

INTELLECTUAL PROPERTY ALERT

THE ROLE OF THE PATENT

Innovation occurs when there are problems to be solved. For example, cars may be improved because they are not fuel efficient. However, making a car more fuel efficient is not easy. Specifically, it requires energy, which in this sense is the time and hard work involved in developing innovative thoughts. Time and hard work are not free nor should they be free. Thus, cars that are more fuel efficient cost more money to make and more money to buy. The founders of our country wanted our cars to be more fuel efficient. The founders also knew that just as a car can be physically stolen, the energy that goes into developing that car can likewise be stolen. To protect against such theft, the founders gave Congress the power “to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”

Patents are a specific property right created from this clause of the United States constitution that protect our energy. For example, an inventor must use energy to invent a new mechanism to improve fuel economy. Without patents, the inventor and the business world with which the inventor competes will both be able to build cars with the new mechanism. All else being the same, it is the inventor alone who is left with less total energy than before the mechanism was invented. Because systems that use energy need to receive equal energy in order to continue functioning properly, the inventor must receive just compensation if he is to ever invent again. Acquiring a patent on an invention gives the inventor the exclusive right to make use of the invention for a limited time in exchange for a disclosure to society of the invention. The exclusive right compensates the inventor for the energy used to invent. Because the right is limited to a fixed period of time, and because society is provided with the disclosure of the invention, society will be able to make use of the invention without restriction once the inventor’s period of exclusivity expires. As a result, the patent benefits society by enabling innovation to persevere.

This Eckert Seamans Intellectual Property Alert is intended to keep readers current on matters affecting intellectual property and is not intended to be legal advice. If you have any questions about the content of this alert, please contact John Powers at jpowers@eckertseamans.com or (412) 566-6174.

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