**LAW 6930: Law & Entrepreneurship**

**Spring 2019**

**Three Credits**

Room 345

Monday to Wednesday 10:30am – 11:20am

Professor D. Daniel Sokol

Office Hours: Tuesday 1:30pm-3:30pm or by appointment

Telephone: 352-273-0968

Email: sokold@law.ufl.edu

***November 23, 2019 version***

**Course Website:** TWEN and Canvass

HBS Case study coursepack (for purchase): <http://cb.hbsp.harvard.edu/cbmp/access/72705104>.

**Course Communications:** Please email me any questions that you have.

**Required Text:** Readings will consist of materials that are free (cases and handouts) and materials for purchase (Harvard Business School case studies). I will send out an email with a link to the Harvard course pack.

**Course Description:** The intersection of law and entrepreneurship is an emerging field of study. This course explores the common legal and economic issues faced by highly innovative start-up companies and the angel investors and venture capitalists who fund them.

**Prerequisite Knowledge and Skills:** This class requires some basic business law knowledge. We will enforce that knowledge with the law and economics surrounding the structuring of venture capital and the law of emerging technologies.

**Purpose of Course:**

Law and Entrepreneurship is an emerging field of law, particularly within the United States. Generally speaking, “entrepreneurship” involves new products or services, new ways of organizing, or new geographic markets (collectively, “entrepreneurial opportunities”). A key feature of entrepreneurial opportunities is their novelty. Entrepreneurial opportunities may be novel in a strong sense, which typically implies a technological breakthrough, or they may be novel in a weak sense, such as opening a new restaurant in a vacant building. We define entrepreneurship as “engaging in a novel activity that carries substantial risk or uncertainty, in a sustained manner with the intent of creating an ongoing enterprise.” Operationally, this usually translates to “founding a new firm.”

Understanding law is relevant to understanding entrepreneurship. Focusing on “law” as it relates to entrepreneurship can mean various things, but the basic idea of “law and entrepreneurship” is to find either (1) a unique set of legal rules or legal practices in the entrepreneurial context, or (2) the unique expression or interaction of more generally applicable legal rules in the entrepreneurial context.

**Course Goals and/or Objectives:**

Students who successfully complete this course will be able to:

* Understand the forces – both legal and non-legal – that motivate the behavior of parties in entrepreneurial relationships;
* Interpret, analyze, and assess financing contracts;
* Understand how law impacts business strategy and business plans of innovative growth companies; and
* Evaluate the regulation of entrepreneurial finance.

**How This Course Relates to the Student Learning Outcomes in the College of Law:**This course builds upon core competencies in the business law curriculum and extends core knowledge to start up firms with an emphasis on high growth firms based on technological innovation. This course explores the legal issues faced by small and emerging-growth businesses from startup through initial public offering. Through problems, transactional materials, and judicial opinions, students will explore the interests of parties to various transactions, including venture capital, franchising, IP licensing, strategic alliances, initial public offerings, etc. The goal of the course is to provide students with a deeper understanding of the contractual structure relationships in entrepreneurial contexts.

**Teaching Philosophy:** This class has a mix of cases and case studies. Lawyers who can read a case are fungible. I am looking to create business counselors where legal astuteness will help shape opportunities for lawyers and bring value to a start up and its outside funders.

**Instructional Methods:** We will have a series of lecture based classes along with guest speakers, a field trip and two group learning projects. You also will do some drafting.

**Course Policies:**

**Attendance Policy: Any student that misses more than six (6) classes for the course may be dropped from the class.**  I use *may* rather than *shall* because health issues will be treated differently from other absences (so long as you email me in advance).  Habitual tardiness to class will be treated the same as absence from the class.  I take attendance in the beginning of each class.  I take this policy seriously because in the real word, absenteeism and tardiness are punished.  You need to start thinking and acting like a professional while in school.  I can give you lots of war stories of people who do not hit the ground running in practice and were tainted with a bad reputation from Day 1.  Do not let it happen to you.

I may need to reschedule some classes during the course of the semester.  My preference is to front load these make-up dates so as to provide for some cushion later on in the class to go over old exams and general questions.

Finally, let me address a subject that has agitated a great many electrons on the law professor blogs and listservs: the use of laptop computers in class for things other than taking notes or looking at the statutes.   I think it is anachronistic and honestly, beneath me, to do anything so draconian as to force students to write instead of type (I work almost exclusively on a keyboard). I am going to work very, very hard to teach this complex material in a way that makes sense and highlights the theory and practice in a digestible way.  I hope you reciprocate by using (i.e. not using) your electronic window to the world and others responsibly while in class.

**Quiz/Exam Policy:** The quiz is to be taken at the assigned time. If you have some other conflict, we can create an accommodation for you.

**Make-up Policy:** Make up policy will be designed on an individualized basis based on the particular issues a student may have*.*

**Assignment Policy:** All assignments are to be turned in on time. Late assignments will be marked down.

**Course Technology:** We will use TWEN. Please join the TWEN site.

UF Policies:

**University Policy on Accommodating Students with Disabilities:** Students requesting accommodation for disabilities must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations.

**University Policy on Academic Misconduct:** Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

**Netiquette: Communication Courtesy:** All members of the class are expected to follow rules of common courtesy in all email messages, threaded discussions and chats. See <http://teach.ufl.edu/docs/NetiquetteGuideforOnlineCourses.pdf>

Getting Help:

For issues with technical difficulties for E-learning in Sakai, please contact the UF Help Desk at:

* Learning-support@ufl.edu
* (352) 392-HELP - select option 2
* <https://lss.at.ufl.edu/help.shtml>

\*\* Any requests for make-ups due to technical issues MUST be accompanied by the ticket number received from LSS when the problem was reported to them. The ticket number will document the time and date of the problem. You MUST e-mail your instructor within 24 hours of the technical difficulty if you wish to request a make-up.

Other resources are available at <http://www.distance.ufl.edu/getting-help> for:

* Counseling and Wellness resources
* Disability resources
* Resources for handling student concerns and complaints
* Library Help Desk support

Should you have any complaints with your experience in this course please visit <http://www.distance.ufl.edu/student-complaints> to submit a complaint.

Statement related to workload/ABA Standard 310:

· Students should expect to spend, on average, approximately two hours preparing for every hour of class.

Grading Policies:

Class participation – 20%
Analysis of the first day’s reading – 5%
Contractual drafting exercise - 10%
Exam in Week 2 of the class – 20%
Group Project 1 (Group Assigned) – 20%
Group Project 2 (Students Choose Group) – 25%

**You have read the above correctly.  Twenty percent of the grade is based on a one hour exam that will be given at the beginning of Class 8 (after add/drop).  Drop this class NOW, if you are not going to be prepared.** The purpose of the quiz will be to determine that you did the reading and made a valiant effort to digest it. It is not intended to measure your mastery. That is what we will try to develop over the course of the semester. But since we have only 42 classes, I want everyone to start with some sense of what we are going to talk about.

**Grading Scale:** This class is curved based on the total points of the cumulative set of **assignments.**

 Course Schedule:

**Final Exam:** None

**Materials (for background – not required reading)**

* Bagley and Dauchy, The Entrepreneur’s Guide to Business Law
* Furr and Ahlstrom, Nail It then Scale It: The Entrepreneur's Guide to Creating and Managing Breakthrough Innovation

A website for the course has been created on The West Education Network (TWEN): **http://lawschool.westlaw.com/twen/**. The website will host an increasing number of PowerPoint slides and other course materials as the semester progresses.  We will utilize a number of case studies and rely very little on cases.  This is a capstone course with prerequisites.  The assumption is that you know how to read a case and that we can spend more time on advanced issues.

**Reading Assignments**

Below is a list of reading assignments. Though each assignment could be covered in one class session, some assignments may require more than one session.  There may need to be some changes based upon the guest speakers needing last minute changes to their schedules.

1. Introduction

D. Daniel Sokol & D. Gordon, Law and Entrepreneurship Summary, available on TWEN.

Financing New Ventures William R. Kerr; Ramana Nanda English PDF | 81109

Questions you need to answer (in one page) due the first day of class, before class - **worth  5 percent of your grade**

1. What role does law play in entrepreneurship?
2. Which sources of financing are most appropriate for a new venture?
3. How do you pitch your venture to potential funders?
4. How is valuation determined?
5. Provide two examples of exit strategies for the entrepreneur.
6. Law and Entrepreneurship

D. Gordon Smith & Darian M. Ibrahim, [*Entrepreneurs on Horseback: Reflections on the Organization of Law*, 50 ARIZ. L. REV. 71 (2008)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0001093&serialnum=0337600685)

1. What is understanding business plans and business models

What Is Disruptive Innovation? Clayton M. Christensen, Michael E. Raynor, and Rory McDonald, Harvard Business Review (December 2015 Issue)

Some Thoughts on Business Plans – HBS case study - 897101-PDF-ENG

1. Venture Capital I – What are the opportunities

How Venture Capitalists Evaluate Potential Venture Opportunities - HBS Case Study

1. Venture Capital II – The law of venture capital

Ronald J. Gilson, [*Engineering a Venture Capital Market: Lessons from the American Experience*, 55 STAN. L. REV. 1067 (2003)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0001239&serialnum=0294336958)

1. Venture Capital III – Case study

HBS Case Study Adams Capital Management: Fund IV

1. Understanding Business Plans

Business Model Analysis for Entrepreneurs, Thomas R. Eisenmann, HBS case study

1. Venture Capital IV - Understanding VCs

Andreessen Horowitz, HBS case study

1. Negotiating with VCs
Deepak Malhotra, HBS case study
2. Exiting the Prior Commitment and Starting a New Business: HBS Case Study: Sheila & Craig Shepherd , Entrepreneur’s Guide (Chapter 2)

1. Contract Negotiation Simulation (Equity Split) – Aerospace Investment, HBS case study
2. Contractual negotiations and business strategy

Proteus Biomedical: Making Pigs Fly Richard G. Hamermesh, Lauren Barley, Ginger L. Graham, HBS case study 809051

* 1. Entrepreneurial Opportunities

Connectu, Inc. v. Facebook, Inc. (Complaint and Memorandum in Support of Motion to Dismiss); Ronald J. Gilson, [*The Legal Infrastructure of High Technology Industrial Districts: Silicon Valley, Route 128, and Covenants Not to Compete*, 74 NYU L. REV. 575 (1999)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0001206&serialnum=0111853404)

1. Licensing Agreements and Technology Transfer

InfoVision (A): Technology Transfer at Georgia Tech (HBS 9-605-064)

1. Drafting Licensing Agreements

Guest Lecturer: Weaver Gaines [tbc]

1. Formation & The Law of Joint Ventures

[Grant v. Mitchell, 2001 WL 221509 (Del. Ch. 2001)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2001193924) (unpublished); [Mann v. GTCR Golder Rauner, 2006 WL 839148 (D.Ariz.,2006)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2008828972),

1. Tax structuring on venture capital

Guest Lecturer: Russell Light, Partner, Kirkland & Ellis

1. Formation

Mark Bonham, Ray Quinney & Nebeker [Equity-Linked Investors, L.P. v. Adams, 705 A.2d 1040 (Del. Ch. 1997)](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000162&serialnum=1997104673); [Orban v. Field, 1997 WL 153831](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=1997082377) (Del. Ch.) Entrepreneur’s Guide (Chapter 5)

1. Angel Investments I

Gracious Eloise: What Do Angels Want? (A) HBS case study

1. Angel Investments II

The Changing Face of Angel Investments, HBS

1. Convertible Preferred Stock

[*Benchmark Capital Partners IV, L.P. v. Vague*, 2002 WL 1732423](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2002471940) (Del. Ch.) (unpublished)

1. Staged Financing

[*Kimberlin v. Ciena Corporation*, 1998 WL 603234](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=1998189706) (S.D.N.Y.)

1. Voting Rights and Protective Provisions

[*Watchmark Corp. v. Argo Global Capital, LLC*, 2004 WL 2694894](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2005597025) (Del. Ch.); [*Telcom-SNI Investors, L.L.C. v. Sorrento Networks, Inc.*, 2001 WL 1117505](http://lawschool.westlaw.com/shared/westlawredirect.asp?task=km&WestlawPath=www.westlaw.com/Find/default.wl?rs=kmfw2.8&vr=2.0&kmvr=2.6&FindType=Y&DB=0000999&serialnum=2001798627) (Del. Ch.)

1. Financial engineering

Metapath Software: September 1997, G. Felda Hardymon; Bill Wasik, HBS case study

1. IP issues – Patents

Foro Energy (A); HBS case study, Joseph B. Lassiter; William A. Sahlman; James 812136-PDF-ENG.

1. IP Issues – Copyright

Spotify, by Anita Elberse and Alexandre de Pfyffer, HBS case studies

1. Online Platforms

Pipelines, Platforms, and the New Rules of Strategy, Marshall W. Van AlstyneGeoffrey G. ParkerSangeet Paul Choudary, <https://hbr.org/2016/04/pipelines-platforms-and-the-new-rules-of-strategy>

How to Launch Your Digital Platform, Benjamin Edelman, <https://hbr.org/2015/04/how-to-launch-your-digital-platform>

GDPR and the End of the Internet’s Grand Bargain, Larry Downes, <https://hbr.org/2018/04/gdpr-and-the-end-of-the-internets-grand-bargain>

1. Risk management/Buying and Selling a Business

HBS case study: EMC Corp.: Proposed Acquisition of VMware , Constance E. Bagley; Christopher J. Lombardi; Carin-Isabel Knoop , 806153-PDF-ENG

1. IPO – Navigating the Deal Documents
Documents will be posted onto TWEN

Guest lecturer – Jeff Munsie, GC of Merrimack Pharmaceuticals Inc, NASDAQ: MACK

1. Deals – Case study

*LAE Enterprises* (HBS Case No. 803-025)

1. Executive Compensation 4/4

Richard Spellman (A) HBS

1. Exiting the Business

[KCC: Third Time's the Charm?](https://cb.hbsp.harvard.edu/cbmp/product/SCG533-PDF-ENG) Greif Center for Entrep. Studies-USC Marshall, SCG533-PDF-ENG

 The rest of the classes:

Presentations of second group projects