

Different Models for a University Licensing Office

by Jon Sandelin, Stanford University

Not so long ago I was asked by a newly hired senior officer to explain why the licensing office at Stanford University earned more royalty income than most of its peer institutions. Niels Reimers, the founder of Stanford's Office of Technology Licensing ("OTL") in 1969 and Director until June 1991, had recently resigned and I was serving as the Acting Director. This new university officer was not familiar with either our office or technology licensing.

I began my explanation by first pointing out that part of the success relates to length of time in business. The inventions that today generate significant royalties for us were disclosed in the early and mid 1970s. Many inventions require 10 to 15 years or more to mature into royalty cash cows. This is one reason, I offered, why the government labs and those universities who only started programs a few years ago have yet to show the returns of universities with long established programs.

But a more important reason for the OTL success was, in my opinion, the marketing model that Niels had created as a style of operation. When Niels started the office in 1969, there were only a few such university licensing programs in existence. The origin of such offices seemed to be either in the legal office or in an administrative unit such as the sponsored projects office.

If the licensing function started in the legal office, the focus of the attorneys assigned to this duty would logically be on legal concerns, such as obtaining patents and protecting the university from the possible harmful consequences of licensing. My own experience, based on a good number of negotiating sessions with attorneys, is that they seem more concerned with what can go wrong in a situation rather than the positive benefits of licensing. They wish to create protective clauses against possible unforeseen contingencies, no matter how remote. This is important, and attorney review and input can often be an important element in reaching a final license agreement, but this attitude tends not to be productive in the marketing phases of technology licensing.

If the licensing office started in an administrative unit, the focus would logically be on effective administration in a university environment; that is, providing service to faculty and students under a constrained operating budget. Veteran university administrators are familiar with the continuing struggle to provide decent service levels when resources are limited, and where the periodic university "belt-tightening" episodes keep it that way. Administrators tasked with "patent administration" (as the founders of the first university licensing association identified themselves, i.e., the Society of University Patent Administrators, some 15 years ago) sometimes have other duties as well, such as the administration of industry grants and contracts. These are more certain of bringing funds

to faculty programs, and so may demand a higher priority when time allocation between tasks is required.

Niels, in proposing a licensing office at Stanford, decided on a somewhat different approach (one I subsequently labeled as the marketing model). Some of the elements were unique at the time. The OTL would only do licensing, nothing else. Inventions would be owned by inventors, but if they chose to work with the OTL, they would be stakeholders in the technology transfer process (getting one-third of net royalties). The OTL would strive to be self-funded, taking 15% of gross income to cover expenses. Each invention would become a mini profit-center with a single licensing person responsible for all decisions from beginning to end. Outside patent attorneys would be used to file for patents. Patent costs would not be “expensed” in the year incurred, but would be treated as an asset and only expensed if written off some years later. The university would provide a line of credit of \$150,000 to cover cash flow fluctuations and possible inventory (mainly patent cost) writeoffs. Looking back, it was like a new business start-up within the university. At the time, it was a radical idea, and I learned from someone who was on the review panel that the proposal was approved by the barest of margins.

A new business, if it is to survive, must develop a line of products or services that someone wants to buy. The business must design effective packaging and must develop marketing strategies that alert potential buyers of the existence of the product. The sales force must then, through personal contact, convince the potential buyer of the merits of the product. For university licensing, the inventor is the producer of the product, and also is the salesperson. The licensing person is responsible for packaging the product and for strategic marketing. Thus, it is helpful if the people hired to staff the licensing function have technical marketing backgrounds. And there also must be policies and incentives for the inventor to serve as the producer and salesperson, something not on the typical faculty job description. These issues would logically be the focus of a marketing model licensing office, and so they were during Niels’ term as OTL Director.

And so ended my story. I could have qualified my remarks by saying there are probably no pure examples of these models, and that most offices have some characteristics of each. I could also have added that some university environments are more restrictive than a private institution such as ours; and further that people in university licensing are smart and capable, and will adapt to a more marketing oriented approach if that indeed is a route to more effective licensing. But I liked my simplistic explanation, and if it convinced the university officer that the style and culture that has evolved at Stanford’s OTL should continue, then I am satisfied.