



Intellectual Property Law

Q Even though my company has its own patents, we just received a cease and desist letter from a competitor accusing us of infringing their patents. What should we do?

A Remember that while having your own patents is important and beneficial in many ways, they do not provide a shield against possible infringement of the patents of others, so any cease and desist letter must be treated seriously.

Seeking patent counsel involvement right away is very important. If you do not, you run the risk of actually making matters worse. For example, many managers confronted with such a letter will ask a staff engineer or scientist to look at the competitor's patent and report back to them. Any documents created by your staff likely will not be

protected by the attorney-client privilege, and may contain erroneous statements that could harm your position in subsequent litigation.

Also, the early involvement of a patent attorney is important because your competitor may be contemplating swift legal action against your company. For example, your competitor may be preparing to file a lawsuit against your company and ask the court for a temporary restraining order or a preliminary injunction. Time may be short to marshal your defenses, so the earlier you get an attorney involved, the better.

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