

LITIGATION

It is here where counsel may suggest the practical solution of paying a license fee in the range of \$1,000 per employee rather than paying attorneys and litigation expenses. In only one situation has a lawsuit been filed and that was by a company no longer making license fee demands. The litigation was dismissed when counterclaims were filed and defendants with significant resources were added. It is significant to note that the claims are not being lodged against the manufacturers of the equipment or the developers of the software. Manufacturers and software developers have the resources small businesses lack to successfully challenge the patents and put a stop to the endless demands being made.



RESOURCE



The Business Technology Association (BTA) is an international not-for-profit trade organization dedicated to assisting office technology dealers through education, training, information and benefits. BTA has been representing the industry for more than 80 years.

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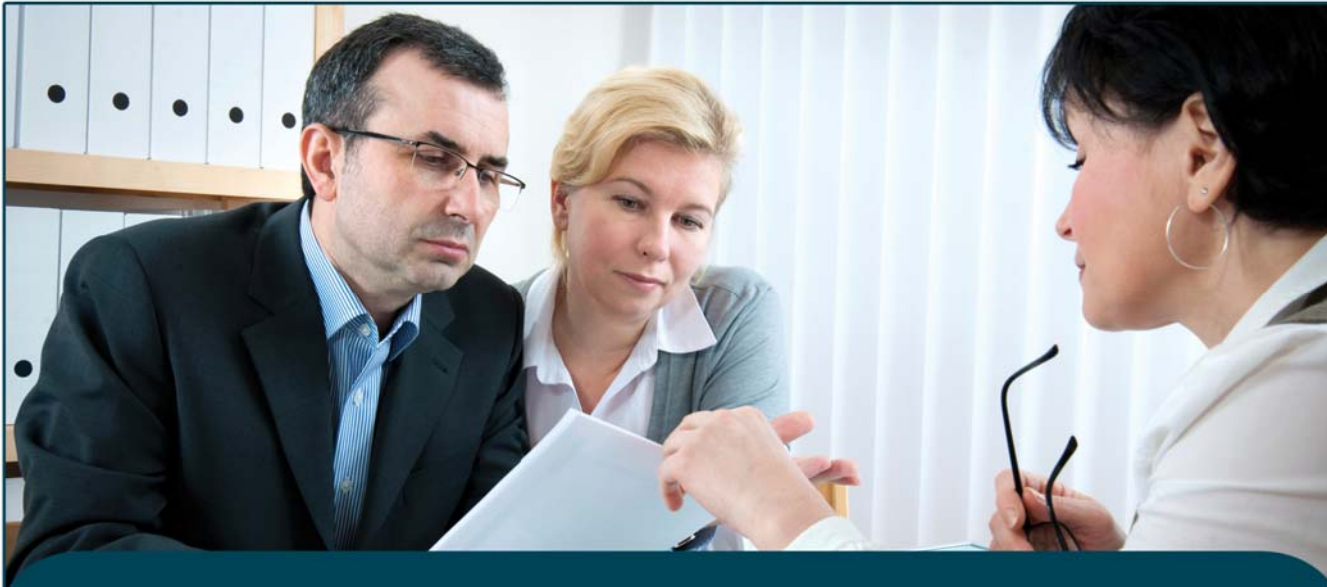


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PATENT TROLLS Am I At Risk?





SCAN, NETWORK, EMAIL

Have you received a letter from one of the many licensing agents of MPHJ Technology Investments LLC? These entities include JusLem LLC, InkSen LLC, EliPut LLC and many others. The correspondence suggests that your company is using patented technology that requires a license for each employee that is scanning, sending scans over a network and emailing a document — a common office function practiced throughout the business world.

The correspondence is sent by what are referred to as “patent trolls.” A patent troll is an entity that neither produces a product nor service, but is established merely to enforce a patent or patents. The patents referenced in the letter are commonly known as the Laurence Klein patents and their descriptions

run nearly 80 pages each. The validity of the patents has been questioned, but that is where your dilemma lies. Challenging a patent involves expensive litigation and considerable time. Neither of these commodities are plentiful for a small business. So, a practical decision is to pay the license fee and avoid controversy. But is that the correct decision?

Recognize that the claim is being made without ever seeing your business, the equipment used (if any) or knowing the process is in use. Many companies have ignored the initial letter only to receive a follow-up from a Texas law firm with a draft complaint alleging violations of the Klein patents. Again, some businesses have ignored this correspondence and others have sought legal counsel.

Q&A

What are the options?

- Ignore the initial letter from the licensing agent.
- Ignore the follow-up letter from the Texas law firm.
- Respond to the letter seeking specifics as to the equipment, software and applications in use that are believed to infringe.
- Respond to the letter denying that there is any infringement and request details as to the infringement.
- Respond that the patents appear to be invalid based upon prior art and prior patents by international corporations.
- Request judicial rulings as to the validity of the patents.
- Engage legal counsel to review your situation and respond to the demands.
- Pay the license fee.

If a suit is filed, notify the Business Technology Association.