



Dear Friends and Colleagues,

In lieu of a firmwide blog, I will be sending out periodic emails on a variety of general intellectual property topics, focused mainly on patents which is my area of expertise. The emails will be short and to the point.

First, since there are a few recipients of this email who I may not have been in contact with in the past year and a half, we are no longer with Akin Gump Strauss Hauer & Feld and have started our own intellectual property (IP) boutique in January 2008 as a result of a friendly spinoff from Akin Gump. We are focusing on patents, trademarks and copyrights without the overhead of a large international firm.



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Recent Developments: How the Recession Has Affected the World of Patents

While the economy “recovers” from our deep recession (at least according to the economic experts), one important issue facing our clients is how this recession has affected the world of patents. This recession has followed the usual pattern of past recessions where clients reduce their patent procurement activity. However, the usual pattern of past recessions where clients increase their patent litigation activity has not occurred. Nonetheless, patent litigation has only dropped off slightly. Furthermore, the complexity of the litigation cases has significantly increased, so there has been no industry-wide drop off in the total volume of patent litigation work.

The value of patent portfolios has continued in an exponentially upward trend as reflected in worldwide licensing revenue and other metrics, so the payoff will come for those who are sticking it out through the recession by continuing to build their patent portfolios. (Of course, we are talking here about the average patent portfolio, not any particular client’s portfolio.) There are many reasons for this continued upward trend, but two important factors are that (1) the USPTO has issued about the same number of patents for the past ten years, despite a large increase in application filings during that time period, and (2) companies are increasingly outsourcing R&D. Regarding the first reason, the value of the GNP directly attributable to new technology increases every year, and thus the few holders of the associated IP are now sitting on much more valuable property than ever. (Simple supply and demand economics are at play here.) Regarding the second reason, companies are increasingly willing to purchase IP today, rather than invent IP themselves. This has resulted in a much more robust market for IP, and particularly for patent portfolios.

The patent process is still not for everyone, and the ugly reality is that broad, valuable patents are relatively expensive to procure nowadays. I have given presentations on the subject (“TOP 10 EXCUSES FOR FAILING TO FILE FOR PATENTS (AND WHY THEY SHOULD BE QUESTIONED),” so let me know if your company is interested in hearing more about this topic.

Personal Notes

On the personal front, I have been hitting the bike trails in the Philly area this summer with my 14 year old son who is now old enough to ride at a strong pace for 2-3 hours at a time (and who is also lucky enough to have a father who can keep up), and sharing family time on the weekends with the rest of clan, which includes my 11 year old daughter and wife.

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Best Regards,
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