



IS YOUR BUSINESS RIGHT FOR FRANCHISING? IS FRANCHISING RIGHT FOR YOU?

Welcome to another edition of Protecting Your Creativity by The Livingston Firm. Each edition of Protecting Your Creativity will discuss various aspects of intellectual property law and related business matters. This edition discusses factors to consider before franchising your business.

Franchising your business is a great way to expand your business without the up-front capital, manpower, and time required when expanding through company-owned units. Furthermore, you get increased name recognition, greater buying power, market dominance and multiple new streams of revenue all while the franchisees are actually funding the expansion of your business. However, the process of franchising is usually quite long and involves considerable cost. Therefore, before deciding to franchise, you must consider whether franchising is right for your particular business and whether franchising is right for you.

IS YOUR BUSINESS RIGHT FOR FRANCHISING?

Is your business unique? Is the concept proven? Are there teachable systems in place? Will the business provide an adequate return on investment? If so, your business may be apt for franchising.

There are several main reasons franchisees choose to purchase a franchise, rather than starting their own business. First, they are buying the rights to use an established trademark or servicemark. Therefore, prior to investing any further time or money, make sure that your trademark, servicemark and other intellectual property rights are secured. Another reason is that they are purchasing a business with a proven track record. Therefore, you should have at least a couple of profitable units beyond the first one already in operation before trying to franchise. Furthermore, you should research the marketability of your business beyond your "home state" to make sure that consumer demand exists beyond your current location(s) for what your franchise has to offer. In addition, your business needs to have operating systems and procedures in place that can be easily taught to others in a short period of time and that are easily uniformly enforced. Finally, the business must be able to generate an adequate return on the investment.

IS FRANCHISING RIGHT FOR YOU?

Once you have determined that franchising would be appropriate for your business you must decide whether franchising is appropriate for you. In order to sell franchises legally, you must comply with numerous federal and state laws which require the preparation and registration of multiple documents which form the Franchise Disclosure Document (“FDD”). The FDD must then be filed with the Federal Trade Commission as well as with each individual state that has its own laws for selling franchises within that particular state. Even states that do not have franchise laws, including the State of Florida, have other laws regarding offering business opportunities that must be complied with. It can take months to obtain approval in all states and costs can exceed \$100,000.00. Therefore, your company will have to have the financial resources to undertake the endeavor. Furthermore, your role in the business will be redefined. Rather than being involved in the operation of your business, your time and energy will now be spent marketing your franchises and ensuring the success of your franchisees.

If you have done your homework and are prepared to make important decisions regarding how your business will operate as a franchise and you are willing to redefine your role to become an effective salesperson and marketer, then franchising may be right for you.

CONCLUSION

Franchising can provide rapid growth for your business allowing smaller businesses to compete with much larger competitors all while reducing overhead. However, turning your business into a successful franchise involves multiple business and legal decisions that will dictate the success of your franchise for years. Therefore, finding an attorney that specializes in franchising as well as intellectual property and business law is critical.

The Livingston Firm specializes in all areas of intellectual property law including patents, trademarks, copyrights, trade secrets, franchising, litigation and business law. As the largest full-service intellectual property law firm in Southwest Florida with over forty years of combined experience, The Livingston Firm can be there to assist you from beginning to end with all of your business, franchising, and intellectual property matters.

Thank you for taking the time to read this edition of Protecting Your Creativity. If you are in need of our services then please contact us to schedule an appointment.

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