

EIP



Ask the Experts: What can I do if someone is using my invention without my permission?

In the previous articles, we looked at the mechanics of filing a patent application. In this last article of our 'Ask the Experts' series, we will be addressing some of the other ways in which a patent attorney may help your business.

Q: I've applied for a patent, and I'm planning to go ahead and launch my product – is there anything else I should worry about?

A: One of the most common misconceptions about patents is that they are a 'green light' to launch a product or service. Owning a patent allows you to prevent someone else from using your invention (or allows you to charge them for it). If your product or service uses another invention which is the subject of someone else's patent, and that patent is still in force, they can assert their patent rights against you. Whether or not you have obtained any patents, it can be useful to engage a patent attorney solely to assess your product or service for the risk of potential patent infringement. This is sometimes referred to as a 'freedom to operate (FTO)' check.

The patent attorney will assess whether your product does fall within the scope of a patent and may also evaluate the validity of the patent: it may be that it was incorrectly granted. This information can then be used to assess the relative risks and benefits of different possible ways forward.

Q: Someone else is using my invention without my permission – what can I do?

A: As in the previous question, a patent attorney can first assess whether the other party is actually infringing your patent. If so, they can then advise on various options which can

be used to enforce your rights. These may include offering a licence agreement or bringing infringement proceedings through the courts. As with other advice, this will be based on risk, costs and desired (or potential) outcomes.

Q: What else can a patent attorney help with?

A: Conflicts can arise when someone believes that an applicant for a patent was not actually entitled to apply for (and be granted) the patent. These disputes can be avoided by seeking advice very early on (before starting research) to ensure that the ownership of rights arising from inventions is clear. This is particularly important where research is done by people other than employees, such as contractors, or under a joint research agreement.

Because patents and applications are published, they can provide a useful tool to see what your competitors may be planning, or even to identify competitors you hadn't spotted earlier. Patent attorneys can help with monitoring patents in your technical field as part of a competitive intelligence strategy.

Written by [David Hole](#)

Why not download ['The Ultimate Patent Guide for SMEs'](#) to understand more about how your business can successfully use patents to accelerate growth?

Our in-house experts at EIP work with businesses of all sizes to provide practical commercial advice. We are a specialist patent firm with practising offices in the US and Europe, and capable of coordinating the filing and prosecution of patent applications worldwide.

The information in this article is for guidance only and should not be taken as legal advice. If you run or work for an SME and need advice regarding patents, [contact us today](#).

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