



Expert Assessment: Don't Overlook the Marketing Value of Your Company's IP: Part 2

By Alec Schibanoff

In [Part 1](#) of this article, we covered the differences between patents, trademarks, service marks and copyrights, and how to optimize the high-tech, cutting-edge value of a product that is covered by a patent. But there's even more marketing value in a patent.

Being issued a U.S. patent is great, but you do not have to actually wait for a patent to be issued to begin using it in your marketing. This is where the marketing department needs to pow-wow with the engineering department (or whatever department at your business does new product development). As you prepare for the launch of your newest WhirlMeister, find out from the engineering department if they filed for any patents on the technology behind your newest product. You do not have to wait until the patent is actually issued to take advantage of the benefits of the patent. As soon as your patent application is filed, you should mark your product, as well as include in all marketing materials, with the term "patent pending." Then go on to explain in your sales literature and at your website that the technology is so revolutionary that your company has applied for a U.S. patent.

Marking your product "patent pending" has an additional, strategic benefit. When a competitor sees that you have a patent in application for your new product, that company might just decide to not develop and/or not introduce a directly competing product for fear it might end up infringing on your patent. The sooner you mark a product "patent pending," the more competition you potentially eliminate before they ever bring a product to market.

But there's more. A patent can be the gift that keeps on giving. Should your company find that one or more of its patents is being infringed, and it decides to file a patent infringement lawsuit against the alleged infringers, that event creates a public relations opportunity for your company. Get the news out via a news release, post the release at your site, and name names. A lawsuit filing is a public document, so there is no downside in detailing in your news release what companies you believe are infringing your patent and are, therefore, the defendants in the lawsuit. And include your patent number and a description of your patent, including a link in the online version of the release. How many chances does a marketer get to make his company the good guy, and make the competitors the bad guy?

As your patent infringement lawsuit progresses, issue news releases updating the progress of the litigation. Most lawsuits are settled out of court, and if yours is, be sure to announce the settlement. If your case goes to trial, and you win, announce the victory along with the details of the jury award.

However, remember that patents expire. At that time, the manufacturing department has to remove the patent numbers from the products that were covered by the patent or be faced with what's called "false marking." Marketing, however, is not so restricted. You can still state in your

sales literature and at your website that the technology behind this product was so innovative at the time of its introduction that it was covered by a U.S. Patent No 2,345,678.

Finally, use all of your company's patents – past, present and future – as assets. For example, in your sales literature and on the About Us page at your website, list all the patents ever issued to your company. Even if your company was issued a patent back in 1964, be sure to promote that your company was always the innovator, always at the cutting edge of technology, and always out ahead of the competition, even way back then!

Too much marketing today consists of empty promises and meaningless bragging. When you can bring hard facts and statistics to your marketing – and that's what patents give you the ability to do – you make solid points with prospective new customers and entice them to take a look at all of your company's products and services.

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