A fresh look at patent laws

By Bill Hewitt and Tod Loofbourow  |  July 23, 2007

A LONG time ago, our economy was based largely within US borders, and patent innovation involved ways to improve the workings of a typewriter. Times have changed.

And yet those days long past still have an influence on today's economy. The days when typewriters reigned supreme are in fact the last time our nation's patent laws were updated to stimulate innovation and grow our economy. And as the economic landscape has changed, so too should the patent laws.

Companies right here in the Bay State estimate that each patent lawsuit they face costs roughly $4.5 million to defend. Such excessive suits co-opt resources that would otherwise be put toward discovering the next innovative product, investing in the state's economy, or hiring more employees. Increasingly, the development of today's most innovative products leads to tomorrow's patent lawsuit.

It's a reality that some of our national leaders are dealing with now, with the hopes of striking a legislative balance between changes in the economic landscape and the need to encourage innovation. Right now, that balance does not exist.

Instead, today's patent challengers can calculate damages in a lawsuit based on the value of the entire product, not the specific component in question. For example, a lawsuit can claim the worth of an entire computer, when only one computer chip is being challenged. It's not only excessive, it's an obstacle to new, innovative discoveries.

Surprisingly, patent challengers can also navigate the system to find the "friendliest" courts to their cause, making places like Texas a popular spot even for companies that have no actual ties to the state. Nationwide, patent lawsuits nearly tripled between 1991 and 2004; between 2001 and 2004, the number of cases grew by nearly 20...
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Our congressional leaders need to show leadership on the issue now. Companies large and small back the Patent Reform Act of 2007, but we can't afford to wait any longer. The delay is hurting both innovation and our economy.

Congress should act to encourage economic competitiveness, foster economic growth, and contribute to job creation. Congress should stand on the side of innovation. Congress should pass the Patent Reform Act of 2007.

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