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How Do I Make Money Off My Idea To Reconfigure and Combine Two Patents To Make A Third Product?

[Kristie Prinz](#)**Q.**

If I take two separate products, both patented, both manufactured by the same manufacturer, and combine them in a way to make a "new" third product using parts and pieces from the original two products mentioned above, can I license the reconfiguration design to the aforementioned manufacturer/patent owner without incurring an infringement problem? How do I protect my idea, so that the manufacturer doesn't say that they already discovered the new design?

-- Rob

A.

In all honesty, this scenario is too complicated to be able to address in a column. You need to retain the assistance of a good intellectual property transactions attorney who can look at the technology and all these issues in more detail, and then address your specific concerns.

Having said this, as a general rule you cannot take two patented products and combine them to make and commercialize a third product, except pursuant to a license agreement providing you the specific rights to do so. You will likely need to negotiate a license agreement with the patent owner, which expressly grants you the rights to act on your idea and licenses to you the rights you need to make the idea happen. Your license agreement may be exclusive or nonexclusive, depending on what you are able to negotiate with the patent owner. However, you will be licensing rights from the patent owner rather than to the patent owner.

As for how you protect your idea to combine the two products, your best protection will likely be a well-drafted nondisclosure agreement, provided by the intellectual property transactions attorney you have retained. In addition, it is possible that you may be able to keep the specifics of your idea somewhat vague in negotiating the license agreement, which obviously would provide an additional layer of protection, assuming that the specifics are not critical to drafting the agreement.

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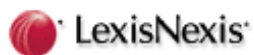
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Again, my best recommendation is to consult with and retain an intellectual property transactions attorney in your jurisdiction to look at all these issues directly and work with you on determining your best course of action.

-- *Kristie Prinz*

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