

Key Concepts in IP Policy: Remedies for Patent Infringement

Private Property Rights Protect the Fruits of One's Labors



Private property refers to the ownership of property by private parties - essentially anyone or anything other than the government. Private property may consist of real estate, buildings, objects, intellectual property (copyright, patent, trademark, and trade secrets).

Source: Legal Information Institute, WEX



Intellectual property laws
secure property rights to
mental labors

Clear property lines tell
everyone what is and is not
protected by another's rights



35 USC § 112 – Specification – requires the patent applicant to provide “a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art... to make and use the same... .”

“The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the inventor or a joint inventor regards as the invention.”

35 USC § 154 - “Every patent shall... grant to the patentee... the right to exclude others from making, using, offering for sale, or selling the invention... .”



Sorry, private
property

U.S. law provides two judicial remedies for infringement of patent rights. The court may:

1. Assess monetary **damages** against the infringer to compensate the patent holder for losses that have already been realized.
2. Issue an **injunction** against further infringing activity to prevent further losses and restore the patent holder's full and exclusive enjoyment of their property.

Breaking into another's
home is trespass. So is
patent infringement



Damages help clean up
a mess. Injunctions
prevent it getting worse.