

How to select a lawyer for your startup

You are about to embark on the adventure of a lifetime. Don't underestimate the importance of your relationship with your startup's lawyer. Sometimes, the best lawyer you ever hire is the one you pick at the very beginning. Other times, your company pivots, your business develops and something happens to make you realize you aren't partnered with someone who can help your business grow to the next level.

Your need for strong counsel starts well before you first present your idea to potential co-founders, investors and customers. Will your company's intellectual property be protected? Have you filed a provisional patent application? Do you need a trademark or copyright? What sort of trade secret protections do you need? When should you put these protections in place?

What sort of entity should you create? Where should you incorporate? LLC, C corp, S corp, partnership, sole proprietorship: what is right for you?

You will need a lawyer in your corner when you set up the capitalization of the company. What you do at the outset may well determine the reckoning when you go to sell your company. What are the terms of your security? What are the relative rights between you and your co-founders and angel investors? Your venture capital investors? How much stock should you grant for a CTO or a CEO? How much for a CFO? How much for a new head of sales? How you set up your capital structure will matter more as time goes on. With each round of capital that you raise, you are diluted, and the stakes get higher.

There are many types of lawyers, so here are some thoughts about identifying the lawyer who fits best with you.

Experience

A good lawyer will have formed dozens of new startups and taken them from formation through financing to hypergrowth to exit. She will also have seen her fair share of startup failures and will steer you clear of avoidable bumps in the road.

Industry expertise

Your lawyer should have experience relevant to your company's industry and environment. If you are in a brand-new industry, your lawyer should be eager to dive in with both feet and learn everything there is to be learned.

Network

No one lawyer will have the expertise to solve every problem that your startup will face. Your startup attorney should have a deep network of colleagues who can solve most of the legal problems your company may encounter. She should know the investor community that invests in your industry and at your stage. She should also have a network of the non-legal talent that you will need, from accountants to financial professionals to engineers. Ideally, she will have clients and connections with companies in adjacent verticals and in your geography.

Knows how to work with companies of your size and stage

Whether your company is in formation, experiencing hypergrowth or at the exits, your lawyer should have extensive experience in serving companies at that stage.

- *At the startup stage*, you will need a lot of help, and your lawyer will need to know how to serve you quickly and efficiently, helping you manage cash flow and cautiously spending legal dollars where it counts. Most problems should be solved with short one-line answers, not ten-page legal memos. Your lawyer should have access to technology-enabled solutions to allow you to self-help where appropriate.
- *At financing stage*, your lawyer should have access to tools that will help you find investors and should be guiding you to prepare the information an investor will expect to see.
- *At exit stage*, your lawyer should be proactively anticipating what a buyer will do in diligence and cleaning up messes before they are discovered, and should have the stamina to go head-to-head with the other side.

Bandwidth

Your lawyer should respond to your emails and phone calls promptly and should have a team that can service your matters on demand. Your preliminary interactions should demonstrate this.

Availability

Your lawyer should be available to meet with you in person or on the phone, as needed and at a cadence to suit your budget.

Recognition

Your lawyer should be recognized by people you know or organizations you recognize as having some combination of legal knowledge, business acumen, experience and network to help you be comfortable that you have made the right selection.

Trust your gut

There is always an intangible personal chemistry between lawyer and client. To be successful, you will need wise counsel, but just as much, you will need to know you can trust the lawyers who deliver it. By the same token, your lawyer will need to trust you. You will spend a lot of time together. Your interaction should be positive. Follow your instincts, trust yourself, and go with your gut.

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