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To Whom it May Concern:

First of all I'd like to introduce myself. My name is Rich Dulabahn. I am a working software engineer and have been for over 20 years. Software patent reform is a subject that is dear to me, since the laws and policies concerning my occupation affect me directly.

But I'd like to tell you about some people not in my line of work and how they were affected.

Six years ago I worked at a small company in Cleveland called Actron. Actron manufactured OBD2 car code scanners. Car code scanners are simple devices you plug into your dashboard that tell you why your "check engine" light is on. Rather than a simple light, you get a message like "3062 Evap Leak" and you know to check your gas cap and vacuum lines to clear up the problem.

There were three or four other companies that made similar widgets. Over the years a very aggressive campaign of patents were waged among them. This was the death knell for this entire industry, although nobody knew it yet.

The patents were all obvious and abusive. The sole purpose was not to protect innovation and the people who innovate. It was to attempt to drive each other out of business from fees and market lockout. A good example was one that a rival company held. The gist was that it was clever and unique to have a battery tester bundled with a car code scanner. So we were not able to sell such a device. Instead we had to make two devices and sell them separately. Or pay a fee to our rival.

It was hardly a brilliant notion but it did make for a patent under the current system, which choked us on which products we were able to bring to market. This is one example. There are hundreds. These companies had been at each other's throats for decades doing this. We would hold meetings where our supervisors would offer us cash payouts if we could think of little annoying patents to abuse our competition with.

Anyways, enter SPX. A large six billion dollar holding company that wanted to enter into this market space.

Actron's owner was getting up there in years. A recent heart attack which he survived realigned his thoughts on life and he wished to retire. Actron at that time was roughly a 45 million profit a year company, which employed about 400 people. 300 of these were in manufacturing, the other 100 were sales and office support. And a dozen software engineers. A large healthy 100% American owned and operated company.

So SPX courted him. Told him that they would treat us right, the company would remain as it was. Whatever he wanted to hear. He was a big hearted guy and knew most of his staff by name so this was important to him. As an example he would walk out on the manufacturing floor and chat with the people he knew there, some for almost 30 years of work with Actron.

He was eventually talked into the deal and sold Actron to SPX, and retired to play golf.

This is where things took a turn for the worse. SPX began to make other identical sweetheart deals to our rival companies. And wound up over the next two years purchasing all of them but one. What was their motive?

They already owned us and could make car code scanners. They had all of our intellectual property, and they owned our patent portfolio.

As it turns out their motive was to own all of these patent portfolios. That was their actual goal.

They purchased all of these companies and when they decided they had acquired enough they began to gut them. People who worked at Actron for 30 years were let go. Same for our rivals. Engineering departments were laid off, factories closed. We had a massive layoff two weeks before Christmas.

The goal of it all? SPX was purchasing a virtual monopoly. Thanks to the abusive patent war, SPX was able to simply waltz in and purchase a monopoly. Now absolutely nobody can enter the market with a car code scanner. The patent space is carved up so finely that it is absolutely impossible to enter the market without being killed with fees. And that assumes that SPX would even offer that. Most likely you would receive a "cease and desist" letter from a six billion dollar company with enough patents and lawyers to absolutely bury any new rival. Innovation in this field is now dead.

Oh, and I might add that most of the manufacturing went overseas to China. At the end of it all about half of our 300 factory workers were unemployed, and a similar situation exists for each of our assimilated rivals. But China had been making car code scanners for decades since they are not encumbered by our patent system. SPX found this attractive and began to do business with these people at reduced rates, making the American jobs redundant. And they could sell these cheap Chinese knockoffs in America now since they were now the sole deciding factor as to who sells these kinds of devices in America - thanks to their patent portfolio. Before SPX consolidated the patent space it wasn't possible to sell these knockoffs in an American marketplace. Now it is.

So now no innovation is possible. If you want to make a car code scanner you have to live in China pretty much. Rather than make America a place for innovation it is now a desert, at least for this one market space.

While it is true this is one small gadget in one small marketplace, that might lead you to believe the impact would be minimal. But I personally watched this situation sink about 200 jobs. No way to know how many others our competition lost.

Our patent system, with regards to software patents do not just hurt software developers. It hurts other people too. Salesmen and factory workers and American businesses by my experience. In my opinion the system is broken and in dire need of repair if we are to keep pace in a global market. To continue to use the system as-is is to simply surrender our jobs and our manufacturing and any future innovation to China or some other place not encumbered with a patent system written over 200 years ago when it was still possible to invent a better mousetrap. Nowadays patents are simply a club you can use to abuse your competition and ultimately drive American jobs overseas.

Thank you for your time and for the opportunity to tell my story in a forum where it may do someone some good.

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