

# A brush with the law

Chet Cekala, *Gillette*

Gillette's product innovation strategy is one of trade-up, where new products are introduced with significant improved performance for which consumers are prepared to pay a premium. Gillette spent nearly \$200 million on research and development in 2001 developing such products not only for the Gillette brand but also for Oral B, Braun and Duracell. This strategy inevitably results in previous products being 'cannibalised' as customers see the advantage of moving to the new version.

A potential flaw in this innovation strategy arises if the improved product is easily copied. Then the consumer's trade-up path is suddenly diverted outside Gillette and another company cashes in on the investment. A further problem is that a typical R&D programme is a long step-wise process that takes many years to complete. The competitive landscape can change dramatically in that time.

In an effort to break out of this loop and to introduce a greater degree of creativity, Oral B launched its Project Discovery in 1997. A cross-functional team was established to break the mould and develop an all-new toothbrush that delivered significantly superior performance.

The team was urged to experiment, traditional barriers between functions were knocked down, design and marketing input came at the start, and everybody in the team had a say in each new concept. The result was the CrossAction toothbrush, Oral B's top-of-the-range manual brush launched at the end of 1998.

Patent considerations played their part in the process. Unlike drugs, where the pharmaceutical company may enjoy a 20-year patent in order to recoup the up-front investment, products such as toothbrushes have been around for hundreds of years and cannot be so rigorously protected. It is therefore much harder to prevent copying. Gillette's approach is to protect every improved feature on its products with patents to create a 'thorny thicket' around its products, making it difficult for imitators to get too close.

A patent analysis of a concept involves searches to see whether other companies already possess patents that might block it or simply whether it has been done before. Focus is placed on particular aspects of the product or its manufacturing process. In the case of the CrossAction toothbrush, four design registrations

and 23 patents cover innovations in the crossing tufts, filaments, packaging, the cushioned plastic handle and the manufacturing process.

Where to file for patent protection is an important part of the patent strategy. Gillette sells products in over 200 countries and it would be cost-prohibitive to file patents in all of them.

When you file is also critical. Too soon and you tell your competitors what you are up to, too late and external testing might have put the innovation in the public domain, jeopardising the ability to patent at all.

One alternative to patenting is to preserve the innovation as a trade secret. However this approach is vulnerable to a competitor's subsequent patent – and people have an unfortunate habit of talking!

The investment required to launch new innovative, value-added products successfully on the market is both significant and rising. For companies to follow a trade-up marketing strategy and to earn a sustainable return, patent protection strategies are an integral part of the overall brand strategy.

