



Jeff Geiger Counters

Innovation, Not Litigation

By: Jeff Geiger. *Thursday, June 30th, 2011*

Companies can become overly aggressive in their efforts to obtain and enforce intellectual property rights. For example, two days after special operations forces killed Osama Bin Laden, as my colleague [Donna Chmura noted](#), Disney filed [federal trademark applications](#) for “SEAL TEAM 6” for toys, handheld computer games, Christmas stockings, Christmas tree ornaments and decorations, snow globes, entertainment and educational services and clothing, footwear and headwear. To say it was tacky is putting it mildly and Disney ended up backing down and abandoned its applications.

The United States economy is driven greatly by our creative talents and energies: think Hollywood, Silicon Valley, Big Pharma and a university system unparalleled in the world. Because of that, protecting intellectual property is extremely important and may even be considered a national security interest, especially when our economic lifeblood is being pirated in countries with little respect for our rights.

My concern, as highlighted by Disney’s recent mousecapade, is that in the rush to protect intellectual property rights, there is a land grab mentality. It is a mindset that incentivizes businesses and individuals (a) to amass domain names in the hopes that random hits will lead to ad revenues, (b) to become “patent trolls” in which a company seeks to enforce patents despite having no intention to manufacture or market the arguable invention, (c) to blindly enforce purported trademark rights without any real sense of confusion among consumers, or (d) to go after innocent online downloaders of movies as opposed to the actual purveyors of the digital content. I have been on both sides of the “v.” in these scenarios and recognize well that the law supports many such efforts. But is it right?

The [U.S. Constitution](#) which provides that Congress shall have the power “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” So, the focus should be on promotion and innovation, not regression and litigation.

<http://www.jeffgeigercounters.com/>

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