

CORPORATE & SECURITIES

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ENTREPRENEURS: GO FORTH AND ACT, BUT ACT WISELY

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What distinguishes those with great ideas from entrepreneurs is elementary. Entrepreneurs act on their idea. Tantamount to acting, is planning and good advice. Anyone who wants to pursue a concept should first do some extensive on-line research to see what is already out in the marketplace. Unless what you want to do is so entirely different than what already exists in the marketplace, you are already "behind the 8 ball."

If your product is linked to technology - and let's face it, most are - then you will find yourself additionally working against the clock. Six months can result in substantial changes in technology - better, faster and cheaper technology can be quickly created by others. By the time an inventor actually begins to implement their concept, it could be old news. Rapidly evolving technology has made the creation of a concept for an app, a website or other technology not as novel, as we each may believe it to be. This is not written to deter someone from pursuing their dreams, or someone who truly has an idea that is fresh and novel, but unless you are a computer programmer, engineer or someone who actually has the capability to develop the software, device, etc. yourself, the costs of actually pursuing a concept may outweigh the revenues that maybe generated by that product or service. That is not to say you can not hire others to actually produce the software or product for you; but doing it in a cost effective manner is something you will want to address from the start.

Everyone hears the success stories and assumes they will be the next one, the next instant millionaire. They could be, but they could also be one of the millions of untold stories - the entrepreneur who spends thousands of dollars of their money and possibly money from friends and family, whose concept dies a slow painful death; or a quick death, because they never took the time to search to see that someone else already developed what they are developing and/or failed to obtain necessary protections of their intellectual property.

If an entrepreneur really wants to pursue their concept, the most cost effective way to do so is to seek good legal and financial advice. It is important to seek good advice from lawyers and accountants who are familiar with the trials and tribulations

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associated with start-ups. Although it may cost you some money upfront that you would rather put towards your concept, in the end it could save you thousands and potentially millions of dollars.

Lawyers who specialize as counsel to start-ups will know that you need to create an entity. The entity serves as a way to protect you, as an individual, from being personally liable for some act, which should have been in furtherance of your employment in an LLC or corporate entity. In essence your exposure as an individual is shielded by the entity. Additionally, they will know how to structure your entity in a cost effective manner and what agreements need to be in place to protect your concept.

A lawyer who specializes in working with start-ups will have a confidentiality agreement or non-disclosure agreement ("NDA"), which is not just a form to be pulled from the internet, but one that contains language that has been artfully crafted and may have evolved over several years. These agreements require language that a "form," will fail to contain, because it's just that – a form. Analogous to buying a car – you can buy a car that gets you from point A to point B, but in the end provides no frills, it may have a much shorter life span and require extensive repairs. On the other hand you can purchase a car that has been artfully engineered, by highly qualified engineers after extensive research and development. This car is meant to perform, with minimal repairs and to last for many years. It may have features that you didn't think were necessary but actually serve a very useful purpose. A good NDA is like a well crafted car. It not only gets you from point A to point B, but protects you in a way that a generic "form" agreement will certainly fail you. Deal with a sophisticated person on the other side of a negotiating table and you will realize that "generic" NDA form you were so proud of has now been made into "Swiss Cheese."

Preserving "trade secrets," is one of the most important acts you will perform as an entrepreneur. Failure to do so could result in someone else stealing that concept or idea from you and you having no recourse against that individual or entity.

Beyond creating an entity and protecting your intellectual property rights, a good lawyer and accountant, will help you get through the various landmines faced by entrepreneurs. Beyond their professional expertise, an experienced attorney and accountant are good advisors who possess business savvy which is necessary for them to shepherd you as you grow. Many have contacts to help your business grow and assist you with introductions to investors interested in start-ups. They will also guide you through the "shark tank" you will face when seeking monies from investors and venture capitalists.

Now is the time. It's your moment. Don't lose it because you failed to seek sound legal and financial advice. The current political environment is one which encourages entrepreneurship. Don't make the same mistakes so many others before you have endured. Learn from the mistakes of others and remember, "Good judgment comes from experience, experience comes from bad judgment." NOW go forth and act on your inventions, but act wisely - the world eagerly awaits the next success story.

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