

# Legal Tips for the Beauty Industry

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## BENEFITS OF INCORPORATION

- Use a separate and distinct name for your business
- Gives an overall appearance of professionalism and legitimization with your clients and customers
- Business banking accounts
- Eligible for funding such as loans and grants
- In some cases, you can save money on taxes
- No. 1 reason for registering your business: protection from personal liability and loss

# SOLE PROPRIETOR vs. LLC

## SOLE PROPRIETOR

- Unincorporated business with one owner
- No separate or distinct business name
- Pass through taxation
- No legal separation between the business and the owner so no legal protection from liability or loss
- Limited opportunity for growth and branding
- Inexpensive to start

## LIMITED LIABILITY COMPANY

- Organized and incorporated business with one or multiple owners
- Separate or distinct business name
- Pass through taxation
- Limited protection for personal assets against liability and loss
- Must comply with formal state rules of organization (Articles, Licenses, Operating Agreement, etc.)

## TRADEMARKING

- Available for unique, non-descriptive names, titles and logos
  - (e.g., “Superior Hair Care” most likely not eligible for registration)
- Must be currently using the mark in the marketplace, otherwise only eligible for 1B (intent to use) status
- Always check to see how common a name is, and who is using it currently when choosing a brand/company name
- Once application is filed, typically takes 12-15 months to get full registration



## Quick Quiz



**Q: What is the No. 1 Reason for incorporating your business?**

**A: Protection from personal liability and loss.**

# Tips for Protecting Your Business





# INDEPENDENT CONTRACTOR vs. EMPLOYEE

## INDEPENDENT CONTRACTOR

- Not subject to labor & employment laws
- Completes a W-9
- Hiring party reports payments of \$600 or more on a 1099
- Limits on restrictive covenants
  - Independent contractors must remain just that... independent
- Less expensive for hiring party

## EMPLOYEE

- Subject to federal and state employment and labor laws
- Completes a W-4 plus state equivalent
- Employer reports all wages on a W-2
- Employer has broader level of control when it comes to restrictive covenants
- Employer is subject to payroll taxes, benefits and unemployment insurance





## NON-COMPETE CLAUSES

- Enforceable against key employees and former key employees
- Purpose is to prevent EE from working for a competitor or starting a similar business during a specific time period and within a specific geographic location
- Clause will be subject to your state's law, if any, so consult local counsel
- Non-competes can be extremely helpful in the early years of building a business



## NON-SOLICITATION CLAUSES

- Generally enforceable against employees and contractors
- Purpose is to prevent EE/IC from stealing away the business' clients, customers or employees
- Mostly used in connection with EE/IC's who have regular access to clientele lists, vendor lists, etc.
- Non-solicitation rules are also state specific so be sure to consult local counsel (for example: non-solicitation clauses are not enforceable in California)

## Quick Quiz



**Q: Who are non-compete clauses enforceable against?**

A: Current/former Key Employees.



## BUILDING BLOCKS FOR INSURANCE

Start with general  
liability policy

Personal injury liability  
coverage

Commercial property  
loss coverage

Internet piracy/data  
breach coverage

Premises liability  
insurance  
(property owners)

Workers compensation  
insurance  
(check local rules)

# Let's Talk A Little About IP



# WHAT IS INTELLECTUAL PROPERTY

The term “intellectual property” refers to creative works of the mind that are protectable.

Think of things such as technical and scientific creations, literary and artistic works, designs, symbols, images, inventions, etc.

While some common law rights attach at the moment of creation, in general, the owner or creator of a work of intellectual property should register the work in order to be able to enforce rights against infringers in federal court.



## TIPS FOR WHEN SHARING YOUR IP IS NECESSARY

- Hire an experienced attorney
- Your attorney should draft for you a solid non-disclosure and confidentiality agreement
- Always seek permission before using other people's content
- Use ®, ©, and digital watermarks in your content
- Set Google alerts to monitor unauthorized usage
- Attach your name, stage name or business name when sharing your creations



## TIPS FOR WHEN USING OTHER PEOPLE'S IP



- Ask for permission
- Check platform guidelines
- Browse the "click-through" policies
- Attribution is your friend
- Generally fair use material ok, but this typically requires an in-depth legal analysis first

## Quick Quiz



**True or False: A creative work must first be registered in order to sue for infringement in federal court.**

A: True.



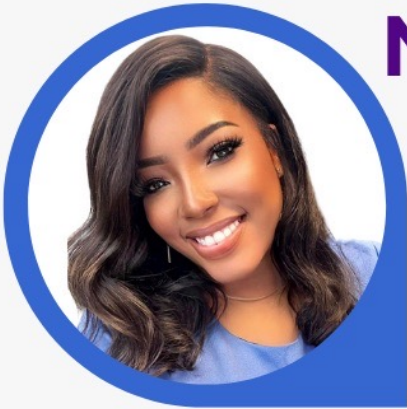
## QUICK RECAP

- Formation: Form a separate entity for your business.
- Protection: The first two people on your team should be your lawyer and your accountant.
- Branding: Use a distinct name for your business. The more unique the better!
- Hiring Help: Make sure you are classifying workers properly.
- Start at Home: Make sure your in-house documents are in place – keep up with your licenses, permits, chair & booth rental agreements, commercial leases, etc.

## TOP 5 TIPS

- It all starts with proper entity structure.
- Get agreements in writing.
- Do not commingle funds.
- Secure proper business insurance.
- KEEP WRITTEN RECORDS!

THANKS FOR LISTENING!



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