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## We Have Met The Enemy...

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In the old Pogo cartoon strip, the lead character has a line, "We have met the enemy and he is us". No greater sentiment could be applied to the solo inventor.

It is unfortunate, but among many solo inventors there is a great mistrust in dealing with corporations or licensees. Moreover, folklore abounds with stories of "greedy big companies" lying in wait to steal ideas from the poor solo inventor. *Actually, most big companies don't want anything to do with solo inventors!*

I represent a number of solo inventors and small companies. It is heartbreaking for me to watch these individuals, after years of hard work, destroy wonderful opportunities through mistrust, greed, and plain old orneriness.

My first experience in dealing with a solo inventor occurred when I was an engineer for a large air-conditioning manufacturer. A solo inventor sent us, unsolicited, a design for an electronic thermostat that he wished to license. We tested the thermostat and were enthusiastic.

Our competitor was hitting us over the head with their new design and our model was still on the drawing board, two years from production. Marketing believed that licensing the solo inventor's design would be a quick and easy way to bring a product to market as a stopgap measure until our own design was developed.

Unfortunately, the inventor, sensing interest in his design, quickly changed his terms and pricing for a license. He felt that if we were so interested in his design, his initial asking price must have been way too low.

Despite the fact his invention was protected by patents, he was also very secretive about how the invention worked, refusing to show us schematics of the invention and grinding the chip numbers off the prototypes he shipped to us.

After a few months of this, even the most enthusiastic advocate in the marketing department gave up. We would lose market share and wait until our own design was ready. A great opportunity for both inventor and

company was lost.

My initial experience was not an isolated one, unfortunately. I'm sure you've head of Robert Kearns, "the windshield wiper guy". Kearns will tell anyone who will listen how he has been screwed out of his invention by the big car companies. Unfortunately, the reverse is true.

Kearns was offered almost \$30 million for his investment in the 1970's, only to turn it down, insisting that the car companies buy his invention directly from him. After years of tedious litigation, a failed marriage, and a mental breakdown, Kearns has finally won less than half of the original amount, most of which will go to lawyer's fees.

It is very unfortunate, as Kearns perpetuates the myth of the big corporation being out to "get" the little guy. Worse yet, inventors such as Kearns convince many corporations to adopt an "NIH" (Not Invented Here) policy with regard to outside inventions.

The tragedy of Kearns is that he has fought so long for what he believed are the rights of the little guy -- while his battle has actually harmed the chances of solo inventors in the future. Please don't do us any more "favors", Mr. Kearns!

A good friend of mine recently took a job as corporate patent counsel for a large sporting goods company. He has tried, mostly in vain, to get outside ideas submitted by solo inventors considered by the company.

His biggest obstacle? Not management... Not the engineers... The inventors themselves! Many inventors who have very good ideas fall into the same trap of mistrust and vacillation. If the company expresses an interest in the invention, the inventor immediately thinks that the company is going to "screw" him. Eventually, management gets frustrated and drops the idea.

A client of mine recently marketed his idea and received a very positive response from a large manufacturing concern. In addition to flying him coast-to-coast for in-person meetings (at their expense), they paid him thousands of dollars for an evaluation prototype.

"Great work!", I told him. "Naw, they are just screwing me. They'll make all the big money!" The same sad story. After the inventor changed his terms several times and attempted to "control" the invention by withholding the one working piece as "proprietary", the company lost interest.

Why do inventors engage in such self-destructive behavior? I believe the answer lies in several areas:

- 1) *The process of negotiating a license is exciting and full of potential possibilities.* Wonderful things are on the horizon! Everyone wants to talk to you and hear your opinion. In contrast, receiving royalty checks is rather dull, even if they are large checks. I call this effect "being

enarmored of the process", in effect a form of excitement addiction.

2) *Genuine mistrust*. The stories of inventors being ripped off are so well spread (but not well documented) that a myth of corporate piracy has developed. In most famous cases alleging corporate rip-offs, the solo inventor ends up winning in the end -- sometimes when not even deserved. Patent cases pitting a solo inventor against a big corporation are a nightmare -- for the corporation! A jury will always have sympathy for the little guy, and such lawsuits are not good for public relations. No wonder most companies just opt out of the process altogether by refusing to consider outside ideas.

3) *Lack of appreciation*. As an inventor, you should appreciate that a company is going to bring its manufacturing, distributing, and retailing experience to bear on your invention. These are not trivial contributions! Manufacturing engineering, in particular, is one of the most difficult and unappreciated sciences -- and certainly is not as interesting as inventing. Hence, I wonder why Kearns yearned to be a manufacturer! Shelf space or catalog space can be all-important in trying to market your invention. Even if you manufacture your invention yourself, without a retail distribution network, you'll go broke. Help your licensee make money for the both of you.

Unfortunately, some inventors believe that a patent is a license to print money -- which of course, is not true. Folklore abounds regarding successful inventors. Such stories usually end with the phrase, "and then he got the patent and made a million dollars!". What is left out of the story is the hard work necessary between getting the patent and getting a product to market.

While it is true that it is difficult to license or sell ideas to a large company, it can be done. I have interviewed a number of successful inventors and they have given me the following hints:

1) *Build a working model*. It is difficult, if not impossible, to market an idea that exists only on paper. It is much easier to excite the imagination of a potential licensee with a working prototype. In addition, a prototype proves the concept will work.

2) *Protect your invention*. Many companies I have dealt with will not even consider an outside idea unless it is patented or a patent applied for. As one corporate attorney told me, patenting an idea shows that the inventor is serious enough to invest in his own idea.

3) *Be willing to license or sell your idea*. This may sound obvious, but some inventors become reluctant to part with their inventions, which they see almost as their children. In addition, some inventors become so enarmored of the process of negotiation that they are reluctant to *let go*. Play it straight with potential licensees. *Don't* try to leverage your results by threatening to license your invention to the competition.

4) *Be willing to help the licensee make money from your invention.* Expecting a lot of cash up front for an idea is generally unrealistic. A licensing agreement based on a percentage royalty is a win-win situation for both inventor and manufacturer. A manufacturer is interested not only in licensing patents, but also the "know-how" and "show-how" of your idea. A good licensing agreement may also include a consulting contract. Be prepared to help your licensee make money from your idea -- that is why they are interested in licensing it.

5) *Keep expectations reasonable.* Every inventor thinks his or her idea is a "million dollar idea". Unfortunately, the worth of an idea is what the market (e.g., manufacturers) are willing to pay to license it. A common mistake is to assume that the worth of an idea is equal to the amount of money and time you have invested in it. Pick a reasonable price and be willing to negotiate. Don't raise your price or change terms at the last minute. These are deal-killers!

6) *Keep on inventing!* The most successful inventors rarely made all of their money from one idea, but rather had a panoply of ideas and inventions. Some make money; some do not. Inventors who put all of their efforts into one invention or idea are seldom successful and typically end up in protracted, bitter patent litigation. Take a license, invest the proceeds -- and move on to the next project!

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