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Patent Law Analysis by Professor Dennis Crouch

Aug 06, 2010

Michel & Nothhaft: Inventing Our Way Out of Joblessness

Judge Paul Michel and Hank Nothhaft (Tessera CEO) have written an important OP-ED for the New York Times. They argue that an important way for the US government to stimulate entrepreneurship and job growth is by giving the USPTO a large bolus of money (\$1 billion) to put its affairs in order:

This would enable the agency to upgrade its outmoded computer systems and hire and train additional examiners to deal with the threefold increase in patent applications over the past 20 years. Congress should also pass pending legislation that would prohibit any more diverting of patent fees and give the office the authority to set its own fees.

....

To be sure, not every patent creates a job or generates economic value. Some, however, are worth thousands of jobs — Jack Kilby's 1959 patent for a semiconductor, for example, or Steve Wozniak's 1979 patent for a personal computer. It's impossible to predict how many new jobs or even new industries may lie buried within the patent office's backlog. But according to our analysis of the data in the Berkeley Patent Survey, each issued patent is associated with 3 to 10 new jobs.

In addition, the pair suggests an "innovation tax credit" for each patent received by a small business:

To encourage still more entrepreneurship, Congress should also offer small businesses a tax credit of up to \$19,000 for every patent they receive, enabling them to recoup half of the average \$38,000 in patent office and lawyers' fees spent to obtain a patent. Cost, after all, is the No. 1 deterrent to patent-seeking, the patent survey found.

For the average 30,000 patents issued to small businesses each year, a \$19,000 innovation tax credit would mean a loss of about \$570 million in tax revenue in a year. But if it led to the issuance of even one additional patent per small business, it would create 90,000 to 300,000 jobs.

Taken together, fully financing the patent office and creating an innovation tax credit could mean as many as 2.5 million new jobs over three years, and add up to 600,000 more jobs every year thereafter.

It only makes sense to help innovative small businesses make their way to the patent office and, once there, find it ready to issue the patents that lead to new jobs.

Notes:

- Read the full Op-Ed: <http://www.nytimes.com/2010/08/06/opinion/06nothhaft.html>

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