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Patent Bar Review

Getting Your Invention off of the Ground with Crowdfunding



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On Twitter: [patentbuzz](#)
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Editor's Note: This article originally appeared in IP Watchdog on June 1, 2011. A lot has happened since then. Herewith is the 2013 update. The original version can still be found at [Funding Your Invention: Get Started with Crowdfunding](#)

Crowdfunding is a proven way to get initial funding for the commercialization of an invention.

Crowdfunding involves posting a project description on the internet, asking for pledges to complete the project, and if the minimum amount of pledges is received by a certain deadline, having the funds transferred to the project. On some sites, such as Kickstarter.com, if the minimum isn't reached, you don't get any money. On other sites, such as Indiegogo.com, if the minimum isn't reached, you still get what you've raised.

Crowdfunding addresses the two biggest challenges many inventors have. "What is the market for my product?" and "How do I get initial funds to produce it?" Conventional sources of funds include yourself, "friends and family", and angel investors. Crowdfunding adds a new source of funds, the initial consumers. Inventors, called "project creators", get committed funds and guaranteed customers. The customers, called "project backers", get to be the first to get an exciting new product. If the funds are raised, project creators know they have a market and they have the resources to produce the product. If the funds aren't raised, creators still get valuable market feedback which they often use to re-launch a product and still achieve commercial success.

Kickstarter.com, Indiegogo.com and Seedrs.com are examples of sites offering crowdfunding services for inventions. At four years old, Kickstarter is the more mature of the sites. So far, they've raised \$580 million dollars for 44,000 projects. Project success rate is about 44%.^[i] Their biggest success to date has been the Pebble Watch, a Bluetooth® enabled wristwatch that acts as a peripheral for your smart phone. For pledges of \$100 or more, Pebble Watch backers received a promise of a delivery of a Pebble Watch in September of 2012. Higher levels of pledging got fancier watches and still higher levels got bulk discounts. The project needed a minimum of \$100,000 to launch. They raised \$10 million. The watches shipped in early 2013. The reviews have been generally favorable.

The highest funded Indiegogo invention campaign was for Scanadu Scout "the first Medical Tricorder". Their campaign was still active as of this writing. They have raised \$1.2 million so far^[ii]. They have 26 more days to go.

The highest funded Seedrs invention campaign is for startup PixelPin, a picture based electronic password. As a UK site, Seedrs campaigns can offer equity in their companies. PixelPin raised £150,000 (\$230,000) for 10% equity in their company.

If all of this free money sounds too good to be true, that's because it is too good to be true. There is no

free lunch. Crowdfunding campaigns carry significant risks for the project creators, the project backers and even the crowdfunding portals themselves. It is a big step to move from the prototype of an invention that you show in a crowdfunding campaign to the actual product produced by a contract manufacturer. Costs for the production and shipping can skyrocket past the funds received from backers. This is especially true when initial production runs don't meet quality, performance or safety specs and have to be scrapped and rerun. Many projects have gone into deep debt, experienced major shipping delays and shipped product of poor quality. All of this has led to outraged backers who still have access to the crowdfunding pages where they freely express their outrage and organize legal action against non-performing project creators.

Intellectual property hazards are quite prevalent with crowdfunding projects. Projects have been shut down halfway through their funding campaigns for reported copyright and trademark infringement. Massively successful projects have also been sued for patent infringement immediately after receiving their funds. One project, Formlabs, makers of a low cost 3D printer, was sued for patent infringement one month after they raised \$3 million on Kickstarter. That case is currently in settlement negotiations.

On the flip side, many projects have had their products, their images and their brands freely copied on both US and offshore shopping sites. Ostrich Pillow, a unique public napping pillow that looks like a plush **Diver Dan** helmet, raised \$195,000 on Kickstarter. They now have numerous knockoffs being offered on aliexpress.com at 1/5 the price using the exact same graphics and trade name as their Kickstarter campaign. Olloclip, a 3-in-1 lens for the iPhone camera, initially raised \$65,000 on Kickstarter and have grown to a \$10 million company in two years. They have had to vigorously enforce their rights against offshore counterfeiters. They recently brought suit against an importer of knockoffs alleging infringement of their utility patent, design patent, copyrights, trademarks and trade dress. That case is ongoing.

Most project creators I've spoken to agree that a full range of IP protection is essential if your crowdfunding project is to be commercially successful in the long run. Provisional patent applications are a good place to start. You want some sort of protection to keep others from immediately copying your idea once they see it posted, but you don't want to spend a lot of money on a regular utility patent application until you confirm there is a market for your idea. A provisional patent application is low cost and gives you a year to test the waters. With crowdfunding projects lasting only a few months, you can get timely market feedback and initial funding for production well within that one year term.

Design patents are also important for crowdfunded inventions. The style of a crowdfunded invention is as

important, if not more so, than the technology. Design patents protect style. Apple has shown us just how strong design patents can be when they received a billion dollar judgment against Samsung for infringing the iPhone design patents. Design patents, however, need to be filed at the same time as provisional patents since you cannot rely on a provisional patent for a later filing of a design patent.

International registration of copyrights and trademarks is also a must. Offshore counterfeiters shamelessly use the images and trademarks copied right from the web pages of crowdfunding campaigns.

Crowdfunding is a new way to measure market acceptance for a new invention and raise funds for initial production. New websites offering crowdfunding of projects are being created around the world and the business models are undergoing evolution. For inventors looking to promote a new idea and for backers looking to support new ideas, it's a promising option worth exploring. Great care should be taken, however, not only to protect your own IP rights, but make sure you don't infringe the IP rights of others as well.

[i] Kickstarter Stats <http://www.kickstarter.com/help/stats> last viewed 25 June 2013.

[ii] As of 25 June 2013.



About the Author

Mark Nowotarski is the President of Markets, Patents & Alliances L.L.C. and is a registered U.S. patent agent. He currently serves clients in the consumer products, medical devices, financial services and manufacturing industries. Mark also consults in the field of crowdfunding of inventions on Kickstarter, Indiegogo and other sites.

Mark is a former Associate Director of R&D for Praxair. There he was responsible for the development and successful worldwide introduction of new products into the health care, electronics, and manufacturing industries. He was also responsible for technology planning for their home health care division.

Mark is an inventor on 17 US patents. He was appointed Corporate Research Fellow for the commercial impact of his inventions (+\$300 million in sales).

Mark has a Master's degree in Mechanical Engineering from Stanford and a Bachelor's degree with honors in Aerospace, Mechanical Sciences and Engineering Physics from Princeton. His academic awards include the Sigma Xi award for most outstanding Mechanical Engineering research at Princeton and the Union Carbide Award for Academic Excellence and Leadership in Mechanical Engineering, also at Princeton.

2 comments

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1. PatentBuddy **July 4th, 2013 8:56 am**

Patenting makes things much easier. Once people know that an invention is patented, investors will invest in the product since they know the invention is legally protected and has a sure market, a state-sanctioned monopoly (although for a limited time). Investors do not invest in products that are not patented. New products cannot succeed without patents because other people will just copy them and rip them off. The ancient Romans and Greeks never had patents, so they never had a well developed economy with all kinds of neat, new and innovative products.

2. **Ray F. Judson, JR-II October 16th, 2013 9:33 am**

Hello Mark,

Please check-out my KickStarter's campaign preview link:

<http://www.kickstarter.com/projects/1533304934/719935872?token=851e62c5> and tell me what you think.

Its name is The Geym Cheynjer, pronounced Game Changer. It is a patent pending product that will stop 99%+ of personal ID theft, committed by the common criminal, that will resorts in personal financial loss.

The purpose of the KickStarter's campaign is to raise capital for the completion of the patent process.

Thank you for your time and effort.

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