

Jumping on the Research Bandwagon

AMS recently conducted an on-line survey of New Product Development (NPD) professionals to determine the tools, products and techniques they find valuable in their own product development processes. The survey respondents included approximately one hundred managers, directors and senior level executives in a variety of industries, including medical devices, high-tech, consumer products, financial services, energy, manufacturing, chemicals, and telecommunications.

The survey results raised an interesting question. The majority of respondents valued the process of collecting customer input for a variety of applications – such as defining customer needs, determining product specifications, evaluating product concepts, and testing of new products. However, almost half of them reported just moderate satisfaction with their customer research. That is, they recognize the value of market research, but are limiting their research efforts. Why is this occurring?

These respondents cited the expense, time commitment involved, and their lack of expertise as reasons they don't collect a great deal of information. Others don't trust the credibility of the information gathered. By conducting one's own due diligence regarding types of research available, qualifications of various providers, and the varying scope of possible projects, NPD professionals can minimize these perceived negatives and reap the considerable benefits of customer-based research. Let's address these objections one by one:

Market research is too expensive: Market research can in fact be expensive, but this outlook is often short-sighted. If customer needs are gathered and incorporated early in the product development process, companies can minimize the possibility of significant

redesigns later on. In addition, new techniques such as web-based research can significantly reduce the expense of conducting customer research.

Market research takes too long: New techniques have been developed to shorten the time it takes to collect market research information. Web based techniques – including surveys, virtual customer applications, and fast-paced conjoint methods – can save time when collecting customer data. Once the data have been collected, high-speed QFD methods can greatly reduce the time needed to translate Voice of the Customer data into product specifications.

Market research requires specific expertise: Many market research methodologies and techniques can be learned. AMS has conducted numerous Voice of the Customer training sessions to equip new product development teams with the myriad skills needed to conduct their own research. Companies that prefer to hire external consulting firms should obtain references, inquire about credentials, and ask about past experience in their industry.

The information gathered is not credible: With the proper attention to scientific method, there is no reason to question the validity of market research results. Any reputable market research firm will use proven methods to design and conduct surveys, select samples, and analyze results. Pluses to consider in selecting a reputable firm include the consistent involvement of outside academics and membership in CASRO, the Council of American Survey Research Organizations.

— Gregory Fitzgerald and Michelle Harris

How Much Is an Infringing Feature Really Worth?

Marketing science tools used by product developers are increasingly having an impact in the courtroom as judges and juries wrestle with questions about why consumers do what they do. For example, the award of damages in a patent or copyright infringement case can turn on the importance or value of the alleged infringing feature.

Lost profits or reasonable royalties are supposed to be the basis for any damage award. But lost profits can be difficult to measure or prove, and determining a “reasonable” royalty requires an accurate measure of the value of the specific feature at issue.

This is closely related to a problem that product developers face all the time. What is a product feature worth? How much will customers pay for a product that has a particular feature, or set of features, as compared to a product without that feature? “Conjoint analysis,” a type of market research familiar to product developers, can measure how consumers would have reacted had the defendant’s product not contained the infringing features.

The goal of any conjoint survey is to assign specific values to the range of options buyers consider when making a purchase decision. These values are “dollar scaled,” and they indicate the added price customers would pay for a product having a specific feature or the price concession needed to compensate for the lack of a specific feature. This is exactly the task required to determine the value of a particular feature in a litigation setting.

In a landmark case involving a software product accused of copying a single feature of a competitor, a conjoint analysis survey was conducted to support the defendant’s contention that the infringing feature was an insignificant element in a customer’s decision to choose its product over the plaintiff’s. The first step was to identify the

various features that customers considered in deciding to purchase a product of this type. These included issues related to file formats, display capabilities, available libraries of functions, the price of the product, and other non-infringing features.

The conjoint survey then let customers show the value they placed on all of these features, including the alleged infringing feature. In this case, the result showed clearly that the infringing feature was only a small part of the reason why customers had purchased the defendant’s product and that many customers were unaware that the feature even existed. In the face of such evidence, the plaintiff could not succeed in the large-scale cash extraction it had been planning. When the infringing feature can be shown to be such a minor part of the purchase decision, it logically follows that the plaintiff would not have lost many sales because of the infringement, nor would “reasonable royalties” have been significant.

In order to be successfully introduced into evidence, a conjoint survey must adhere to the rules for other forms of survey research including correctly identifying the universe, selecting an appropriate sampling frame, choosing respondents for the study, etc.¹ In addition, careful research preceding the actual survey is needed to clearly identify and specify the features to be included in the conjoint task. Properly conducted and presented, conjoint analysis can be an effective and persuasive means of measuring the value of a single, specific feature in a patent or other infringement litigation.

— *Bob Klein*

¹Diamond, Shari Seidman, “Reference Guide on Survey Research,” *Reference Manual on Scientific Evidence*, Federal Judicial Center, 1994

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Applied Marketing Science, Inc.
303 Wyman Street, Waltham, MA 02451
web: www.ams-inc.com

tel: 781-684-1230
email: newsletter@ams-inc.com
fax: 781-684-0075