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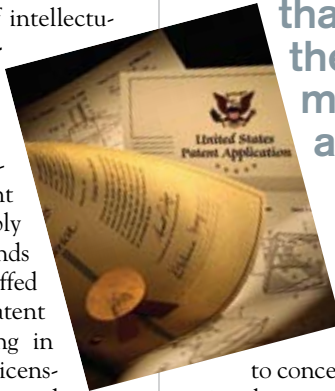
## Time for a change in patent law

The inventions of Scottish inventor and engineer James Watt in the late 18th and early 19th centuries led to the improvement of the steam engine and, ultimately, to the Industrial Revolution. So, it was with sadness that I read recently that he played the patent system like a violin to make himself rich with licensing fees while suppressing important improvements. This behavior continued until the time limits on the patents ran out, at which time a huge surge of innovation pushed

England into the industrial age and provided plenty of tax money in the process. Economists Michele Boldrin and David K Levine make these observations in their free online book about the difficulties of intellectual-property law (**Reference 1**). In a more recent example, the late inventor Jerome Lemelson emulated Watt's behavior: "He didn't invent anything new; he simply looked for technical trends and submitted overstuffed claims that baffled patent examiners" while raking in nearly \$1.5 billion in licensing fees and royalties, according to a 2001 article (**Reference 2**).

I don't think that everything should be free. But a 20-year government-enforced time limit on patents imposes a long monopoly for the patent holder and does not promote the arts and sciences, as the Constitution of the United States says it should: "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" (**Reference 3**).

One of the biggest problems with the patent system is that it forces the government to pick a winner.



Contrary to what you might think, patent laws are not in place to help the little guy; they exist

to concentrate power in multinational corporations. I'm not saying that you shouldn't be able to get a patent. I'm just saying that, if the Constitution authorizes patents to promote the arts, then the term should be closer to one year than to 20 years. This fact should be obvious to anyone who has kept track of modern technology. The Betamax-versus-VHS videotape battle happened because each company had patents that it wanted to incorporate into the next world standard. We have seen a rehash of this scenario in the Blu-ray-versus-HD-

DVD (high-definition-digital-video-recorder) battle, which companies are fighting not to benefit consumers but to reap the monopoly of profits from the suite of patents in the systems. In another example, we are soon going to be converting to a needlessly complex and outmoded digital-TV standard that is subject to interference because those who conspired to shove it down our throats were interested not in giving us the best technology but instead in tying up the scheme with their patents so that they can make licensing revenue for 20 years.

One of the biggest problems with the patent system is that it forces the government to pick a winner, and the winner takes all. It is proper to credit a Texas Instruments employee, the late Jack Kilby, with important contributions to the integrated circuit. But the late silicon-transistor pioneer and Fairchild co-founder, Jean Hoerni, and the late Bob Noyce, co-founder of both Fairchild and Intel, made contributions just as essential as Kilby's to the modern IC.

The US patent system was broken from the start, if only because we emulated the British system, as the Watt story so superbly demonstrates. If we want to boost the economy and make a lot of jobs for engineers, the best thing we could do is severely limit the terms of patents and make them more difficult to obtain. **EDN**

### REFERENCES

- 1 Boldrin, Michele, and David K Levine, *Against Intellectual Monopoly*, [www.dklevine.com/general/intellectual/againstfinal.htm](http://www.dklevine.com/general/intellectual/againstfinal.htm).
- 2 Titus, Jon, "Invalidate Lemelson's patents," *Test & Measurement World*, July 2001, [www.tmworld.com/article/CA189010](http://www.tmworld.com/article/CA189010).
- 3 Morris, Gouverneur, James Madison, et al, *Constitution of the United States of America*, Article 1, Section 8, Clause 8.

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