



The Daily Dish

A Novel Approach to Patents

DOUGLAS HOLTZ-EAKIN | JULY 30, 2025

This story in *The Wall Street Journal* caught Eakinomics' eye: [Trump Administration Weighs Patent System Overhaul to Raise Revenue](#). At present, patent holders pay a fixed fee of up to \$10,000, sometimes spread out over a number of years. According to the story:

Commerce Department officials are discussing charging patent holders 1% to 5% of their overall patent value, a shift that could dramatically increase fees, according to people familiar with the matter. The idea is being considered by Commerce Secretary Howard Lutnick as part of his plans to raise revenue and [narrow the government's budget deficit](#).

Memo to Secretary Lutnick: Dude, the deficit is \$2 trillion. Stop digging through the couch cushions and convince your boss to reform Social Security and Medicare. This is not a serious budgetary exercise.

There are some other considerations as well. This is a tax on the return to innovation and may very well deter some innovation. Granted, the 1-5 percent tax does not sound like much, but the actual impact is an empirical issue that cannot be known in advance. It is worth noting that this would put the United States out of step with global norms, so *where* you do innovation may be easily affected by the tax. Get ready for the patent exodus.

If one thinks about it, this is a tax on innovation wealth. Did Congress actually give the Commerce Department the authority to levy taxes? Moreover, when Senators Warren and Sanders proposed wealth taxes over the past several years, it was far from obvious that wealth taxes are constitutional. Did Congress actually give the Commerce Department the authority to levy unconstitutional taxes? For the record, the authority to collect fees expires next year. Would Congress actually bless this in a renewal?

Finally, the proposal seems completely unworkable. The patent office would have to track every patent through its entire life, collecting the 1-5 percent every time it is licensed, embedded in a new product, or even sold. This is a gargantuan undertaking. Even more problematic, the patent office would have to attribute to each patent the share of the overall value of each product it is used to produce. For example, an iPhone embodies hundreds of patents. How much value goes to each patent? How much do the Wi-Fi patents get? The Bluetooth patents? The processor patents?

This is a classic example of doing something that does not solve any real problem. Please stop.