



SUNDER
LEGAL

Important Legal Issues when Launching your Business

Presented by: Alykhan Sunderji, Sunder Legal

This presentation does not constitute legal advice or create an attorney-client relationship.

If you need legal advice, you should contact an attorney who will take into account your specific circumstances and provide advice tailored to your needs.



ABOUT ALYKHAN SUNDERJI

Alykhan Sunderji is the principal attorney at Sunder Legal

PRIOR TO SUNDER LEGAL

- **HEAD OF LEGAL, AMAZON FASHION (2018-2021)**
- **HEAD OF LEGAL, AMAZON.CA (2015-2018)**
- **PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP**
- **UNIVERSITY OF TORONTO, FACULTY OF LAW**
- **QUEEN'S UNIVERSITY / FUDAN UNIVERSITY**
- **MCGILL UNIVERSITY**



AGENDA

- **Limiting Liability** - Do you need a separate legal entity?
- **Naming your Business** - Issues to consider when naming your business
- **Regulatory Approvals** - Do you need permission from the state or any other governmental entity to do business?
- **Client Agreements** - How should you approach your relationship with clients?
- **Insurance** – Do you need it?

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I knew that if I failed I wouldn't regret that, but I knew the one thing I might regret is not trying.

— Jeff Bezos,

DO I NEED A SEPARATE LEGAL ENTITY?

- **Who is selling your service and entering into agreements with others?**
 - You individually or a corporate entity?
- **A corporate entity provides the following benefits:**
 - Limited personal liability
 - Allows for growth – interests in the entity can be sold to others to raise capital or take partners
 - Can signal credibility
 - Allows you to open a business bank account, which has additional advantages

BUSINESS BANK ACCOUNT

- **Small Business Administration**

Benefits of business bank accounts

As soon as you start accepting or spending money as your business, you should open a business bank account. Common business accounts include a checking account, savings account, credit card account, and a merchant services account. Merchant services accounts allow you to accept credit and debit card transactions from your customers.

You can open a business bank account once you've gotten [your federal EIN](#).

Most business bank accounts offer perks that don't come with a standard personal bank account.

- **Protection.** Business banking offers limited personal liability protection by keeping your business funds separate from your personal funds. Merchant services also offer purchase protection for your customers and ensures that their personal information is secure.
- **Professionalism.** Customers will be able to pay you with credit cards and make checks out to your business instead of directly to you. Plus, you'll be able to authorize employees to handle day-to-day banking tasks on behalf of the business.
- **Preparedness.** Business banking usually comes with the option for a line of credit for the company. This can be used in the event of an emergency, or if your business needs new equipment.
- **Purchasing power.** Credit card accounts can help your business make large startup purchases and help establish a credit history for your business.

WHAT TYPE OF CORPORATE ENTITY

Limited Liability Company

- Common for solo entrepreneurs and small businesses
- Relatively easy and low cost to form and maintain under state law
 - \$200-\$250 filing fee
- Provides tax flexibility
- **Limited Liability Company vs Corporations**
 - Corp has more onerous annual requirements
 - More expensive
 - WA state laws that govern Corporations are geared towards companies that will have many shareholders and types of ownership
 - An LLC is a simple, elegant solution to providing a relatively low maintenance corporate entity
 - This is a separate issue as to whether your LLC takes an S-corp election

LIMITED LIABILITY COMPANIES

How to form an LLC?

- Articles of formation + operating agreement + annual filings
- You can file yourself at sos.wa.gov
- Attorney
- Online Service – legal zoom, stripe atlas

CHOOSING A NAME

- **Corporate entity**
 - SOS Registration
- **Trademark**
 - “A trademark can be any word, phrase, symbol, design, or a combination of these things that identifies your goods or services. It’s how customers recognize you in the marketplace and distinguish you from your competitors.” US Patent Office
 - By default, you own a trademark simply by using it first
 - TM registration is not necessary but can be useful
 - Puts others on notice
 - Nation-wide protection
 - 3X damages
 - Legal presumption you own it
 - Only applies to a specific good or service and to the extent another party’s use would cause confusion
 - Descriptive marks are also not protected
 - Examples
 - The Drop
 - Simply Self Storage

CHOOSING A NAME

The screenshot shows the USPTO website's 'What is a trademark?' page. At the top, the USPTO logo and 'UNITED STATES PATENT AND TRADEMARK OFFICE' are visible, along with navigation links for 'About Us', 'Jobs', 'Contact Us', and 'MyUSPTO'. A search bar is present with the text 'Search uspto.gov'. Below the header, a navigation menu includes 'Patents', 'Trademarks', 'IP Policy', and 'Learning and Resources', with a 'Find It Fast' button. The breadcrumb trail reads 'Home > Trademarks > Basics > What is a trademark?'. On the right side of the header, there are 'Share' and 'Print' icons. The main content area features a left sidebar with a table of contents for 'Trademark basics', where 'What is a trademark?' is highlighted. The main text defines a trademark as any word, phrase, symbol, design, or combination thereof that identifies goods or services. It explains that trademarks help customers recognize brands and distinguish them from competitors. The text further clarifies that 'trademark' can refer to both trademarks and service marks, with a service mark used for services. A list of three points describes the functions of a trademark: identifying the source of goods or services, providing legal protection for a brand, and helping guard against counterfeiting and fraud. A common misconception is addressed: having a trademark does not mean you legally own a word or phrase and can prevent others from using it; instead, it grants rights to use that word or phrase with your specific goods or services. An example is given: using a logo as a trademark for a small woodworking business. Another misconception is that a trademark that merely describes goods or services is effective; creative and unique trademarks are more effective and easier to protect. A section titled 'Owning a trademark vs. having a registered trademark' explains that you become a trademark owner as soon as you start using your trademark with your goods or services, but rights are limited to the geographic area where you're providing goods or services. For stronger, nationwide rights, registration is required. The text notes that registration is not required, but it provides broader rights and protections than an unregistered one. An example is provided: using a logo as a trademark for handmade jewelry sold at a local farmer's market.

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Trademark basics

- What is a trademark**
- Trademark patent copyright
- Trademark examples
- Scope of protection
- Strong trademarks
- Why register
- Online tools
- Do I need an attorney
- How long does it take
- Checking status
- Examination of application
- Approval for publication
- Receiving your registration
- Maintain your registration
- Why search
- Application requirements
- How much does it cost
- Application filing basis

What is a trademark?

A trademark can be any word, phrase, symbol, design, or a combination of these things that identifies your goods or services. It's how customers recognize you in the marketplace and distinguish you from your competitors.

The word "trademark" can refer to both trademarks and service marks. A trademark is used for goods, while a [service mark](#) is used for services.

A trademark:

- Identifies the source of your goods or services.
- Provides legal protection for your brand.
- Helps you guard against counterfeiting and fraud.

A common misconception is that having a trademark means you legally own a particular word or phrase and can prevent others from using it. However, you don't have rights to the word or phrase in general, only to how that word or phrase is used with your specific goods or services.

For example, let's say you use a logo as a trademark for your small woodworking business to identify and distinguish your goods or services from others in the woodworking field. This doesn't mean you can stop others from using a similar logo for non-woodworking related goods or services.

Another common misconception is believing that choosing a trademark that merely describes your goods or services is effective. Creative and unique trademarks are more effective and easier to protect. Read more about [strong trademarks](#).

Owning a trademark vs. having a registered trademark

You become a [trademark owner](#) as soon as you start using your trademark with your goods or services. You establish rights in your trademark by using it, but those rights are limited, and they only apply to the geographic area in which you're providing your goods or services. If you want stronger, nationwide rights, you'll need to apply to register your trademark with us.

You're not required to register your trademark. However, a registered trademark provides broader rights and protections than an unregistered one.

For example, you use a logo as a trademark for the handmade jewelry you sell at a local farmer's market. As

GOVERNMENTAL APPROVALS

- **WA business license (UBI)**
- **Local business license (e.g., Seattle)**
- **Local ordinances**
 - E.g., any requirements for working out of your home
- **EIN**

RELATIONSHIP WITH CLIENTS

- **Agreement or Terms**
 - **Clear and simple language**
 - Doesn't need to look or sound like a contract
 - Sets expectations with clients
 - **Any third party should understand:**
 - The service you are providing (and not providing)
 - The payment terms
 - Other important rules you may put into place (e.g., scheduling process, cancellation fees)
 - **Other Important terms:**
 - Expectations around confidentiality
 - Limitation of liability

RELATIONSHIP WITH CLIENTS

- **Enforcing Agreements is time consuming and expensive – create a relationship that avoids disagreements**
- Set clear expectations on the service you are providing
 - Process vs outcome
- Set clear expectations on payment terms
- Limit liability so there is no incentive for litigation

DO I NEED INSURANCE

- **Insurance companies offer insurance for this line of business**
- **Insurance creates a party with a vested interest in defending you**
- **But you should evaluate your real risks?**
 - Do clients often sue?
 - Is there a risk that someone gets hurt in your office or facility?
 - Have you limited your liability in some other way?

Ultimately anyone can file a lawsuit and when you run a business you invite that risk. Insurance at the right price can mitigate that risk.

THANK YOU!



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