SSSHHHHHH!!!

You must neither reveal too much about an innovative product or service before marketing (or patenting) it, nor be too secretive about it. Success lies in how well you are able to strike a balance between secrecy and communication. Here are some pointers.

We get quite a few letters from start-ups and colleges saying they have come up with an innovative technology, and would like us to write about it. We're always happy to do so—that is what we are here for! But when we enthusiastically approach them, almost every question meets with the same answer: "Sorry, we have filed for a patent, so we cannot share this information." So we just give up on the story, since there's not enough information to publish.

Such experiences always make us wonder how the concerned team is going to create a buzz around the new technology, and create a market for it. Look at the hype surrounding the iPhone—it was created long before the product was launched, not after. And look at the results of building that hype to a fever pitch—Apple fans actually spent a night or longer on sidewalks, so they could be sure of getting themselves an iPhone on the day it went on sale. Ideally, any new offering should become 'familiar' and 'important' to its potential users long before it makes its debut—and for this, communication is imperative.

At the same time, one cannot talk too much about a patentable

technology either, because somebody else might grab the knowledge and beat the talkative team to the patent. At that stage, nothing can be done by the actual inventors apart from cursing their own indiscretion. So, though frustrating for us writers, we do completely understand and empathise with their predicament.

All of this made us wonder how much about the patent-pending technology should a team communicate? We sought the opinions of experts on this, and share their ideas on whither lies the golden mean as far as pre-launch communication goes. Hopefully, with a firm grip on how much they can safely divulge, more technopreneurs will be prepared to talk about their inventions—and we can write about them, of course! It's also in the innovator's best interests, because, armed with these insights, our journalists will now know where to stop asking questions. And that seems like a win-win situation.

Invention or innovation?

Technically speaking, invention and innovation are two different things, although the two terms are often (mis)used interchangeably. Sunil Malhotra, president and CEO of Ideafarms, explains the difference, "Invention relates to ideas that finally result in 'products' that can be patented, or processes that come together in a unique, new and original way, and can be protected under intellectual property laws. Innovation means something quite different. It is a discipline in itself, and therefore, however unique or original, cannot come under the jurisdiction of the IPR. On the other hand, it can be seen as a process or methodology, or a way of thinking, which classifies it as a tool. Needless to say, it then becomes a qualifier or adjective, and therefore is not patentable." This means that you're free to talk about it all the time—because innovation is a positive and proactive organisational culture. The more you talk about it, the better your company's image!

The issue therefore narrows down to invention-related communication related purely to what's patentable.

Talk the tech even before it happens!

Some companies believe in the 'surprise element'—keeping a product under wraps, and suddenly flooding the market with it. But by far, this is not how it works in the technology space today.

You need to start communicating with potential customers as soon as a technology or product is conceptualised. As Siva Ramamoorthy, group director—marketing, Tejas Networks, explains, "Communication typically starts with a company's decision to innovate in a particular field. In the telecom or IT sector, the technology trends are very dynamic, and hence the market feasibility of an innovation needs to be decided very early on in the stage of innovation. Hence, most organisations tend to communicate their innovations at very early stages in order to achieve market leadership, and capture the mindshare of the consumer, with regard to the particular technology."

Subinder Khurana, president, marketRx, adds that: "…this early engagement goes beyond communication; it involves actively seeking feedback and participation in the development of technology. Doing so makes fine-tuning of technology for the end-consumers possible, and also ensures that the technology has a supportive ecosystem in place before it is formally launched in the market."

In the case of really green fields, this communication may begin many years before the product comes to the market. K. Venkatesh, senior general manager—R&D and customer support, WeP Peripherals Ltd, cites wireless power as an example—though it might be five years away from becoming a mainstream product, it still needs to be communicated about, early. The information shared with different parties might vary—technical details with system partners, functionality and the benefits with potential customers and other channel partners, etc.

Since this is typically the stage where anybody else can 'race' you to

SUNIL MALHOTRA, president and CEO—Ideafarms

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implement the idea, Xavier Prabhu, director, PRHUB Integrated Marketing Communication Pvt Ltd, suggests that you get people to sign Non-Disclosure Agreements (NDAs) before exposing them to information. He also advises you to be selective about what you disclose even if they sign an NDA, limiting the information disclosed. "This is essential to ensure that the recipients, should they have malicious intentions, cannot go much farther nor do significant damage," he says.

K. VENKATESH, senior general manager—R&D and customer support, WeP Peripherals Ltd

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Coming up!

Once the idea is productised, you again need to start communicating seriously before a launch—so that the product will be eagerly awaited, and once launched, it can reach the tipping point rather fast.

Ramamoorthy explains that from an organisation's perspective, most of the innovation is targeted towards the market; so one must communicate. Secrecy takes precedence only when patents are involved. Organisations like Tejas that prefer a more transparent approach start communicating with the market as soon as a technology or product innovation is proven to be feasible.

"Obviously, you can not give away too much, and therefore the focus should be to let potential consumers know 'how it will make their lives easier, better or safer' instead of 'what the product does or what its features are'. The typical problem of tech inventors is their preoccupation with functionality without understanding the relevance of their work to the user," explains Malhotra. "It is not so much the quantity of communication that really matters—of much more relevance is the quality, as well as how and when communication happens, and in what context."

Also, in such pre-launch communication, you need to be careful to only promise what can be achieved! Arnab Mukherjee, one of the earliest specialised IT journalists in India, is currently the vice president—Technology Communications Practice at Adfactors Public Relations. He points out, "The danger of talking too much about your product too early is that you risk ending up with egg on your face if the product flops. Especially so if you believe (like a lot of so-called innovators I have met) that your product is the next best thing after sliced bread, and you have tried to hype it appropriately and launch it with a 'big bang'! The history of innovation is littered with examples of over-hyped products that failed." Some technologies and products may also flop simply because they are too far ahead of their time, he adds. One example that comes to mind here is Sun Microsystems' Jini network architecture and the accompanying, 'The Network is the Computer' campaign in the last decade. Such technologies would ideally require extensive communication within and outside the ecosystem, to create awareness.

Perhaps the worst nightmare of working in secret is that without your knowledge, your competitor may also be working on a similar technology, and starts communicating about it to the media immediately after testing it. Now, despite being the first one to have developed the technology, you do not reap first-mover benefits, because your competitor spoke about it first and gets perceived as the innovator!

Khurana reinforces this reasoning when he says that, "…it is difficult to get a patent that grants you the exclusivity of marketing the 'benefit'. Therefore, taking that 'benefit' to the market first, by communicating about it at the earliest, is critical. The motivation for any innovation comes from its commercial prospect—an innovation is worth its while only if it can create a substantial revenue stream. That revenue stream may be lost if the innovation is not communicated in time."

More cases, more reasons

You need to keep the buzz going, not only in the case of disruptive or market-changing technologies, but even for

incremental innovations. Prabhu quips, "Communication of the innovation at the right time, in the right way, to the right audience, and in the right packaging, is extremely important. I know of innovations which were really disruptive, but got no audience or initial pick-up simply because one of the elements was missing, or was not done well. I also know of ideas which were neither too good, nor breakthroughs, but got loads of noise, hype and audience simply because they got all these communication factors right. It isn't fair, but that's the way it is."

In fact, pre-launch communication (even if only within a trusted network) is important even for embedded products or features, and not only for end user consumables. For example, a team that has come up with a new component that can be embedded into mobile phones needs to communicate in order to reach out to more OEMs, and thus build its market.

Mind you, communication is necessary not just in the case of for-profit inventions! Mukherjee explains, "Even if the profit motive is removed, it is still important to communicate about an innovation—if it helps any segment of mankind … This would enable others to build on the thought and give shape to the final product or service quickly. Multiple brains, like multiple processors, will enable quicker graduation of a concept to reality, quicker deployment and quicker realisation of benefits to end users."

That's a lot of communication!

In all, we see that communication about an invention happens in one way or the other even before it reaches the market as a product.

However, as Rohit Agarwal, CEO, techTribe, explains, the audience and nature of communication varies at each stage. At the research stage, you should communicate with a trusted network about the problem your invention tries to solve, and use it to brainstorm. This will help you to form and firm up your idea, and to build a team. Then, at the design or development stage, you communicate the basic design at a high-level with the team and advisors, at the level of detail required for them to be able to help. At the late development or testing stage, you communicate pretty much the working prototype or product, with early adopters. And at the pre-launch stage, communicate the details that are needed for the partner community to be more effective—under an NDA. If it is an end user product, you might want to create a buzz in the market.

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XAVIER PRABHU, director, PRHUB Integrated Marketing Communication Pvt Ltd

Ultimately, the quality and quantity of communication at each stage depends on the specific situation; there is no one-size-fits-all here! Agarwal says, "In my opinion, it is an individual's call in each case, but one rule I follow and would recommend to others is—check your motives for every communication. I have seen many innovators get caught up in their egos, and share details just to prove how smart they are. There are no bonus points if people outside the circle think you are smart, but there are dire consequences if the wrong information gets out."

He also warns of the dangers of not communicating enough before launching the product. Without communication, you end up innovating in a vacuum. There is no feedback loop, and so your innovation does not benefit from the intelligence of your trusted network. "Worse, innovation without customer feedback is at best 33 per cent away from production—we can choose to either make changes before or after the launch," he quips. And well, that makes all the difference.

Who stole your idea?

But what if information leaks? Won't your competitors steal your idea? From a patents' perspective, yes, the whole world (we mean it) is out to race you! So, there are some precautions that need to be taken regarding how much information you reveal at each stage. But even before that, there is the choice of whether or not you want to patent your innovation at all! Based on his experience, Khurana feels that patenting does not offer much monetary value in rapidly-changing technological spaces: "For technology products like ours, patenting does not hold much value because technology and its benefits cannot be contained. An innovation should not be kept under cover. You need to make news by communicating about your innovation—that way you can become the market leader and everybody else who replicates will be a follower," he says. "marketRx has never invested

ARNAB MUKHERJEE, vice president —Technology Communications Practice, Adfactors Public Relations

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in patents; instead, we invest heavily in R&D to create new products, and continuously upgrade them. More than 25 per cent of our revenue each year comes from new products. We believe that investment of time and resources in the legal process of patenting does not give commensurate commercial results."

Lips sealed till you file the provisional application!

As soon as you are sure you have a valid 'idea' on hand, that is, as soon as you know the nature of your invention, it is wise to file a provisional patent application. The complete research might not have been completed, but if the nature of the invention can be described in enough detail to be able to highlight its uniqueness, then you can file a provisional application. This written description, which you submit to the patent office, is known as the provisional specification.

On receiving the provisional specification, the patent office grants you a period of up to 12 months to file the complete specifications. During this period, you, the inventor, can complete the invention yourself, or with the help of partners, and file the complete patent specification.

"The advantage of filing a provisional specification that simply describes the nature of the invention is that the applicant gets priority over any other person who is likely to file an application for a patent, in the possibility that the same invention is being developed concurrently in some other part of the world. Once a person files a provisional patent application as per rules, this will allow them time up to one year to file the complete patent application, but still entitle them to claim the date of filing of the provisional application as priority date of the said invention," clarifies Vipender Mann, partner—KNM & Partners, Law Offices, New Delhi.

High-alert before filing the complete application

During the period prior to filing the complete specifications (final patent application), exercise discretion in what information you reveal. It is better to keep the functional specifications under wraps, and communicate only with those who can help you to complete your invention. India's patents law does allow more than one party to apply for patents for similar technologies—and then it is the controller who decides whose patent is granted. Moreover, if somebody else publishes the complete specifications of your invention in the public domain before you file the patent application, it renders your application invalid!

"Due to ignorance of patent law, inventors often act indiscreetly and spoil the chances of obtaining patents for their inventions. One such mistake is to publish their inventions in newspapers or scientific and technical journals, before applying for patents. Publication of an invention, even by the inventor himself, would (except under certain rare circumstances) constitute a bar for the subsequent patenting of it," Mann points out.

So, can you disclose substantial details after filing the complete specifications?

Mann explains that it is not mandatory to be secretive about the technology but it is advised not to publish details of the invention for a further 12 months from the date of filing the patent application. It is also not advisable to publish the complete specifications in the public domain during this period. He feels the inventors have to be secretive about the technology until the patent is granted to them. (The time taken to actually process the patent application can vary quite a bit from country to country, patent office to patent office, and patent to patent. This could depend on

ROHIT AGARWAL, CEO, techTribe

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the depth to which the patent office is required to go in examining the application, the amount of research needed to validate its uniqueness and compliance with patent law, and the workload that the patent office has to process before getting to your patent. We've heard of timelines of anywhere from a few months to a few years before a patent application is processed and the patent is granted.)

Dinesh Jotwani, senior IP counsel—Asia Pacific, Symantec Corporation, feels that the inventor has to maintain secrecy till all intellectual property rights on it are protected in all geographies. "Patent laws are different in all countries. For instance, if a patent has been applied for in the US for a particular innovation, and any kind of non-public communication on the same innovation is done in India, there are chances that someone might apply for a patent in India, for the same innovation."

The secrecy, according to Jotwani, is not only to prevent the invention from getting stolen, but also to maintain an edge over others. "Usually, technologies are interlinked, and there is a large talent pool working constantly to come up with something new and innovative. If communication starts soon after applying for a patent, there are chances that experts, who might be working on similar innovation lines, enhance their product or technology and apply for an enhanced version," he explains.

The availability of an advanced version decreases the visibility for the patent that was first applied for, even though it might be granted! The mileage and credits that could have been achieved also reduce substantially. "The product or innovation can also be marketed in a better way if not spoken about before filing the patent," he adds.

Yippee! I got the patent!

Once your patent is granted (some people also refer to this as having the patent 'filed', as opposed to filing the patent application), it is published in a searchable public archive, so that anybody who wants to can find it and get all the details. So, there is not much point in maintaining secrecy per se, but even at this stage experts feel that it is not really necessary to talk too much about the technical details, except to the concerned parties. For example, if you approach a manufacturing organisation with your invention, you should be sharing the technical specifications with it, but to the market at large it is enough if you splash the benefits and external features.

VIPENDER MANN, partner—KNM & Partners, Law Offices, New Delhi

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It all depends on how secure you are!

According to Mukherjee, insecure innovators are those who have chanced upon an innovation—their once-in-a-lifetime brilliant idea. For them, maintaining secrecy till all the pieces of the jigsaw puzzle—product, patent, investors, go-to-market strategy, delivery organisation, sizable user base, etc—have fallen in place is extremely important. Else, they risk losing their one get-rich-quick opportunity.

"However, without communicating, often the pieces of the jigsaw puzzle, especially components like investors, delivery organisation and user base, refuse to fall in place. Faced with a chicken-and-egg situation, their predicament is best described by a Bengali saying—*naachte nemay ghomta tana* (withdrawing into the veil after hitting the dance floor). They want to communicate, without letting anyone know! This desire is explained by their ignorance about the communication process, naïveté about the media, the public's credulity, and their own insecurity, and desire to have their cake and eat it, too," he says.

He feels that secure innovators, in contrast, do not face any such predicament. Secure innovators are those who believe in an open innovation model—and practice it. "Secure innovators are, perhaps, socialists at heart, …like Tim Berners-Lee or Linus Torvalds…. The world that I have interacted in, unfortunately, mostly comprises insecure innovators," he laments.

There are lessons and benefits in here for every one of us. For the secure and the insecure innovators, for the media, and for the world! I.T.

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