

From: pat bahn <bahn@tgv-rockets.com>
Sent: Wednesday, November 02, 2011 1:28 PM
To: SMEpatenting
Subject: international patent protection for small business (Comments)

1. Overall, how important is international patent protection to small business?

In my opinion, IPP is both extremely important and of no use whatsoever. This may seem contradictory, but, it reflects a larger problem of small business. On the one hand, we want to grow and capitalize and license abroad, but, we often times lack the capital to do so, making these markets hard or impossible to access. Given the significantly higher costs to market internationally, investing up front into international patent protection makes the cost benefit calculus even more difficult and as such, a vicious spiral develops. Few small businesses file internationally, few peers exist providing goals, roadmaps or advice, and the markets never develop.

2. At what point, if ever, in the growth of small companies does international patent protection become important?

When you are large enough or smart enough to develop the first international customer.

3. What challenges, if any, interfere with the growth and competitiveness of small companies if international patent protection is not sought early in the innovation process?

Any smart overseas player sees your concept growing, and begins seizing market share abroad, making it harder for you to enter.

4. What specific role does international patent protection play in the successful internationalization strategies (such as franchising, exporting, or foreign-direct-investment) of small businesses? Does this role differ by industry or sector?

I can't comment, because our firm is ITARS controlled and as such, we have significant issues with a international export or investment.

5. How can the USPTO and other Federal agencies best support small businesses regarding international patents:

(a) In obtaining international patent rights?

Helping reduce translation costs.

Matching grants.

neutral open source of patent search. I love google, but, it'd be nice if Library of Congress provided a search engine.

if i search through Google Patents, am I feeding ideas to a shop in San Jose?

(b) In maintaining international patent rights?

Matching grants,

Infringement surveillance.

(c) In enforcing international patent rights?

let us expend there, or help in WTO filings.

6. What role should the Federal Government play in assisting small businesses to defray the costs of filing, maintaining, and enforcing international patent protection?

Reduced costs,

Matching grants,

7. In order to help small businesses pay for the costs of filing, maintaining, and enforcing international patent applications, how effective would it be to

establish a revolving fund loan program to make loans to small businesses to defray the costs of such applications, maintenance, and enforcement and related technical assistance?

(a) Under what specific circumstances, if at all, would such a fund be effective at helping small businesses?

The loans should not be personal guarantees of the owners, nor should they be primary claims on balance sheet assets.

(b) If such a fund would be effective, should the fund be maintained by the Federal Government, and if so, through what mechanism?

(c) What criteria should be used to decide upon recipients of funding?

Any criteria will be problematic, there should be instead different and broad ranging loan programs.

A export market is useful for establishing potential, but how do you identify disruptive markets?

There was no Market for the iPad Tablet computer, until Apple invented it.

There was no Market for silicon chips until Intel invented them.

perhaps you need an existing market loans program and a disruptive market loans program.

(d) Could the private sector be meaningfully involved in maintaining and implementing such a fund?

possibly. SBA has had success with SBIC's, maybe that could work.

The Other option is to fund State Universities to set up filing organizations to help Small Business write patents. OSU runs a good program for this.

8. In order to help small businesses pay for the costs of filing, maintaining, and enforcing international patent applications, how effective would it be to establish a grant program to defray the costs of filing applications, paying maintenance fees, and conducting enforcement and to provide related technical assistance?

(a) Under what circumstances, if at all, would such a program be effective at helping small businesses?

Grants always help

(b) If such a grant program would be effective, should the program be maintained by the Federal Government, and if so, through what mechanism?

a simple grant program would work, make it easy to implement.

What type of grant program, covering what specific costs, would be most effective?

(c) What criteria should be used to decide upon recipients of grants?

has a US Patent been granted?

How much has been invested to date?

Size of current market?

Potential for disruptive innovation?

(d) Could the private sector be meaningfully involved in maintaining and implementing such a program?

possibly, but a small grant office would work fine.

Use SBA, or MBDA but make sure these are Bona-Fide small business, not native corporations.

9. If the Federal Government is limited to providing either (i) A revolving fund loan program or (ii) a grant program described above, but not both, which of these options would be more effective in

accomplishing the outcome of helping small businesses pay for the costs of filing, maintaining, and enforcing international patent applications?

The Grant program is better. Loans are very deadly, a loan oftentimes serves as a poison pill to future lending. I've seen the banks refuse lending on large loans because of small liens, even when subordinated.

anyone who has ever done a Re-Fi has had all sorts of problems with HELOC's or Water system debentures, etc...

10. Are there circumstances under which the Federal Government should not consider establishing any of these programs?

If it's determined the planet is about to explode.

Alternate Commentary

I believe this is a very important effort, the Patent powers are specific constitutional powers written with an understanding that progress in the arts and sciences would build a great nation. I must counsel against loans, our system is awash in debt, and

credit obligations impair our organizations in multiple ways. I'd rather see grants, with restrictions, tied to our US patent rights, where we must keep the international license fees domesticated. Loans are very hazardous as they create odd contingent liabilities to our balance sheets. Loans impair refinancing of other credit instruments, and complicate our world. Grants are better. Put a covenant that our Domestic patents are tied to some aid, and clawback through those, if we don't prosper or sell the international rights, or tax those gains hard. The people helped us out, let them profit as well, when it's successful.

Look at our investment to date, see if the idea is some fluff, or something where serious manhours and investment have gone.

If we have hired counsel and search specialists, we must be serious, so, use that, or cover 80% of the filing fees, let us come up with the ante. It will help us focus on where we want to file.

Speed of process is as important as anything else. A fast No is almost as good as a yes, so we can move on. Slow ponderous processes

are teh worst.

The micro entity fee discounts are good. It will let us get a shot at filings, with lower costs which are still propotionally as big an investment to us.

Best of luck with this effort, and I remain available to discuss this at our convenience.

Regards

Pat Bahn

TGV Rockets