

## Pivot & Slay™ Checklist

Learning what you need to Pivot to the next Move & Mobilize your Business

Forget about ideal timing. The “perfect” time to reinvent yourself is after your world has been turned upside down. Harness that chaotic energy and let it become the momentum that catapults you forward.

**Pivot** to the next move.

Taking the first step is the hardest part. My

**Pivot + Slay™ Checklist**

will outline the steps you need to Mobilize!\*

**\*DISCLAIMER\*** The Pivot + Slay Checklist is for informational purposes only. It does not create an attorney-client relationship, offer legal advice, or offer tax advice. Consult with an attorney and/or tax professional on all issues discussed in this outline before proceeding with your business formation and strategy.

## I. FORMING A LEGAL ENTITY FOR YOUR BUSINESS

### A. Why Form an Entity?

1. Structure → A legal entity will dictate the types of partners you can have in your company and what type of control/profits they get. Structural changes are easier in some entity types than others.
2. Protection → Without a legal entity, the owner or partners are **personally responsible** for the obligations of the business. If the company is sued, the owners' personal assets and belongings are at stake (homes, cars, pensions, savings, etc.). A proper legal entity separates the owners from the business and will usually mean that only the company's assets are at stake. Prior to choosing an entity, consult with an attorney who specializes in corporate law.
3. Tax Treatment → Each entity is taxed differently. In some entities, only the owners are taxed; in others, both the owners and entities are taxed. Prior to choosing an entity, consult with a tax professional so you understand the tax implications of the entity you choose.

### B. Forming an Entity & Fund It

1. Choose your Name → After consulting with legal and tax professional about the type of entity that's best for you, it is time to actually form the company. Choose a name that is intriguing and/or relevant to your product and services. Select a few options in case the names are already taken. Conduct a brief internet search to see what already exists with that name.
2. State Websites → The next step is to go to your State's website (in the US) and navigate to the department that regulates business and corporate entities (usually the Department of State). Here you will be able to do a name search so the State can determine whether your proposed business name is already taken or too similar to name already in use.
  - a. If your name is taken, keep thinking and try again.
  - b. If your name is accepted, it is time to file the corresponding paperwork to form your entity in the state of your choice. You will do this by selecting the type of entity you are forming on the State's website and following the prompts to legally form the company. This will usually require a fee charged by the state which varies by state.
3. IRS Website → Once you formed the entity in your state, navigate to IRS.gov to obtain an EIN Number: Employer Identification Number. This is a number that will be unique and identifying to your company, the same way a Social Security Number is unique and identifying to an individual. The company name, address, and information, as well as the owners/members information, should be readily available and must match exactly to the information in your State filings.
4. Additional Tax Documents → Some entities allow the owners to choose how the company will be taxed. If the entity you selected allows for this choice, you may need to file additional documentation with the State and the IRS to notify them of your selection. Ask your Tax Professional for advice on this topic.
5. Open a Business Bank Account → Now it's time to get a business bank account! Go to your bank of choice with a copy of: the EIN Confirmation, the receipt of filing from the State and the formation document from the State (i.e. Articles of Organization or the Certificate of Formation). Do not delay this step!! You need an official business account so that you can keep your business finances separate from your personal finances. Opening an account gives you access to a business debit card, business checks, and maybe even a line of credit.
6. Get Funding → You can start up your company with your own funds, or you can try to obtain funding from a bank in the form of a business loan, line of credit or business credit card. There are many options to weigh here. One note- if you are bootstrapping with your own money, make it official by creating a loan document showing the infusion of personal funds into the company.

**C. Entities at a Glance – a Summary of Entity Types to discuss with your attorney:**

Types	Ownership	Personal Liability of Owners	Tax Treatment	Key Documents for Formation	Management of the Business	Capital Contributions
<b>C Corporation</b>	Unlimited number of shareholders allowed  Unlimited classes of stock.	Generally, no personal liability of shareholders for obligations of the business.	Corporation taxed on its earnings at the corporate level and the shareholders have a further tax on any dividends distributed.	Articles of Incorporation Bylaws Organizational Board Resolutions Articles of Incorporation Stock Certificates Stock Ledger	Board of Directors has overall management responsibility.  Officers have day-to-day responsibility	Shareholders typically purchase stock in the corporation, either common class or preferred class.
<b>S Corporation</b>	Limited # of shareholders allowed.  Owners must be individuals (not companies).  Only one basic class of stock allowed	Generally, no personal liability of shareholders for obligations of the business.	Entity generally not taxed as the profits and losses are passed through to the shareholders	Articles of Incorporation Bylaws Organizational Board Resolutions Articles of Incorporation Stock Certificates Stock Ledger IRS & State S Corporation election	Board of Directors has overall management responsibility.  Officers have day-to-day responsibility	Shareholders typically purchase stock in the corporation, but only one class of stock is allowed
<b>Sole Proprietor</b>	One owner	Unlimited personal liability for obligations of the business.	Entity not taxed, as the profits and losses are passed through to the sole proprietor	DBA filing, so that you can do business in a name other than your own personal name.	Sole proprietor manages the business	Sole proprietor contributes whatever capital is needed
<b>General Partnership</b>	Unlimited number of general partners allowed	Unlimited personal liability of the general partners for the obligations of the business	Entity not taxed as the profits and losses are passed through to the general partners	General Partnership Agreement  Local filings if partnership holds real estate	The general partners have equal management rights, unless they agree otherwise	The general partners typically contribute money or services to the partnership, and receive an interest in profits and losses
<b>Limited Partnership (LP)</b>	Unlimited # of general partners.  Unlimited # of limited partners.	Unlimited personal liability of the general partners  Limited partners generally have no personal liability	Entity not taxed, as the profits and losses are passed through to the general and limited partners	Limited Partnership Certificate  Limited Partnership Agreement	The general partner manages the business, subject to any limitations of the Limited Partnership Agreement	The general and limited partners typically contribute money or services to the limited partnership, and receive an interest in profits and losses
<b>Limited Liability Company (LLC)</b>	Unlimited # of members or owners.  Members or Owners can be companies and/or individuals.	Generally no personal liability of the members for obligations of the business	Entity not taxed (unless specifically chosen to be taxed), so the members are taxed for the profits and losses.	Operating Agreement  Articles of Organization OR a Certificate of Formation, depending on the state in which you organize.	The Operating Agreement controls how the business is to be managed & states which member(s) are designated to manage the business.	The members typically contribute money or services to the LLC, and receive an interest in profits and losses

## II. BUSINESS WEBSITE AND SOCIAL MEDIA NAMES

### A. Social Media - Get your name **Everywhere**

1. Choose your name wisely. Make sure it fits your brand and is available - both as a social media name and a website domain name. You don't want to begin branding something only to find out that the domain name is taken or the name is already in use. That can lead to lots of trouble and you will waste valuable time branding something that isn't yours.
2. Social media sites have different character limitations, so keep that in mind when choosing a name. Try not to use special characters in your name, if avoidable, since not all social media sites allow for this. In a perfect world, you want your Social Media names to match your website domain name.
3. If you intend to apply for a Trademark, you ideally want a name that is identical or closely-linked to the name you'd like to trademark. Social media names are not protected as trademarks (2020).

### B. Domain Name and Website

1. Buy a Domain Name → Websites are essential for any business. It legitimizes your company, creates content for the customer to view at their leisure and gives the clients a way to contact and connect with you. Get the domain name that matches your brand, trademarks and/or social media accounts. Domain names can be purchased through companies like GoDaddy.com, for example.
  - a. Helpful hint – purchase your domain for several years and protect that name. Sites like GoDaddy offer an upgrade that allows you to auto-renew AND to protect against cancellation if the auto-renew is somehow rejected (i.e. a credit card malfunction or expiration). This is worth the extra money for peace of mind, so you don't lose your domain over a lapse or small error.
  - b. Why is this important? People make tons of money from buying and selling domain names. If your name becomes big (fingers crossed), someone will see the value in your domain name and capitalize on your error. You'll end up having to spend thousands of dollars to buy it back from the new owner. My opinion – don't cut corners or be cheap with this upgrade.
2. Build out your Website
  - a. Domain purchasing sites have designs you can buy for easy set up. If you are looking for something more unique there are a lot of specialists that you can hire to help build out your site.
  - b. If you're doing it yourself, you'll need to find a webhost and a program to build out the website like Word Press, GoDaddy, Bluehost, etc.
  - c. If you aren't tech savvy, I suggest that you invest your money and hire someone to create your website. There are plenty of people who can create a beautiful site at a reasonable cost much faster than you can. Time is money. Don't waste your time on things that aren't in your wheelhouse. Turn your attention elsewhere why someone does this for you.
3. Create Website Privacy & Use Agreements
  - a. Terms of Use → Sets out the rules, which the user must agree to follow in order to use the site. Generally, if the rules are broken, the user is no longer lawfully allowed to use the site and the owner of the site no longer has a duty to the user.
  - b. Privacy Policy → Tells the users what data you are collecting from them, how you are using it, and how long you are holding onto it. Some states, like California, have complicated requirements on this topic. Discuss this issue with an attorney so you will be in compliance with all applicable laws.

### III. COPYRIGHT, TRADEMARKS AND PATENTS

**\*\* Consult with a specialized Intellectual Property attorney prior to deciding which protection is best for your company.\*\***

#### A. Copyright

1. Protects → Original works of authorship in a tangible form, such as literary works, dramatic performances, music, art, poetry, movies, computer software, architecture, video games etc.
2. Does NOT Protect → Company names, domain names, non-stylized words, mechanical aspects of any item, pharmaceutical products, to name a few.
3. Length → for the life of the author + 70 years; or 95 years from publication or 120 years from creation if author is a corporation or entity.
4. Cost → \$35 per work (2020)
5. Registration → on USPTO.Gov by paying the fee and submitting two physical copies of the work to the Library of Congress or a digital copy when acceptable.

#### B. Trademarks

1. Protects → Logos, names, sound or specific appearance of your store or website for use in commerce.
2. Does NOT Protect → Works of art, utilization or mechanical design.
3. Types → Below is a brief description of some of the most common types.
  - a. Standard Character Mark → Protects any combination of words, letters, or numbers, without consideration of the font or style, such as the name of a business.
  - b. Stylized/Design Mark → A mark with a design you'd like to protect (i.e. a logo).
  - c. Sound Mark → A tune or jingle that's representative of a brand.
  - d. Trade Dress → The way your storefront or website looks.
4. Length → It essentially lasts as long as it remains in use, if the owner properly maintains the filings.
5. Cost → Fees start around \$325 and vary for each class of each trademark.
6. Registration → This is a more detailed process than for copyright and can take several months to complete. It includes conducting a search for similar-looking marks, creating a trademark application and then waiting for an examiner to review your application. Once approved, you'll have six months to begin using it or file for an extension.

#### C. Patents

1. Protects → The mechanical or utilitarian use of something. Patents can protect a brand-new idea as well as a significant improvement upon an already created idea.
2. Does NOT Protect → Works of art, names, logos, appearances, etc.
3. Types
  - a. Utility Patent → covers processes, compositions of matter, machines, and manufactures that are new and useful.
  - b. Design Patent → a design of an object, including the shape or configuration of an object.
  - c. Plant Patent → Protects new and distinctive plants.
4. Length → it protects for 20 years from the date the application is filed.
5. Cost → The fees itself is only around \$1,000 (2020), but the process is intense. Most people (wisely) hire a specialized patent attorney to help them with the process which will add another \$10,000-20,000 to your cost.
6. Registration → Similar to the trademark registration process, but more intense as Patent registrations are extremely difficult to get as they are incredibly unique.