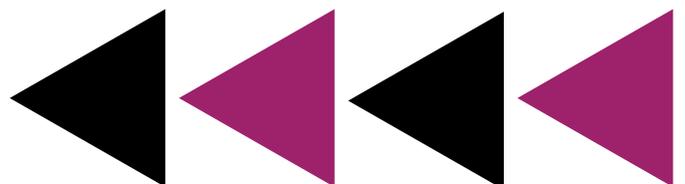




FREE LEGAL CHECKLIST for Creative Entrepreneurs

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About Ozelle Martin, Esq.



Hey Boss! My name is Ozelle Martin and I am an attorney who helps creative entrepreneurs build and protect their fabulous brands through powerful legal strategies. I'm thrilled that you decided to download this legal checklist because it shows that you're serious about building your biz on a solid legal foundation.

Many entrepreneurs tend to ignore the legal side of business and brand building. I mean, I get it- it's not fun for you. But hey! That's why there are lawyers, right?

This checklist is not the end all be all but it should serve as a guide for you. Your success as an entrepreneur boils down to your execution. It's now time to kick everything into gear.

Disclaimer

The information contained in this checklist is for educational purposes only and does not constitute legal advice. Furthermore, using this checklist does not create an attorney-client relationship between us. If you have specific legal questions, you may reach out to me at ozelle@ozellemartin.com or you may hire an attorney of your choice.

Please note that I am able to serve clients in all 50 states for federal copyright and trademark matters.

For certain contracts and business entity formation, I can only serve clients in New Jersey.

○ *Choose a memorable & distinctive brand name*

A **brand name** that is clever, distinctive and trademark-worthy allows you to stand out and shine amongst your competitors. You're not creating that fabulous brand to get lost in the shuffle. A distinctive name is the root of a thriving and profitable brand.

A **brand name** is usually one of the most powerful trademarks for a business as it serves as one of your recognizable identifiers. For example, when you see SAMSUNG on a television set, you know that this TV is from SAMSUNG and not, SONY.

○ *Conduct a comprehensive brand name clearance search*

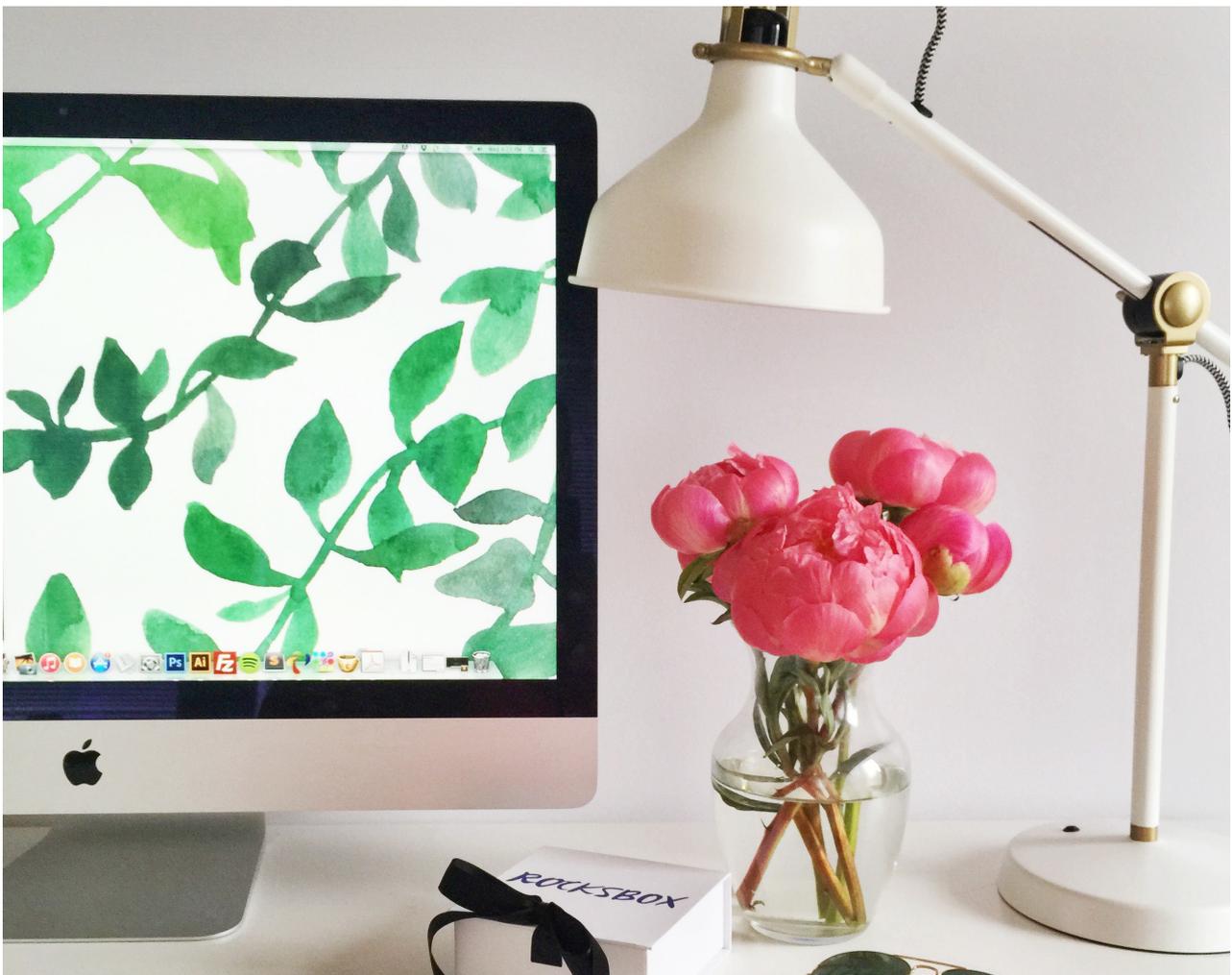
Coming up with your **brand name** can be a daunting yet exciting process, but it is important to bear in mind that your goal is to stand out and shine.

Conduct a Google search to see if anyone has a brand name that is similar to yours. You should also search social media platforms, the United States Patent and Trademark Office database and your state database. This is an essential part of the naming process because you don't want to be sued for infringing upon someone else's brand name. You may also consider hiring an attorney to conduct a comprehensive name clearance search on your behalf. Attorneys have software that allows us to conduct extensive searches of databases in all 50 states, all social media platforms, and even other countries.

Brand building...

○ *Secure your domain name and social media handles*

Once you've devised that killer brand name that is going to allow you to stand out and shine in the marketplace, it's time to secure your domain name and social media handles. This is a critical step in the brand building process because you want your customers/ clients to easily find you on the internet.



Legal formation of your business entity...

○ *Establish your business structure and register your business name within your state*

Many creative entrepreneurs automatically assume that they should establish a limited liability company (LLC), but other possible business structures include sole proprietorships, partnerships and corporations.

The business structure you choose impacts your daily operations; how you file your taxes and whether your personal assets are at risk if your business is sued. You should select your business structure based on what provides you with a good balance of legal protections and benefits. Choose wisely, boss!

NOTE: If you need guidance with this process consult with a business attorney in your state and a certified professional accountant (CPA).

○ *Apply for a Federal EIN*

The Federal Employer Identification Number (EIN) is a 9-digit number that identifies your business to the Internal Revenue Service (IRS). Consider it similar to your social security number because businesses use this number to report income tax related activities, and despite the name, you will need an EIN even if you do not have employees in your business.

Outside of its tax reporting purposes, an EIN is required when opening a business checking account and a business credit card.

Legal formation of your business entity...

○ *Apply for the relevant permits & licenses*

Your business may need to comply with federal, state or county permit or licensing requirements to operate. This varies from business to business, state to state and even county to county.

For example, you may be required to have a business license in order to operate in your city or county.

Or, if you are operating a retail business, you may be required to get a re-seller's license or a seller's permit in order to buy goods for resale without paying sales tax for those items.

Please note that not every business needs permits or licenses to operate and therefore, you should contact your Secretary of State to determine what you may need to operate. Failure to adhere to certain requirements could result in severe tax penalties or business closure.



Separate your money, honey!

○ *Open a business bank account*

One of the biggest mistakes entrepreneurs make is not separating their business and personal funds. Doing this could have severe repercussions and open you up to an audit from the IRS.

Use your business account for business expenses and your personal account for personal expenses. If there is no clear line as to which expenses are business or personal, you could lose out on massive tax savings. If you need guidance on this, consult with a certified professional accountant (CPA).



Protect your money maker!

○ *Protect your intellectual property*

Your intellectual property is the bread and butter of your business. It's your sauce! It's your drip! This is what makes your brand unique and therefore, you must go above and beyond to protect your IP. The four main types of intellectual property are: trademarks, copyrights, patents and trade secrets.

A **trademark** is a word, phrase, symbol or design that identifies and distinguishes your goods and/or services from those of your competitors. These may include your brand name, logo, slogan, etc. A strong and distinctive trademark is the root of a thriving and profitable brand because it helps you to stand out in the marketplace, inspires customer loyalty and ignites sales.

There are numerous benefits to obtaining a registered trademark with the United States Patent and Trademark Office (USPTO). The main one is the exclusive right to market your brand nationwide using your trademark in connection with the goods and/or services for which they are registered. Another benefit is the ability to sue copycats who use your trademark for goods and services that are similar to yours.

Filing a trademark application requires a solid strategy geared towards achieving registration. If you'd like an attorney to support you through this process, I'd be happy to help.

Protect your money maker!

○ *Protect your intellectual property (cont'd)*

A **copyright** is a creator's exclusive right to reproduce, publish, distribute, display, perform, film and record their literary, artistic, architectural, dramatic and musical works, and to grant others permission to do the same.

For example, if you took a photograph, you would own the copyright in that photo and you would have the exclusive right to reproduce, publish, distribute and display that photo. Furthermore, if someone else wants to use this photo for commercial reasons, they would need your permission.

Remember this: Under U.S. copyright law, the **author** or **creator** of a work is deemed the **copyright owner**. This is a self-executing right, meaning from the moment the work is created in a tangible medium of expression, the creator attains copyright ownership without even registering the work with the United States Copyright Office.

While federal copyright registration is not required, it is important if you would like to assert your rights. The Supreme Court of the United States established in early 2019 that you **must** have a federal copyright registration for your work **before** you can sue someone for copyright infringement in federal court.

Your original content such as e-books, courses, blog posts, website, graphics, photographs, videos, music, poems, song lyrics, books etc may be eligible for copyright protection.

Protect your money maker!

○ *Protect your intellectual property (cont'd)*

A **patent** is a right granted to an inventor by the United States Patent and Trademark Office (USPTO) that permits the inventor to exclude others from making selling, using or importing an invention for a period of time. The patent system is designed to encourage inventions that are unique and useful to society.

A **trade secret** is any confidential business information that gives you an edge over your competitors. This information includes: a formula, pattern, compilation, program, device, method, technique or process.

For example, the Coca Cola formula, KFC recipe and the Listerine formula are three of the most valuable and closely guarded trade secrets. Small businesses have trade secrets as well. For example, a mom and pop soul food restaurant may have a secret mac and cheese recipe. How you price your services and determine your profit margins may be a secret. Also, your vendor lists.

In order to protect your trade secrets, you must identify them and once you have done that, you must execute systems to ensure that they remain confidential. For example, if you have trade secrets on your computer:- limit third-party access to that computer. Additionally, if you are sharing trade secrets with employees or third party contractors, a non-disclosure agreement may be needed.

NOTE: *It is advised that you seek the counsel of an intellectual property attorney to identify your IP and maximize protection. Your intellectual property is your sauce; protect them at all costs.*

○ *A privacy policy is mandatory!*

Under U.S. law, you are required to have a privacy policy on your website if you are collecting the visitor's personally identifiable information such as e-mail addresses, names, physical addresses, etc. Furthermore, if your website tends to attract visitors from the European Union you must have a GDPR- compliant privacy policy and corresponding systems. It is important that you consult with a data privacy attorney to ensure that your privacy policy applies to your business and complies with the laws of your state/ country.

○ *Website Terms of Use*

These are the rules and regulations that govern a visitor's use of your website. While "Terms of Use" are not required by law, it is a good idea to be proactive and protect your brand in the event of a lawsuit. Furthermore, it is a legally binding agreement between your business and website visitors, and therefore, courts would look to its language if there is a dispute.

Your "Terms of Use" may vary according to your business. Generally, they may include: a copyright notice stating that visitors may not copy or reproduce the content on your website; a trademark notice stating that visitors may not use your trademarks without your expressed written consent; a refund policy; a reference link to your privacy policy; a limitation of liability outlining that you are not responsible if there are errors in the content on your page and a governing law notice stating what country or state laws govern any disputes that may arise. You should consider hiring an attorney to draft this for you.

○ *Contracts are your best friends!*

Written contracts govern your business relationships. Whether you are dealing with clients, vendors, brand ambassadors, influencers, investors, sub-contractors or business partners, contracts are amongst the most powerful tools in business.

Your contracts should be easy to understand and specific. Ditch the legalese and old English terms. Haha, I know it makes the contracts sound fancy schmancy but, some people find these words confusing.

Be specific about the following:

- Term of the Agreement (time periods)
- Payment Terms
- Late Payment Penalties
- Termination and options for renewal
- Refund policies
- Confidentiality
- Deadlines
- Intellectual property ownership
- Alternative Dispute Resolution
- Governing Law
- Signatures

Brand Building

- Choose a memorable and distinctive brand name*
- Conduct a comprehensive brand name clearance search*
- Secure your domain name and social media handles*

Legal formation of your business entity

- Decide on your business structure & register your business name*
- Apply for your Federal EIN*
- Apply for the relevant business permits and licenses*

Separate your money, honey!

- Open your business bank account*

Protect your money maker

- Protect your intellectual property*
 - Trademarks*
 - Copyrights*
 - Patents*
 - Trade Secrets*

Website Compliance

Secure your domain name and social media handles

Website privacy policy

Website Terms of Use

Determine the types of contracts you may need in your business.

Contact Me

I really hope that you find this Legal Checklist useful! If you have any questions, or if you need my legal services. Please do not hesitate to reach out to me.



E-mail: ozelle@ozellemartin.com



Website: www.ozellemartin.com



Schedule a consultation: www.ozellemartin.com/book-consultation

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