

WHY PATENTS?

by Warren M. Pate



Patent protection is not free and using patents to stop determined infringers is not easy. These realities may cause you to ask “Are patents worth it?” My answer to that question is “Yes!” Here’s why.

Fact #1 – If you are a successful innovator, you will be copied. You have heard the saying “imitation is the sincerest form of flattery.” In the marketplace, copying is the best evidence that you have a successful product.

Fact #2 – You cannot out-innovate a copier. Innovation never follows a straight path from brilliant insight to perfect product to commercial success. Copying, on the other hand, is straightforward, as the copier can bypass most of the pitfalls, dead ends, etc. experienced by the innovator. Accordingly, what takes you months to innovate, a copier can reproduce in weeks.

Fact #3 – Copying will kill your profitability. At first, being copied may be a mere annoyance. However, if left unchecked, market forces will encourage the copying to spread and grow until it eats up your profit margin. Remember, you have to charge more than your copiers because you must recoup innovation-related expenses they never incurred. You and your copiers are not competing on a level field.

Fact #4 – A patent is often the only tool available to stop others from copying your product. There are very few products that cannot be reverse engineered. Once you start selling your product, you are effectively shipping your blueprints to your competition. If a competitor decides to copy your product, a patent may be your only recourse.

Fact #5 – Expenditures on patent protection can be scaled. Innovators get into trouble when they spend nothing on patent protection. They also get into trouble when they spend more on patent protection than is justified by the market demand for their product. These mistakes both arise from an all-or-nothing view of patent protection that ignores the various strategies and options available for controlling patent-related costs. In the early stages of innovation, expenditures on patent protection can and should be kept low. When the market response dictates and resources grow, expenditures on patent protection can and should be scaled up. The key is to work with your patent attorney to implement the strategies and options that work for your business and your budget.

In view of these facts, an innovator who decides patent protection is not worth pursuing is betting that he will fail. He is saying “I don’t think I will be successful and I will be glad that I did not waste any time or money pursuing patent protection.” I don’t think betting against yourself is a good way to pursue a business opportunity. There are better options!

By making this article succinct, it cannot also be complete in every way. Accordingly, when strategizing and planning future activities, it is highly recommended that you consult a registered patent attorney regarding any specific action you plan to take (or not take) in view of the specific facts of your situation.



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I teach small business owners proven patent and trademark strategies and help them implement those that align best with their resources and goals. If I can be of service to your small business, please give me a call!