Every new venture starts with an idea or concept in the mind of one person, then is transferred to a second, and often to a third and possibly fourth. We have seen hundreds of successful corporations founded on this basic formula, however, the anguish and turmoil associated with the founding of these companies is not always evident once that original idea has reached fruition and achieved the pinnacle of success. Only then, are the founders recognized for their creativity and visualizing that which helped them attain fame and fortune.

So, with this premise in mind, lets start at the concept stage and then project to all the hurdles that need to be overcome, and also, why so many fail to ever achieve any significant level of success.

Basic Ingredients

Just like baking or cooking a special dish, all the conceptual ingredients of a startup need to be carefully considered prior to turning on the oven or the stove. Originators must be able to envision what the finished product (or service, operation, etc.) will look like. So from the original conceptualization of the idea, the creator or inventor needs to explore and incorporate information on everything from: market size, who is in the market, why the invention is better than the existing products, how the concept will be turned into a product, the engineering solutions, prototype construction, manufacturing strategy, the packaging, the distribution, the laws and other variables that may affect its success.

Another very critical ingredient is the Intellectual Property (IP), whether it consists of patents, copyrights, trademarks, or trade secrets. The education involved in this assessment process has innumerable resources, including the Licensing Executives Society (LES), which has members in 97 countries and chapters throughout the United States and Canada. There are many other resources offering information on how to protect your new product, from the public library to the vast reaches of the Internet. However, protection costs money and it needs to be done properly to reap the benefits that will hopefully be one of your company's greatest assets in the future.

And, last, but not least is funding. How are you going to pay for all the ingredients required?

Over my very busy academic and corporate life, I have seen funding from credit cards to family and from investments by neighbors to angels who are seeking new opportunities at the ground level. Prior to even seeking funding, the founder needs to analyze exactly how much money and/or resources are required. This is not an easy task because important ingredients are often overlooked. This can range from the simple requirement of creating a prototype to what market(s) should command the most focus.

In this process, outside mentors, new venture incubators, and even federal, state, and local economic development agencies can be extremely helpful. Obviously the very visible incentives of American entrepreneurship and the glowing success stories are among the many motivating factors that drive the founder.

However, being very realistic, only a small percentage of new ventures ever achieve major success. This is a well-known statistic that is pounded into the
entrepreneur’s brain all along the path that he or she is climbing.

So, now having set the stage, let’s look at what you have created and how to make money with it, ideally a lot more than you invested. Once you have carefully analyzed the product, its value and benefits over the competition, then the real mental challenge begins in how to best value what you created and to what value could or would it be to you or more of the companies you will be competing against.

At this point in time the filing for IP protection becomes critical. Who created the protection? Did you create a provisional patent application? Did you have an IP attorney help or advise you? Have you started to spend money for protection?

This junction on your path to riches is so important; I cannot emphasize enough that you need to seek experienced qualified assistance. You need to be interviewing IP attorneys. Seek them out by asking questions of people in your life. If you have a new toy, you do not want an attorney or advisor that specializes in the medical field. Attorneys who are members of the American Intellectual Property Law Association (AIPLA) will provide you with an hour of free time to best analyze your needs.

Over decades of working with inventors, scientists and researchers, I learned several valuable lessons. Most are so focused on their brain-child, however, that being realistic never enters their thought process.

Preparing for Success

Eventual success follows from hard work, long hours, and help from others. In considering licensing versus creating a new venture, the research is pretty much the same and involves some very essential questions:

1. Are there similar products available on the market?
2. Do they have issued patents, which I would be infringing?
3. How big is the market and how would I capture a profitable percentage?
4. What will be required in terms of help and funding and who will provide it?
5. What is it going to cost to produce and package the product?
6. Should I quit my job to work on this, and what about my spouse and family?
7. How do I properly protect my idea so I can stop competitors?
8. Is this really worth it and what are the potential sacrifices?

Now, coming back to the core focus of this article, what about licensing and how do I initiate the process?

As previously stated, the time and research required is basically the same as with launching an independent new venture. However, there is a very clear distinction at the point of decision. In considering licensing, you have to very seriously ascertain who would want to license the concept if ownership rights of some sort are not clearly established and able to be exercised?

Both paths require a well-planned IP strategy. But with licensing, even though the planning and preparation costs are less, the level of IP protection has to be greater. The licensing path will cost about half of what launching a new venture will cost. Keep in mind that in licensing, the licensor is logically going to assume a major investment in producing and in distributing the product, besides inventory, various insurances and so forth.

This is when the qualified people you surround yourself with become critical. Besides corporate counsel you need an IP attorney and eventually a good accountant who understands the start-up mentality, as well as how to handle all the financial requirements of monitoring license arrangements for royalty compliance. In the new venture scenario you actually need a larger support team because you are going to have to do absolutely everything required in the preparation, launching, and operating of a corporation. By actual comparison, licensing will need a much smaller team that is focused on the IP, the market, the competition, research for selecting your logical licensees and valuation, which are all key aspects of the negotiation process.

From my personal experience with a wide variety of start-ups, the minimum initial cost of launching a new venture will be about $150,000 whereas the licensing model will be about half. However, in considering the rewards, establishing a licensing agreement with the right corporation will provide an income that will not only be steady, but could increase with the success of the product. In the new venture model, the rewards could be far greater, but at the same time, so are the risks and the investment. All the income goes directly to your company, rather than diverting a large percentage to the licensee(s). This depends on the negotiation process and who conducts the negotiation on your part. Unless you are very experienced in negotiating, my recommendation is to always let your attorney or experienced business associate represent you. In some cases, I have found it easier to have the meeting without the principal/inventor being in the room. The licensee representative will have the necessary experience to know when you are at a weak point by just observing you, without saying anything. This is especially true if your baby is on the negotiating table and it is about to leave home.
Unless you have some experience with being a business owner, you honestly have to analyze yourself and be willing to admit your weaknesses, and of course your strengths. Once you know where in the process you are weak, then you start to seek someone with the requisite strengths to balance your weaknesses. Going into business requires the support of your spouse and family, including children. I say this based on the belt-tightening that will be required by every member of your family. It is a sacrifice that is shared. I know this very well having launched one of my early companies in 1964 after leaving a position with a major worldwide corporation (it even required the selling of my wife’s 1959 pink Thunderbird to keep the business going). It can be a very stressful experience. DO NOT give up your job because you want fame and fortune. Out of every success story you hear about there are 100,000 that did not make it. Just look at the bankruptcy filings. Over my 50 plus years in mentoring start-ups, the product or technology ranged from toys and games to high-tech electronics, from automotive to biotech and from medical to alternative energy devices. In almost every case licensing was a decision factor. Following are just a few examples of new ventures I have a personal knowledge of, where the decision to license or start-up was the central consideration.

Bob Parker was at Lawrence Livermore National Laboratory (LLNL) and came up with a crazy product that sold millions, memorably called the Mood Ring. Then after leaving LLNL, he gave birth to the Duracell battery tester; which not only increased sales but, instead of being on the package, is now built into the battery. Bob is working on several additional products that easily monitor food safety, along with auto and boat batteries. This is a great example of licensing success.

Mark Publicover, a young general contractor, bought a trampoline for his family and wondered how to prevent the kids from falling off and seriously getting hurt. He came up with a product and built it into www.jumpsport.com, a very successful multi-million dollar company that has accumulated several patents that have held up in federal court and stopped competitors from importing infringing products. In the early days we considered licensing, however, the company had no issued patents. Nonetheless, we realized there were over three million trampolines in the backyards of America and another several hundred thousand being sold every year. Licensing was not the objective, so it was easily determined that creating a new company and marketing the product would be the logical path. It was the right decision, ultimately, and has resulted in another successful entrepreneurial story.

James L. Fergason was already rich and successful when I met him many years ago. He is the father of LCD Liquid Crystal Display technology, which resulted in over 150 US patents and over 350 foreign patents. In the process he also created Fergason Patent Properties, LLC in Menlo Park, CA. There was little debate as to whether licensing or new venture was the logical path. Because of the very complex manufacturing process involved, he decided to license at the beginning of his climb to world recognition. Today the company has licenses with: Panasonic, LG, Sharp, Sony, Sanyo, Samsung, JVC, Epson, Philips, and many more world-wide corporations. Unfortunately, Jim passed away in December of 2008. At his service, I gave a eulogy describing the many years he and I traveled and gave stimulating talks to inventor groups for the US Patent and Trademark Office. He is well remembered as one of the leading independent inventors of the last 50 years.

Curtis Landi, whom I have called friend for several decades was a spirited inventor with a dream that he achieved by the creation of flexible honeycomb and the company launched at www.supracor.com. Every product carries the symbol of Made In America whether it is in the Ritz-Carlton or Four Seasons or on the new Boeing Dreamliner. Curt realized that without proper IP protection he would not be able to license his technology. Besides, it was difficult to manufacture, so after creating a new venture he had to invent the equipment to manufacture the products. Today he proudly displays his more than 100 issued patents in the lobby of his beautiful facilities in San Jose, CA.

Another brilliant inventor I have had the pleasure of working with is the world renowned Dr. Forrest Bird, whose fame and achievements have brought him to the White House twice in recent years to receive both the Presidential Citizens’ Medal and the National Medal of Technology. He is the inventor and manufacturer of a medical respirator and pediatric ventilator used in every hospital throughout the world. CBS 60 Minutes did a program on him and his accomplishments, including the inauguration of the Bird Aviation & Invention Museum in Sand Point, Idaho. In the early 1980s he created the Intrapulmonary Percussive Ventilation respirator and in 1992 introduced to the world the V.I.P. Bird Infant Pediatric System, which has saved countless thousands of infants from dying. His decision to manufacture the products was based on wanting total quality assurance in all the products.

So, in just the few examples above, you can begin to see the variety of factors influencing decisions that were made to either license or create a new company. In all cases it results in a bottom value assessment not only control of the products to be manufactured,
but also, of how much money can be made. Over the years, I have personally seen examples of inventors with great technologies or simple products that failed because they had to control its destiny in total. When the motivation becomes so personal that good common sense and good business logic are ignored, then the opportunity is doomed to fail. I have been involved in situations where the founder lost his wife and children and their home because of ridiculous personal decisions, driven by avarice.

This article is far from comprehensive; it only covers the broad brush strokes between the two paths of licensing and starting a new venture. I have seen unique situations where both are accomplished within a specific environment. As an example, you may want to produce the product for a specific market and at the same time license its use for a different market, or geographic regions where the manufacturing is easier and no import or shipping is required. However, a great deal of this decision and expanded opportunity is reliant upon the foreign coverage of your IP and also how good your sales are within your own controlled domain.

Hopefully this article will provide you with sufficient information to consider the various paths available in pursuing your entrepreneurial independence.