to employees and persons involved in the business activity of the owner of the secret.
- The amount of effort and expense that the holder has spent to create or acquire the information.
- The value of the information to the holder and competitors.
- Precautions taken to protect the information and keep it secret.
- The degree of difficulty or impossibility of accessing the information or copying it by others.

The first characteristic implies the concept of confidentiality and indicates that the secrecy and secrecy of information for persons in the business environment must be determined and specified. In other words, it is not enough for the holder to keep the information secret, and those active in the holder's business environment must also be aware of the information's secretness and hidden value. How this exists is related to the fifth characteristic of secrets, because the precautions are a possible signal to information seekers that the information is valuable to the holder and is in fact a secret. This reduces management costs compared to cases where competitors are forced to perform a cost-benefit analysis to ensure that the information is not a trade secret and to avoid prosecution if they use it. While this analysis is difficult even for experienced economists. In fact, information seekers infer that the information must be of high value to its holder, otherwise the holders would not have incurred the expense of keeping it secret.

The second characteristic, by assigning the scope of secrecy, shows that there is no need for absolute secrecy because trade secret holders may share information with their employees and business partners but resort to concluding confidentiality agreements to avoid disclosure.

The characteristic mentioned in the third paragraph considers the effort and cost of obtaining information as a criterion for recognizing a trade secret. According to this paragraph, the amount of cost to create or legally acquire secrets indicates its importance and value to the holder.

The characteristic mentioned in the fourth paragraph also refers to the issue that the information must have economic value due to its secrecy and this economic value puts the holder in a competitive position over competitors. These two characteristics, namely commercial value and competitive advantage, distinguish trade secrets from public information.

Precautions are the subject of the fifth characteristic of trade secrets. These measures can be divided into groups, first, standard efforts to prevent and control, which include physical measures such as fencing or technical methods such as computer passwords or legal methods such as non-disclosure agreements and discovery methods such as closed-circuit television cameras. The second group includes non-standard measures, i.e. precautions taken due to information leakage and lack of trust in standard methods, which make confidentiality more severe. This group includes such things as employing trusted family members, prohibiting copying of information in the workplace, scattering information in different departments and not collecting it simultaneously in one department.

The difficulty of obtaining information, referred to in paragraph 6, can be based on two categories: first, the complexity inherent in the nature and essence of trade secrets, which makes it impossible to obtain them except by spending a lot of time and money, and second, the protective measures taken by the holder to limit access to the said secrets by others.

7. Conclusion

From the sum of the discussions in this paper entitled "Intellectual Property Rights, Investment and Trade Secret Protection in Startups", the following results have been obtained:

Startups are among the concepts that have taken on a unique nature in the last few decades with the significant increase in technologies and the emergence of the Internet. Similar concepts such as knowledge-based companies, high-tech companies, small and medium-sized companies, spin-off companies, etc. have similarities with the concept of startup and in some cases may overlap with each other. But the characteristics of startups, such as short life, rapid and continuous growth, reliance on intellectual property, high failure rate, great uncertainty regarding demand and success, untested new technologies, etc., have made startups different from other concepts. Founders form startups by creating an idea and trying to commercialize it. Unlike other businesses that may rely on their history, connections, real estate, etc. to keep their business in the market, startups hope to enter and operate in the market with their creativity and initiative. Intellectual property can be easily copied and imitated, which endangers the key asset and main axis of startup activity. For this reason, founders should seek to obtain the exclusive rights provided for by law from the very beginning of the idea. However, due to the exceptional nature of this type of property, the law has set conditions for its registration and protection. Therefore, it is sometimes possible that startup initiatives do not enjoy the legal protections of some intellectual property systems.

Large companies and other competitors are always trying to exploit and disrupt their activities due to the risk that these businesses may pose to them. At the beginning of their activity, a startup is at the most vulnerable stage of its life and needs more support. The nature of a startup at this stage is reflected in its idea and business model. Ideas are not initially protected in intellectual property rights systems. However, there are several ways to indirectly protect ideas in some legal frameworks. This brings up one of the important issues of intellectual property rights, which is the protection of ideas. Despite the arguments that opponents of protecting ideas have, it is necessary to understand the fact that many start-up businesses try to enter and operate in the market with their ideas. Not having an idea fully protected creates the possibility of failure and abuse by others. Especially in startups that share their ideas with investors and other companies due to lack of financial resources.

Therefore, even if the owner of an idea does not have exclusive rights to his idea, it is necessary for the legislator to foresee provisions to protect against possible misuse or theft of it. These provisions do not

require that others be prevented from accessing and discovering it independently, and, as with trade secrets, the original inventor does not have the right to prevent them if others reach it independently. However, due to the specific requirements of startups for financing, which require sharing the idea, individuals who will be informed of the idea due to their position (such as incubators, venture capital funds, accelerators, etc.) have obligations regarding preserving the idea and not misusing it, even if no explicit or implicit contract has been concluded between these parties.

Every startup sets goals for itself at the beginning of its activity. The way to achieve them, the tools and programs that the startup must use to achieve its intended goals are prepared in a format called a business model. The founders develop the various components of the business model by collecting and analyzing data to determine the startup's policy in the future stages. However, the function of the business model is not limited to these. Attracting capital in startups faces numerous difficulties due to the uncertainty of success, such that the most important method of financing startups is "risky" investment, and only investors who are willing to take risks invest in startups.

Having a detailed and comprehensive business model is the most essential tool for a startup to secure financing and convince investors to share their resources with them. Therefore, it is not unlikely that a startup that has prepared a suitable business model and presents it to multiple investors will seek to protect it and prevent others from unauthorized exploitation. In many countries, methods have been considered to protect the business model. It is protected in the form of patents or literary and artistic property systems. On the other hand, some argue that because a business model is an idea and an idea is not protected, it cannot be protected. This will create many problems and difficulties for startups. However, if the business model meets the legal requirements for protection of inventions or literary and artistic property, it can enjoy the protection provided for this category of intellectual property. In the current situation, it is the founders' art to formulate and organize their business model in such a way that it can be protected in the form of one of the types of intellectual property. Information and data have gained special value in the fourth industrial revolution, and companies and governments are constantly seeking to collect maximum information. Although such data has great value, laws and regulations do not provide protection for its owners. The lack of protection for data should not be inferred that data-based businesses lack creativity and innovation. It is the analysis and use of data that becomes important. Collecting and acquiring data is one challenge, and analyzing and using it is another. The fact that some companies simply collect data and sell it to other companies, who in turn use it to develop and strengthen their businesses, confirms this view.

The trade secret law system is very popular among startups for this reason, and the type of intellectual property, along with some legal protections, has made it the most widely used method of protecting intellectual property in startups. However, competing countries and companies are always looking to obtain this information. A startup that protects its intellectual property under the trade secret system must consider new crimes such as economic espionage, cyber theft, and employee poaching in order not to lose its most important and vulnerable intellectual property. On the other hand, data has raised concerns about the rights of society. To prevent startups from abusing their position and intellectual property, governments have included rights such as the right to privacy, the right to be forgotten, and the prohibition of misleading advertising in laws, and the use of data is subject to laws that startups must consider to avoid legal issues.

The maximum protection of the patent system has led startups to try to register their key intellectual property as patents. However, using patent systems, despite exclusive rights and the ability to prevent others from similar innovations, is not always in the startup's interest. In determining their strategy, startups must determine the appropriate type of protection based on several factors, such as the status of competitors, the level of technology, the complexity of the product, the ability to imitate, etc.

Finally, a startup may create a disruptive and very important technology and choose a first-mover strategy to exploit it so that it continues to enjoy the advantage of being a pioneer after other competitors enter the newly created market. It is also possible that a startup cannot compete with experienced and wealthy

competitors due to lack of facilities. In this case, the startup's intellectual property can be used as a tool for implementing a defensive strategy. With a defensive strategy, the startup can make it difficult for its competitors to register and exercise market power. Sometimes, it is more appropriate for a startup to use an offensive strategy. If the startup has a strong intellectual property asset record, it can prepare a strategy to limit other market players by planning in accordance with the market situation and the intellectual property of competitors, so that it can reach markets that are difficult to enter.

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