

UNIVERSITY OF ILLINOIS
AT URBANA-CHAMPAIGN

Startups: Incorporation, Funding, Contracts, and Intellectual Property

Professor Barich
Class 14



illinois.edu



Reminders

- Today
 - Class 14 Lecture
 - Questions before Exam #3
 - Class Evaluations
 - Exam #3 – Second half of class
 - Intellectual Property Project Presentations
 - Remember to turn in Peer Evaluations!
 - No Final
- Interested in more law? SE400 – Engineering Law
 - Covers how the court system works, contracts, torts like negligence and products liability, IP including copyrights
 - Spring 2019 - Thursdays 4-6:20 pm



Practical Startup Suggestions

- General
- Incorporation/Formation
- Contract
- IP



General Suggestions - 1

- Clarity and documentation
 - Don't assume that everything will run smoothly
 - Don't assume that people have the same goals and understanding you do – or if they do now that they will stay that way forever.
 - If there is a disagreement and you can't immediately prove your point through good documentation, it will be expensive to do so through a lawsuit
 - Don't try to be “informal” – no clarity
 - Also, getting things in writing helps to make sure everyone is on the same page – avoid loss aversion!
 - Big danger is when someone feels cheated
 - “I just want to make sure that everyone knows exactly what they must do and what they are being promised because I want to make sure that I live up to what people expect.”



General Suggestions - 2

- Get help when you need it
 - You are super smart, but you will be low on time and need to delegate tasks that can be delegated
 - Focus on your strengths – someone else may be better at HR
 - Don't be afraid to get help or admit you don't know something
 - It is not a failing or a lack, just hire someone
 - Watch out for “engineer” weaknesses
 - Misled by numbers
 - Can't admit they don't know, choose from available choices
 - Erroneously assume unbiased accuracy from others
 - Pattern recognition blindness
 - Dealing with unknowns – Identify and solve or  delegate, don't just pretend they don't exist

General Suggestions - 3

- Do right by people
 - Most startups do not succeed, so you will likely be working with/needing the same people again
 - They can be a valuable network
 - Corollary – You will likely be in several businesses that fail before one succeeds. Establish a reputation that makes investors want to bring you on board for their next venture.
 - Experienced investors know that not every business works out, but they want someone that they can trust
 - Accurate and timely information with regard to how the business is performing
 - “Getting to failure quickly” – if it’s not going to work, get there spending as little time and money as possible so that you can re-deploy resources for another venture
 - They will look to work with people they can trust on the next company



Practical Incorporation Suggestions

- Get incorporated/LLC
 - Sooner the better
 - Don't fall into a general partnership
 - You want liability protection
 - Clarity of ownership percentages and obligations
 - Want to have an entity to assign IP
 - Funding
 - Accept investment from the right people only
 - Be cautious who you allow to have equity
 - Remember debt may be preferable to equity
 - Plan for if/when people move on
 - Use vesting schedules
-  Upfront agreement about what happens when leaving

Practical Contract Suggestions

- Get it in writing, get it in writing, get it in writing
 - Helps with clarity as to the specific terms
 - Want to prevent even having to have a lawsuit
 - Clarity
 - Read thoroughly
 - Make sure you understand all contract terms
 - Try not to use vague/subject to interpretation terms
 - Want to lock down what the other party expects from you – as well as what you want from them
 - Contracts are not laws of nature
 - Be prepared to renegotiate
 - Try to make your deals fair and mutually beneficial
-  Non-Disclosures are not iron clad, so only disclose what is absolutely necessary

Practical IP Suggestions

- IP is constantly being created and used
 - Educate everybody in your company about IP
 - Don't expect people to realize what IP is, when it has been created, and what represents the IP of others
- Confirm ownership of IP by startup
 - Employment agreements
 - Bylaws/Operating agreement
 - Assignments
- Patents – remember disclosure or commercialization starts the clock in the US and kills you in some countries
 - Have a U.S. Provisional on file beforehand
- Trademarks – Register, use Intent-To-Use apps



Thanks!

- And so we have come to the end of the class ... but it is just the beginning of your startup adventure!
- Remember that you don't have to go it alone, you don't have to know everything – just know who you need to call and when!
- If you need a quick insight into a hypothetical situation, you can always give me a call
- Thanks for a great class!
- I wish you all the best in your bright and wonderful futures!

