

Top Ten Things To Help Manage Your Legal Relationship



By: Ed Reitler

1. Make sure you have a clear understanding of the fee arrangement. Discuss alternative arrangements such as caps, discounts deferral until financing and equity as a form of payment. One of the biggest sources of friction between entrepreneurs and their attorneys comes from a lack of clarity surrounding billing expectations. Attorneys are expensive when billing by the hour. Avoid the sticker shock that attends opening invoices from attorneys by having an agreement in place before engagement.

2. Be efficient with their time. Don't use your attorney as a psychologist or sounding board for all your thoughts; this will raise costs tremendously. Unless of course you want to use them for that purpose, although they're not necessarily trained to do so. I recently worked on the sale of a company by an entrepreneur. His company meant a great deal to him and I was sensitive to that. However, it got to the point where drafting sessions turned into therapy sessions that included lengthy soliloquies. The client did not want to pay me and my team to listen to this, the deal size really couldn't support the additional legal fees, and we really didn't want to hear it.

3. Clarify how work responsibilities will be shared between partners and associates at the firm. Be wary of working with large national footprint law firms that turn you over to inexperienced associates in an effort to keep their costs down. Make sure that an attorney who knows what he/she is doing is responsible for the work product. Finally, make sure that you are asking your attorney whether you need to consult a tax attorney or consultant in any company formation, equity compensation, conversion to a C corporation or financing (whether you are getting liquidity or not).

4. Ask your attorneys to help you prioritize the projects for your company that require legal assistance. Cash is like oxygen in early stage companies. Concentrate on the mission critical legal items first. Save legal expense where you can by deferring projects when you and your attorney agree that they need not be taken care of immediately.

5. Ask your attorneys to explain in basic terms any terminology or jargon that you don't understand. Never sign something you don't fully understand.

6. Invite your attorney to attend Board meetings (and not to charge for taking minutes) so that he or she will have a better understanding of your business and will be able offer insight on operational and legal matters. In many cases they'll be open to doing that, since it gives them more insight into your business and exposure to other board members.

7. Engage counsel early, especially if developing intellectual property that will be a key asset in your business. This is also critical when issuing founder's stock, restricted stock or options to employees in order to manage the tax consequences. A simple oversight early on can be highly expensive later, that's most easily demonstrated by the various people who harassed Mark Zuckerberg for founder's stakes in Facebook.

8. If your time is limited, ask your attorney to highlight what issues are most important, particularly in transactions such as a venture financing. Find out what you really need to focus on so that you don't get overwhelmed in detail and fail to take away what is most significant. Often, there are certain aspects of a venture financing that are negotiable and others

that are not. You will save a lot of time and money by engaging an experienced venture attorney who can educate you on what you can push back on in a term sheet and what is a non-starter with the VC.

9. Give your attorney context when asking him or her to execute a particular task. There could be an alternative structure that more effectively achieves your goal. The more attorneys know about your business, the more helpful they are likely to be (see attendance of board meetings above).

10. Ask your attorneys what questions you should be asking so that additional relevant issues that you might not have been aware of are raised.