
Subject: Re: For Wayne and Mike
Posted by [Russell](#) on Fri, 30 Sep 2005 02:28:21 GMT
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As an attorney myself, I find all this banter about public domain quite interesting. Unless you have a truly new and unique way to accomplish something, or a truly new and unique improvement to an existing idea the idea isn't patentable. Most tube and transformer (not all, McIntosh among others received patents) are so old and reused there is nothing "unique" about them in patent law. Let's say you wish to protect your particular idea, say a 2-way crossover schematic, 2nd order, that you tweaked and tweaked till it worked perfect and it took mountains of R&D and you wish to keep it secret. What are your methods? For a crossover like we just discussed, it would not be patentable, there is certainly nothing unique about a second order crossover. So, you can name it and copyright the name, but you are not really protecting your idea, just the name and any "goodwill" you might build into it. All that's left is "trade secret", that is, keep your mouth shut, no one else in the company knows, and you mold the crossover into a non transparent piece of plastic resin. This is about your only recourse to keep it out of the "public domain". That being said, it won't stop people from "reverse engineering it" (buying one and tearing it apart to see what's in there) much like many said B&K did on their original ST 140, which was amazingly similar to Frank Van Alstine's old mosfet amp of the time. Nothing strictly illegal, as long as no patented ideas were pinched, and those old mosfet output circuits have been around a long time. I often chuckle to myself when I see an article where the author reveals his complete plan and schematic for some piece and states something like "this is my idea, you are allowed to make one for home use" "no other use is allowed"... these bald statements are totally without meaning legally speaking, unless the author has an idea that the U.S. patent office thought worthy of a patent. Otherwise, by the very printing of the idea, he himself has injected his otherwise unprotected idea INTO THE PUBLIC DOMAIN! In fact, even if your idea was patentable, now that you printed it up and published it, someone could probably PREVENT you from EVER getting a patent, because the idea IS already in the public domain! Now if he has named his item and copyrighted the name, you can not use his name and build the product using that name, nor could you commit the business "tort" of using the "goodwill" someone else built into a company, by offering the public a product that is so close in name that people would tend to associate it with yours, so he is essentially getting business from "goodwill" you have built into your company. They would have to make it clear to the market that they are a separate entity not associated with your "goodwill". I could not start a motorcycle company and call it "Harley Davidson". But perhaps I could start a company that made whisk brooms and call it Harley Davidson, or a motorcycle company called "harley davidson", I could argue that no one would associate harley with whisk brooms, or that the two company names are different enough to prevent confusion in the market. I'm sure they would counter that they are so well known in more than motorcycles, i.e. clothing, selling name to Ford to put on trucks etc., that the market WOULD confuse and thus I am swiping their goodwill. Or perhaps I make a HORRIBLE whisk broom and their complaint is that I am damaging their goodwill by confusing the market between their good name (and its goodwill) and my crappy one. Their goodwill is being damaged by my associating my crappy product with too similar of a name. If it isn't patentable, you must keep it secret, or it IS in the public domain if you release it by "publication". Just saying it isn't is meaningless. You can not stop any one from using it for whatever purpose they want, even competing with you in the market. One could not use your actual cross over diagram that you printed, (assuming you copyrighted it) and distribute it in their product, but they could "re-draw it" and use it all they want! Not much protection

businesswise, really protects goodwill that you have earned in your company, not the idea for the product you are selling. Unfortunately for DIYers, if you have a speaker plan or transformer plan that is nothing unique enough to earn a patent, all you can do to protect the goodwill in your company would be by copywriting your materials and name and KEEPING IT AS A TRADE SECRET!KFC cant patent their secret spice recipe, if I figure it out I can use it all I want, I just cant call it KFC. Thats why its a SECRET recipe.kind of a bumner for Diy types. Fortunately, there are sites like this one where all this uptightness is replaced with a mutal respect for Waynes intellectual property and the wonderful sounds they make! Party on Wayne!Regards Russelc
