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Corporate Officers Beware—The Shield Is Thinner Than You Think

A March 2, 2026 decision from the U.S. District Court for the District of Delaware delivers a significant warning to startup founders, CEOs, and corporate officers involved in product development and marketing: the corporate form offers no protection from personal patent infringement liability when you are the one doing the infringing.

In *Duvall Espresso IP Enforcement, LLC v. Meticulous Home, Inc.*, Magistrate Judge Christopher J. Burke addressed a motion to dismiss a patent infringement complaint against both a Delaware corporation (Meticulous Home, Inc.) and its sole founder, owner, and CEO (Juan Carlos Lopez Pendas), who resided in Mexico. The court's ruling, granting in part and denying in part the motion, produced four holdings that carry immediate practical implications for corporate officers.

1. Personal Liability for Patent Infringement: No Veil-Piercing Required

If you are a founder, CEO, or sole owner of a closely held company, you may assume that incorporating your business insulates you personally from patent infringement claims. That assumption is wrong. The *Duvall* court, relying on the Federal Circuit's 2021 decision in *Lubby Holdings LLC v. Chung*, 11 F.4th 1355, made clear that personal patent liability attaches whenever a corporate officer personally participated in the infringing conduct—regardless of whether those acts were performed on behalf of the corporation, and without any need to pierce the corporate veil.

In applying this standard, the court found the complaint sufficient as to Mr. Pendas based on allegations that he personally operated the company's crowdfunding websites, advertised and marketed the accused espresso machines at an industry trade show in the United States, and was the sole decision-maker behind all of the company's infringing activities.

If you design products, manage crowdfunding campaigns, run company websites, or appear at trade shows to market your products, you cannot assume the corporate form shields you from personal patent liability. That exposure is not limited to undercapitalized or poorly maintained companies—even officers of well-capitalized, properly run corporations face personal risk.

2. The Fiduciary Shield Doctrine: Dead on Arrival in Patent Cases

Defendants argued that even if personal liability could attach, Mr. Pendas was protected from personal jurisdiction in Delaware by the fiduciary shield doctrine. This judicially created rule generally immunizes an individual's acts performed in a corporate capacity from serving as the basis for personal jurisdiction over that individual.

The court rejected this argument on multiple, independent grounds. First, it observed that Delaware itself has grown deeply skeptical of the doctrine. A 2025 Delaware Superior Court opinion cited by the court described the doctrine as “at best on life support” and approached the personal jurisdiction question through the lens of the legislative long-arm statute rather than the judicially created shield. Second, courts have broadly held that the doctrine does not apply when a defendant is alleged to have committed an intentional tort, and patent infringement is a tort. Third, the Federal Circuit, in *Campbell Pet Co. v. Miale*, 542 F.3d 879 (Fed. Cir. 2008), has effectively rejected the doctrine's application in patent cases.

The practical consequence is straightforward. If you direct or personally participate in activities that generate contacts with a forum state—through websites, crowdfunding platforms, trade show appearances, or other marketing—you should expect to face personal jurisdiction there, even if all of your actions were taken in your official corporate capacity.

3. Crowdfunding Pre-Orders: Liability Attaches Before a Product Ships

One of the most commercially significant holdings in the opinion addresses the patent law consequences of crowdfunding. Defendants argued that because Meticulous had never commercially launched a product, there could be no direct infringement under 35 U.S.C. § 271(a). The court disagreed sharply.

Section 271(a) imposes liability for making, using, offering to sell, or selling a patented invention within the United States, or importing it into the country. The court held that the following combination of facts plausibly established an actionable “offer for sale” of the accused espresso machines:

- over \$10 million raised across thousands of backers on Kickstarter and Indiegogo;
- a specific discounted price (\$2,000, with 32% off) advertised to customers; and
- a stated expected shipping date communicated to backers.

The court separately held that Defendants’ transport and display of prototype machines at U.S. trade shows—including the 2023 Specialty Coffee Expo—plausibly established that the accused products were either made in the United States or imported into the country, each of which is an independent basis for infringement under § 271(a).

Critically, the court refused to give legal effect to the platforms’ own disclaimers stating that “backing a product is not the same ‘as buying an existing item in a store’” Following Federal Circuit precedent in *3D Sys., Inc. v. Aarotech Labs., Inc.*, 160 F.3d 1373 (Fed. Cir. 1998), the court found that treating the campaigns as anything other than offers for sale “would be to exalt form over substance.”

If you are raising capital through a Kickstarter or Indiegogo campaign featuring detailed product descriptions, defined pricing, and promised delivery timelines, patent liability can attach before you manufacture or ship a single unit. Get a patent clearance search done before you launch, not after.

4. Patent Notice Letters: Specificity Is Not Optional

Willful infringement requires that the defendant knew of the specific patents and knew its conduct constituted infringement. Here, the plaintiff's notice letter identified only one of the three asserted patents by number and referenced only a vague "other patents" of the sender. The court held that this was insufficient to establish pre-suit knowledge of the other two patents, resulting in dismissal of the willful infringement claims as to those patents. Post-suit willfulness—established by service of the complaint—survived only as to claims 8 and 16 of the '187 patent, the sole claims that otherwise remained in the case; the '491 patent was dismissed in its entirety on separate grounds.

The holding matters whether you are asserting patents or defending against them. If you are sending a notice letter, identify every patent you intend to assert by number—a letter that references one patent while vaguely gesturing at others will not preserve willfulness claims for those unidentified patents. If you receive a notice letter, examine it carefully: the patents specifically identified are the ones that carry willfulness exposure from that point forward.

Conclusion

Duvall confirms that corporate officers face patent exposure earlier and more personally than many assume. Consider the following:

- If you personally design, market, or sell your company's products—or if you run the websites and crowdfunding campaigns through which they are offered—you can be sued individually for patent infringement. Incorporating your business does not protect you. A patent plaintiff can reach you directly based on your own conduct, without needing to pierce the corporate veil.
- If you are planning a crowdfunding campaign, get a patent clearance search done before you launch—not after. A campaign featuring defined pricing, a product description, and an expected ship date can constitute an actionable offer for sale under federal patent law, meaning liability can attach before you manufacture or ship a single unit.

- If you send a patent notice letter, identify every patent you intend to assert by number. A vague reference to “other patents” will not establish the prior knowledge needed to support a willfulness claim for those patents. If you receive a notice letter, examine it carefully. The patents specifically identified in the letter are the ones that carry willfulness exposure from that point forward.
- If you are named personally in a patent lawsuit, do not assume that acting in your official corporate capacity shields you from the court’s jurisdiction. Courts—including Delaware courts—have broadly rejected that defense, and the Federal Circuit has done the same in patent cases.

There are also proactive strategies that founders and officers should consider to better position themselves before litigation arises. To better understand these issues, how they may apply to your specific company, and what strategies you might want to deploy to protect against these outcomes, please contact the author or any attorney within FBT Gibbons’ [Intellectual Property](#) practice group.

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