



## U.s. Patent Setup Needs Reformation

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The recent out-of-state challenges to stem cell patents held by the Wisconsin Alumni Research Foundation (WARF) lack merit and underscore the need for serious patent reform in the United States.

Reform would stamp out the infestation of so-called patent "trolls," who are patent litigation entrepreneurs who regularly use weaknesses in the system to bilk legitimate manufacturing and service businesses out of millions. Many cases brought by trolls are settled out of court simply because it is cheaper than undertaking lengthy litigation.

U.S. Patent and Trademark Office reforms are needed to benefit Americans by permitting businesses to speed necessary and sometimes life-saving products and processes to market at lower prices.

These reforms would help:

Provide for balanced, rapid patent challenges. Processes do exist for legitimate challengers. The current court process, however, is unwieldy, time-consuming and costly.

The current Patent Office processes -- including the WARF patent reexamination challenges -- are either unbalanced toward patent holders or too risky to be used by business challengers. A more balanced procedure relying on published materials, rather than court-produced evidence, could significantly shorten challenges and possibly reduce frivolous challenges.

Exterminate the patent trolls by requiring all patent applications to be published as quickly as six months after filing. While the trolls have been under attack, they still exist because current patent law allows U.S. patent applications to be filed but never made public.

An over-simplified analogy would be that of someone who invents a broom -- but not the technology to mass-produce brooms. The inventor applies for a broom patent, but keeps the application secret until someone else, unaware of the first patent application, invents a broom making machine. Once the broom making machinery is in widespread use, the broom inventor completes the patent application and sues the broom manufacturers, claiming patent infringement.

By requiring all patent applications to be published quickly, the trolls could be easily identified and infringement avoided.

Give the U.S. Patent and Trademark Office the resources to get the job done quickly and efficiently. Technology, which grows geometrically, has been outstripping the agency's ability to process patent applications. The introduction of biotechnology in the 1980s mushroomed the overload even further.

With the resources to hire more examiners and outsource work to consultants, the Patent Office could remove a major bottleneck, speeding products and technologies to market faster.

In the case of stem cell and critical medical technologies, the results could save lives.

Our patent system was designed to promote inventions to benefit all by protecting the intellectual property of creative individuals and organizations. That would catalyze the free enterprise system.

That premise remains sound. The processes, however, require changes to ensure invention are not delayed, missed altogether, or inadvertently infringed upon.

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