

## Legal Hacks for Creators, Inventors and Entrepreneurs

Issue 3, August 2022

*Welcome to my very short and informal newsletter, sharing a bit of what I find interesting, quirky, or just fun about Intellectual Property Law and Patents. I publish this once a month or so to share with you at least one idea that I think you will find both interesting and useful.*



### **#1: When Inventors Split**

When founders get together to start a company, the big blow-up is usually not in the business plan. But with all the contingency planning that goes into a commercial venture, a breakup of the founders is a single point of failure that can have confounding consequences, especially if they are joint inventors of the technology.

A couple of inventors decide to combine talent and resources and file a patent application covering their technology. They raise some friends and family money, build a working prototype, and then the tensions build as the real slog of start-up entrepreneurship amplifies underlying tensions. Some partnerships can survive this uphill boulder-push, but many others are not, and the founders split up. Then comes the difficult question of who gets to keep the technology.

This can be an especially lonely time for the founders because the professional advisors that have guided the Company in the early days may be sidelined by conflict issues and an understandable desire not to get pulled into the fray. The friends and family money becomes another source of tension, as giving money back is not always so easy if co-founders can't agree on how to manage the bank account.

In this recent video I talk about what happens when two joint inventors are not cooperating on their invention and decide to go their own ways. Who gets rights to the patents, and what happens to income from use or sale of the patent rights? This is more than just an interesting academic question as it comes up a lot in business.

So why is there a dog in the video thumbnail? I promise it's not just cute clickbait, so please click on the [video](#) and enjoy, and leave me a comment if there has ever been an inventor break-up in your past or if you have suggestions for entrepreneurs during troubled times.

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## **#2: Sued By A Monkey**

This edition of my newsletter might feel like the animal journals, but this monkey story is so fascinating that I just had to vlog about it. Photographer David Slater was visiting a nature preserve in Sulawesi, Indonesia when a monkey picked up his camera and started snapping photos. When I first read this story, I honestly couldn't get past the threshold question of why a professional photographer would ever give his camera to a monkey!

Predictably, the story goes from bad to worse for Slater, but not in the way one could ever imagine. Slater published some of the photos in a coffee table book of wilderness animals, the monkey pictures went viral on the internet and the monkey ended up suing the photographer for copyright infringement. No kidding!

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In my YouTube video, *Sued by a Monkey*, I look at the court's analysis of this copyright case as the Federal 9<sup>th</sup> Circuit Court of Appeals grapples with the two procedural questions of whether monkeys have standing to sue, and then whether the Copyright Act even applies to monkeys and other animals. Is it possible for animals to be the authors of creative works and to enjoy the protections of the Copyright Act if these works are infringed by humans?

The court's decision here is important because it also guides us on the more relevant question of whether works of art authored by Artificial Intelligence machines such as Robots can be protected by the machines that create them.

Leave a comment on YouTube, below the [video](#), if you have questions about this or any other related IP matter. I and others would love to read your comments. Thank you for watching my videos, and for "liking" and subscribing. Have a wonderful and creative month.

Warm wishes,

-john

***P.S. if you've missed the previous issues, [click here and read them all!](#)***

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*John is a founding partner of Carr & Ferrell LLP, one of Silicon Valley's foremost technology and litigation law firms and specializes in patent litigation and intellectual property matters. Although never an inventor, his name appears on more than 10,000 patents and patent applications, for corporations including Apple, Cisco, Facebook, Sony, and many others. John is admitted to practice in California; in numerous Federal jurisdictions, including before the Supreme Court of the United State; and in the U.S. Patent and Trademark Office.*

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