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Making Innovation Work for America and Americans
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I would like to start in a place that most people in the world of patents and patented technology do not start. So let's start in an unusual place. How do you create a job? How do you create a job in America or any country?

There is a lot of talk about we need more jobs, we need better jobs, high quality jobs, good paying jobs. And most people would say, "Well, who creates jobs? Companies create jobs?" No, companies don't create jobs. If companies created jobs, Eastman Kodak would still be a giant company. So companies clearly don't create jobs. Eastman Kodak would know how to create them if companies created jobs. Companies don't create jobs. Does government create jobs? Well, in a manner of speaking, when government takes our tax dollars and hires bureaucrats to do jobs that we want or pays our military, yes, the government can create jobs. But as a general rule, for the government to do that, they have to take the money from the private sector where the jobs are and they have to tax it away from the private sector in order to essentially reallocate that money to create a job. So that's really not a net new job. That's just taking money from the private sector and creating work to do. I'm not saying it's unimportant work, it's just work to do.

So who actually creates a job? I know there are a lot of lawyers in the room and I like attorneys. I'm not an attorney and I don't play one on television. But every time I ask an attorney who creates a job, they have the right answer. An attorney would say, "Clients create jobs," right? No clients, no job. And in the real world, as opposed to the attorney world, we have another way to say that. We say, "Customers create jobs." You see, if you have a customer, you can have a job. No customer, no job. In fact, all the companies in the world that are growing fast and hiring people are doing so because they have more customers to serve and therefore, have to hire more employees to make or service those customers. And in the process, they expand employment. And if those customers are not easy to serve and actually require some skill to serve those customers, guess what? The jobs are higher paying jobs. And if those customers simply want to buy iron ore out of the ground, then those jobs are generally lower paying jobs since mostly machines take iron ore out of the ground, not people. Except the people who operate the machines, of course.

Now, that brings up the next question. How do you create customers? Now that's a tougher question. And most people don't even have the answer to the first question, which is how do you create jobs. So they never spend any time thinking about how you actually create customers.

There's a group of people in the world who actually try to figure out how you create customers. If they're small groups – small organizations serving them – we call those people entrepreneurs. But there are many different names. The big companies, you know, call them Sales & Marketing where they're trying to create new customers for the enterprise. And the answer to, "How do you create customers," is not very hard. You create customers by delivering something that a customer wants more than the money they have. It's the easy answer. It's true every time in a voluntary marketplace. It's not true at the DMV, but it's true in the private sector. In the private sector, our customers have money in their pockets, we have products and services in our arsenal. We offer to

exchange the product and service for the money in their wallets and guess what? They would rather have the service than the money so they give us the money and they are happy for the service or the product.

That's how you create customers. You actually solve a problem for the customer in excess of the price they're willing to pay. And if you can solve problems, you can have new customers. If you're really good at solving problems, you can have a lot of customers. And if you're really good at delivering a lot of value per what people want to buy, you can have a billion customers. If you're Facebook, you have a billion customers. In literally five years, you can go from zero to a billion customers. In the case of Facebook, they're not paying with their money but they are paying with their attention. They're paying with their information, their data. They're paying you to be a Facebook customer and Facebook turns around and turns that into value for Facebook. But make no mistake. You can have a billion customers if you solve a problem in the modern world that a billion people have.

So how do you solve a problem? If we know that customers are the things we want, how do you get more of them? And the answer is inventors. Inventors improve products and services in a way that has a market value. If you want an engine to work, to create jobs, to create customers, you're going to have to have inventors who add value to products and services above the marginal cost that a customer is willing to pay. And you're going to have to have organizations that bring those products and services to the customers. Now those inventors don't have to be private inventors, they do not even have to be corporate inventors. Those inventors can be innovators – another term we use typically when they're more about improvements and less about whole new inventions. But make no mistake. At the core of economic expansion, economic growth is invention and innovation. Pick your term, they're the same for the purposes of our discussion today.

Therefore, we need innovation. Without it, we don't have improved products. Without improved products and services, we don't have customers. Without customers, we don't have jobs. It's just that simple. We can get our monetary policy right, we can get our fiscal policy right; but without an economy that innovates and effectively brings that innovation into a marketplace that values that innovation, we will not see the economic results we desire. Which means if we don't have a strong ecosystem that supports innovation, if we figure out how to suppress innovation or destroy the motivation for it, we're going to have less of it since this isn't rocket science. If we tax something, we'll have less of it. If we make something hard, we'll have less of it. If you make something complicated, we'll have less of it. If we make something expensive, we will have less of it. By definition, this is not – again – hard to figure out.

But when we step back and we look at the world we have for innovation, we see this strange animal in the innovation space. And here's what we see. We see there are some people, companies, organizations who are innovating and are keeping their innovations secret. They're saying, "I've got my innovation and I'm going to keep it to myself. After all, why do I want to share my innovation with my competitors? Why do I want to share my advantage? I've invested time, money. In many cases, I have failed on twenty other innovations before I found even one that worked." So you have to allocate all the failure costs to every successful innovation.

I was just at lunch talking to a person who works at one of the Fortune 50 companies and I asked a simple question. I said, “For every thousand innovations – and we’re going to talk about what innovation is in a second – but for every thousand innovations, how many of those innovations do you keep secret and how many of them do you seek legal title to?” His answer was, “Three to five.” Three to five? Which means that for every thousand innovations, nine hundred and ninety-five I’m going to keep secret and three to five, I’m going to try to get legal title to. In America, we have a term for this – actually, the world has a name for this – legal title. We call it a patent. It’s not a magical thing. It’s the title. That’s all a patent is. It’s just title to a solution to a problem. Because what is an innovation or an invention? It’s a solution to a problem. If you haven’t solved the problem, then there is nothing to patent.

Look at that math. Nine hundred and ninety-five solutions to problems by a company that spends billions solving problems – billions a year solving problems. Nine hundred and ninety-five, they keep to themselves. Is this good for our country? No way. It’s not. It’s a disaster for our country. We have managed to figure out how to suppress the teaching and sharing of innovation so effectively that our enemies could not design a better system if they tried. We keep nine hundred and ninety-five to ourselves and three to five, we publish. This is not good for us. And it’s even less good for us when you look more closely. Because it turns out in the modern economy, most solutions to problems have to build on somebody else’s prior solution.

Now if you look at the music world, you see this very clearly. Hip-hop or new musical forms appear and somebody else jumps on that musical form and then somebody else jumps on that musical form. And before you know it, there’s thousands – tens of thousands, hundreds of thousands of musicians – all improving incrementally, slowly better, and they’re making that music rich and complex and valuable and exciting. That’s how an open system of innovation works. Everybody builds on everybody else’s. And in fact, in the United States, that was the underlying premise – the underlying premise – of the democratization of invention. We wanted, in return for a teaching to the society, if you would teach everybody your secret, we would give you a limited period where you could exclude others from stealing it and in return, everybody else could build on it. And if they could build on it just a little bit, they could get title to the improvement. And then somebody else gets the title to the improvement and somebody else. Just like copyright in music. You can make something fantastic, I can build on it, I can do a version of my own. I can’t steal your lyrics, I can’t steal your exact notes, but I can take your form.

So music is a perfect metaphor for what happens when people are actually improving each other. We have just the opposite in technology – just the opposite.

In the past twenty or thirty years, one could argue that didn’t matter a whole lot. Why? Well, for those of you that are Americans, which is most of you in the room, we were the most powerful nation. We had the industrial might, we had the distribution might, we had the capital might. So the fact that we basically didn’t use our technological asset base well, we had so many other ways to win the game, it just didn’t matter too much. That’s not true anymore. It’s completely the opposite today. Today, you have a world in which our competitive advantage is primarily our ability to innovate, primarily our ability to solve problems faster than societies that don’t solve problems. Because in many cases, their legal infrastructure doesn’t reward the solving of problems or their culture actually doesn’t reward the solving of problems because their culture penalizes failure so

aggressively. America – you know, if you’re a failure in America, that’s like a credential on your resume. You know, Bill Gates, our best failure, right? He dropped out of college. We’re proud of it in America.

The rest of the world’s aghast. In China, they say, “Oh, the guy didn’t score well on the test, on the gao kao. He can’t go to college.” Okay? The rest of the world punishes failures. We Americans go, “Yeah, good for you,” okay? Because we understand as a culture, we’d rather fail five times and succeed once then never fail and never succeed. That’s just the American way. And yet at the same time, we have seen the world change where our key advantage, our ability to iterate technological solutions to problems, our ability to take a technology from Industry A and move it quickly to Industry B and then move it – quick diversion to Industry C. And then build on it and combine it and do something new in Industry D.

Guess what? We don’t have it. We don’t have it because we have evolved a system that uses title as a weapon. We’ve evolved a system where to get a patent is expensive. We have evolved a system where even if you have a patent, unless you are a king, you can’t enforce it; because the sport of kings is patent litigation. We have evolved a system where a rational company would say, “You know what? For every thousand solutions I create to problems, I’m going to keep nine hundred and ninety-five of them to myself. And maybe I’ll share five with others and I’m not even sure why I’m doing that.” Because unless they’re a perfect diamond gem, the rest of the gemstones, the rest of the diamonds have no market of any kind. We have figured out how to exclude nearly everybody from the game of innovating and we are going to pay a staggering price if we don’t fix it.

Now, most people hear, “Fix it,” and they hear, “Well, we’ve got to fix the titling system. You know, we’ve got property and we’ve got title.” But I’m going to say, “Yeah, that’s true. The titling system is broken.” Because after all, let’s take our homes as a piece of property. Most of us have – or our cars, right? We all own a car – or most of us in the room own a car – and most of us have title to the car. It’s pretty clear, if you pick up the title to your car, you know exactly what car it covers. It’s got a VIN number, it’s got a name on it. It’s title to your car. Title to your home is a little trickier but not much. You call a surveyor out and you spend a little money and he or she perfectly plots the borders of your land and you know exactly what you own.

But when it comes to solution to technology problems, our title is unreadable. In fact, it’s not just unreadable. If you try to read it, you are told that you might be liable for just reading it. Let me see if I get this straight. Somebody publishes five out of every thousand new ideas, solutions to problems, and if somebody picks up one of those solutions, the most public of all documents, and reads it, they are somehow increasing their liability – right? Is that nuts? Bill Gates had a memo once that said you could be fired as an engineer at Microsoft for reading patents. It was grounds for immediate dismissal at Microsoft Corporation. Let me get that straight. Immediate dismissal for reading the five out of a thousand improvements that actually got published. Whoa, that’s a disaster, ladies and gentlemen. That’s a total disaster. Not only can I not even tell what the title covers, it takes a hearing in court to tell me what the words actually mean.

So let me get this straight. I invent a solution to a problem. I decide it’s one of those few solutions that’s worth investing in and hiring lawyers to get me title. I hire lawyers to get me title. They write it in a language I can’t read or understand, and neither can anybody else. If anybody else reads those

inventions to possibly contact me and want to hire me to work with them, they could be sued for more damages than they think they would otherwise have to pay. And when it's all over, I need a federal judge to tell me what the meaning of "is" is. That's a system for the destruction of innovation. Let me repeat that. That's a system for the destruction of innovation. And that's exactly the system we have.

Many of you in this room have figured out how to work with that system. I get it. Especially if you're a big company or work with a big company. You have to play the cards you've got. So if you're a giant company or you work for a giant company, you're up at the top of the pyramid. You say, "Look, I have these assets. I have to figure out how to work with them. My competitors have them, I've got to figure out how to work with them. We've got to try to monetize or we've got to try to value them. We've got to deal with what we have." And I appreciate that. But some of us have to get to work reinventing the entire system. Notice I didn't say reinventing titling. By the way, pretty good idea to reinvent titling. I'm all for that, too, right? We need to have a title that I know what it says when I read it and so does any business who can read it. We need to have a title where the legal system hasn't hijacked it so that the CEO can't possibly read a patent. What good is a solution to a problem a CEO can't read? That's nuts.

So at the end of the day, I'm all for improving the title system – making patent quality, cost, clarity – I'm all for all that. But we do all that and we will still fail to create the jobs we want. We will still fail to create the competitive advantage we want. We will still fail to create the economy we want. We will fail. Because fixing the titling system isn't fixing the innovation system.

Now, here's the good news. The good news is Americans, as a culture, aren't usually waiting for their government to solve their problems. We've had some experience in America demonstrating that government is usually not great at that and so we don't sit back and say, "You know what? I can't wait until a bunch of congressmen get together and figure out how to make our business grow." Not going to happen in our country. A bunch of senators aren't going to get together and figure out, "You know, this innovation thing has got me in a tizzy. I've got to figure out how we can sort of re-prime this innovation pump." That's not going to happen. Frankly, this is not their job, and we in the private sector should not expect them to do this. And though there are many well-meaning people in the civil service, especially in the Patent Office, I don't think they're going to figure it out either on the regulatory side. They don't have the experience. You know, it's like asking a bunch of professors to go to work as Marines. Professors are great as professors. They're lousy as Marines. You want Marines, you better hire people who know how to fight and follow orders. You want professors, you want people who know how to think and sort of follow orders [laughter].

So the challenge here is can America's private sector step up and actually re-conceptualize a voluntary system that unlocks this extraordinary set of assets we already have on the five per thousand and unlocks people's desire to make public and use the other thousand solutions that they have; maybe move some of them into the patent system where they could possibly teach others in ways that people could use. And that's exactly what I'm working on. And I'm not the only one working on it. There are others. But that's what I'm working on. I'm working on it because at the end of the day, this is a problem we need to solve because it's so big and so critical. This isn't an esoteric argument about patent claim construction. This isn't an esoteric argument about whether or

not patents are too expensive or whether or not you have to somehow figure out how to sue people cheaper or better. This is not about that at all. This is about the engine that will drive the twenty-first century economy. Make no mistake.

Now, there's a lot of people who completely misunderstand this engine, including people who are in it. For example, I have many friends in Silicon Valley. The people in Silicon Valley, you know, they don't want to hear about title to property and slow moving patent systems and court systems. They're moving at light speed. Their attitude is, "Jay, I'm trying to get problems solved, I'm trying to create customers now, I'm trying to scale. Get out of my way. Just get out of my way." And I appreciate that, particularly if you're drinking the water and breathing the air in Silicon Valley. I get it. But at the end of the day, when it's all said and done, if you actually don't own the solutions to the unique problems you invented, you're going to get copied at a radically fast rate at an incredibly low price.

You see, at the invention level, that is your differentiating story at your business. It is, in part, why giant companies keep so many things as trade secrets. They know they're better off keeping them as trade secrets than teaching their competitors – especially in foreign markets who might read those disclosures because patents are teachings – and basically, just steal the result of their R&D and have no recourse against those companies in a global market who does steal my R&D. I understand that. Silicon Valley just has that on steroids. So Silicon Valley's story is, "Get out of my way. The system you have is so broken, so stupid, so against innovation. I'm just going to run faster than my competitors." And that's the philosophy from most of the Valley. "You know what? I give up on all these lawyers, slow moving properties, slow systems, arbitrary discussions. I'm just going to outrun my competitors. By the way, I am going to get patents up on Facebook but I am not quite sure why. Because somebody's going to copy me and I'm not sure what that's going to mean. But they told me I need them so I'm a CEO and so I'm going to have some; because when I get sued, maybe I can counter sue."

We need to reinvent the entire narrative about patents. Ladies and gentlemen, it is not about patents. It's about solutions to problems. If every time somebody uses the word "patent" – and we actually prohibited it at our invention lab for many years, you were never allowed to use the word "patent" ever, because a patent is a legal term for the title to an invention. I only want to hear about the invention. I don't want to hear about the patent. What did you invent? What problem did you solve? Can we own the solution to that problem or have others already solved it or has it been anticipated in some way so we can't own the solution to the problem?

I understand if we can't own the solution to the problem. The last thing I want to do is invest in that solution. As you heard mentioned, I have quite a few patents. And I can tell you that for every patent I have, there's ten I don't have. There's ten solutions to problems we had where we couldn't own the solution. And we said, "Nope, can't own that solution. Nope, can't own that solution. Nope, can't own that solution." And then, for every of the ones that we can solve the problem where we could own the solution, we said, "Yeah, we could own that but we'll never get paid. Yeah, we can own that, we'll never get paid." I can't tell you the number of times people tell me about some little problem. I go, "Oh, I know how to solve that problem. You just need to do this, this, and this, and that goes away." And they go, "Wow, that's fantastic. How'd you know that?" "Well, I actually solved it about ten years ago because we saw it coming. But nobody knows of our work. Why?"

Because I never published any of those. I never sought to get it issued as a patent. The economics just didn't support it. There was no system that had a low cost entry point to let me in and there was no system that had a low cost return or a high volume return that motivated me to teach it.

Ironically, this problem has occurred before. I've mentioned the music market because it's a good example. Today, there are three big music rights organizations worldwide. You probably know them, since this room's pretty sophisticated. There's ASCAP, there's BMI, and there's SESAC. Let's just talk about ASCAP for a second as the name for all of them, right? So ASCAP is an enforcement firm, which is a fancy way to say that if you don't take a license, they will sue you. Then it pulls together all the musicians and said, "Look, list your music in my catalog. Don't transfer ownership. It's not an aggregation, it's not a consortium. Just list them in my catalog. I will go out and find people who you will never license to one at a time; I will sell them simple licensing agreements that covers their business whether they're a restaurant, a bar, whatever they are. And I will give them access to my whole catalog. I will collect money from them at some reasonable amount and I will give eighty-five percent of the money – eighty-five percent of the money I collect to the musicians."

Now, there was a time where ASCAP had zero licensees. Zero, right? It was around whatever, 1910. And musicians were saying, "Wait a second, they're recording my music. This is my property and they're not paying me," and there was no way to pay. So they had zero licensing revenue. Last year, ASCAP had seven hundred thousand licensees – seven hundred thousand. From zero to seven hundred thousand. Took them a hundred years – seven hundred thousand. How did they do it? They did it by creating simple, low cost, high volume licenses, which is what we're going to have to do here in the area of innovation. Because ultimately, at the end of the day, there are millions and millions and millions of innovations. The number of innovations that we patent in the United States are a pathetic, tiny fraction of the innovations we actually do. Almost infinitesimal. But the fact is if we found every inventor and we gave them a reasonable way to own something and then gave them a reasonable way to be sure that if somebody used it they would get some amount of money, we could change the entire dynamic of why inventors would teach their inventions.

Now, it's obviously not going to be simple. Inventions have fuzzy borders. What does that cover? What doesn't it? You know, obviously, that's why claim language is so complicated. I'm not advocating that music, which has simpler borders, is a parallel to intellectual property, patented property that has inherently fuzzy borders. But guess what? We have new tools. And by that, I mean, we don't need to find a standard of infringement as the only mechanism to move value. Today, if I have an invention that's patented and I can't prove that you're infringing, I can't get you to pay. I can be nice, but I can't get you to pay.

We need to figure out a different standard. And it turns out we can have one. Statistical relevance. You see, we really don't need to get into an argument if your business uses hundreds of different patented technologies, which patent you're infringing on. We might be able to use statistical relevance and big data systems to sort of generalize a standard that says, "You know what? We're not going to argue about any one, any five, any ten patents. Why don't we put together a group of relevant patents for you? You'll pay us a small amount of money. There'll be a large volume of licensees. And then, everybody who's listed in that catalog will get an allocated share."

Whether or not you agree with this idea – and it’s a simple idea, statistical relevance – there may be two others, five other ways to do it. But at the end of the day, here’s the issue. Of the 2.3 million U.S. patents, less than a hundred thousand have ever earned one dollar of licensing revenue. Now all the litigators in the room go, “Yeah, Jay, because the rest of them are worthless. If you can’t litigate them, they’re not worth anything.” I can see some smiles, okay. But there is a different reality behind those smiles. The vast majority of patents are worth something. It just depends to whom, under what circumstances, and under what technologies, but they’re worth something. They’re a bit like diamonds. Yeah, a few diamonds are gems and they’re sold at Tiffany. But the vast majority of mined diamonds are not gem quality diamonds and they’re used in endless industrial applications all the way down to coating technology for diamond dust. It’s the same in the US Patent database. At the top are a few gems. But all the way down are an extraordinary set of values that just need to be priced right. They need to be found. They need to be located.

What’s happening today? Well, with ten thousand new patents published or issued every week, does a small or medium sized business have any chance of finding a technology that could be useful to them? Of course not, they have zero chance. Only the biggest companies can play that game with the data mining tools and the staffs and the analytic teams to find, “Wow, there’s a technology over here we could use.” But large companies, as big as they are, cannot carry the full weight of innovating in our economy. Small and mid-sized companies have a role and need a place at the table. But they are completely locked out of the patent system, a hundred percent. It’s as if we took 2.2 million of our patents, the result of a trillion dollars of R&D every year, put them in ice, and put them in the freezer. And by the way, put an electrified – a legal fence around the freezer, too. Don’t go looking in there. That’s the system we have.

We need to figure this out. We need to reverse it. We need to make it so that small and mid-sized companies look at patents as opportunities. Opportunities not just to license but opportunities to solve the problems they have to get new customers. That’s what an invention does. It solves a problem.

Now, it may solve a problem that most companies have in some R&D function. “How do I improve my product?” And by the way, it used to be very vertical. It used to be, “I made a baby carriage, I sort of looked in my art field.” Does anybody think your art field is the place to look for relevant technologies anymore? That’s like a joke, right? Technology is horizontal. Technology is in every business. And not in just the manufacturer technologies, but in the digital technologies and the social technologies and the mobile technologies. All those things are all horizontal. We’re going to need to figure out – literally figure out – how to give small and mid-sized companies a way to get at the information that matters to their competitiveness, to know who they might want to talk to who can help them.

Now, it’s not just the licensing, as I’ve said. In many cases, what I really want to know is, “Wow, there’s a company over in Indiana that makes a coatings technology that they use in the industrial equipment arena and I’m over here in the medical space. I had no way to know they were doing that. I’m trying to do this R&D to solve my customer’s problems. I want to contact that person. I don’t want a license. I want to talk to them. I might want to hire them. Maybe I want to joint venture with them.” The world is filled with these unexpected ecosystem issues. I can’t find those people. I can’t find those companies. I argue that in many cases, the most important thing on a

patent is the name of the inventor. Not the spec and not the claims. Because the name of the inventor might be exactly the person who can help my company solve a customer problem, create a job, grow, achieve a competitive advantage. That's an item that nobody's looking at.

And you know what the next thing I might want to find out is what else that person has ever done. Because I may think, "Wow, that patent turned up for this, but has he done other work? Has she done other work in this field? I had no idea there was a company in this field in another industry in another state in another country." We look at patents as licensing tools because we look at title and we look at litigation as the lens. And I'm here to tell you that's a nice lens, but that is not going to well serve the United States. We need to come up with voluntary answers. We need to come up with answers that excite small and medium sized businesses. And excite them with a simple and affordable approach.

What do I mean by simple and affordable? Well, right now, most companies in America have no plan to deal with patented technology of any kind. They're trying to innovate their products and services because all companies have to innovate their products and services because they have competitors who are innovating their products and services. So everybody's in the innovation business, everybody. The only question is if I'm a small and medium sized company, how do I do it? Who's going to help me? That's what I think patents can actually do.

I think a basic patent plan, which is a fancy word for a plan to access inventions owned by somebody – that's what patents are, inventions owned by somebody. If I say to a company, "Look, there are two million inventions owned by people in America – and globally, but they're under the American database. In addition, there's ten thousand new inventions every week coming out. How would you like me to find the ones that are most relevant to your business, most relevant to your products and services, most relevant to your R&D challenges, and I'll tell you who they are? Will you pay me a small monthly fee to do that? And how about if I not only tell you who they are, I'll get out of the way, you can contact them yourself. How about if I give you licenses to some of them as part of what you pay me on a basic fee? Why? Because some of these are inventions you might want to license before they get sold to somebody else who might assert them against you. You're going to want to have some risk mitigation. How about if I also give you an expert to talk to you twice a year on the phone who actually understands how people own intellectual property, how they actually own inventions? And that person – well, we call that a patent litigator in this room – that patent litigator, in many cases, can actually give you real advice explaining, "Here's what to worry about, here's what not to worry about.

How about if I also give you reports from the patent database of what your competitors are working on?" "What do you mean?" "Well, it turns out that if your competitor is trying to get a competitive advantage where they're going to own that advantage, they're going to have to file a US patent, which is going to get published in eighteen months even though it's in a waterfall of ten thousand published patents a week. Guess what? We can watch your specific competitors and see what patents they're applying for. They may not get them but it's a great early warning system to see what your competitors are up to.

So now, a company goes, "Let me get this straight. I pay you a small amount of money – I could afford that – on a regular basis. You give me reports about what my competitors are up to, you give

me reports about opportunities I can have with technology I might want, and reports about adjacent markets I might want to enter. You give me some licenses to some pieces of owned property that might come back to hurt me someday. You give me some basic advice from people who actually know what's going on in the world of owned technology about how I might use owned technology. Will you help me even get some more of my own technology?" "Absolutely."

See, my belief is that the patent license, for the vast majority of the patents in the US Patent database, should be about one to two thousand dollars a year. That should be a typical license in the United States for the ninety-five percent of patents that currently generate zero revenue.

So let me see if I got this straight. Your small company has five, eight, nine patents. And if I go out and find people that want to include your patents in a group that I statistically use, I'll give you one to two thousand dollars over the life of the patent. Are you going to get rich from that? No. Pay your maintenance fees, not bad, okay? But that's a good start. I'm going to start giving you revenue but even more than that, I'm going to start showing you who you might be working with, what companies you might be partnering with, what universities you might be hiring, what professors whose names are on those patents might actually know how to reduce your R&D costs faster and improve your products and services more quickly so you can have more customers so you can create jobs? That, my friends is what is called "a patent strategy".

When you say "patent strategy" to people in this room, what you hear is "legal weapon defense strategy." That's what you hear, I get it. I have a foot in that world, too. I understand. I've been sued and, no secret, have sued. But here's what I think we need to hear. Opportunity, technology, ownership, invention strategy: A strategy to grow a business, to get new customers.

What's your new customer technology product improvement strategy? I don't know. Come to mention it, I don't have one. Exactly, you don't have one. And by the way, you didn't have an internet strategy in the year 2000 and you probably don't have a mobile strategy today. But you now have an internet strategy and you're going to need a mobile strategy. You're going to need a strategy to deal with the owned technology solutions of others no matter if you're a small business or a medium sized or a large. Just like if you used to rip off music because you were a restaurant or a bar and you paid no attention to all those musicians, you basically said, "None of them can come after me," You're going to have it. You don't need the organization in the middle to be suing. There's plenty of you in the room that are doing it for that organization.

You literally can have a neutral organization that represents both patent users and patent owners. Because in many cases, they're exactly the same people. The small companies that are both users of patented technology are also the owners of some patented technology. And in fact, they're also the owners of the vast majority of trade secrets in the country because they're the ones who almost never patent anything and yet, they solve problems all the time.

So let me recap and then I'll leave time for a couple questions.

We have a giant innovation system problem in the United States. We have figured out how to destroy – destroy – the motivation to teach innovation to anybody other than yourself. Not only have we figured out how to destroy it but we have figured out, therefore, how to retard the rapid

growth of innovation except in those industries where copying is so easy, you can't keep your trade secrets secret.

So if Facebook produces something new, you can immediately see it's new and you can theoretically copy it. And of course, there are cultures outside our legal system that are just sitting there waiting to copy every innovation improvement we have – every last one. Because in the modern world with the internet and the speed at which things move, we don't need to have highly complicated deconstruction reverse engineering to figure out what you're doing. We can find out almost immediately what you're doing. And without a strong system that rewards innovation by giving innovators a return for their teaching – literally, an ecosystem that fundamentally works for innovation – I guarantee you, we'll have ninety-five percent less of it than we want. And that's not a winning strategy for us. Thank you very much, ladies and gentlemen. [Applause]

Any questions?

The question is, “what is the solution”?

So I didn't come up here and detail a solution because I really don't want to present my own business. But I'm launching something called the United States Patent Utility, that's the name of it. And you can go on the web and you can see it. It is a voluntary and affordable way for both patent users and owners to have a service that's inexpensive and simple that allows companies to get access and understanding of patented technology to solve a lot of their problems, some of which may be R&D problems, some of which may be finding new customers or new market problems, some of which may be licensing problems, some of which may be risk mitigation problems. But as I've described the problem – and I didn't really want to make a pitch for my solution – I've described the problem that anybody has to solve.

If you agree that I've described the problem well, then you can evaluate whether or not my answer is the right or the best answer. Now ironically, the answer's not going to make a lot of sense to the people in this room any more than Priceline made any sense to some people some years back. Because the utility is designed specifically for the people that are outside the patent world – literally, the people who are outside the business. If you are in the business, you're going to say, “Well, we don't need this, we don't need this. These licenses aren't terribly good, this no-fault idea is not terribly good.” But the idea of disruption is it serves the non-consumer. And in the world of patented technology, all small and medium sized businesses are non-consumers. It's too expensive, it's too complicated, and they're not in the game. We need to get them all in the game because it not only benefits both them and the creators of that technology, but it benefits all of America in the process by the rapid iteration that happens when everybody's in the game as opposed to when ninety-five percent of the people are outside the game.

So as you look at the utility, it may make very little sense to you. Because it was designed, as I spoke with fifty and a hundred small businesspeople, as I spoke with universities who choose not to go to court to deal with it, to deal with small inventors who feel disenfranchised by the system. It's meant for the people who are outside the system – people willing to fly any time of the day, any airline. That's not the people in this room. It isn't designed for any of you. But that doesn't mean it

isn't designed to be big. It is. It's just the vast majority of that pyramid is not in the world of patents and patented technology today.

Other questions?

So the question is, "How does open source fit into this question?"

The answer is open source is a solution to a different problem. The open source community has basically said, "Property slows us down." And not only that, there are people who are willing to do things without an economic motivation for other reasons – for whatever good reason they have. Wikipedia is a perfect example, right? This is not a competitive vision to open source. Open source makes sense for any community that wants to do open source. But for everybody who's willing to donate their labor or their ideas for free, there's another fifty who want to get paid. And the beauty here is you don't have to choose between the two. We can have Wikipedia, open source, and if somebody else has a way that pays people and it ends up being a competitor to Wikipedia, fantastic. If Wikipedia has no competitors because nobody else can figure out how to pay somebody fifty cents, that's fine, too.

But at the end of the day, humans generally want to get paid for their risk and for their time. And currently, the vast majority of inventors neither get paid for their risk or their time. They're completely frozen out of this system and we need to get them back into the system or they're not going to play with us.

Thank you very much, ladies and gentlemen. It was a pleasure talking to you. [Applause]