

# Startups, Patents, and Me

Posted by Geoffrey Clapp

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This morning, Mobihealth news reported that Bosch Healthcare has sued three companies on alleged infringements of the Health Hero patent portfolio. Although I don't know the details of the lawsuit beyond what is reported, my former role as COO/CTO and author of several patents for Health Hero resulted in me waking to numerous emails asking me what I thought. There was even one that asked me if I felt like I had "*blood on my hands*." I searched around the bed for a horse head.

Of course, I had three options.

1. Keep my mouth shut
2. Reply "*no comment*"
3. Blog about my opinion

A smart person would have chosen one of the first two options.

## The Caveat

Before I get to my biggest issue, let me be clear that I'm not against patents, only their abuse. Our patent portfolio saved us many times, and was, as a defensive mechanism, a brilliant device. It gave some people confidence to choose us in a competitive situation, for example, with Panasonic. It led to a license with Philips Electronics and others, who were going to run over the top of us without it. It made us better partners to McKesson, and certainly enhanced our valuation. Most of the credit for the depth and size of the patent portfolio goes to Steve Brown, who started patenting many of these core ideas *long* before there was a Health Hero Network. If you look closely, priority dates go back to 1992. That's amazing foresight, and also why some of the claims which look "obvious" today are actually shockingly predictive.

## On Startups and Healthcare

My disappointment is predictable and obvious. Bosch is litigating MedApps, Waldo, and Express MD Solutions. These are hardly brand name companies. You only need to look at my dedication to Rock Health or view Angellist page to know I believe Healthcare and Technology (in general) are both best served by supporting entrepreneurs and startups. Most will fail. Some will change the world. But there is nothing more motivating, exciting, and encouraging than seeing experts of all kinds coming together to solve real problems that scare other people away.

There is a sign that hangs at the doorway to Rock Health, paraphrasing something I wrote in response to a different topic, but it sums up the point of view.

Every "big" company has to decide how to work within its ecosystem. Most simply ignore it, outside large conferences and events. There are some who focus supporting the ecosystem, through the availability of APIs, Hackathons, incubation sponsorships, and other vehicles. There are, of course, also those that choose not to ignore it, and not to support it, but consciously attack. Nothing wrong with that either, but who you choose to pick on matters. I'm uneasy not so much with patent litigation, but with the targeted companies. I hope the community does not quickly forget this action next time someone offers a conference sponsorship or speaking engagement.

Lawsuits like these have, much to the detriment of true progress, become the new normal. With a sigh, I read through the quotes from Bosch defending the process:

*"We feel it is important to demonstrate that IP is important, and not just to our company"*

Does anyone - and I'm serious, is there a single person - who feels that this **demonstrated IP was necessary for other companies**? Did you read the article and think "*thank you for clarifying that for me, I had no idea IP was important.*"

Just say it - you have a patent, the system allows you to protect it, and clearly there is some competitive threat from the market you feel the need to defend yourself. Okay, that's fine and within your rights. But when you start to talk about making a **demonstration** of someone, here's what I read: "We're going to take someone out behind the shed to make a point. We picked someone we know can't fight us with dollars or time, and we're sending a message to the rest of the market." When it's three startups with barely any traction, it's hard to read it any other way.

Now, I have no idea if there's a misquote in there or not, but read this one (emphasis added):

*"Bosch is open to working with those companies that are interested in **securing this technology** through a licensing agreement."*

I've got a better idea. Build something people want, and technology licensing won't require a shotgun. Again, I don't know the details, but if this is really about forcing severely outdated technology down the throats of others, that's an even more horrible state. I hope that's misquoted and pure patent license is on the table, if nothing else.

Bosch and Health Hero are better than this. There was a time when we built great, patient-centered solutions to real problems, and there are still so many high-quality people there who are, in the end, only motivated to fix a broken healthcare system. But this can't go without comment - the very companies being litigated against could be the next Health Hero, and the market, the healthcare system, and our patients deserve better. I want Bosch and HealthHero to be great, and I'm sure they can again rise to that greatness, but this is not the path.

While this "demonstration" may be Bosch's right, that doesn't make it right.