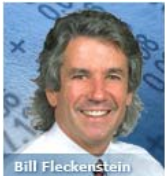


Bing

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Contrarian Chronicles 8/13/2010 6:00 PM ET

A patently obvious way to add jobs

Help on the employment front? All it should take is a little invention, and that help is waiting for us at the underfunded patent office.

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By [Bill Fleckenstein](#)

MSN Money

Over the past decade, I certainly have spent plenty of time pointing out both potential and actual problems this country faces, with none more severe than the protracted nature of the current employment situation.

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[How many are really unemployed?](#)

As the financial crisis was unfolding in late 2008 and early 2009, I actually thought for a while that the incoming Obama administration might try to do something intelligent regarding incentivizing jobs. That was 100% incorrect. The only incentives it has created are ones not to hire more employees, which has only made a bad situation worse.

(See the op-ed "[Why I'm not hiring](#)" from the Aug. 9 Wall Street Journal to find out how the math stacks up against employers; you'll need a subscription to view the full piece.)

Thus, it is with great pleasure that I [Why isn't business hiring?](#) can point to something positive. In the [View more MSN videos](#)Go to CNBC Aug. 5 New York Times, I read about an absolutely brilliant idea in the op-ed "[Inventing our way out of joblessness](#)." In it, Paul Michel and Henry Nothhaft discuss the potential for breaking the logjam at the U.S. patent office and what that might mean.

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Bureaucracy is the evil stepmother of invention

Not being an inventor, I certainly had no idea that the patent office was in such a state of disarray. Though I'm not knowledgeable on the subject, one of the authors, it appeared to me, has enough credibility that I think we can take him at his word. Michel is a former chief judge of the U.S. Court of Appeals for the Federal Circuit, which handles patent appeals.

Michel and Nothhaft cite a study showing that in the venture capital community, 75% of startups require some sort of patent to get financing. That makes it easy to see the connection between patents and new businesses.

The sad, though not surprising, problem is that the patent office can't get enough funding to do its job. According to the authors, since 1992 Congress "has diverted more than \$750 million in patent fees to other purposes," which has created a backlog of -- get this -- 1.2 million applications, more than half of which haven't even been looked at yet.

Michel and Nothhaft propose spending \$1 billion -- chump change when it comes to government outflows these days -- to get the patent office streamlined and staffed up so it can process applications at a reasonable rate.

The authors estimate that, based on historical patterns, about 60% of the backlog of 1.2 million applications would result in patents, and perhaps as many as 137,000 would go to small businesses. Of course, a more efficient patent office would process more patents in ensuing years. (My understanding is that the patent office needs the right kind of people, not just more bureaucrats, but that should be possible.)

The net of all that, Michel and Nothhaft say, would be something on

the scale of 700,000 to 2 million jobs created, depending on what sort of estimates and variables one wants to use. At a middling range of their guess, or 1.5 million, each job would cost the government about \$660, which obviously would be a mere pittance relative to the hundreds of billions of dollars wasted on useless government programs.

In addition, Michel and Nothhaft suggest that "Congress should also offer small businesses a tax credit of up to \$19,000 for every patent they receive, enabling them to recoup half the average \$38,000 in patent office and lawyers' fees spent to obtain a patent." I would imagine there could be additional incentives given on the tax front to help this process along, and I don't see any reason why a patent issued couldn't be fully reimbursed, assuming it ultimately met some sort of sales requirement.

With so many massive problems staring us in the face, it is almost criminally incompetent that an economic logjam like this is allowed to fester. I can't see why anyone would be against this, as no one's ox needs to be gored.

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Working for somebody else's weekend

Contrast that with an Aug. 6 column on The New York Times' website -- "[Battle looms over huge costs of public pensions](#)" -- which is also quite good but rather disconcerting. In it, the problem is succinctly stated:

"There's a class war coming to the world of government pensions.

"The haves are retirees who were once state or municipal workers. Their seemingly guaranteed and ever-escalating monthly pension benefits are breaking budgets nationwide.

"The have-nots are taxpayers who don't have generous pensions. Their 401(k)s or individual retirement accounts have taken a real beating in recent years and are not guaranteed. And soon many of these people will be paying higher taxes or getting fewer state services as their states put more money aside to cover those pension checks."

The writer, Times columnist Ron Lieber, claims this is a trillion-dollar problem, and I wouldn't doubt that the figure could be even higher. It is certainly a problem that will have to be dealt with, as will many of the other contingent liabilities on the federal balance sheet that soon will be not so contingent. All of these problems will require difficult decisions, and fixing them will be an ugly process, but helping out the patent office seems like a slam-dunk relative to these thornier issues.

There are lot of smart people in America, and what we need is for more folks to propose intelligent ideas in their area of expertise. Doing so would potentially generate some positive solutions as counterpoints to all the fighting that's going to take place over the larger, more intractable financial issues the country faces.

'Exit strategy' exited

For some time, I've felt that the pressure was mounting for the Federal Reserve to "do something," as its policy of [quantitative easing](#) and low interest rates has failed to allow it to achieve its goals on two fronts: inflation (which is perceived to be too low, as silly as that sounds) and unemployment (which is too high).

What was unclear to me was whether the Fed would start with baby steps or opt for some sort of shock-and-awe strategy in an attempt to get ahead of the curve.



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Well, we now know that the former is the answer, as the Fed acknowledged Aug. 10 that it can't end (exit) its first effort to push money into the economy, which I've dubbed "QE1." It took some time, but we have now arrived where I always suspected we would: mired in a post-bubble economic quagmire.

What remains is for Fed chief [Ben Bernanke](#), et al., to get serious

about their next step: QE2. Perhaps a plan will be hatched at the [Fed's Jackson Hole shrimp fest](#) in a couple of weeks.

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wordfrominside

Saturday, August 14, 2010 8:56:31 AM

This is an interesting idea definitely worth pursuing.

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overlander

Saturday, August 14, 2010 9:24:44 AM

Most Excellent article, Bill! One of the very best ideas I have heard in a long time. Since we people are a bunch of no names with no clout. Would you please do us all a big favor seriously....and you yourself take this great idea personally along with the 2 gents mentioned in the article to a guy like Ron Paul in Congress? I know Ron Paul would give you 3 guys a meeting with him. Over a million new jobs created if you are successful. Go for it!!!

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jarlsbane

Saturday, August 14, 2010 12:25:40 PM

Fleck, you're really flaunting your ignorance here. Pending patents have NEVER stopped anyone from marketing products based on the pending patents. My name is on several patents, and the foot-dragging by the patent office (even though highly annoying) is NOT the problem as far as bringing products to market. Meddling corporate management is a BIG problem.

Besides, most patents aren't really "inventive", they are instead just a means of limiting competition; very few "inventions" truly justify the monopoly created by the patent. You're just demonstrating your lack of understanding of the invention process.

Please stop blaming Obama for the economic problems. Most of the problems are caused by your conservative buddies in congress. Business aren't hiring because:

1. Lack of demand. Consumers aren't "consuming" because they are unemployed, underemployed, or paying off that under-water mortgage. Fix it by lowering taxes (substantially) on working people; for instance, raise the standard deduction to 100K (\$400Billion in less tax revenue); Make up for it by higher taxes on rich people (they'd hardly notice the extra taxes). It would create about 4 million jobs.

2. The trade deficit is almost \$1Trillion (about 10 million jobs). About half is due to currency manipulation by the Chinese. The Obama-administration could make a big difference by picking a fight with the Chinese about the currency manipulation. But you and your Wall street buddies don't like it because it means a lower US\$, so your Chinese investments becomes more expensive.

The other half of the trade deficit is due to oil-imports. Fix it by making oil-based products more expensive (say \$1/gallon gas tax). Use the \$300Billion revenue to promote domestic alternatives, like natural gas trucks, electric cars, and bio-fuels (ethanol).

3. Lower labor costs by fixing health-care. Health-care is a bigger burden on business (those that offer health-care that is) than all other benefits combined. Fix it by allowing anyone to sign up with Medicare at cost (average for that age-group). Medicare is so much cheaper than private health-insurance.

The republican plan (that you seem to support), to get the economy going, is to cut taxes on the wealthy, so that they can export more American jobs by investing in China. That seem to be the republican solution to all problems. Please stop blaming Obama for actually trying to address problems, that probably mean nothing to you and your buddies on Wall Street, but really hurt

the little guy on Main Street.

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celt33

Saturday, August 14, 2010 1:25:20 PM

Standard liberal drivel. You know nothing about the patent process. Give us your sources for this "interpretive opinion". Do you own a business? How much do you earn/clear per year? Your parents were poor-right? Little chip on the shoulder I detect. China is not the pernicious bacteria you think it is, no no, it's IDIOTS who have continued to drink the kool-aid concocted decades ago by the collectivist bolshiviks like YOU. Keynes IS wrong, has been WRONG forever. Why don't we require EVERYONE to pay some measure of federal tax, whether you make a billion or make 200 dollars a year. How much should we take out of your miserable lefty hide? Medicare is a disaster you fool, Social Security is blown out. Please, go back to the planet OBAMA and luxuriate in a pool of government largess.

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b_capp

Saturday, August 14, 2010 2:17:57 PM

I've got a couple of patents ... google patent # 7499155 for one of them. The problem with patent law ... is the law itself. The truth is most patents filed end up making only the patent lawyer money ... that is ... a typical 'established' patent lawyer might make \$250,000 a year. On the flip side, most inventors who file a patent are lucky to get back the costs required to obtain the patent.

Placing patent law to the side ... societies/cultures which nurture those folks who are innovative and inventive tend to 'survive' problems created by the society at large. For example, without the 'invention of burning coal' Britain would have never found a way around the fact that most of Great Britain's mainland timber resources had been depleted by the 1700s. Today, it might seem obvious that using coal to produce heat is a better solution than using wood ... but I can assure the MSM readers ... to those alive in the 1600s IT WAS NOT. Neither was Watt's invention of the steam powered 'engine' ... which in itself ... fueled the entire industrial revolution.

Besides the significant bottleneck in U.S. patent law ... the other bottleneck is in CAPITAL FORMATION. Simply put, without capital almost all inventions are worthless. As Silicon Valley and the venture capitalists residing there are the key to most start up capital in America today ... the 'valley' has a complete 'lock' on who gets what in terms of capital ... and the terms the 'valley' requires in order to obtain capital don't usually justify an inventor inventing. In other words ... for every dollar the 'valley' gets from an invention the inventor might get a penny ... and I'm not joking.

And finally ... as for capital ... there is a SOON TO BE SEVERE energy crisis coming to America ... that's been in the works for over thirty years. Exxon isn't going to solve the problem ... as XOM (AND GM) IS THE PROBLEM. Biofuels are not a solution and neither, on a long term basis, is natural gas. But there are solutions to the 'transportation problem.' The fact is ... they are simple solutions ... and don't think for a second I'm proposing going back to the horse and buggy days. But the fact is ... the 'hydrocarbon buildout' companies and the banks which lended money to the 'hydrocarbon buildout of America' companies ... AREN'T GOING TO ALLOW SUCH SOLUTIONS TO TAKE HOLD IN AMERICA ... because if they did ... they would be out of business.

And that folks ... is why the American economy as we know it today ... is simply A MESS ... and living on borrowed (money) time.

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Jarlsbane

Saturday, August 14, 2010 3:02:49 PM

celt33 you profoundly demonstrates the complete bankruptcy of conservative ideology. I gave you my source for this "interpretive opinion": repeated personal experience. Making up fantasy worlds will NOT change the way the real world works; no matter the amount of pixie dust. Medicare is MUCH more cost-efficient than private health-insurance; it can't be wished away.

No amount of personal attacks, name-calling, or blaming J.M.Keynes changes the fact that conservative ideology got us in this mess and (if continued) will only take us deeper.

Conservative ideology of cutting taxes on the wealthy, so that they can export more American jobs by investing in China, will take us deeper into the hole. We need to cut taxes on lower and middle income earners, so they can spur demand for American made products and services.

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bgDog

Sunday, August 15, 2010 8:19:09 AM

10 years of excess spending and lower net revenue has produced this mess. Blame doesn't work. Austerity measures and fraud reduction will stop the bleeding but job creation is the real revenue stream. Patents, job tax credits and SBA loans should all be considered. If banks will not loan give the money to the SBA and mandate small business loans and any training that needs to be done. This nation's credit card needs to be cut up.

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miles and miles of grass

Monday, August 16, 2010 3:56:48 AM

If this is true regarding the patent office and the backlog. Then one would surmise that if an individual brought a product of great value say a new battery to market he would have to be extremely rich in order to protect his patent from infringement by competitors and competition. If he markets his product prior to actual receipt of his patent. This does not bode well for a free market system and start up companies. The idea has merit if the facts are true.

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jestjack

Monday, August 16, 2010 5:36:37 AM

I couldn't agree more with the pension issue. It troubles me that someone can retire from government service in their mid to early 50's with a generous pension and guaranteed increases for inflation and that the taxpayer could pay this "benefit" to the employee for another 40 plus years. Not to mention the generous health and welfare benefits that could add another 30% to the pension costs. Elected officials have simply made promises we can not keep...

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Ekonoman

Monday, August 16, 2010 5:37:55 AM

Here's another voice in support of Jarlsbane. He's got it about right re patents.

My personal experience was that merely applying for a patent was entirely sufficient to dissuade the competition. In general, the first person to the patent office with an application gets the patent, so if someone else is trying to invent the same thing, he'll probably calculate that he's wasting his time. Even better, he doesn't know the details of your application (is it broad or narrow?), and prudence might well demand that he err on the side of caution. In that sense, the application may be far better than the patent.

I have no idea what Celt33's problem is (besides hating liberals), but I think his philosophy is more "nutcake" than "conservative".

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