

## 12.5: Protecting Your Idea and Polishing the Pitch through Feedback

### LEARNING OBJECTIVES

By the end of this section, you will be able to:

- Understand why you need to protect your idea
- Describe both legal and unconventional tools to keep your ideas safe
- Understand the importance of feedback and how to manage and use it

When you start to pitch your idea, it means you are sharing it with a variety of people for different purposes. When encouraged to develop entrepreneurial ideas, students often ask, “How can I be sure no one is going to steal my idea?” The response often is that ideas come easily, while knowledgeable, driven leaders are hard to find. In other words, for those of you just starting out as entrepreneurs, it is important to recognize that coming up with ideas is much easier and much less important than learning how to turn those ideas into products that fit a market and that have a customer base already, or one you develop through painstaking customer development strategies. Many entrepreneurs find it is more important to sell an investor on their leadership potential and the strength of their team than on the strength of their idea or prototype. Even so, it is common for entrepreneurs to want to protect their intellectual property because more well-established companies might leverage deeper wells of resources and broader, more powerful networks to bring an innovative product or service to market in the time it takes an entrepreneur to move from securing seed funding to landing their first support for their first venture capital round (after seed funding).<sup>27</sup>

Protecting your business idea with a patent, should you choose to apply for one, is important. Patents are granted for the purpose of *encouraging* entrepreneurship. If innovators have some reassurance that others will be kept out of the marketplace for a certain amount of time, they may be more likely to take the risk to pursue an innovation in the first place.

Products in most fields need to be developed and brought to market more quickly than the time it takes to go through the standard patent process. For manufactured goods, it is important to seek a patent when a product is finalized to protect the design. For intellectual property, it may be best to build first and seek patents later, particularly in a highly competitive field where it would be difficult to show that you truly have a unique breakthrough.

Entrepreneur.com has some helpful suggestions<sup>28</sup> that are paraphrased and reframed here: First, recognize that almost nothing comes to market having been created by a sole inventor or innovator. Some ideas truly are unique, but even they are nearly impossible to keep “under wraps.” Ideas have to be shared with many people for products or services to be developed. If nothing else, you will likely have to present your idea to investors at some point. Protecting initial ideas is not as important as protecting versions of products and services developed through iterative learning and testing processes because “know-how” and trade secrets are considered intellectual property and must be protected since they are not always patentable. Aim to protect your successful value propositions, not your every technological whim. Most new business ideas are variations of solutions that others have anticipated or even written about, but others have not had the drive, the networking skills, or the fundraising ability of a true entrepreneur. Balance your time wisely between trying to protect your idea and working to develop it.

One way you can gain some peace of mind, again to paraphrase Entrepreneur.com,<sup>29</sup> is by thoroughly investigating everyone with whom you plan to partner. If you have some assurance that they have not “burned” collaborators in the past, you can proceed with a sense of security. Conduct research without invading anyone’s privacy but use all of the public tools available to you. Search online to learn about potential partners and their previous endeavors. Request contact information and perhaps a list of references or former collaborators from potential partners. The level of formality is going to depend on the nature of the industry you are working to enter and the nature of the relationship you have with your collaborators, but if they resist being researched, that could be a sign that they will probably not prioritize you or your product’s protection.

### Legal Agreements

Outside of patents, there are additional legal means of protecting your intellectual property.<sup>30</sup> You may wish to require partners to sign a **nondisclosure agreement (NDA)**. Typically, NDAs carry with them a penalty should the partner disclose what they know of the proprietary information that lies at the heart of your value proposition. These can be time-limited, meaning after a certain amount of time, someone will be free to discuss the business and its proprietary practices, or, for stronger legal controls, they may be open-ended. An open-ended NDA can require a person to stay silent about key information for life or face possible civil lawsuits worth potentially millions of dollars.

A **noncompete agreement** in a contract prevents an employee from working for the competition for a specified period of time after working for you. The intention is to prevent them from taking your secrets or their skills to a competitor. Some of these practices have been called into question particularly in industries where low-level workers who do not carry around trade secrets find they are asked to sign these types of agreements. However, they can help keep corporate espionage to a minimum, and they can prevent certain key employees from taking the organization's intellectual property with them to their new employer, or perhaps to create their own startup. Employees should only sign them if they are a condition for employment. These agreements can vary from state to state. California in general does not enforce noncompete agreements; this is due in part to the dynamic nature of startups, particularly in Silicon Valley. It also reflects a philosophy that working professionals should not be inhibited or restrained from pursuing their livelihood.

A **work-for-hire agreement** between an individual employee and a company states that ownership of innovations belongs to the company, even if an individual makes substantial contributions to the product, service, or process. You should expect to be required to list collaborators on patents, even those working under a work-for-hire clause, but the *purpose* of the contractual agreement is to ensure that you or your company maintains exclusive rights to the patent.

## Unconventional Methods

One further suggestion is to apply creativity and mask your product or service's true nature. By de-emphasizing certain key features or by burying them in the user interface (UI), you might be able to turn attention away from your value proposition while still building your product, platform, or prototype. The **user interface (UI)** is what a customer sees when they use your product. A graphic user interface (GUI) is common for all Windows and Apple-based devices. Smartphones use application (app) interfaces built off the base operating system (mainly iOS or Android). UI's have become very common for many consumer and professional products, as they link to microprocessors, sensors, memory, and other embedded features. From a design standpoint, your team must decide where every button, search box, graphic element, and information display is placed and what it will look like. Good UI is useful and feels intuitive to the user.

For digital products and services, this aspect of your product is incredibly important, which is why manipulating it to mask functions or features is particularly risky. This is not a fool-proof approach by any means, but in hyper-competitive, rapidly evolving environments such as the web software and mobile app industries, where invention and iteration occur at a breakneck pace and where, as soon as you go to market, your competitors can see and try to re-create your service or platform, a little subterfuge can give your business an edge at a relatively low cost.

An example of masking the true intentions of a product, perhaps, is the development of the mobile game Ingress by Niantic, Inc. Ingress is a GPS-based augmented reality game played around the world where users join imaginary factions and take over imaginary portals tied to real geographical locations in order to link up those portals and help their faction gain territory and resources. But while Niantic was taking its global mapping expertise and making a SciFi game out of it, it was also developing Pokémon GO. After specific geographic "nodes" were mapped by users the world over, Niantic had a global network of points of interest indicated by users. In many cases, nodes in Ingress—places with public art, cool architecture, or historical markers, for example—later became PokéStops in the Pokémon GO game, where players of the global augmented reality game gather resources to catch and battle their pocket monsters.

One way to protect your intellectual property is to strategically mask dormant features or capabilities until they can be more fully exploited. While few startups have the technological clout of Niantic, almost every business makes decisions on what to push forward, what to hold back, and when to release new products or features.

## Using Feedback to Refine Your Pitch

Pitching requires you to demonstrate that you have assembled a capable, professional team that can turn an idea into an innovation. Users, partners, investors, and others will offer thoughts on how your product or your organization should change. Investors consider it a warning sign if an entrepreneur cannot handle feedback.<sup>31</sup> Applying lessons learned from feedback is the purpose of business learning.

Entrepreneurial ventures often start out as problems with no easy solutions. Your initial idea involves your best guess at what will be an innovative solution, but that will evolve more quickly toward product-market fit if your response to feedback is to accept it with grace. Your pitch must demonstrate that you have a great product, that you have done your research, and that you are able to take feedback and apply it to your products to make them better.<sup>32</sup> In other words, you must show you are coachable.

Your venture's development depends on gathering data to find out what customers like and what investors are willing to fund, so you must seek out positive feedback and build on it, but you must also think critically about the positive messages you receive. Are consumers or users enthusiastic in their support or merely polite (this can especially be a concern when pitching to friends and family)? Can you clearly identify why you received positive feedback about certain features and not others? Be sure to gain feedback on many product variables and be sure you can isolate data points for meaningful analysis. The best feedback includes quantitative responses indicating what consumers like and what they don't, as well as qualitative information explaining why. Quantitative data relate to numerical measurements including actual purchase and behavior as well as opinion research about a product. Qualitative data are complex information that answers the questions "Why?" and "How?" It is often impossible to tell why people do what they do with your product unless you ask them.

In the short term, you can use feedback to decide which features to focus on early in the venture. Many entrepreneurs are faced with the dilemma of having too many good ideas.<sup>33</sup> If you pursue all of your good ideas at the same time, your organization can quickly run out of resources. Focus first on features that are most popular and relatively affordable to produce and deliver. Those high-return products, services, or features might not be what you use to define your brand in later years, but they can sustain a startup long enough to develop more elaborate products and features that require more time and investment. Over the long term, feedback helps you direct your company.

Feedback may also come from employees, market leaders, and your competition. Feedback from these sources may be more useful for guiding long-term growth projects. In this sense, feedback means more than advice or product ratings. It can mean tactical moves in the marketplace. Your competitors offer you feedback when they take actions in a marketplace in response to your actions. Be sure to attend to competitors' actions with the same open mind and the same air of thoughtful skepticism you apply to other forms of feedback.

Once you have the opportunity to pitch your idea, the next step is the careful measuring of quantitative and qualitative feedback about the pitch presentation, mockup, poster, or, in the case of many manufacturing processes, a 3D-printed model that approximates what the tangible finished product might look and feel like. Data from pitch competitions are sometimes out of your control, so it may be preferable to incorporate the learning you get from pitch feedback into this customer development process.

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