

UNIVERSITY OF ILLINOIS  
AT URBANA-CHAMPAIGN

# Startups: Incorporation, Funding, Contracts, and Intellectual Property

Professor Barich  
Class 2



[illinois.edu](http://illinois.edu)



# Reminders

- Links and materials at [joebarich.com](http://joebarich.com)
- Exams and presentations Thursdays at 7pm Room TBA
  - Project 1 – 9/20
  - Exam 1 – 9/27
  - Project 2 – 10/25
  - Exam 2 – 11/1
  - Project 3 – 11/29
  - Exam 3 – 12/6 - 2nd half of last class
- Syllabus available online
- Conflicts people – notify me in advance
- Pop Quizzes at any time – read the materials as we go along
- Questions from last time?



# Summary

- Avoid the unlimited liability of a sole proprietorship or general partnership
  - Be careful not to accidentally fall into a GP
- Look to a c-corp or an LLC
  - Lean toward LLC to preserve cash/keep it simple and early in development
  - Lean toward c-corp if you are a really taking off



# Practicalities: Corporate Name

- Choosing a corporate name is often an important first step
  - Mentally defines the corporation as a separate entity in the mind of the entrepreneur
- Name can always be changed with later
  - Never legally “locked-in” to name
  - Can be changed with later filing with state
  - But!
    - There may be a fee
    - More importantly, you will start marketing under your selected name so if you choose a new one, you likely lose much of your marketing investment



# State Corporate Registry

- Illinois Secretary of State
  - [http://www.cyberdriveillinois.com/departments/business\\_services/corp.html](http://www.cyberdriveillinois.com/departments/business_services/corp.html)
  - Conduct online search exercise
  - State will not register identical corporate names
- Legal identification in name of corporation
  - Most states require LLC/Inc.
  - But! Most states allow assumption of a d/b/a



# US PTO Trademark Registry

- U.S. Patent and Trademark Office
  - <http://www.uspto.gov/trademarks/index.jsp>
  - Conduct basic search
    - Not just identical marks – “consumer confusion” standard
  - We will be learning more about trademarks and the trademark registry later in the course
  - Can’t register generic marks
  - Even if your exact mark is being used, it may not prevent your registration for a different field of use
  - But! You may wish to just avoid the issue
  - And! It also give you an indication of what other marks may be in your space



# Domain Name Registry

- Visit a domain name registrar
  - [www.godaddy.com](http://www.godaddy.com)
  - Search domain name availability and options
  - Most people want the shortest .com possible
  - New Generic Top Level Domains (gTLDs)?
    - [www.godaddy.com/tlds/gtld.aspx](http://www.godaddy.com/tlds/gtld.aspx)
  - Typically want domain to match corporation and/or proposed trademark
  - Often want to register backups, mis-spellings, or similar names – extra names are cheap and it prevents people from snagging them and selling them back to you



# Next Steps

- OK, Now you have a name
- Determine who will hold equity stakes
- Choose your entity
  - Sole Proprietor/LLC/Partnership/Corporation
  - Note! Consulting an attorney is advisable at all steps of the process, but of heightened desirability when you are forming a LLC and extreme desirability when forming a partnership or corporation
  - Your attorney can advise you with regard to options and risks you would not otherwise be aware of



# LLC Creation

- Review Illinois LLC Guide
- Review Illinois LLC Articles of Incorporation
- Review Sample LLC Operating Agreement
- Note! Your attorney will likely use a somewhat different Operating Agreement and it may vary depending on how you want to run your LLC



# Corporation Creation

- Review Illinois Corporation Guide
- Review Sample Corporate Bylaws
- Note! Corporate Bylaws can vary widely and be very complicated in some situations
  - Additionally, the complication may be desirable to help you in your ownership planning to maintain control or make investment more desirable
  - Consult an attorney



# Partnership Creation

- Review Sample General Partnership Agreement
- Note! Even more so than with Corporate Bylaws, the General Partnership Agreement can vary widely and be incredibly complicated in some situations
  - Remember that you are dealing with the potential of personal unlimited liability
  - Be very cautious about entering any general partnership – it is generally not a preferred entity
  - Consult an attorney



# Employees?

- One big question is whether your business will have employees
    - Equity owners need not be employees – at least initially, but will eventually likely be employees if a startup (will get a salary)
    - Employees get wages – Equity owners get flowthrough shares or dividends
  - Federal Employer Identification Number (FEIN)
    - [www.irs.gov](http://www.irs.gov)
  - Some Illinois Requirements
    - Worker's Comp, Unemployment Insurance, Anti-Discrimination rules, Visa Status, etc.
  - Best practice - If you are going to have employees, it really is time to get a lawyer – and likely an accountant
-  Your time is better spent actually developing your business than learning law and accounting

Questions?

See you next week!

