

# Valid Motives For Filing A Patent Application

How to Avoid Costly Mistakes Before Drafting and Filing A Patent Application

Common Myth:

What is NOT a Valid Motive for Filing Patent Applications

**WRONG Assumption: patents provide you with a Freedom-to-Operate**

This would be a **totally wrong motive for filing a patent application.**

A patent is not a license for doing what you have patented.

A patent only means that you have acquired a sword against competitors that do what you have patented.

Others can still use their own patents against you, whether they have filed them before or after you. In other words, you may have a patent that is dependent on another patent.

**Hint: don't file a patent application if all what you want and nothing else is to achieve a Freedom-to-Operate for your invention.**

# Hard Core Motives: „I smell blood“

**Assumption: patent protection actually works in court so that a patent can be asserted using the administrative system and the court system.**

**If that is the case then you can file a patent application in order to:**

- **achieve a greater share of the market** because customers have less choice
- **prevent conflicts:** your own patents work as a repellent against competitors asserting their patents against your company, because they fear that you will fight back
- gives you a **basis for entering into licensing agreements** with others: make money from your invention by convincing them to take a license from you

# Soft Core Motives: Patents as „Creative Magical Objects“

**Assumption: a patent is perceived as some sort of intellectual certificate**

**If that is the case then you file a patent application in order to:**

- **demonstrate the creativity of a person, especially of those with a developed ego**
- **obtain tax benefits**
- **achieve exemptions from competition law restrictions**
- **increase ranking in public benchmarks**
- **achieve internal performance metrics**
- **obtain a government subsidy, especially if the government subsidy is larger than the costs for obtaining the patent application**

**... and many more**

# Special Cases: Neither Hard nor Soft Core

**Assumption: the patent is perceived as a potential threat, even if it cannot easily be asserted in court.**

If that is the case then file a patent application in order to:

- **make your business more attractive to investors:** make the bride prettier
- **create an asset in the balance sheet** that can serve as a collateral for a loan
- **Enable cross-licensing:** share a market between a limited number of competitors
- **prevent employees from walking away and opening their own business** with your company`s know-how
- be used as **evidence in a conflict:** who invented what at what time? Important if two parties work at the same project
- **if bureaucrats** want your device, and you can easily keep competitors out
- **Standard Essential Inventions:** encourage others to adopt your technology
- **comply with legislation, e.g. the German Employee Inventors Act**

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