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Curing the “Plague” of Over-Eager Product Licensing

By Dr. Robert C. Keefer

Large healthcare companies, scrambling to create viable products for the pipeline, are eager to in-license promising pharmaceuticals and medical device products. But the marketplace is flooded with offers, so companies eager to out-license their products may find a timely deal at a good valuation very tricky to achieve.

On top of that, the “Plague of Over-Eager Product Licensing” can easily infect your chances of closing a deal with the right licensing partner in the timeframe you need. It’s practically an epidemic: Companies anxious to out-license a product quickly prepare a non-confidential licensing summary and then e-mail it to anyone and everyone, without regard for the recipients’ goals, strategies and real needs.

This approach is especially bad when e-mails are sent to the general company e-mail address. You hope they wind up in the business development (BD) department and with the right person in BD; however, that is not how it works in today’s business development and licensing environment.

At companies large enough to have both the money and the multiple needs, business development departments are organized by specialty. If your licensing opportunity has to do with wound care and your proposal is routed to the BD person working in cardiovascular disease, chances are it is not going to be forwarded. If it is, you don’t have the contact information for follow-up.

Broadcast e-mails can turn a perfectly good licensing opportunity into nothing more than spam. They generate responses from people who are probably not qualified nor motivated to anoint themselves as the person who will see that your opportunity is given its due regard. Even if they do respond, the endless questions, phone calls and inadequate due diligence back and forth will eat up your time. One of the symptoms of the Plague is that you think you want to get “yeses,” or at least well-qualified quick “nos”, but what you really get are just quick “nos”. BD executives have many opportunities and spend their time on the ones that come to them in the right way.

It also doesn't work to send your licensing summary to a board member, the CEO or other top executive just because they might recognize your name and agree to forward it to the right person with their "stamp of approval." This is another symptom of the Plague. It doesn't work. We know; we've learned.

That CEO or executive has other worries, especially in these difficult times. If he/she does forward it, it goes to the next level down, who sends it to the next level down. If your licensing opportunity eventually does get in the right hands, at best you have created a "gritted teeth" situation by ignoring the person ultimately responsible for generating licensing deals. The business development folks are the gatekeepers of licensing opportunities. Their job is to work with R&D and commercial operations to understand what needs the company has in the pipeline and then to find deals to fill those needs. And here you come trying to circumvent the system. Not a good way to start.

You might get lucky with these methods — just like you might win the Lottery — but more likely, you will end up wasting time and taking much longer to find your licensing partner than if you had done your homework in the beginning.

Here are three steps to a better result:

1. Create a non-confidential licensing summary that sells.

Anticipate questions. Potential licensing partners will scrutinize your document looking for reassurance that your licensing opportunity is credible and your summary complete enough to endorse and send it on to the team for further evaluation. They want a clear picture of the quality and quantity of data in support of the indication and the marketing opportunity. They've got to see the benefits to patients, doctors and providers. They have to sense that you know the competition — current and emerging. They need a solid projection on costs — estimated final price point, manufacturing costs, remaining development and regulatory costs.

The summary has to be complete enough to answer their questions without revealing confidential data that could jeopardize pending patents or spur copycat products. Walking that fine line between what is confidential and what is important must be done thoughtfully and with business development experience. The attorneys can't be in charge. You need to protect your company's assets but give potential licensing partners enough information to sell them and to prevent deal-breaker surprises down the line.

A good non-confidential licensing summary is 2-3 pages long and can be used in multiple ways, including the invaluable one-to-one partnering meetings in Europe, North America and Japan. The summary must address the following topics at the right level of detail and scope:

- Executive summary
- Product description
- Clinical indications
- Unique benefits
- Regulatory filing status
- Manufacturing and development program
- Market prospects

- Economic benefits
- Competitive status
- Intellectual property
- Company overview

2. Fully qualify the companies and individuals on your list.

Do your homework first. The industry is in a state of upheaval; strategies and personnel are changing continually. You can't infer attitudes and preferences from what you knew yesterday. The company may have changed direction as recently as last month, last week or even yesterday as a result of an acquisition, failed clinical trial or a decision to focus on a specific therapeutic area.

Doing your homework means you have found the right person and you've talked to that person to learn the corporate, R&D and commercial strategies, as well as their current priorities. Armed with this information, you can and should tweak your licensing summary for that company. You might stress a different feature of your technology or product. It's still the same opportunity, just positioned differently.

While it might be obvious, this is often done best by someone who has done it before and has the learned lessons and contacts to prove it. Use and learn from experienced people. Advisors typically have the freshest contacts and the name recognition and rapport with the BD folks you need to reach. It is an art as much as a science, but the science includes communicating with a potential licensing partner in a listening/learning mode. While it might be an exaggeration (but not much), we've found that over 95% of people who have something to sell are so convinced of the curing power of their technology or product that they instantly lapse into a telling/selling mode. Again, not good!

3. Develop a team of opportunity champions at your target companies.

If you've created a great licensing summary that has captured the interest of a qualified company, the business development person will circulate your document to a specific team charged with evaluating and conducting due diligence.

A company can have 100 to 200 licensing opportunities to evaluate every year. So each one is measured against the others as well as against the internal opportunities being championed by their own product developers. Will this one get FDA approval quicker? How much more data do we need? Will it be easier to recruit patients for the clinical trial? Does this product give the sales rep a new message that will give a lift to all our other products?

This requires a constant focus on building a team of opportunity champions outside the BD department in R&D, marketing, etc. If you have an established rapport with the company, and do it in the right way, your doing this will benefit you without alienating the BD contact person. Most often it is not the business development person who has the most influence on completing the licensing deal, so learn the team dynamics and be able to communicate with all members on their terms.

That means you need to be instantly able to help your newly developed champions sell the deal "up" and respond to internal questions about regulatory issues, clinical development, patent protection, emerging competition, marketing and sales, etc.

Yes, following this plan takes more time than sending out a broadcast e-mail with a hastily prepared licensing summary. But it is the cure for the “Plague” of Over-Eager Product Licensing.

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UPCOMING EVENTS:

Investments in Innovation (In3) Europe

April 29-30, 2009, Paris, France

Medtech Insight's European strategic partnering and investment event, bridging European and U.S. medical device innovators, investors and companies, provides a much-needed networking and partnering forum for the international medtech development community. The program will feature over 30 emerging medical technology companies from around the world seeking funding, acquisition and/or strategic partnerships. The audience will be comprised of senior executives from most of the major medtech companies and healthcare investment firms worldwide, representing most of the major dealmakers in the medical technology industry.

[Read more and register...](#)

EuroMedtech

June 3-4, 2009, Düsseldorf, Germany

The EMT conference is expected to be a key Medical Device Partnering conference this spring, bringing 500-600 medtech executives and investors together, just as Bio-Europe attracted 2,400 participants in Mannheim in November and Advamed had 1000 attendees in Washington. With licensing and business development now so critical to many development stage firms, EuroMedtech will provide opportunities to meet one-on-one with Business Development leaders from large and small medtech firms as well as to hear presentations on the latest developments in cardiovascular, imaging, diagnostics and regenerative/orthopedic products.

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