

# US Inventor

## Fighting to Get Our Patent Rights Back

The current state of the U.S. Patent system is awful for inventors. The last decade has all but wiped out patent rights for small inventors transferring their patent protected property to large corporations.

Multiple decisions by the courts since 2006 and the effects of the America Invents Act of 2011 have been devastating.

- eBay v. MercExchange made it impossibly difficult to stop an infringer. Inventors must now prove it is in the public interest to get injunctive relief.
- In Re Seagate effectively eliminated treble damages for willful infringement.
- Octane Fitness LLC v. Icon Health enabled courts to reverse fees (loser-pay) in exceptional cases.
- KSR Int'l Co. v. Teleflex, Inc made it much easier to invalidate a patent by eliminating long-standing law related to proving obviousness.
- Courts are enforcing laches for only a few months of delay, which eliminates past damages.
- Long standing damages calculations have been eliminated, which has caused damages awards to radically drop.
- A series of cases leading to Alice v. CLS Bank created an exception to patentable subject matter called an "abstract idea". The courts have not defined what is abstract and what is not. The resulting confusion is invalidating challenged patents at a rate exceeding 85%.
- The America Invents Act of 2011 created PTAB procedures (IPR, CBM and PGR) which invalidate over 85% of challenged patents. The cost of launching a PTAB is merely \$20,000, but the cost to an inventor defending the patent can reach millions of dollars.

Our government has created huge incentives for large corporation to steal patented inventions on a massive scale. Most, if not all, contingent law firms and investors have exited the patent business leaving inventors defenseless to theft of their hard-earned property.

Small inventors create the vast majority of America's new industries, companies and jobs. Today for the first time in decades, we have more companies going out of business than we have starting up. The collapse of the U.S. patent system is a major contributing reason.

To correct the collapse of the patent system, inventors must become politically active. Inventors are held in high regard in American society, and have strong political influence as a result.

We must organize our efforts.

- We need to become experts in patent related issues.
- We need a unified voice across Congress, in the media and elsewhere.
- To our lawmakers, we need to loudly and uniformly send our message.
- In local and national media, we need to write letters to the editors and op-eds.
- In Congress, we need to go door-to-door, participate in panels and seminars.
- To political groups, local party groups and elsewhere, we need to spread our message.
- We need to organize.