Chapter 4

ATTEMPTS TO MEASURE THE VALUE OF PATENTS

[131] Various significant studies [163] of this problem have lately been made by the Patent, Trademark and Copyright Foundation,[164] especially through the work of Drs. Sanders, Rossman and Associates.[165] They find among patents now in force and assigned, only 21% of the inventors answered Yes to the question: Did you devote your attention to the development and perfection of the know-how because of the patent protection on the sampled invention?; 19% indicated the patent was a factor but not essential, and 70% that it made little or no difference to them. The related question: Would you have manufactured, used, or sold the invention, if you did not have patent protection? brought similar responses: No, 30% of the specific answers; Yes, 70%. The patent requirement for working was most frequent for chemical inventions (44%), then for mechanical (27%), and least for electrical (20%). Again on the development of know-how, a patent was called essential in 17%, 28%, 5% respectively, incidental in 18%, 18%, and 20%, and unessential in 67% 54%, and 75%. Among the two-thirds of assignees giving specific answers as to whether they would have developed the invention without patent protection, 30% said No (or No with reservations) as to the 1938 patents, 28.3% for the 1948 patents, and 22.8% for the 1952 patents, suggesting a declining importance attached to patents. About 75% of the assignees replying [166] said the patent was of some business use to them, and 57% had been worked or were expected shortly to be. The smallest companies had the largest percentages of working (73% of assigned patents), and of marked boosting of sales, while the largest companies realized the best reductions in costs.[167] The one-third reporting a gain from current working, over the cost of producing the invention, named an average of $600,000 per patent, a figure which would probably be doubled by future use. From patents worked formerly but not now, 63% reported a net gain averaging $72,000. But among those reporting a net *loss* from the patent and invention, the losses averaged $88,000 from those presently worked, and $14,000 from the quondam group. On those about to be worked, the losses averaged $12,000, and $4,500 on those not expected to be worked. Among the never worked nor to-be-worked patents, 41% have proved useful in some way or are expected or hoped to prove so. But it is quite a question whether these questions were representatively answered, correctly understood, and reported on the questionnaire without exaggeration, as the authors concede. One should also point out that these values claimed are from the invention, not the patent, very different affairs (cf. ¶ 407). The economic benefits (or losses) from an invention or an attempt to make one are impossible to measure, because they derive from all who attempted it, and from all its users direct and indirect, its influences on capital, etc.,