

Legal Traps for Startup Entrepreneurs

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Intellectual Property—
What Is It and Why Should You Care



Basic Types of IP

- Trademarks– Your “Brand”
- Copyrights– Your Creativity
- Patents– Your Right to Keep Others Out
- Trade Secrets– Your Secret Sauce and everything else...



Who Owns a Startup's IP?

- Founder's Current Employer?
- Founder rather than Startup?
- Independent Contractor?
- Employee?
- The Public?



Key Tip: Trademarks

RESEARCH AND PLAN AHEAD

DON'T BE DESCRIPTIVE



Key Tips: Copyrights

REGISTER



Key Tips: Trade Secrets

PROTECT



Key Tips: Patents

BE FIRST TO FILE



What's the Message?

- Develop a Strategic IP Plan
- Invest Wisely
- Protect and Defend
- No Short Cuts
- With IP there are no “do overs”



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Corporate Matters—
They Matter



Corporate issues

- Form the company early and maintain formalities:
 - Avoid personal liability
 - Avoid unclear ownership
 - Clarify management structure
 - Attract sophisticated investors
 - Plan ahead for Due Diligence process
- Comply with securities laws when issuing equity



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Selected Tax Issues



Choice of Entity

- Understand the differences and make an informed decision
- Pass-throughs:
 - S corporation
 - Limited liability company (tax partnership)
- C corporation



Founder's Equity

- Disguised compensation issue
- Unvested equity – Section 83(b) election



Compensation

- Section 409A of the Internal Revenue Code
- Equity compensation
 - Stock options
 - Restricted Stock
- Other deferred compensation plans
- Treating employees as independent contractors



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