METROPOLITAN CORPORATE COUNSEL

Beyond Accounting: Innovative companies inspire a new breed of innovative advisor

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EisnerAmper LLP

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***MCC** interviews **Marc Fogarty**, an audit partner and a member of the Public Companies, Technology & Life Sciences and International Services groups of **EisnerAmper LLP**. He can be reached at **marc.fogarty@eisneramper.com**.*

MCC: Please start our discussion by talking about the innovation cycle. What does it take to innovate?

Fogarty: It's interesting. The innovation cycle begins with an open mind from all stakeholders in developing an idea for a product or technology, vetting it, reaching the moment where everything comes together in terms of feasibility and then beta testing in the market. If all goes well, then you determine the economics related to cost and price point.

Like human development, some businesses start at a crawl while others pull themselves up and just start running. Sometimes, this is a function of the technology itself and the market response, but other times there is a desire to hold back and perfect the product before launching it.

This idea of knowing when and how to take the process forward is not a new struggle in the 2+2=4 world of accountants. With our technology and life sciences clients, we often find ourselves dealing with an entrepreneur or CEO who came up with an idea overnight in college and is trying to get to the next stage.

As accountants, we tend to be more methodical and risk-averse than our entrepreneur clients, and at times we need to pivot in a different direction. We find our clients shooting for the idea with a 1 percent chance of success while we might question whether to pursue an idea with a 5 percent chance of failure. In the end, that's a healthy dynamic

MCC: How do you get involved in the development of emerging tech companies? Given the nature of a creative entrepreneurial impulse, at what point does your brand of wisdom optimally enter the process?

Fogarty: We get involved in various ways. During the earliest stages, we'll deal with a CEO who has an idea and asks what am I supposed to do now? Sometimes the answer is to hire an attorney, maybe also a patent expert, and get the process going. Sometimes they want to know how to get start-up financing, or maybe they just want us to prepare a tax return.

On the flip side, we also get involved with companies that have already raised a million dollars in a first-seed round and have a set of attorneys in place, but now realize they have to get their finances in order. So there's no particular point where we as accountants are, of necessity, brought in. Some clients don't know where to turn and engage us on the ground level while others play out like Star Wars, with a resident Yoda in the corner who can get the company 90 percent of the way there.

Now, while we get involved in all areas and at all stages, I do caution clients against making hasty decisions on the fundamentals and, therefore, getting us involved too late. For instance, we can add a lot of value when setting up your company structure, let's say in deciding from a tax perspective whether to be an S corporation or a C corp. Getting advisors involved in setting you on the right path avoids the costs and hassles of getting too far along before realizing you should have done it differently

MCC: What are some of the key differentiators in the ways technology companies do business versus traditional companies?

Fogarty: In many ways, it boils down to different ways of thinking. A traditional business might subscribe to the nine-to-five model, while a tech company sets up very differently with flexible working hours and open workspaces. The younger generation tends to view their jobs as more of a *hobby with an end game*, and that attitude is reflected in simple things, like starting the day at 10:00 am, taking a two-hour break and then working well into the night.

In a traditional business structure, ideas come from the top and are pushed downward; in a tech company, ideas tend to rise from the bottom, and there really are no secrets among the 30 or so employees who all attend the meetings and pitch ideas that are taken seriously. It's not that one model is better or worse, just that tech companies foster a different culture. What all companies have in common, however, is the desire to succeed and bring great products and technology to the marketplace.

MCC: Please talk about the process of bringing an innovative idea to commercialization, including the element of timing.

Fogarty: Time is a complex factor; it can be your enemy or your friend. For example, one of my clients designed a product that helps with air purification for hotel rooms. They had the option of immediately releasing it in some higher-end hotels, but upon further consideration they decided to keep fine-tuning the product until it was fully vetted and tested. The logic went like this: If we put it out before it's ready, it may fail miserably, so we'll wait and make sure it's perfect.

The good news for this client is that there was no major competitor in the market, so essentially they had the luxury of time. If you put two competing companies in that situation, then the race is on to see who gets to market first, with far less concern over whether the product is right or wrong. So time was a friend in this example, and taking it gave our client a better product and a better chance of success.

MCC: Does the assessment of time as a factor differ depending on the kind of product, let's say a software app versus a traditional widget?

Fogarty: Absolutely. In the app world, it's all about launching a product as quickly as possible, and, within limits, there is greater tolerance for less-than-perfect grades on initial quality. Where a traditional product might have to meet an A-plus standard right out of the gate, the app might be acceptable for release at a grade of 87. The thinking here is if you can get the app into the hands of a million people, your users will give you feedback, and additional development toward perfect marks then becomes a back-and-forth process. Conversely, a milk company, as an example, probably has a 1-800 number for product quality issues but doesn't approach feedback with the same vigor. Of course I'm generalizing here, but the point is that for an app company, responding to feedback is a business imperative and organic to the product development model. Look at Apple and ask yourself how many companies can completely redo their operating system and ultimately re-release that system within a few days to all of its users.

MCC: Once a company is up and running, what are the signs that it has reached its limit in terms of infrastructure needed to move forward?

Fogarty: Even great entrepreneurs have their limits. For tech companies, reaching that point implicates the need to bring in a business person who understands the risks and costs and can accurately determine a product price that will result in a profitable business. While there's really no defined point where a transition becomes necessary, successful CEOs tend to surround themselves with smart people. They know when it's time to bring in the right "operations guy" to take over the business side and help the company reach a defined goal, maybe an exit strategy, an M&A deal or a plan to self-continue. Again, time is a key factor. You can only spend so much time tinkering before realizing that you need a market for your product, and that's when you look for a finance guy or an inventory guy.

MCC: Talk about EisnerAmper's work for tech companies on the M&A side.

Fogarty: We get involved in many aspects. For instance, our director of capital markets helps align investors and clients and will make strategic introductions based on hearing from clients that they need financing or are looking for an exit. At that time, we'll usually speak with their attorneys and talk internally about finding a good fit. In that sense, we're a business matchmaker.

Each company does its own unique thing. Some want to build a business for five years, sell it and use that money to start something else up. Some want to sell 30, 40 or 50 percent of the company and stay involved. Others want to sell 60 percent, stay partially involved and end up on the board of directors.

It's our job to understand the client's needs and goals, so we ask a lot of questions. Some know where they want to be in five years, and others don't know where they will be in 10 minutes. Some have a definite goal with documented matrices, while earlier-stage companies work more in six-month increments and reevaluate along the way. Some are 100 percent determined to go public, while others see a better route in making a deal in which Google or Facebook buy their technology. Obviously, this all depends on knowing the difference between deciding what you wish for and having a viable deal on the table.

MCC: You have written about the need for innovators to be adaptive in order to stay relevant. Tell us what that means.

Fogarty: Coming back to the innovation cycle, if you're lucky enough to find success, then ideally the process repeats itself with a search for new ideas that keep your company relevant. The easy example is Google. Between Gmail, Chromecast and mobile devices, they have put out a new adaptive technology every year, and it's amazing how much of it is free. On top of the sheer popularity of their products, that's enough disruptive technology to keep them consistently relevant. It's come to the point where we don't even realize we're seeing the name Google constantly; it's that ingrained. And you can observe similar developments at a company like Apple, which in addition to signature laptops, iPads and iPhones branched into the music and book spaces with equal success.

MCC: Do you see a lot of potential interest from public companies in the emerging tech sector? How does this play out?

Fogarty: Yes. In fact, a few of our tech companies have been acquired by a public company. Most often, the public company just wants to add in the proven technology and a potential revenue base and not the entrepreneurs or other staff. Alternatively, some companies opt to maintain and operate both companies separately (from an external perspective), thus keeping the legacy management in place. A notable recent example is Facebook with its $22 billion acquisition of WhatsApp, which essentially is a text-messaging service that runs on the Internet and avoids the need to draw against a cell phone usage plan. Both models work, but only when managements' styles and goals allow it.

MCC: In closing, tell us something about your personal approach to working with tech start-ups.

Fogarty: My goal is not to be thought of as an accountant but rather as the dad who plays soccer with his kids. I want a client to say "that's Marc, and he helps me out," because what we're really trying to do with our tech clients is be one of them – which goes beyond the traditional accounting firm model. At tech events, most people wear jeans and t-shirts while the accountants and lawyers show up in business attire. Yes, we're here for the audit and tax work, but at the end of the day, we're really here to be your sounding board and advisor.