

# Keep a Lookout for Patent Pirates

BY JOE BORDERS

IT MAY SEEM THAT OBTAINING A PATENT FROM THE U.S. PATENT AND TRADEMARK OFFICE WOULD PROVIDE ADEQUATE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS, BUT CORPORATIONS AND INDIVIDUALS FREQUENTLY LEARN THAT THEY MUST APPROACH SUCH PROTECTION IN A PROACTIVE MANNER. PATENT HOLDERS AND ANYONE WHO WANTS TO AVOID STEPPING ON SOMEONE ELSE'S PATENT RIGHTS CAN LEARN THE BASICS ON THE SUBJECT AT THE WEB SITES LISTED HERE.

## Wikipedia

[en.wikipedia.org/wiki/Patent\\_infringement](http://en.wikipedia.org/wiki/Patent_infringement)

This free online encyclopedia is a good place to go for an introduction to the topic. The article talks about direct and indirect infringement, active inducement of infringement, insurance protecting against patent infringement, and patent pirates. A defense against patent pirates, the article explains, is selling or licensing a patent to a holding company. "Patent holding companies have the resources to file patent infringement lawsuits and thus are more effective in enforcing an inventor's rights than the inventor alone," it says.

## About.com

[about.com](http://about.com)

For a more detailed discussion, go to this site and search for "patent infringement." The resulting list (skip the sponsored links) has a link to "The Basics of Patent Infringement." From that page, a user can click links to see articles on how to understand and use trademark and copyright symbols and how to use "patent pending" symbols.

## Patent Infringement Lawsuits

[www.patent-infringement-lawsuits.com/](http://www.patent-infringement-lawsuits.com/)

This site, organized by Lawyers Representing Patent Holders on Contingency, is designed to generate clients, but it also has a handy overview of the patent litigation process. Just click the link for "Patent Infringement Lawsuits." The overview outlines the steps to take in challenging an infringement. "The first step in resolving a potential infringement case is notifying the infringer by certified mail. Legal experts suggest that the initial notice should be polite, friendly, and firm. This notice should request a meeting with upper management and perhaps suggest the opening of negotiations

to allow the potential infringer to license the patent. Infringers should respond to the notice within one month," it explains.

## U.S. Patent and Trademark Office

[www.uspto.gov/web/offices/pac/doc/general/infringe.htm](http://www.uspto.gov/web/offices/pac/doc/general/infringe.htm)

The USPTO Web site briefly tells what constitutes patent infringement. The government office has no jurisdiction over questions relating to infringement. "In examining applications for patent, no determination is made as to whether the invention sought to

be patented infringes any prior patent. An improvement invention may be patentable, but it might infringe a prior unexpired patent for the invention improved upon, if there is one," it explains.

## Chilling Effects Clearinghouse

[www.chillingeffects.org](http://www.chillingeffects.org)

This site is a joint project of the Electronic Frontier Foundation and seven universities, including Harvard and Stanford. The clearinghouse explains the origin of its name: "Anecdotal evidence suggests that some individuals and corporations are using intellectual property and other laws to silence other online users. Chilling Effects encourages respect for intellectual property law, while frowning on its misuse to 'chill' legitimate activity." On the home page, click on "Patent" and on "Trademark," then check out the two sets of questions and answers.

## Intellectual Property Law Server

[www.intelprolaw.com/Forum/Forum.cgi?board=patent\\_infringement](http://www.intelprolaw.com/Forum/Forum.cgi?board=patent_infringement)

This discussion forum provides a place for patent holders to seek answers to specific questions. Some recent topics include vicarious infringement, the material-change concept, using a patent in a different way, and removing an element from a patent.



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