

name, capitalizing on the sustained interest in Southwestern and Mexican food. Our goal is moderate growth, annual profitability, and maintaining our sense of humor.”



*The Statement of Mission worksheet on pages 72–73 helps you outline your company's objectives.*

## Legal Issues

In forming a business, you must address many critical legal issues. One of the first is which type of legal entity to choose for your company. Businesses often start as a **sole proprietorship** or a **partnership**. This has the advantage of being easy, since there may be no papers to file with your state. Being incorporated, on the other hand, provides you and your investors with much greater protection from personal liability. Most investors (and some lenders) are usually more comfortable dealing with an incorporated entity.

If you choose to incorporate, you will still have many decisions. What form of corporation will you choose? In which state will you incorporate? How many shares in your corporation will be issued, and to whom? Legal concerns and agreements will have a profound impact on the future of your company.

In addition to the legal form of your business, there are many other legal considerations and issues to address in your business plan. Have you entered into **licensing** or distribution agreements? Have you secured **trademarks**, **patents**, **copyrights**, or other legal instruments that may protect your proprietary business assets?

Every company has certain intangible assets that are, or can be, extremely valuable. Most of them come under the heading of intellectual property (IP) — assets that have value because of the knowledge, recognition, and inventiveness they consist of. Some businesses, such as software companies, publishers, inventors, consultants, app developers, and so on, only have products composed of intellectual property.

While protecting intellectual property is always a challenge — it is, after all, intangible — there are methods to protect a company's IP from being copied, imitated, stolen, or used.

- Copyrights cover any type of work that is “fixed” and “tangible” even if it's only computer code, words spoken on an audiotape, or images “fixed” in a movie.
- Trademarks (or service marks) are words, phrases, symbols, or designs — or a combination of these — that identify and distinguish the maker of a product (or service) from makers of other, similar, products (or services).

You'll need to include in your business plan what you've done to protect your intellectual property — especially for businesses with IP that may be of significant value. Such companies include technology firms developing apps or software. Investors will want to know how you have ensured the security of these assets.

### Statement of Mission



*Describe your company's philosophy in terms of the areas listed below.*

**Range/Nature of Products or Services Offered:** \_\_\_\_\_

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**Quality:** \_\_\_\_\_

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**Price:** \_\_\_\_\_

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**Service:** \_\_\_\_\_

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**Overall Relationship to Customer:** \_\_\_\_\_

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**Management Style/Relationship to Employees:** \_\_\_\_\_

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**Nature of Work Environment:** \_\_\_\_\_

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**Relationship to Rest of Industry:** \_\_\_\_\_

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**Incorporation of New Technology/Other New Developments:** \_\_\_\_\_

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**Growth/Profitability Goals:** \_\_\_\_\_

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**Relationship to Community/Environment/Other Social Responsibility Goals:** \_\_\_\_\_

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**Other Personal/Management Goals:** \_\_\_\_\_

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## Strategic Position Is More than Advertising

Don't be confused: A true strategic position is not the same as an advertising campaign or slogan. Advertising and marketing are means to achieving your strategic position — they help you create the image consistent with your position and get your message to potential customers. Defining a strategic position is about creating a meaningful place for yourself — a position — in the market.

How does Coca-Cola differentiate itself from Pepsi? Very little of the difference is based on the qualities of the products or the market segment they are targeting. The two companies may have incorporated some operational differences, but they differentiate themselves primarily on the basis of advertising — not strategic positioning. When Snapple came along, it created a totally different position for itself in the market. Snapple didn't try to compete head-to-head with Coke and Pepsi; instead, it looked for a different segment of the soft drink market: the non-cola, non-carbonated soft drink.

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**With the consolidation of department stores, we knew our margins were going to be squeezed. They're doing a lot of their own products, putting their products in the best display spaces. We knew we had to change our strategic direction.”**

*Kay Koplovitz  
Chair, Kate Spade*

If a luxury car company that has sold primarily to older consumers decides to market to younger drivers, it won't be enough to take the same kind of car they've been making and devise a clever advertising campaign. The product itself — in this case a car — has to be redesigned to fit the tastes of their target market. It may have to be smaller, sportier, faster, with more electronic gadgets. Not only will the marketing materials need to be geared toward a younger audience, but the salespeople will have to be trained to learn that the 20-something kid in the rock band T-shirt may not be just killing time with a test drive but may actually be a techie millionaire ready to buy.

## What Kinds of Strategic Positions Are There?

What makes a company different? Is it the nature of its products or services? The quality or cost? The geographic area or type of customers served? Perhaps the company has proprietary products customers can't find elsewhere.

There are many ways to distinguish yourself from your competitors, including:

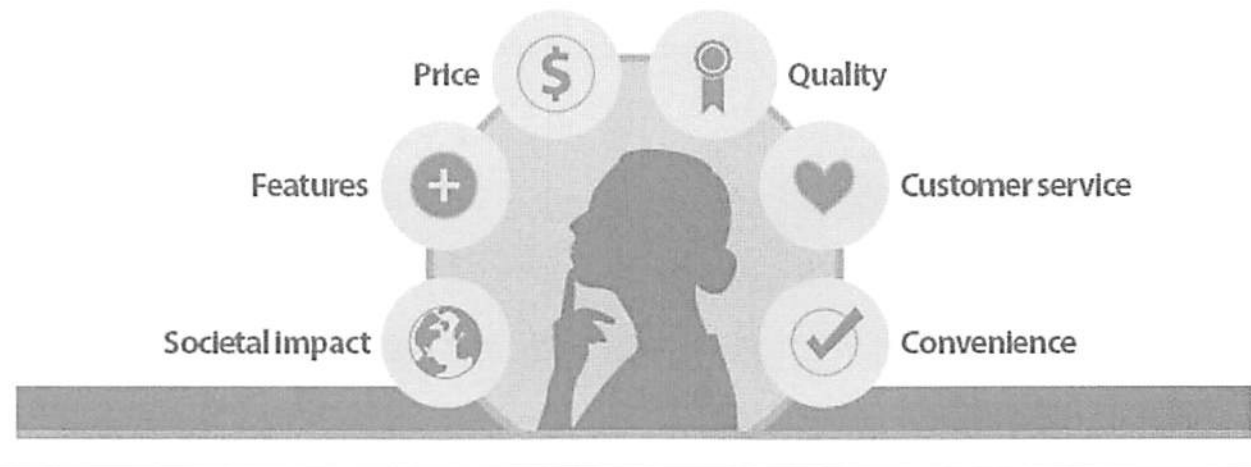
- Customer Perception Factors
- Market Segment
- Market Share
- Operational and/or Technological Advantages
- Proprietary Products, Technology, Abilities, or Relationships
- Sales Channels
- **Business Model**
- First-Mover Advantage
- Lean Start-Up
- Branding

Each of these strategic approaches offers opportunities but also poses pitfalls. And they may be related: If you are positioning your company on the basis of low price, you'll also need operational efficiencies to reduce costs or else you won't be able to survive against competitors with higher profit margins.

### Customer Perception Factors

This is the “better, faster, cheaper” approach, based on how customers distinguish your company and its products and services from the competition. Some key customer perception factors are below:

## WHAT SETS YOU APART?



Concentrating on customer perception factors is the most typical method of attempting to differentiate yourself from the competition. They seem the simplest, most straightforward way to compete. Surprisingly, they may be the most difficult to achieve and maintain. For instance, competing on the basis of price is often perilous. While it is easy — in the short run — to attract customers on the basis of low price, highly price-sensitive customers are the most fickle, quickly tempted away by the next company offering a lower price. Once you appear to be attracting a significant portion of the market, well-funded established competitors can lower prices (even if they have to take a loss) to compete temporarily until you are no longer able to sustain your losses.

Other perception factors may be harder to “prove” to the market. You may have to spend a lot of money on marketing and advertising to get customers to realize that you offer additional features, more convenience, or higher quality. Once you do, however, you may be able to build a loyal and committed customer base that appreciates the differences between you and your competition.

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**You have to understand the consumers' need. What's their pain? Why do they need to change? Solve that pain, and then get that message out.”**

*Andrew Anker*  
*Venture Capitalist*

SWOT: Strengths/Weaknesses/Opportunities/Threats



*In each appropriate box below, list your company's strengths or weaknesses, and the opportunities or threats facing it.*

<b>Strengths</b>	<b>Weaknesses</b>
<b>Opportunities</b>	<b>Threats</b>

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