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UNITED STATES  
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JANUARY 2023 Volume 39 Issue 01

# Inventors

DIGEST

## *Faith* as an Open Book

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A MISSION CALLING

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2022'S TOP STORIES

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# SUCCESSFUL INNOVATOR?

This program is presented by the USPTO's Office of Innovation Outreach. For more information, please contact **[inventioncon@uspto.gov](mailto:inventioncon@uspto.gov)**.



# INVENTION-CON 2023

**USPTO's Inventors Conference · May 10 - 12 · In person/virtual**



**UNITED STATES  
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# Give no quarter to Patent Pirates.

Or they'll take every  
last penny.

Our ideas and innovations are precious. Yet Big Tech and other large corporations keep infringing on our patents, acting as Patent Pirates. As inventors, we need to protect each other. It's why we support the STRONGER Patents Act. Tell Congress and lawmakers to protect American inventors.



[SaveTheInventor.com](http://SaveTheInventor.com)

# A Total Trademark Tutorial

*Free ‘Boot Camp’ overview of this important IP protection begins new 8-week cycle in January*

**IT’S A FACT** in a world where intellectual property is increasingly vital: Inventors, small business owners, and fledgling or experienced entrepreneurs need to protect their brand name, slogan, or logo.

The USPTO’s Trademark Basics Boot Camp provides a comprehensive overview of trademarks and the federal trademark registration process. And it’s free.

The virtual program, offered regularly throughout the year, begins a new series run on January 10. From 2 to 3:30 p.m. ET, each series covers one module weekly for eight weeks, with each module focusing on different aspects of trademarks and the registration process—from

filing and examination to post-registration requirements for keeping your registration alive. Each module concludes with a question-and-answer period with USPTO trademark experts.

You can attend the entire series or just the modules that best match your interests, but you must sign up for each module to attend. If you attend all eight modules, you can request a certificate of attendance.

## The January lineup:

- Module 1, January 10—Fundamentals. This session covers definitions and types of trademarks, benefits of federal registration, selecting a trademark, filing and registration, and how to find help.
- Module 2, January 17—Registration process overview. A description and how-to on this process, from filing to registration.
- Module 3, January 24—Searching. Important principles related to trademark searching and effective use of the Trademark Electronic Search System (TESS).
- Module 4, January 31—Application requirements. This pertains to the initial trademark application.

For more information, visit [uspto.gov/about-us/events/trademark-basics-boot-camp](https://uspto.gov/about-us/events/trademark-basics-boot-camp).



## WHAT'S NEXT

**3-DAY START PROGRAM:** Do you have an invention you want to patent? Are you unfamiliar with the patent filing process? Are you a first-time patent application filer or new to the Patent Center? Are you unsure where to start?

The USPTO Stakeholders Application Readiness Training (StART) program is hosting a free, three-day virtual workshop, “Learn the fundamentals of the Patent Application Process,” January 10-12 from 9 a.m. to 4 p.m. ET. Pre-registration is required, and seating is limited.

The workshop provides training and one-on-one assistance to independent inventors in preparing and filing patent applications. To get the most out of this

workshop, please complete these prerequisites before the workshop:

- Complete the Intellectual Property (IP) Awareness Survey to identify the type of patent that best fits your IP needs.
- Create a written description and drawing(s) of your invention to maximize your learning experience.
- Obtain a customer number to track your application.
- Create a verified MyUSPTO.gov account to gain access to better monitoring, tracking, and responses from the USPTO throughout the application process.

For more information, visit [uspto.gov/patents/training/start](https://uspto.gov/patents/training/start).



Visit [uspto.gov/events](https://uspto.gov/events) for many other opportunities to attend free virtual events and/or training.



## TRADING CARD

## NO. 4

## George Washington Carver

**H E WAS** Mr. Peanut before “Mr. Peanut.” Before Jimmy Carter.

George Washington Carver is so identified with peanut uses and products, he sometimes is erroneously identified as the inventor of peanut butter.

Carver’s enduring status as “The Father of the Peanut Industry” is not in dispute. The renowned agricultural scientist invented hundreds of uses for peanuts; his innovative crop rotation and planting techniques revolutionized farming.

Fellow African-American icon Dr. Martin Luther King Jr. said of Carver: “From oppressive and crippling surroundings, George Washington Carver lifted his searching, creative mind to the ordinary peanut, and found therein extraordinary possibilities for goods and products unthinkable by minds of the past and left for succeeding generations an inspiring example of how an individual could rise above the paralyzing conditions of circumstance.”

Born into slavery near the end of the Civil War (the date is uncertain, but many agree it was in 1864), Carver overcame devastating obstacles from an early age. According to History.com, white farm owner Moses Carver purchased George’s mother, Mary, when she was 13. George’s father died in an accident before George was born.

When George was a week old, he, his mother and sister were kidnapped from the Carver farm in Diamond Grove, Missouri, by a band of slave raiders and resold in Kentucky. A neighbor of Moses Carver found George, but the mother and sister were never found.

Moses Carver and his wife raised George and his brother, teaching them how to read and write. George left home at a young age, setting in motion a life of many historic firsts as the first African-American to enroll at Iowa State University and the first African-American to earn a Bachelor of Science degree.

His professors were so impressed with his research on the fungal infections of soybean plants that he went on to earn a master’s degree in agricultural science.

Carver’s signature achievement may have been his crop rotation processes that used organic fertilizers to improve plant productivity and soil fertility. He also taught poor farmers that they could feed hogs acorns instead of commercial feed, and enrich croplands with swamp muck instead of fertilizers.

He invented the Jessup wagon—a horse-drawn classroom and lab used to demonstrate soil chemistry. “I love to think of nature as an unlimited broadcasting station,” Carver said, “through which God speaks to us every hour, if we will only tune in.”

Carver advised people ranging from common farmers to Mahatma Gandhi on agriculture and nutrition. He had only three patents and did not keep detailed records of his work, which still speaks for itself: He was the first African-American scientist to be memorialized in a national monument (near his Diamond Grove, Missouri, birthplace), the first African-American to have a national park named for him, and with fellow scientist Percy Julian the first African-Americans in the National Inventors Hall of Fame (posthumously, in 1990).

As he said: “When you do the common things in life in an uncommon way, you will command the attention of the world.”

Requests for the USPTO trading cards can be sent to [education@uspto.gov](mailto:education@uspto.gov). You can also visit them at [uspto.gov/kids](https://uspto.gov/kids).





## Discover About Discovery

*Process seeks evidence, which both sides obtain from each other in PTAB patentability challenges*

**T**O ACHIEVE fairness in any legal dispute, it is paramount for two parties to develop a fair record and be able to respond to arguments raised by the other side. In an America Invents Act (AIA) trial proceeding before the USPTO's Patent Trial and Appeal Board (PTAB), this is the goal of a process called discovery.

During these trials, a third party (called a "petitioner") may challenge the patentability or validity of the claims in an issued patent. The patent owner may defend the patentability of its patented claims, although it is always the challenger's burden to prove its case.

Discovery allows the petitioner and patent owner to develop their respective arguments, as well as focus on the issues disputed, by seeking evidence—facts, documents, testimony, and other information. Discovery is needed when a party seeks information relevant to the issues of a proceeding that would not otherwise be publicly known or readily available.

Discovery before the PTAB is limited (more so than in federal district courts) to minimize the cost of AIA trials, as well as to ensure the

trials are efficiently completed within a one-year statutory period.

Here is an explanation of the three ways offered by the PTAB to obtain evidence from the other side: (1) mandatory initial disclosures; (2) routine discovery; and (3) additional discovery.

**Mandatory initial disclosures.** The parties may agree to make initial disclosures to each other. Thereafter, a party automatically may get discovery of the information identified in the initial disclosures.

**Routine discovery.** A party is automatically required to provide certain types of evidence to the other side. Any exhibit cited in a paper (i.e., briefs such as the petition or patent owner response that cites evidence as exhibits) or in testimony (e.g., an expert declaration, which is an evidentiary exhibit) must be provided to the other side.

Any information that is inconsistent with a party's position taken in a brief also must be provided to the other side. Additionally, a party may cross-examine, via a deposition, any witness that the other side is relying on and has presented

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direct testimony in the form of a declaration. There will be a transcript from the deposition that the party can submit into evidence.

**Additional discovery.** Following routine discovery, the parties may agree to additional discovery on their own. But if the parties do not agree, a party seeking more discovery must show that the additional discovery is in the “interests of justice” for an *inter partes* review to obtain it.

The PTAB applies a series of considerations in determining whether this standard is met. For example, the PTAB assesses whether the party seeking the information can otherwise reasonably figure out or assemble the information. Because the standard for additional discovery in an *inter partes* review is high, a party should

tailor additional discovery requests to be as sensible and as specific as possible.

Besides limiting discovery possibilities in AIA trial proceedings, the PTAB sequences discovery so that each party has respective discovery periods, beginning with the patent owner.

Each side conducts discovery before being required to submit its papers, although petitions are submitted without any proceeding-specific discovery having occurred.

**LEARN MORE VIA THE PTAB TRIAL PRACTICE GUIDE:** [uspto.gov/sites/default/files/documents/tpgnov.pdf?MURL=](https://uspto.gov/sites/default/files/documents/tpgnov.pdf?MURL=).

Or, consult [ecfr.gov/current/title-37/chapter-II/subchapter-A/part-42?toc=1](https://ecfr.gov/current/title-37/chapter-II/subchapter-A/part-42?toc=1) for the PTAB’s rules relating to discovery in AIA proceedings.

## NEWS FLASH

# Your Input Sought on NFTs’ Impacts

USPTO, U.S. Copyright Office to hold public roundtables for a joint study in January



The USPTO and the U.S. Copyright Office, conducting a joint study regarding the impacts of non-fungible token (NFT) technologies on intellectual property rights, law, and policy, have issued a Federal Register Notice requesting written public comments on these issues.

The FRN also announced there will be three public roundtables scheduled for January 2023—on January 10, 12 and 18. The USPTO and U.S. Copyright Office will hold three public roundtables focused, respectively, on copyrights, patents, and trademarks. The roundtables are not expected to address broad topics in cryptocurrency or decentralized systems generally, but rather only IP considerations as they relate to NFTs.

This joint study is being conducted pursuant to a request from the Senate Judiciary Subcommittee on IP. Public input sought includes those from the IP and technology industries, and academia.

Public comments must be received no later than 11:59 p.m. ET January 9.

To submit a formal comment: [federalregister.gov/documents/2022/11/23/2022-25211/study-on-non-fungible-tokens-and-related-intellectual-property-law-issues](https://federalregister.gov/documents/2022/11/23/2022-25211/study-on-non-fungible-tokens-and-related-intellectual-property-law-issues)

**NEW DEADLINE:** As of Dec. 3, 2022, trademark applicants have three months to respond to office actions issued during the examination of trademark applications filed under Sections 1 or 44. You can request one three-month extension per office action.

Office action response deadlines for applications filed under Madrid Protocol Section 66(a) are unchanged and continue to have a six-month response deadline. The new three-month deadline will go into effect for post-registration office actions on Oct. 7, 2023.

For more information, see “New deadline to respond to office actions for applications” webpage at [USPTO.gov](https://USPTO.gov).

## Giving to Ukraine Is Actually Giving Back



If you think 2020 and 2021 were difficult years because of COVID-19, that's nothing compared to what Ukraine faced in 2022.

The February 24 invasion by Russia—which spawned far-reaching impacts around the world—has turned the Eastern European country into the scrappy underdog everyone wants to help.

More than 70 countries and institutions have pledged more than 1 billion euros to help Ukraine survive attacks on its infrastructure, particularly its electricity grid. The United States, of course, has been prominent among supporters, providing more than \$32 billion in aid as of mid-December.

Now it's time to cheer for Ukraine again.

A prosthetic hand made by Ukrainian-based startup Esper Bionics inspired TIME magazine's cover that heralded "The Best Inventions of 2022." The hand, which exhibits "amazing precision" per TIME, is the first AI-powered, cloud-based robotic prosthetic that gets smarter and more intuitive over time via machine learning.

The device has up to 24 wearable sensors that detect and process muscle activity and brain impulses, all while being lightweight. Its present value is incalculable, particularly in the wake of Ukrainian soldiers and civilians who have lost their limbs from Russian shellings; its future benefits for the worldwide public are just as obvious.

Esper Bionics CEO and cofounder Dima Gazda told TIME, "The most important technology developed in the next 30 years will be electronics inside the human body." (We've come a long way from the 1950s, when the first electronic pacemakers were portable for only as far as an extension cord would reach.)

Ukraine is not just an overachiever as a survivor but also as an innovator. Although the country ranks only 77th in the world on something called the Innovation Input Sub-Index due to its relatively underdeveloped infrastructure, market and institutions, atlanticcouncil.org reports that Ukraine is also responsible for inventing Snapchat filters, liquid jet scalpels, Uber for yachts, and virtual reality gloves.

Ukraine needs all the help from the world it can get—especially because it gives the world all the help it can.

—Reid

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# Inventors

DIGEST

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## CORRESPONDENCE

### 6 Organizations Oppose Bill Involving Patents

(Editor's note: This letter, copied to *Inventors Digest*, was signed by the Alliance for U.S. Startups & Inventors for Jobs; the Association of American Universities; the Association of University Technology Managers; the Biotechnology Innovation Organization; Innovation Alliance, and the Medical Device Manufacturers Association. It was sent to the U.S. Senate Judiciary Committee before the committee was to discuss the Pride in Patent Ownership Act on December 8. No action was taken. The letter is edited for brevity.)

As advocates for a strong and innovative America, we write to express our opposition to the Pride in Patent Ownership Act (S. 2774).

This bill unfairly and excessively punishes inventors and patent holders for record-keeping errors. Most troubling, the bill rewards willful infringers—those that the court system has found

to have intentionally stolen another's intellectual property—by reducing the amount of damages a patent holder can recover for this theft based on record-keeping errors.

In addition, the bill puts a target on inventors and patent holders, especially start-ups and universities, by requiring a registry of all patent transactions that could serve in practice as a ledger of potential targets for infringers seeking to track developing technologies and attack them through frivolous challenges at the U.S. Patent and Trademark Office.

We ask that you support innovation and oppose this legislation.

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## WITH EPIC CASE DROPPED, IT'S CLEAR THERE'S NO CLARITY

A five-year copyright lawsuit against **Taylor Swift** is over. That's good for the singer, presumably good for her accusers who agreed to end it—and maybe even good for a weary public.

But it's not good news for anyone who was awaiting a ruling that could have provided some clarity and/or direction on matters of infringement.

In a joint filing December 12 in U.S. District Court in the Central District of California, attorneys for Swift and her accusers—songwriters Sean Hall and Nathan Butler—asked District Judge Michael W. Fitzgerald for an order “dismissing this action in its entirety.” He granted the order with a trial about a month away.

The songwriters had complained that in Swift's 2014 megahit “Shake it Off,” her use of terms like “playas” and “haters” stole from their lyrics in “Playas

Gon' Play,” performed by the group 3LW more than a decade earlier.

Swift's team, meanwhile, had tried several times to get the suit dismissed, claiming terms like “playas” and “haters” are hardly unique in today's music (or, come to think of it, on episodes of “The Jerry Springer Show”). Swift won a 2018 decision dismissing the case on those grounds, only to have an appeals court overturn it.

Now, suddenly, no suit—and at least in the first week after the mutual dismissal, no evidence there was any money or even songwriting credits that traded hands out of court.

Maybe you recall the Led Zeppelin “Stairway to Heaven” case, which received coverage in *Inventors Digest* and major media publications. That involved whether a famous riff in the



song was taken from someone else's recording.

The pivotal question there is the same as in the Swift case: At what point do similar-sounding lyrics and music become a big enough part of a song to warrant an infringement claim? Is every “yeah, yeah, yeah” that has been recorded since the Beatles’ “She Loves You” a copyright infringement?

No, no, no. And this song won't be ending anytime soon. —Reid Creager

# BRIGHT IDEAS

## Wuben X2

2,500 LUMENS

POCKET EDC FLASHLIGHT

[wubenlight.com](http://wubenlight.com)

The 3.35-inch-by-1.54-inch X2 marries strong power and myriad features with a dedicated design that breaks the appearance of traditional flashlights.

Its brightness is said to be comparable to a tactical flashlight or a handheld spotlight. The flashlight features multiple lighting modes, an innovative charging lanyard, glow-in-the-dark slot and USB-C fast charging. You can easily clip it onto your belt, pocket, jacket or backpack for easy and fast access.

X2 also has a programmable mode and memory function. It is built with aircraft-grade aluminum for durability. Copper and titanium versions are coming.

The basic version will retail for \$98, with shipping for crowdfunding backers planned for February.



## Stilform AEON

LONG-LASTING PENCIL WITH  
INTERCHANGEABLE METAL TIPS

[stilform.com](http://stilform.com)

Featuring a base made of various sleek materials, Stilform AEON provides a pencil-writing experience without lead.

The pencil's non-toxic "Eternal" alloys join to create pencil-like marks, with minimal wear to the pencil over time. Stilform AEON has a neodymium magnet near its tip that allows users to switch between the "Eternal" metal tip and a graphite tip for different pencil uses and shadings.

Markings are smudge-free and waterproof. They can't mark up clothes. Liquid does not make the marks fade, yet they are erasable like a 2H pencil.

Aluminum, titanium, brass, magnesium and 24k gold are among the options, with retail prices beginning near \$85.





## Pulsetto

### PORTABLE NERVE STIMULATOR FOR REDUCING ANXIETY

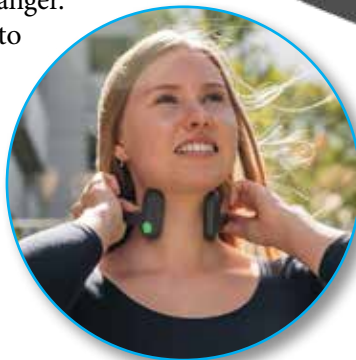
*pulsetto.tech*

Pulsetto is a biohack intended to reduce stress and promote better sleep.

The device is based on the premise that the Vagus Nerve is the main component of the parasympathetic nervous system, a network of nerves that relaxes your body after periods of stress or danger. Using an electric signal, Pulsetto is said to activate the Vagus Nerve and allow the parasympathetic nervous system to function properly—reducing the risk of high blood pressure, heart disease and stroke.

Simply put the flexible Pulsetto around your neck and choose your program.

Pulsetto, which will retail for \$317, is to ship to crowdfunding backers in February.



**“Boredom is a lack of crazy. It’s a lack of creativity. Invention. Innovation. If you’re bored, blame yourself.”**

— KATELYN S. IRONS

## Gather

### MAGNETIC ORGANIZING FOR YOUR DESK

*ugmonk.com*

Consisting of various trays, cups, stands and more, the Gather Collection simplifies your desk by providing a home for all your essential items. Start with either the “Organizer Set” or “Build Your Own Set” tier to create the set that fits your workflow.

The MagSafe Phone Stand is a convenient way to keep your phone charged and within view. It can be used by itself or connected to the Base Plate or Monitor Stand.

The Build Your Own Set starts with a metal base plate and allows users up to four modules in the “Add-on” section. Color options for the pieces include black, white, maple and walnut in various pairings.

Price depends on the complexity of the setup you choose. Shipping for crowdfunding backers is set for April.



# Game of Throne

THE MODERN FLUSH TOILET, WHICH SOLVED AN IMPORTANT SANITARY PROBLEM, HAS A BIZARRE HISTORY **BY REID CREAGER**

**T**HE GODSON of Queen Elizabeth I, Sir John Harington was a royal pain to her. An English courier and poet, he produced the first English translation of Ariosto's "Orlando Furioso" as a punishment from the queen after he had shown some of the naughty parts of the epic poem to her ladies-in-waiting.

Such is the account from the Ex-Classics Project in its introduction to Harington's pamphlet/book: "A New Discourse of a Stale Subject, Called the Metamorphosis of Ajax."

Ex-Classics called it "a book impossible to classify. It starts with a long prologue justifying its subject, with many examples from Biblical and classical sources relating to excretion and the disposal of sewage, before describing his invention—the first flush toilet."

The description was not intended to impugn the character of this character, known for his "cheekiness and scurrility." To the contrary, Harington was a learned man with a wealth of satire; some critics interpreted "A New Discourse" as an attack on the problems of the times that should be flushed away.

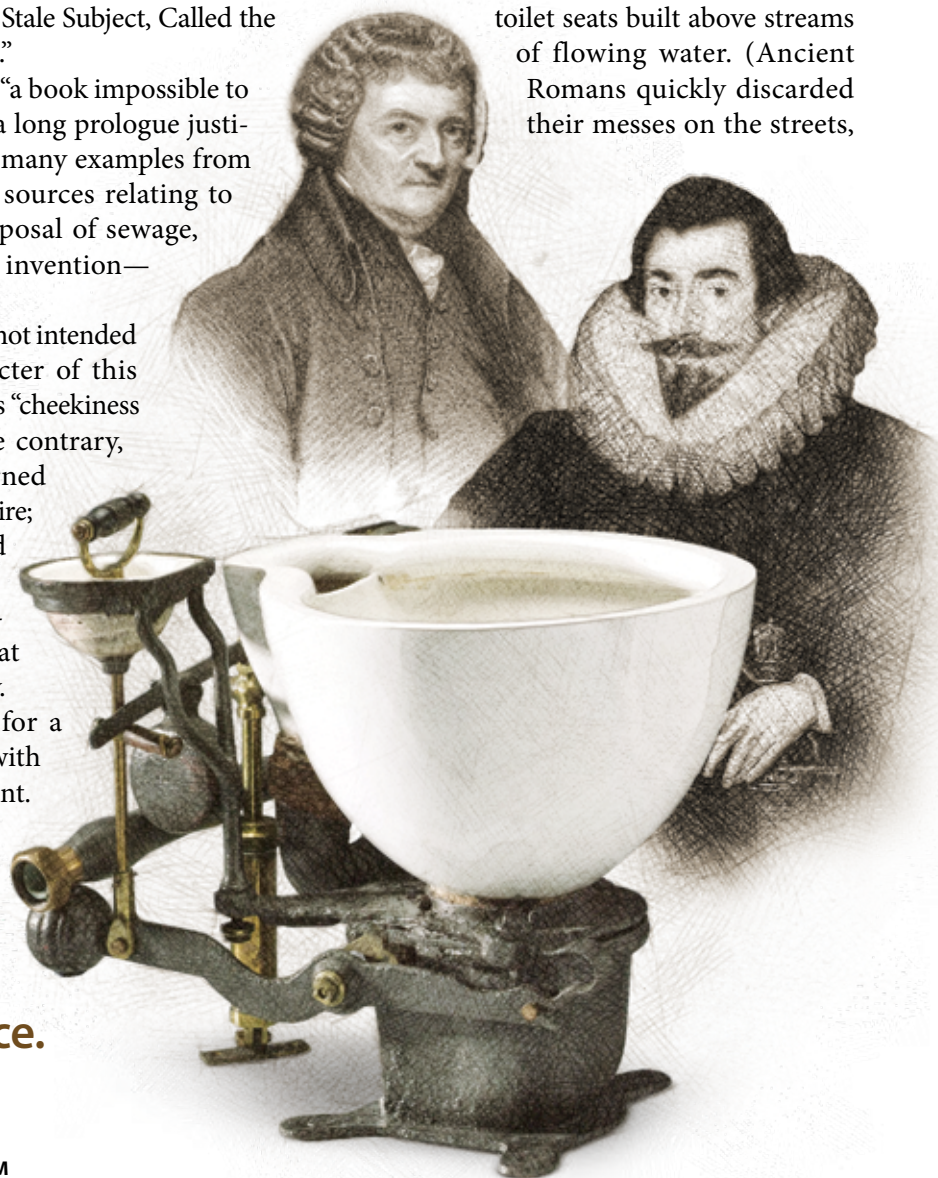
Pretty heady stuff for a man widely credited with a plumbing achievement.

## Making amends with the queen?

The first flush toilet was much more than that, of course. Harington's concept—now in use for more than 400 years—revolutionized convenience and sanitation in connection with a basic human need.

Before Harington's 1596 invention, humans in ancient civilizations used makeshift contraptions such as pots filled with sand, followed by toilet seats built above streams of flowing water. (Ancient Romans quickly discarded their messes on the streets,

Clockwise from top: Alexander Cummings, Sir John Harington; model of the 'Optimus' patent water closet, invented by Stevens Hellyer in 1870. This toilet was an improvement on earlier designs, flushing more efficiently and quietly.



**For almost 200 years, people generally saw the flush toilet as an unnecessary extravagance.**



post-waste.) Not surprisingly, sanitary diseases, including typhoid, were often rampant.

His invention described an oblong bowl that was 2 feet deep, waterproofed with a mixture of pitch, resin and wax. Water came from a cistern on the upper floor of Harington's residence. One flush used a substantial 7.5 gallons of water.

Harington had such a device built for Queen Elizabeth's palace (maybe this helped him get back in her good graces). One would think such an invention for the home would be instantly and widely accepted—not to mention making Harington flush with money.

But as you already know, this is not your typical invention story.

People generally saw the flush toilet as an unnecessary extravagance. It didn't catch on for another couple hundred years, with an initial boost from improvements in manufacturing and waste disposal during the Industrial Revolution.

### Welcome improvements

Harington's breakthrough did have a major drawback, of the olfactory variety. Perhaps sniffing a chance to make money where Harington failed, Scottish inventor Alexander Cumming was granted the first patent for a flush toilet in 1775.

Cumming's innovation was the S-shaped pipe below the bowl that used water to create a seal, preventing sewer gas from entering through the toilet. And almost 100 years later, everyone's favorite childhood snicker, London plumbing businessman Thomas Crapper (see Inventor Archives on this page), manufactured one of the first widely successful lines of flush toilets. He invented the ballcock, an improved tank-filling mechanism present in today's toilets.

Today, of course, we have wall-mounted toilets, high-efficiency toilets, smart toilets, Tom the Talking Toilet (relax; it's a miniature toy). And let's not forget the Modern Toilet Restaurant in Taiwan, where everything in the three-story, 2,800-square-foot building is based on items from a toilet room or a bathroom.

But even sitting-pretty, luxury loos are subject to relatively recent water conservation efforts by the U.S. government: The Energy Policy Act of 1992, which went into effect in 1994, required all toilets made and installed after that year to use a maximum of 1.6 gallons per flush.

So, Sir John Harington may have never sat on a real throne, but his place in history does make him a king of sorts.

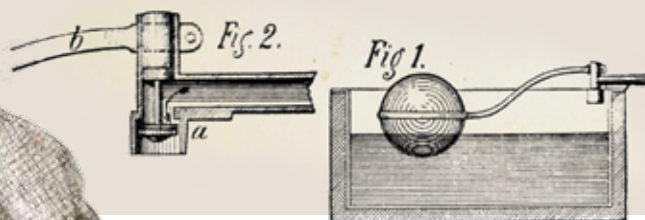
He would probably be amused by a Facebook group that shows photos of weird toilets and toilet situations, "Toilets With Threatening Auras." And we're sure he would like the title. ☺

## INVENTOR ARCHIVES: JANUARY

**January 27, 1910:** **Thomas Crapper**, an accomplished plumber and businessman from London who has erroneously been called the inventor of the flush toilet, died. His life and accomplishments are celebrated every year on this date as Thomas Crapper Day.

Crapper held nine patents, three for water closet improvements such as the floating ballcock. He opened a sanitary equipment company in 1861 and opened the world's first bathroom showroom in 1870, mass-marketing modern toilets with great success. His business was commissioned by Prince Edward to modernize palatial bathrooms.

The notion that Crapper invented the flush toilet was furthered via a fictional biography published in 1969 by New Zealand satirist Wallace Reyburn.



# Who Are You, Anyway?

KNOW THE MAIN CHARACTERISTICS OF INVENTORS AND ENTREPRENEURS TO MAX OUT BOTH SKILLSETS

BY JACK LANDER

**E**ACH OF US is born with one or more inborn talents, and we are most fulfilled, most happy, when we pursue our strongest talent ... our “calling.”

Psychologist Abraham Maslow created his popular hierarchy of human needs—in 1954.

At the top of his hierarchy is self-actualization, which is the realizing of one’s full potential especially through their occupation. Self-actualization applies to both entrepreneurship and inventing if we are serious about bringing a product to market or licensing our patent.

But there’s a hitch: Inborn talent is unique. An entrepreneur and an inventor are generally two different personalities. It is possible to find each personality in the same person.

Thomas Edison is a good example. But in my experience, each of the two personalities tends to be more narrowly endowed in separate persons.

## Characteristics of the entrepreneur:

- Schedule keeper: Assigns completion dates; does not procrastinate.
- Risk-taker: Takes well-considered risks.
- Creator: Creates concepts, rather than specific products.
- Profit producer: It is his or her first consideration at every major step of a project.
- Market oriented: Will my product find its customer easily?
- Partners: May take in a partner with complementary capabilities.
- Personality: May be abrupt and tactless at times.

Not every successful entrepreneur you meet will score A+ on each of these six characteristics, but the mix will probably be a B or B+.

## Characteristics of the inventor:

- Schedule keeper: May neglect setting realistic schedules.

- Risk-taker: May be too optimistic about odds of the invention being novel.
- Creator: Often has two or more ideas brewing at the same time.
- Profit producer: Often too optimistic about the invention’s profitability.
- Market oriented: Most energy is devoted to the product early.
- Partners: Seeks mainly a financial partner or friend.
- Personality: Garden variety, but seldom as stern as the entrepreneur.

Perhaps I have exaggerated the characteristics of both. But I’ve known many of each, and I believe my details are fair.

## Your self-analysis scoreboard

If you wish to score yourself on either type, I suggest you rate each characteristic 1 to 5, with 5 being an exact match. A total score of around 22 to 25 should be reasonable for a faithful match.

The concept can be shown graphically with a horizontal line. At the left end is the radical inventor, at the right end the radical entrepreneur. Edison would fall in the middle.

Each of us should pick the point on the line where our inborn talents would place us. We don’t have to become modern versions of Edison to succeed. But we need a reminder as we start an invention project that we have needs that must be provided one way or another—money being one of the most important.

Now, let’s think about the typical inventor—who scored, let’s say, a 24.

Do many or most inventors neglect scheduling the detailed steps of their projects? I believe they do.

We must ask what the holding item is for each step, and often that is money and your risk of losing it.



A good patent search is not cheap. But think of it this way: Your intended patent will be several times the cost of your search. And then, the overall probability of it issuing with your key claim is only about 50/50. The better the search and opinion upfront, the better your chance of having your patent issue.

By key claim, I mean that one claim that defines what is not only novel but is the essential feature that your prospective licensee will understand as valuable to their market—that is, will increase their profit. If that claim is denied by the patent examiner but three or four trivial claims are allowed in the final issue, you probably have nothing worthwhile to license.

### Determining profit is hard

I admit I am guilty of having more than one invention on the sketch pad at a time. It happens to most of us.

We have to pick the one with the most potential for earning income so that we can go on inventing. The others will have to sit on a low back burner until we have the time and resources to turn up the heat.

Determining the profit an invention may make may be the most difficult of the six characteristics.

Few of us have the background that will enable us to estimate the cost of manufacture. And even if we do, we'll probably be wrong. We can work with an industrial engineer who will be able to give us realistic costing, but not early in your project.

My philosophy is that the costing belongs with the company that is going to produce, not with the inventor—unless the only way we can license is to provide it.

Marketing is the weak point of most inventors. And our project is dependent not just on the logistics of marketing but discounts, packaging, shipping cost, guarantees and maybe even required advertising. (OMG! How can the inventor become an expert on all of this? I'll cover in future issues.)



**We must ask what the holding item is for each step, and often that is money and your risk of losing it.**

Partners can be a help, or a pain in the butt. Your friends aren't likely to have the skills you need to drive your project to success.

If you need money, advertise for a “financial partner.” If you are short on marketing expertise, advertise for a “marketing partner.” But avoid partners if you can.

Your personality may be affected by your dedication to your inventing. 🍷

**Jack Lander**, a near legend in the inventing community, has been writing for *Inventors Digest* for nearly a quarter-century. His latest book is “Hire Yourself: The Startup Alternative.” You can reach him at [jack@inventor-mentor.com](mailto:jack@inventor-mentor.com).



# Using LinkedIn for Market Research

DETAILED PAGE ANALYTICS TOOLS ARE AN IMPORTANT WAY TO LEARN ABOUT YOUR AUDIENCE **BY ELIZABETH BREEDLOVE**

**L**INKEDIN OFFERS a valuable opportunity in many different ways. In addition to the more obvious benefit of growing your audience through the platform, LinkedIn is also a useful tool for market research.

By examining your page's insights and analytics—and combining that data with information gleaned from posting and interacting with others—you can learn a lot about your audience and then use your findings to influence future product development and grow your business. This is especially important if you are a business-to-business entity or have created a B2B product you need to effectively market.

If you are active on LinkedIn, you've likely dabbled in market research on the platform just by engaging with your followers. Here are a few ways to continue to use your page to learn more about your audience.

## Ask questions, use polls

The most obvious way to conduct market research using LinkedIn is to ask your followers questions and engage with their comments.

The way people interact with your content can tell you a lot about what they are interested in, what they value, and how your business can best serve them. Take this a step further by identifying questions you can ask that offer even more insight into their wants and needs.

If you struggle to get helpful answers that provide information you seek from open-ended questions, consider using LinkedIn's poll feature to ask questions with a specific set of possible responses.

## Try LinkedIn groups

LinkedIn groups make it easy to use your personal LinkedIn account to conduct similar

market research. Join or create a group related to your niche or industry, then ask questions about common problems other group members face and solutions they often use.

If you're a group admin, you can also use the same poll feature available in posts on pages, making it easy to collect more data from a wider group of users.

## Analyze relevant hashtags

Hashtags aren't used quite as widely on LinkedIn as they are on other social media platforms, but they still have a role to play—especially if you are using LinkedIn for market research.

If you use branded hashtags in your post, start there. Search this hashtag to see what LinkedIn users and other company pages are saying about you. After this, you can search hashtags related to your industry or product, or you can look at competitors' hashtags.

Take note of common or repeated themes, and consider how you can apply the information you learn toward inventing something new or growing your business.

## Use page analytics

You can discover demographic information and get a better idea of what your audience cares about most through LinkedIn's native analytics tools.

If you have a successful business or invention, you likely already have an established target audience or buyer persona. This is important, because it gives you a way to focus your marketing efforts on those most likely to be interested in what you have to offer.

However, have you considered whether your business' target audience aligns with the audience you are actually reaching with your LinkedIn page?



LinkedIn offers a robust insights tool to learn more about your company page's audience. You can see statistics about page views, unique visitors, button clicks, mobile vs. desktop usage and more.

You can also find more information about visitors' job functions, company size, industry, location and seniority levels. Such data give you a closer look at what types of LinkedIn users are interested in your company page—but remember that it also includes visitors who may have looked at your and found it to be irrelevant.

If you want to find more information about those who are actually interested in what you offer, you'll need to examine your follower analytics.

Select "Followers" from the Analytics drop-down to see a variety of stats and metrics about them, including how many total followers you have and how many new followers you have. The tool also shows how you gained new followers, and whether it was through paid ads or organic efforts. Additionally, it provides the same demographic information as it does for visitors, including job function, company size, location and more.

As you examine this information, consider your overall market research goals, along with what your analytics may mean for your business. Generally speaking, your company page analytics will be the most helpful for market research, as it's very relevant to what you are actually trying to market. However, if you are very active on LinkedIn personally and you often post content related to your business, niche or industry, your own profile analytics may also provide some information you can use.

### Analyze content performance

Page analytics give you a deeper look at *who* is interested in your company, but your content analytics tell you *what* interests them.

With LinkedIn's company page analytics, you can track the performance of all the content you post on your page.

LinkedIn's built-in analytics tool provides overall content analysis by reporting on metrics such as total impressions, unique impressions, clicks, reactions, comments, shares and engagement rate. Furthermore, it provides this



## LinkedIn's robust insights tool shows you statistics about page views, unique visitors, button clicks, mobile vs. desktop usage and more.

information for each individual post or update. This means you can look for overall performance trends—such as which days of the week tend to get the most engagement—but you can also analyze each post to better understand what types of content resonate with your audience.

If you are seeing consistent engagement with posts about certain topics, this can be used to dive deeper into who your audience is, what they are most interested in, how your business can meet their needs, and how you can ensure that your LinkedIn presence accurately markets your product to them.

Ultimately, an active and well-utilized company page on LinkedIn provides value beyond simply being another channel to reach your audience. This happens by offering an opportunity for important market research to take place. 📊

**Elizabeth Breedlove** is a freelance marketing consultant and copywriter. She has helped start-ups and small businesses launch new products and inventions via social media, blogging, email marketing and more.



# Happiness is a ... **Robotic Hug?**

ANIMAL-SHAPED CUSHION HAS A WAGGING TAIL DESIGNED TO SIMULATE COMFORT FROM A PET **BY JEREMY LOSAW**

The Qoobo Robotic Cat Tail Pillow Marie is a version of Marie, the white kitten from Disney's "The Aristocats."

**F**OR SHUNSUKE AOKI, robotics transcend the technology that cleans our floors and plays the song we want. He wants robotics to add warmth and emotional comfort to our lives.

"I define a robot as an interface that can move people's minds and motivate them," he said.

So it is fitting that at his Tokyo robotics engineering firm, Yukai Engineering, Aoki holds an annual intra-office competition in which his team is challenged to come up with a robot concept that fulfils a personal fantasy.

A designer in his office, Naoka Takaoka, initiated the concept of a cushion with a wagging tail.

"She grew up in Hokkaido, which is a rural part of Japan, and she was surrounded with many dogs—more than 10," Aoki said. "So, after she grew up and moved to Tokyo to study in college, she always wanted something to cuddle."

However, Tokyo is very crowded. Having a pet is not allowed in many dwellings, a challenge that gave her the opportunity to build animal interaction back into her life. After all, scientific research has shown that interacting with animals lowers the stress hormone cortisol and can help reduce loneliness.

The eventual result was a product called Qoobo, which provides some of the joy of interacting with a pet but none of the issues such as logistics, expense, hassles of chewing furniture, and other indoor messes.

Qoobo is a robotic cushion with a tail that wags. The cushion has an abstracted form of a lap-sized house pet but with no discernable facial or other recognizable animal features.

The robotic tail responds to petting from the user—wagging excitedly or contentedly, depending on how it is played with. The tail also reacts to sounds. There is even a very subtle heartbeat.

## Testing the waters

The Yukai team was always excited about the concept but initially unsure whether it could turn it into a product.

During the 2-3 months of the innovation challenge, the team took the concept from idea to prototype. The initial work used an Arduino for the control and four servos to create the motion in the tail. It was integrated into a soft cushion with long fur, reminiscent of a lap pet.

At the end of the challenge, the prototype was revealed at a private event with Aoki and the rest of the company to see what the teams had developed.

"It was sensational, as we had not seen this type of robot before," he said, but actualization was problematic. "At what price people will buy?



**“At what price people will buy?  
Who would be the target user?  
We had no idea.”**—SHUNSUKE AOKI

Who would be the target user? We had no idea,” he said.

The team took the concept to some department stores and retail buyers for feedback. There was interest in the product, but only if the design was more reminiscent of furniture than a toy.

Yukai decided to test the idea on Kickstarter and see what the reception was before taking the product any further. The campaign raised about \$90,000 U.S. with almost 1,000 backers and was featured as a Kickstarter “Projects we Love.” This was the validation they needed to take the concept all the way to production.

### Patent and other challenges

Qoobo is one of the stars of his portfolio, but Akoi’s other products reflect this ethos. He has bots that extract emotional tone from emails and a stuffed toy dog that provides a sucking motion to a finger placed in its mouth.

There are no utility patents filed around Qoobo, just design patents.

Akoi determined that the mechanism inside the device was not novel enough to warrant the effort and expense of a utility patent. However, he still wanted to protect the design concept, so he filed design patents in Asian countries and in the United States. His U.S. claim was not allowed.

Qoobo is manufactured in China. Akoi had a colleague from a toy company who knew of some reputable factories for this type of product and used one of those recommendations. Because of a significant language barrier despite their proximity, English was used as the third-party language they both could understand.

There were many challenges in the manufacturing process. The prototype was not suitable for mass production; the mechanism was too complicated, and the number of tail segments and overall components had to be reduced.

However, the team kept the faceless ambiguity of the product as a core feature.

“Our intention is to leave space for imagination so that every user can imagine their own favorite

animal,” Akoi said. “When you cuddle, you don’t need to actually see it, but you can feel the movement. ... The sensation makes you happy.”

### Next: Breathing?

Qoobo has been a big hit since its launch.

Akoi has brought the product to the Consumer Electronics Show and South by Southwest, and has been featured on many popular TV shows. The team learned from the first version that the product was a little too big, so it created the petite version that is more readily available outside of Asia.

Next on the agenda is working on potentially adding some breathing capability to Qoobo. The team has also been spending a lot of effort with the launch of Amagami Ham Ham, its robotic pet that nibbles your finger. It was launched on Indiegogo in late 2022. 🐷

*Details: [qoobo.info/index-en](https://qoobo.info/index-en)*

**Jeremy Losaw** is the engineering director at Enventys Partners, leading product development programs from napkin sketch to production. He also runs innovation training sessions all over the world: [wearewily.com/international](https://wearewily.com/international)



The robotic tail responds to petting from the user—wagging excitedly or contentedly, depending on how it is played with. The tail also reacts to sounds. There is even a very subtle heartbeat.





# Off-the-Cuff Discovery

UNIVERSAL GRIP ASSIST HELPS PEOPLE WITH DISABILITIES AND STRENGTH ISSUES **BY EDITH G. TOLCHIN**

**H**ERE IS a line of creative, innovative, assistive devices invented by three sisters from California while one of the sisters was rehabbing from a thumb injury. These products help young children and seniors, as well as people with disabilities. We spoke with Kerry Mellin, though the co-inventors are sisters Wendy and Merrily Mellin.

**Edith G. Tolchin (EGT):** How did you come up with the idea of the EaZyHold, and how does it work?

**Kerry Mellin (KM):** In 2014, preparing for a get-together, I went to sweep the horse barn. But due to a thumb injury, I couldn't grip the broom's handle without intense pain.

Frustrated, I grabbed duct tape, made a loop, and slipped my hand in. I was surprised how effortless it felt having this little bit of support over the back of my hand, enabling me to maintain control with little "grip."

Later at the party, I told my sisters about having to tape my hand to a broom. We laughed but agreed this wasn't an isolated problem; many other people had grip issues. We decided then to

innovate a new product to get a better grip on the tools people need to use every day.

We got to work the next day, prototyping. I'd hospital-volunteered in the past so I had some knowledge of universal cuffs. They were made of hard plastic, leather, elastic, scratchy Velcro, and were not at all adaptable or subitizable, and had not improved for 40 years.

Ours would be soft, comfortable, hygienic and super adaptable. Our kitchens became workshops: We sculpted clay models, made molds, mixed, colored, poured, and cured silicone to prototype 20 sizes and 1000 samples for trial.

Of note:

It's the first cuff that puts the tool in the hand directly against the skin, which allows for greater sensory perception and control to feel the texture, shape and size of the object—the cold of a fork, the warmth of a wooden spoon, the vibrating beat of a drumstick, or the brush. It adapts to something as small as a pencil or fork, to as large as a boat oar or walker.

It's the only cuff made in sizes for children's hands and limbs.

It's used with conditions such as TBI, stroke, arthritis, ALS, Parkinson's, cerebral palsy, spinal cord injuries, neurological disorders, poor gross and fine motor skills, and rehabilitation.

**EGT:** Please share your background. Have you ever invented anything else?

**KM:** As a girl, I was always creating home-made gifts, horse saddlebags, making school clothes, jewelry, and embroidery. In my 35-year career as a Union TV costumer, my job was to create interesting characters by designing and building puppets, walkabouts like hamburger, pizza and spaghetti people, flying angels and demons, futuristic spacemen. So I became very familiar with polymers and textiles.

Inventor Kerry Mellin says EaZyHold is the only cuff made in sizes for children's hands and limbs.



**EGT:** How long did it take you from concept to market?

**KM:** Two years: We invented it in 2014 and began selling on eazyhold.com in 2016.

**EGT:** Where are you selling the EaZyHold?

**KM:** A best-seller on Amazon, they've supported our product from the beginning—including "Amazon's Top Six Women-Owned Small Businesses of 2019" for "Commitment to the community, innovation, customer satisfaction."

Just back from Seattle's Amazon-Accelerate-Conference, we were honored and highlighted in their opening keynote address with a video shown to 3,000 attendees and thousands of virtual attendees.

They recently sent a film crew to my ranch here in Simi Valley to shoot a playdate we had with five kids with physical challenges who have grown up using EaZyHold. We painted horseshoes, planted flowers in the garden, rode horses, fed the chickens, and played musical instruments using EaZyHold.

We have 25 global distributors and are used in over 15,000 care facilities and schools.

**EGT:** Where are you manufacturing? Have you had any difficulties with quality control or logistics?

**KM:** Our manufacturers are in Lake Forest, California: Hercules OEM. Any time we've had concerns regarding softness, color, or mold, they immediately address it.

We've been fortunate to partner with them since Day 1 and have had little to no issues—which is very rare for a new company. But we worked hard to find them, so they're the right fit for us.

**EGT:** Is EaZyHold patented? Was obtaining the patents difficult?

**KM:** Yes, we have a utility and a design patent. But Lord knows it took us a minute to find a good patent attorney!

We interviewed five highly recommended patent attorneys, yet each one told us the product was, "too simple; not sure of its relevance;



**"We interviewed five highly recommended patent attorneys. ... They couldn't see it awarded a patent. They happened to be all males. So, we specifically sought out a female. What a game changer!" —KERRY MELLIN**

who would benefit from it?" They couldn't see it awarded a patent.

They happened to be all males. So, we specifically sought out a female (only 20 percent of patent attorneys are females). What a game changer!

The moment we showed her the prototype, she was on board.

She was able to picture it in the market and envision how it would enhance so many lives. She spoke of her elderly parents and special-needs daughter. A female and natural caregiver, she was sensitive to the need for more inclusive adaptive technology in the marketplace.

Eighteen months later, we had our first patent—and soon after, our second.

**Above: An accidental discovery in 2014 while sweeping a horse barn led sisters Wendy, Kerry and Merrily Mellin (left to right) to help people get a grip.**

**EGT:** Have you had any challenges with any phase of product development?

**KM:** Many! As three females, and with no medical backgrounds or degrees in “Class 1 medical devices”—I’m a TV a costume designer, Wendy a culinary chef, and Merrily a director of early education—we knew this was going to be a challenge.


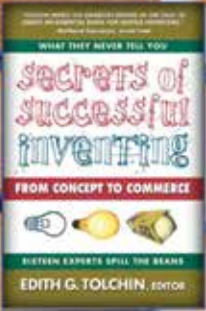
Sending our CAD files for molding product quotes, email after email, we received zero responses. Four months later, we re-sent with a male name. The quotes started streaming in for “Jeff.” Saying we were frustrated was an understatement.

When reaching out to therapists, we tried to make appointments with physical therapists and doctors via phone and email to try our EaZyHolds, but there was no protocol to fit us in with an appointment. And when we tried to visit in person, we were shooed away from the front desks.

EaZyHold’s tools for adults can help people suffering from myriad medical conditions and injuries.



Undaunted, we started hiding in the hospital hallways near their offices, and when they exited their doors to head for lunch, we ambushed them with our products in hand: an EaZyHold on a fork, on a toothbrush, on a sippy cup. Each and every one of them was fascinated by the innovation, had seen nothing like them, and told us that they had patients they would like to try them with. We happily left samples.

## The Opinionated Editor

### Edith G. Tolchin

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**EGT: Who handles your quality control? And your PR?**

**KM:** Family-owned and operated, my sister Merrily and I both handle quality control and also take care of all of the distribution and business financials. I handle the PR, sales, expos, and partnerships and new designs. My sister Wendy does the packaging and fulfillment, and my daughter-in-law Polina is our director of marketing.

**EGT: Is any government safety testing required for EaZyHold?**

**KM:** No specific safety testing is necessary for EaZyhold. However, we maintain a high standard—using 100 percent FDA-approved, food-grade silicone—to assure that it is completely hygienic and non-toxic.

**EGT: Do you have any advice for people who want to invent and bring a product to market?**

**KM:** Invention is a melding of old and new ideas. For me, I innovated EaZyHold because of wanting to continue to work on my ranch with my horses. If it's a love of yours for any length of time, there's a good chance you've found ways to make it more affordable, accessible, or a better way of performing it so that others could benefit from "Necessity is the mother of invention"—and that worked for me.

Making a product that first helped me continue to enjoy my passion and ended up having the side benefit of helping so many other people live fuller lives as well, is ... just about the best feeling there is! 🐾

*Details: [kerry@eazyhold.com](mailto:kerry@eazyhold.com)*

**Edith G Tolchin** has written for *Inventors Digest* since 2000. She is an editor ([opinionatededitor.com/testimonials](http://opinionatededitor.com/testimonials)), writer ([edietolchin.com](http://edietolchin.com)), and has specialized in China manufacturing since 1990 ([egtglobaltrading.com](http://egtglobaltrading.com)).



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# IP Literacy: SMART.

2022 MICHELSON IP EDUCATOR AWARDEES HIGHLIGHT THE VALUE OF TEACHING IP AT COMMUNITY COLLEGES **BY JUSTIN CHAPMAN**

**T**HE MICHELSON Institute for Intellectual Property is expanding its support of infusing IP education into a broad range of educational curricula.

At the National Association for Community College Entrepreneurship's annual conference in Boston in Fall 2022, the Michelson Institute for Intellectual Property (Michelson IP) awarded the Michelson IP Educator of Excellence Award to Business Administration Professor Diane Sabato and History Professor John Diffley of Springfield Technical Community College in Massachusetts. As part of the honor, their department received a \$5,000 award from Michelson IP and NACCE.

The two recipients demonstrated leadership through their innovative and successful approaches to teaching intellectual property, inspiring students and fellow educators with workshops and programs to expand IP literacy.

"The 2022 IP Educator of Excellence Award was an unexpected and humbling honor for Professor John Diffley and me," Sabato said. The award "affirms the work that we've been doing to promote intellectual property for our students and others across the country."

The award, presented annually in partnership with NACCE, recognizes individuals who have demonstrated an outstanding commitment to IP education for budding entrepreneurs, inventors, makers and creators. Last year, three Santa Monica College faculty members received the inaugural award.

## The Michelson-NACCE vision

In a 2022 article in the *Western New England Law Review*, Sabato, Diffley, and attorney Richard Kosakowski wrote that Michelson IP and NACCE are working to close the "IP education gap" by supporting educators to infuse IP education into a broad range of educational curricula.

"It is vital that IP education be infused into educational curricula as widely as possible," they wrote. "If not, any young person today who does not understand at least the basics of intellectual property—and its value and role in science, business, arts, and the professions—will find him or herself at a distinct disadvantage in the world of tomorrow."

Composed of educators, administrators, college presidents, and entrepreneurs, NACCE focuses on igniting entrepreneurship in their communities and campuses. The organization empowers college leaders to approach overseeing a community college with an entrepreneurial mindset while growing the community college's role in supporting job creation and entrepreneurs in their local ecosystem.

Since 2017, Michelson IP has worked alongside NACCE to provide a first-of-its-kind IP curriculum to member colleges, predominantly in the community college arena. The pilot phase included a dynamic community of practice that fueled the modular buildout of an undergraduate IP curriculum, eventually leading to its adoption at more than 85 NACCE colleges.

In 2020, five institutions were accepted into Michelson IP's IP Educator in Residence Initiative. The selected educators—Pamela Bogdan of New Jersey's Ocean County College, Gary Cors of Florida's Pasco-Hernando State College, Gary Graves of California's Fullerton College, Lucio Lanucara of Central New Mexico Community



Professors John Diffley (above) and Diane Sabato (opposite page) of Springfield Technical Community College in Massachusetts were awarded the 2022 Michelson IP Educator of Excellence Award.



College, and Sabato and Diffley of Springfield Technical—worked to advance IP literacy efforts throughout the NACCE ecosystem at community colleges across the country.

“NACCE has greatly enjoyed working alongside the Michelson Institute for Intellectual Property to continue to close the IP education gap. We look forward to seeing this community of practice grow among community colleges across North America,” NACCE President and CEO Rebecca Corbin said.

Michelson IP is an initiative of the Michelson 20MM Foundation, founded by Dr. Gary K. Michelson. The goal of the IP Educator in Residence Initiative is to “seed new opportunities for vibrant, local entrepreneurship education,” he said.

### Guide for educators launched

The faculty leads of this community of practice also launched “IPxEd 101: A Guide for Teaching Intellectual Property For Innovative Educators.” It acts as a resource for fellow educators at community colleges looking to be champions for IP curricula in their classrooms, institutions and communities. The guide includes practical applications of free and openly licensed IP curricula, academic discussions, thoughtful insights, best practices and valuable resources.

The guide educates students on how to leverage IP to create opportunities, build businesses and generate wealth. It equips professors with the tools and resources to teach students how to protect and defend IP.

According to the guide, these five main takeaways aided this community of practice with how

to best promote IP education on community college campuses:

- IP education is a pathway for ideas, transforming them into real world action and value.
- IP education is for students, by students, due to its student-centered inclusivity.
- IP education encourages innovative problem solving when launching new ventures.
- IP education underscores digital literacy for today’s high-tech economy.
- IP education is multi-disciplinary, with applications across business, STEAM, design and more.

IP and other intangible assets make up 90 percent of the market value of all S&P 500 companies today. Younger generations are increasingly entering the creator economy, starting businesses, or developing entrepreneurial ideas.

IPxEd 101 guides students inside and outside the class on their intellectual property journey.

“IP awareness and education is particularly important for community college students, as it can be a critical factor for them in recognizing, claiming, and protecting the value of the products of their own minds,” Sabato said. “IP can hold the key for them to build wealth, grow entrepreneurial ventures, and add value to the world around them.”

*The Michelson Institute for Intellectual Property provides no-cost IP educational resources to empower budding inventors and entrepreneurs. Michelson IP is an initiative of the Michelson 20MM Foundation, which focuses on a range of issues, including digital equity, smart justice, and open educational resources. It operates with support from Alya and Dr. Gary K. Michelson, members of The Giving Pledge. To access more resources, please visit [MichelsonIP.com](https://MichelsonIP.com).*

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I Love you  
Very much  
Love Daddy

...a beautiful smile  
a beautiful story about  
the days with everything  
...when you  
...joy in others  
...ever she goes.  
...who's loved very much -  
even more than she knows.

I Love you  
Very much  
Love  
Daddy

# Faith By Design

KERRI KING SAYS HER WILDLY POPULAR BIBLE-THEMED COMPANY WAS PART OF A BIGGER PLAN **BY REID CREAGER**

**K**ERRI KING has long believed we are ultimately not in control of our destinies. Sure enough, after God called for her father, she heard a calling for others.

Richard Thomas Stone died on Jan. 10, 2017, following long-term complications from exposure to the chemical herbicide Agent Orange while serving in the Vietnam War. King was devastated by the sudden loss of her lifelong role model and supporter.

“He was always a major influence in any of my business ventures,” she said. “He even co-signed for all my photography studio equipment when I opened my studio in 2006. So, as you can imagine, the sudden unexpected loss was a pivotal moment in my life.”

She was still grieving when she found a birthday card with her father’s handwriting on it.

Dad would soon coauthor another pivotal moment for her.

“I decided to take his handwriting and transfer it to a leather bracelet,” she said. “I knew that other people would enjoy having their loved ones’ handwriting engraved on a bracelet, too.”

“That was the start of Kingfolk Company.”

## **Prolific evolution**

Kingfolk’s original mission was to help people in the throes of grief.

Although mourning is natural and necessary when a loved one dies, prolonged grief can be a thief—robbing us of time meant to be spent on loving, fulfilled and productive lives.

“We sold thousands of handwriting and scripture-focused bracelets to help folks through a tough season in their own lives,” she said.

“I got to hear many stories of their pain and how having something as simple as a bracelet helped them make it through their day. It was just what my heart needed to mend from my own grief.”

**An old birthday card with a loving fatherly message was the beginning of Kingfolk Co.**





Above: Kerri King (right) creates with fellow participants Maghon Taylor (center) and Sara Dunn during a watercolor class in 2021. Taylor, owner of All She Wrote Notes, collaborates with King on Bible design.

One look at the Kingfolk website is dramatic illustration of how the company has evolved “into more of a faith-based focus with our Bible covers and accessories”—now numbering about 400 products at [kingfolkco.com](http://kingfolkco.com) and in shops around the country, with hundreds of thousands of customers.

A colorful Streets of Israel bible cover. Confetti Bible tabs. Waymaker stickers. Let Go and Let God stretchy bracelets. Mother’s Day Personalized Bamboo Cookbook Holders. Journalizing Bibles. Tetelestai T-shirts. The listings go on and on.

King said the Bibles are the top sellers: “Folks usually will accessorize their Bibles with purchasing Bible tabs and a carrying case.”

### A path made by design

Much of the business is working out the way King designed it. Literally.

“I started my career as a creative entrepreneur

in 2006, straight out of college”—where she minored in graphic design at University of Tennessee (at Martin). “I opened a photography studio in my hometown.

“Once I became a mother in 2008, I decided to work from home doing freelance graphic design so that I could stay home with my kids and also work part time. I did freelance design from 2008 until opening Kingfolk in 2018.”

After the bracelets, her Bible covers were a staple of the business. Once she started designing them, “I realized there was a big gap in the market for Bibles that feel personal.

“Most bookstores are lined with the same old boring leather-bound Bibles. Being able to produce a product that has some personality to it feels good. Just like any other book, if it looks boring, you’re less likely to pick it up and read it.

“I don’t think the Bible is a boring book. So the cover shouldn’t be, either.”



# Kerri King

**TITLE:** Owner and designer, Kingfolk Co.

**HOME:** Paris, Tennessee

**EDUCATION:** University of Tennessee (at Martin), B.A. in Visual Communications, minor in Graphic Design

**PERSONAL:** Husband Karl, children Karlie (14), Keniston (11), Kruz (7)

**HOBBIES:** Gardening, reading, drawing

**FAVORITE BOOK:** The Bible

**FAVORITE MOVIE:** "A Christmas Story"

**FAVORITE SONG:** "It Is Well With My Soul"

**FAVORITE SCRIPTURE VERSE:** "The Lord bless you and keep you. May His face shine upon you and be gracious to you. The Lord turn His face towards you and give you peace."—Numbers 6:24

**BUCKET LIST:** Write a children's book, travel across America in a camper, spend a few weeks in Israel



## Community and control

When she began designing, King used only her computer and Illustrator and Photoshop. Now she primarily uses her iPad and Apple pencil to design products.

Originally the sole designer of the Bibles and covers, she now collaborates with fellow artists in her field as the business has grown. "It's been fun to work with other business owners in my same genre of business," she said. "Community over competition!"

A steady stream of success has enabled her to invest in sophisticated machinery that lets her team print and manufacture most of the products in-house.

"Seeing a product start from a blank page to the finished printed product gives me such a sense of satisfaction," she said. "It's been a real journey from the beginning to where it is now."

Printing and manufacturing also generally frees her from the often frustrating process of dealing with manufacturers.

"That is such a difficult task," she said. "That's why I decided early on to manufacture most of my own products. I love having control over the finished product.

"I have brought on a few manufacturers to help with production. I make sure to get samples and ask a lot of questions before investing too heavily into any manufacturers.

"So far, I have been well pleased with the outsourcing I've done and developed a great working relationship with them. They know what I expect, and I know I can count on them to produce a high-quality product."

## Their family lives WHERE?

Freedom to produce in-house is not the only thing that differentiates Kingfolk from other printing companies.

For one thing, the company takes deep pleasure in hiring stay-at-home moms.

For another, the King family has taken the work-at-home concept to an admittedly crazy extreme.

“As a work-from-home mom myself, I know the struggle of wanting to raise kids but also have the pull to provide financially for my family,” she said. “It’s been an absolute blessing to be able to hire other work-at-home moms for the day-to-day tasks for Kingfolk Company. I hope that I’m able to hire even more in the years to come.”

King’s business has grown so fast that the family moved out of their home and into their office/warehouse space. Working from home isn’t that unusual, especially since Covid-19—but living in the same building with all the machinery and people working and occasional tumult was not part of the plan.

“Entrepreneurs are just a crazy breed of people, right?” she said with a laugh. “It’s been an adventure, to say the least.

“The plan originally was to build a house first, and then build a warehouse-shop on the same piece of property. As business took off at a blazing speed, we knew we needed to prioritize building our warehouse first. We had our contractor build living quarters into the shop.

“It has actually turned out quite nice and been fun for our family. It has been less of a focus on having a Pinterest-perfect home and more of how we can open our space to others for ministry.

“We are so happy with our living space, I don’t know if we will ever build an actual home that’s separate from our shop. It sounds crazy, but it works for our family.”

### Reaching beyond

Thinking outside the box comes naturally to King—who is part of a shrinking minority in what she says is an increasingly secular world:

“It has always been and will always be my motivation to look differently than the world.

I would say that my team falls under that category, too.

“We all love the Lord, and it shows through how this business operates in our day-to-day tasks. We hope that the love of Jesus shows through to our customers and we can be a light in a dark world.”

King and her team are willing to reach beyond in an effort to bring this light to others. Her most inspirational anecdote began a couple years ago, when a man emailed her asking if they could print a Bible for his wife.

“She wasn’t a Christian, but she agreed to read the Bible if he could find her a tie-dyed Bible without any words printed on the front. Because of our ability to custom print, I was able to grant his request and he was able to gift her one.

“I have kept in contact with him over the years. His wife has been reading the Bible and asking him a lot of questions, and digging into what it means to be a believer.

“He told me that she has started listening to Christian music, and she’s well on her way to understanding and believing what it means to be a Christ follower. That makes my job so worth it!”



### Knock-offs don't knock her down

No company is doing what Kingfolk does on such a large scale. Not surprisingly, design “borrowers”—or worse—will inevitably appear when they see the success of a company such as King’s.

“Any time you design anything, you can just about guarantee someone is going to copy it. It’s a very unfortunate part of being a creative entrepreneur,” she said.

“I let my team handle any of those situations and try to not get overly worked up about it. So far, any copyright infringements against our designs have been taken down successfully without major legal action.





**“We are so happy with our living space, I don’t know if we will ever build an actual home that’s separate from our shop. It sounds crazy, but it works for our family.”**

“As far as trademarks, we currently have a pending trademark for Kingfolk Company that should be finalized in the next couple of months.” King owns all copyrights to her ESV Bible designs and prints those in-house.

She has learned through experience—and with lessons from her faith—not to become overwhelmed by work stresses ranging from threats of knock-offs to miscommunications to overwork.

“I have always had a fear of not being enough for people—always trying too hard and working too much, especially in the early days of my business,” she said. “I was always trying to be everything to everyone.

“Last year, I was able to let that fear go and just be me unapologetically. It’s been so freeing! It has drastically changed the way I design my products, too. I design from a place of uniquely Kerri King and know that it won’t be for everyone. And that’s OK.”

### **More blessings ahead**

As the calendar turns to 2023, King is excited about a new joint venture while anticipating others.

HarperCollins Publishing has partnered with her to have her design the covers for its new KJV Bibles, which will be printed by HarperCollins.

“I cannot say enough great things about HarperCollins Publishing. I went to them with the idea for five KJV Bible designs and they were able to manufacture those Bible designs, and we are now carrying them exclusively in our shop.

“They have definitely been a best-selling item for us for the past few months. I can’t wait to design more Bibles with them.”

Kingfolk Co. products are in more than 500 boutiques throughout the United States. “I would love to see a larger store stock our products, too. That’s definitely a goal I am working toward.”



King is quick to note that being ambitious does not mean being dissatisfied. Her “attitude of gratitude” permeates the conversation, from the help of coworkers and family to blessings from the unseen.

She made special mention of Kingfolk’s Caley Harris and Kesha Gulish, who she said “have been instrumental in the success of Kingfolk from the start.

“They ship all the orders and answer all the emails. They stay behind the scenes and make it look like I’m running everything seamlessly. They have been such a blessing to me and to Kingfolk. ...

“Also, my husband and three kids—they have been there with me through the good times and bad. They deal with my crazy work hours and help whenever I need them to. I have the BEST people around!”

But ultimately, she said the story of Kingfish is “always about God.

“I take no credit for any of the success. It has truly been amazing to see God’s hand in the whole thing. ...

“To us, it’s more than just a business. We are spreading the Word of Christ to the world. It is so humbling to see how God works all things to His glory.” ☛

Bible carrier bags are among the 400 products available at [kingfolkco.com](http://kingfolkco.com).

**“It’s more than just a business.  
We are spreading the Word of  
Christ to the world.”**



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# My LinkedIn Life

HOW THE SOCIAL MEDIA MAINSTAY CAN BE INSTRUMENTAL IN ESTABLISHING YOURSELF AS AN INVENTOR **BY APRIL MITCHELL**

**IMAGINE A PLACE** where you can open multiple doors at a time and create opportunities for yourself or your product as an inventor. Such a place exists and it's not a magical land far, far away—LinkedIn!

Opportunities await in various forms when you are active on LinkedIn and use it regularly and correctly. From establishing yourself as an inventor to opening doors for collaboration, this can be a very helpful tool.

I am going to pull back the curtain on how being active on LinkedIn has helped me as an inventor to show you what I mean.

## Real people, connecting

It is important to establish yourself as the inventor of a product, whether you are manufacturing yourself or licensing it.

When people know your product was invented by you and they know your story, an emotional connection is made to your product or brand. It's not just another product on the market that is sold by a company making millions of dollars. It is a product invented by a real person, someone just like them.

If people know a little about your story as an inventor, you soon have a community behind you cheering you on and being there for you.

It also helps to put a person and name with an invention or product to get your name out there as the inventor, in case there is anything questionable

going on with another company in the industry to knock off your product in the future.

I have personally seen knock-off products and recognize them right away. I do not purchase knock-off products.

## Building credibility

When we share our new products with the industry, LinkedIn community and the world, we are building credibility in our industry and category. Members of the community can see our talents, skills and knowledge. Abilities come to life when our products do.

Showing our products gives the credibility and validity that yes, we are who we say we are—that yes, we do what our LinkedIn profile says we do! And yes, there is passion and hard work behind our products! We then can use this credibility to advertise and promote our products, as well as ourselves as inventors.

## Doors of opportunity

Because of my activity on LinkedIn, I have become friends with the most amazing people—other inventors, manufacturers, and more.

I have been provided the opportunity to partner with other inventors and designers to work on projects together because of LinkedIn.

I also have been able to meet with and present new concepts to manufacturers looking for new ideas because they see my activity and products on LinkedIn.

I hope using LinkedIn is as successful for you as it has been for me! And if we aren't connected yet, I'd be happy to connect with you. ☺

**April Mitchell** of 4A's Creations, LLC is an inventor in the toys, games, party and housewares industries. She is a two-time patented inventor, product licensing expert and coach, and has been featured in several books and publications such as *Forbes* and *Entrepreneur*.





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# Sport Innovations

WHETHER BY INSTINCT OR PREPARATION, THESE PLAYS CHANGED THE GAMES WE WATCH AND LOVE **BY JEREMY LOSAW**

Bob “Foothills” Kurland (below) had never practiced the slam-dunk when he was the first to perform the feat in 1944.

Alex Shibicky (below right) is credited with delivering hockey’s first slapshot in 1937.

**D**ENNY HAMLIN had the last lap. Ross Chastain had the last laugh.

During the penultimate race of the 2022 NASCAR season at Martinsville Speedway in Ridgeway, Virginia, a spot in the coveted final four of the championship playoff was on the line. On the last lap, Hamlin was running in fifth position and comfortably occupied the last playoff spot.

Then, Chastain pulled off the unthinkable.

In 10th place, he held the throttle wide open going into the final corner, rode the outside wall like he was in a video game, and passed five cars—including Hamlin’s—and took the final playoff spot for the following week’s championship race. He ran the fastest lap in the history of the track and relegated the veteran Hamlin to yet another year without a championship.

With sports having a fixed playing field and set of rules, it is not often we see such mind-bending and innovative moments. Here are some other innovative moments from the playing field that changed the trajectory of sport.

## Basketball

The sport was invented by James Naismith in Springfield, Massachusetts, in 1891, using peach baskets. But it took 53 years before one of its hallmark plays, the slam dunk, came to fruition.

**The slam dunk and slapshot, two of sport’s most hallmark plays, took years to appear in basketball and hockey.**

In 1944, Bob “Foothills” Kurland of the Oklahoma A&M Aggies (the modern-day Oklahoma State University) was playing a game against Temple. The 7-footer found himself under the basket, ball in hand, and spontaneously stuffed it in from below. He had never practiced the move or seen anyone else do it.

This play laid the foundation for future basketball players to evolve the move into more stylish variations. Today, that is highlighted in the NBA’s annual Slam Dunk Contest.

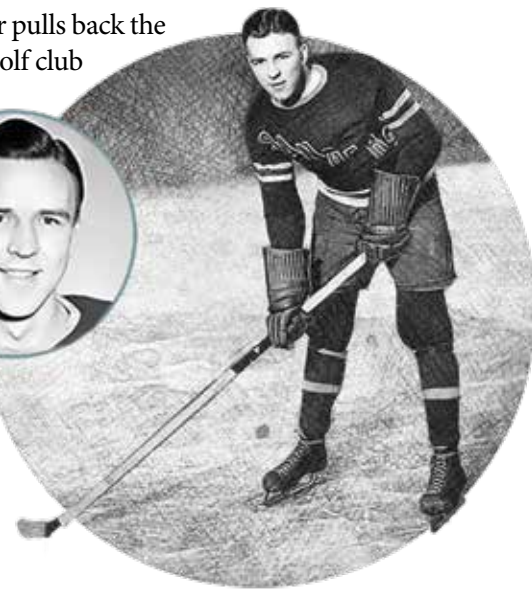
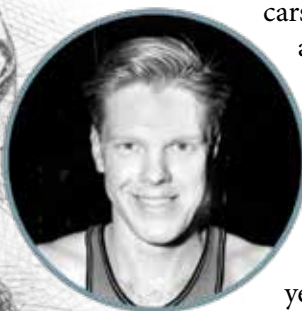
## Hockey

The slapshot is as iconic to hockey as the slam dunk is to basketball, but this was another move that took decades of playing the game before it appeared.

Alex Shibicky of the New York Rangers was the first player to use the slapshot in a game in 1937—20 years after the formation of the National Hockey League, and more than 50 years after the first organized games in Canada.

Contrary to the wrist shot or backhand shot, where players have control of the puck at the end of their stick for the entirety of the move, the slapshot is controlled chaos.

The player pulls back the stick like a golf club



before swinging it forward toward the puck. The blade of the stick hits the ice first, bending the stick and preloading it with energy before unloading into the puck—allowing high-speed shots to be fired at the goalie at speeds over 100 mph.

Innovations in the materials and design of hockey sticks have increased the power of the shots. It is little wonder that Jacques Plante developed the first facemask for goalies in the late 1950s, to protect his face.

## Gymnastics

There was Nadia Comaneci's perfect 10 in 1976 and Kerry Strug's injured vault to take U.S. team gold in 1996, but there is no one as innovative in the gymnastics world as Simone Biles.

The much-decorated American has no less than four skills that bear her name in vault, beam and two on the floor exercise. To try to describe them here would do a disservice to their sublime complexity, so I will direct you to YouTube to find clips.

Considering the physical demands and the physics-defying nature of the sport, it is hard enough to master the known skills—let alone innovate and push the boundaries across the whole gym floor.

I also consider Biles to be a social innovator. In the delayed 2020 Tokyo games, she famously pulled out of the competition due to issues with stress and the onset of the “twisties”—a potentially dangerous condition in which athletes get lost in the air.

This was in stark contrast to the “play through the pain” mentality in gymnastics and sports in general, one that could pave the way for future athletes to be more mentally health aware.

## Running

The core of most athletic sports and events, running as a sport is as much instinct as it is athleticism. Thus, it seems absurd that it took until 1954 for a human to first run a mile in under 4 minutes—a high-water mark so hallowed, it was thought to be a physical impossibility.

Enter Roger Bannister, medical student and middle-distance runner. He used his training to dissect the mechanics of running and developed a specific training regimen to reach the elusive benchmark.

Despite rainy and windy conditions in Oxford, England, on May 6, 1954, he crossed the finish line in 3:59.4 with the help of his pacers and methodical preparation.

Now, sub-4-minute miles, while elusive to casual runners, are frequent for trained athletes. Many collegiates complete the feat each year.

## Soccer

One of the most popular sports worldwide, soccer has seen a number of innovations in the way the game is played—but none so dastardly and downright filthy as the Panenka penalty.

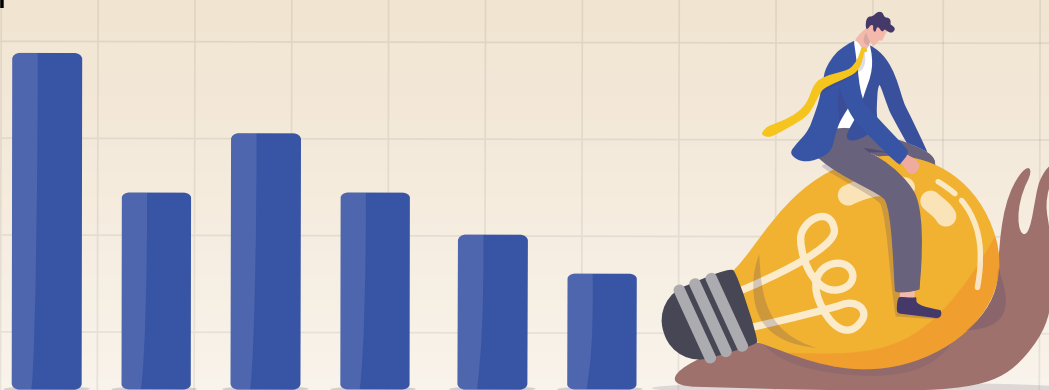
The trick play was named for Antonín Panenka, the first to use the technique in the 1976 European championship final for Czechoslovakia. Instead of rocketing a penalty shot into one of the corners, the taker instead daintily lofts a slow, looping ball into the center of the net. The goalie—who typically dives aggressively to either side of the goal anticipating the typical shot to the corner—is left looking like a flopping trout in the bottom of a boat while watching the ball sputter in, hopelessly out of time to dive back to stop it.

The innovative approach has been used by soccer stars Lionel Messi and Zinedine Zidane, to name a couple.👁

Simone Biles' astonishing gymnastics innovations must be seen to be believed.







# Recession Lesson

PATENT MONETIZATION OFTEN RUNS AT A DIFFERENT SPEED DURING ECONOMIC SLOWDOWNS **BY LOUIS CARBONNEAU**

**I AM OFTEN** asked to comment on how the economy affects the valuation of patents and the IP market in general. This is important at Tangible IP because in addition to brokering patents for buyers and sellers, we also do a fair amount of patent valuation work for clients in our advisory services practice.

It is often said that the patent market is somewhat contrarian to the general economy. This would suggest that when the economy declines, patent transactions and valuations improve, and vice versa.

This is a rather simplistic world view.

Although it may be true from time to time, factors that affect patent valuations are much more diverse and react differently in response to economic changes. For new readers, I will repeat the five main factors at play, based on a few decades of transactions and observations:

- Noticeable changes in supply and demand;
- New case law that may have a long-lasting impacts;
- Changes in the regulatory environment;
- Recent large damage awards against infringers;
- Broad availability of funding to support assertion activities.

As one can readily observe, an economic downturn should have no impact on several factors listed above—such as new case law, changes in regulation, and damages awards that are directly tied to

changes in the judiciary, regulatory or legal areas, respectively. However, a recession will affect supply and demand as well as cash flowing to fund assertion-based activities, our first and last factors above.

## Recession signs are here

A recession generally means that sales recede, hiring budgets are frozen, layoffs abound, wages stagnate, and many promising startups have to close their doors. We are already witnessing this on a large scale, with massive layoffs and hiring freezes at most Fortune 500 companies.

In the technology arena, the value of yesterday's unicorns has vanished into thin air and we are starting to see an uptick in bankruptcy proceedings, etc. Further planned rate increases from the Federal Reserve to rein in inflation almost certainly mean this trend is here to stay for the foreseeable future.

Companies that own patents are not exempt from the impact of this downturn; for large patent owners, there is renewed pressure to find ways to cut costs and create new revenue streams. Historically, this has been accomplished by a combination of patent portfolio pruning—either by selling assets or letting them lapse to save the maintenance costs—and by increasing homegrown or outsourced assertion-based activities to extract value from a portfolio that is often too limited to play a meaningful defensive role.

For smaller patent owners, this also means doors to a licensing deal are closing, funding is harder to raise, and IP assets must also contribute to bringing in precious—especially if non-dilutive—cash.

In both cases, this tends to flood the market with more patents for sale. If we apply the simple rule of supply and demand, this should normally depress the price of patents overall unless there is a corresponding uptick in buyer demand.

However, this is not what we have witnessed historically when the economy takes a dive in years past. Why?

### Patents as recession outliers

First, remember that significant shifts with some of the other factors that more directly pertain to the IP marketplace (see the second, third and fourth bullets above) will more than offset an economic trend in the opposite direction.

For instance, a decision from the U.S. Supreme Court affecting patent rights will have a much more immediate and long-lasting impact on patent valuations than a series of interest rate hikes from the Federal Reserve, like the ones we have seen lately.

Second, remember that the price of acquiring rights to a patent, whether via a sale or license, must always be considered in the context of the price of the alternative.

For instance, before *inter partes* (IPR) reviews were available at the PTAB, challenging the validity of a given patent in the United States had to be done exclusively via the court system. The legal fees required to do so were generally in the millions of dollars, given that this issue is generally adjudicated upon only at trial.

Therefore, the incentive for a defendant in a patent lawsuit to take a license for, say, \$500,000 with a 100 percent certainty that the problem would go away permanently was indeed very compelling.

Enter the IPR, where the same challenge can be made for less than \$250,000 with a statistical success rate of close to 80 percent. No one in their right mind would even entertain that \$500,000 license, unless he or she want to be part of the next wave of layoffs.

Third, we need to look not just at the quantity of new patents entering the market but also at their inherent quality. We live in a world where all patents are definitely not created equal.

For instance, we at Tangible IP review three or four new portfolios every day that patent owners want us to sell or license. We only put under brokerage an infinitesimal percentage of those. We are very selective and only broker the highest quality portfolios as the market commands.

But most of the patents we have to reject have no objective price tag whatsoever in the secondary market, for the simple reason that they carry no assertion value—i.e., no one is infringing upon them.

Now, what if I were to tell you that the best-quality patents, the ones that generally get asserted and may lead to substantial awards or settlements downstream, often come primarily from startups and small-and-medium-size enterprises—and when those companies go bust may suddenly flood the market?

This is often what happens in a recession.

Many of the pioneering companies that created great technologies and secured IP rights to go along will not make it. But the U.S. economy is based on a small number of very large enablers who will happily gobble up all these technologies and incorporate them into their product lines.

Although it may be a good thing that suddenly orphan technologies find a new home and benefit consumers, these large implementers have a paying problem—and valuable patents tend to gravitate to

**Unique factors that include court rulings, *inter partes* reviews, assertion values and litigation mean we will see more patents entering the market—many of them good.**





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new owners who will then ask the entities practicing these patents for free to pay their fair share.

This creates a spike in litigation, which still costs several millions of dollars to defend if the patentee can survive the PTAB.

And we are back to our “cost of the alternative” scenario. This is also why, historically, out-of-court settlements tend to follow a progressive curve as they move along a timeline: The more expensive the legal steps to defend and the closer a defendant is to an adverse judgement, the more willing it is to pay to settle a case.

Fourth, we have witnessed the growing influx of cash entering the litigation funding arena, including in the patent sector. This is our last factor above. Each time there is a recession and stock markets stumble, money managers look for new avenues to invest that promise higher returns (it also contains a lot more risks, but this rarely fazes professionals who invest other people's money).

Thus, with the wild swing that we are seeing lately with the various indexes, this phenomenon is bound to accelerate.

### The patent spin cycle

At the end, this means we will see more patents entering the market, including more “good” ones that are marketable. So, unless large corporations suddenly grow a conscience, we will see more free riding on others' IP, which will lead to more litigation, more settlements and a few large awards that will then capture everyone's attention (even if later overturned) and ultimately bring more money to fund those cases.

As you can see, we have created a perfect circular economy of sorts, fueled by a mix of innovation (the inventors), corporate sociopathy (the implementers) and greed (the funders).

Only in America can you take a broken system and turn this into a nice cottage industry that sustains thousands of people, including yours truly. ☺

**Louis Carbonneau** is the founder and CEO of Tangible IP, a leading patent brokerage and strategic intellectual property firm. He has brokered the sale or license of 4,500-plus patents since 2011. He is also an attorney and adjunct professor who has been voted one of the world's leading IP strategists.





# Licensing?

## Consider a Sales Rep Partner

TEAMING WITH SOMEONE WHO IS ALREADY IN THE INDUSTRY OFTEN MAKES SENSE **BY DON DEBELAK**



**THEY SAY** two heads are better than one. So if you are trying to license your idea, why not get a partner?

Often, the best partner is a sales representative who is already in the industry. He or she will know the market, many of the major players, and what kind of deal makes sense.

For inventors, this partnership doesn't mean you have to give an equal share to your cohort. Often, a 10 percent to 15 percent share is enough if you have a "works like, looks like" prototype and a marketing plan.

You might have to increase the sales rep's share if you need money that he/she contributes or helps raise, but typically you will pay a modest amount to the rep for all the value offered. Besides just licensing an idea straight up, the rep can help you take other steps that might be important to land a licensing deal.

An example is a partnership with a manufacturer who will help design the new product, build prototypes and eventually produce the product. This can be a key tool if you are licensing to a company that outsources production and if your product is too expensive for you to produce on your own.

Inventors often form alliances or partnerships with sales reps because they don't have established contacts in the industry, or they need a partner to help foot the bill. Most inventors think they just need an idea or patent to get a license—and in some cases, that works—but the seven suggestions below detail some of the additional steps an inventor can take to improve his or her chances of landing a license and landing a higher royalty. Sales reps can help with all these steps.

It's not just the rep's contacts that help you. You also receive a major boost with everyone you talk to when they realize you have an industry professional backing your idea.

### Points when partnering

- Have a patent or patent pending. The inventor typically does this.
- Find an engineer or designer to complete design work on the invention. A sales rep typically knows industry people with the right expertise to do this, and often knows contacts who might work for a percentage of the idea.
- Find a manufacturer to make the prototype and possibly set up a small production run. Again, the rep may know people who can do the job, and might do it for a share of the product rather than an upfront fee.

**Inventors often form alliances or partnerships with sales reps because they don't have established contacts in the industry, or they need a partner to help foot the bill.**

- Set up a sales test at a key retailer or end user to get market feedback. Reps have contacts for a wide variety of market tests.
- Get conditional purchase agreements from manufacturer sales rep agencies, other marketers, retail chains or other key target customers to prove the product is viable.
- Arrange for the product to be shown at a trade show to get market feedback, and show potential licensors that the product has a good chance of creating strong sales.
- Line up other industry people as investors or supporters of the idea. 📧

**Don Debelak** is the founder of One Stop Invention Shop, which offers marketing and patenting assistance to inventors. He is also the author of several marketing books, including Entrepreneur magazine's *Bringing Your Product to Market*. Debelak can be reached at (612) 414-4118 or [dondebelak34@msn.com](mailto:dondebelak34@msn.com).





# 2022's Greatest Hits (and Misses)

EXPERTS WEIGH IN ON THE MOST IMPORTANT  
IP DEVELOPMENTS OF THE PAST YEAR **BY EILEEN MCDERMOTT**

*All Eye On Washington stories initially appeared on IPWatchdog.com.*

**I**N 2022, we had surprising denials at the Supreme Court, expected rulings from the U.S. Court of Appeals for the Federal Circuit, a flurry of activity from the U.S. Patent and Trademark Office under newly appointed director Kathi Vidal, and some exciting precedents set in the rapidly evolving area of inventions and art created by artificial intelligence machines, among other developments.

These experts provided their opinions on the biggest stories:

*Alden Abbott, former Federal Trade Commission general counsel*—The most significant development was the Supreme Court's decision to deny certiorari (refuse to review) in the *American Axle* case.

The [federal circuit's] decision had held that a technology that reduced noise from driveshaft vibrations did not qualify as patentable subject

matter under Section 101 of the Patent Act. This decision, which found no support in the plain language of the statute (and was at odds with a common sense understanding of what could be patentable), made manifest that the Supreme Court is not up to the task of correcting erroneous lower-court misapplications of the patentable subject-matter standard.

It is plain now that efforts to undo this damage must be pursued before Congress, through advocacy for a rewrite of Section 101.

*Bruce Berman, chief executive officer, Brody Berman Associates*—Inability to pass meaningful legislation to enhance patent certainty; continued difficulty securing patent licenses, even under fairest and most reasonable terms; the crypto/NFT meltdown (they will return); proliferation of negative IP stereotypes, including those that belittle legitimate licensors; confirmation of Kathi Vidal as USPTO director; and the World Trade Organization's decision to waive patent obligations associated with COVID-19 vaccines.

**The Supreme Court's refusal to review the *American Axle* case shows it "is not up to the task of correcting erroneous lower-court misapplications of the patentable subject-matter standard."** —ALDEN ABBOTT



Marla Grossman, partner, American Continental Group—The good COVID-related news was the U.S. patent system awarding valuable patent rights to incentivize innovators to risk their efforts and treasure to promote the progress of science and thereby enhance public welfare. The system worked as designed in the past few years as scientists and pharmaceutical companies, with remarkable speed, developed and brought to market vaccines that significantly reduced the harmful effects of the COVID epidemic and, in the process, saved hundreds of thousands, if not millions of lives.

The bad news was that even though the rewards offered by the patent system produced such outstanding results in dealing with the pandemic, the World Trade Organization agreed, with the support of the United States, to waive patent obligations for COVID vaccines for five years. By so acting, our government has reduced the incentives offered by our patent system with respect to innovation to meet future crises that threaten humanity.

Wendy Verlander, managing shareholder, Verlander, LLP—Many important things happened in 2022.

The Western District of Texas stopped assigning cases filed in Waco to Judge Alan Albright and began assigning them to judges across the district, resulting in a dramatic reduction of cases filed in Waco. VLSI was awarded over \$2 billion in a case against Intel and then became the subject of a shakedown from a third-party company that used an *inter partes* review to try to extort money, punctuating the need for an IPR standing requirement.

Courts required disclosure of litigation funding arrangements, which caused a lot of discussion about the relevance of that information. Most important, the Supreme Court again refused to weigh in on the patent eligibility mess it created in *Alice* when it refused to accept cert in *American Axle*, despite the solicitor general's recommendation and the deafening pleas from inventors, lawyers and judges.

Thankfully, a bill attempting to fix this intractable problem has been introduced in the Senate. Let's hope that gets some traction in 2023. 🍷

**Eileen McDermott** is editor-in-chief at IPWatchdog.com. A veteran IP and legal journalist, Eileen has held editorial and managerial positions at several publications and industry organizations since she entered the field more than a decade ago.



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Whether your concern is how to get started, what to do next, sources for services, or whom to trust, I will guide you. I have helped thousands of inventors with my written advice, including more than nineteen years as a columnist for *Inventors Digest* magazine. And now I will work directly with you by phone, e-mail, or regular mail. No big up-front fees. My signed confidentiality agreement is a standard part of our working relationship. For details, see my web page:

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Best wishes, Jack Lander



## IoT Corner

On the heels of Google's announcement earlier in 2022 to shut down its IoT Core service, IBM is following suit.

The **IBM Watson IoT Platform** on IBM Cloud will close at the end of 2023, the company announced in November. This gives users about a year to migrate their products and services to a more evergreen platform.

The service was launched about a decade ago but never widely adapted; big data players AWS and Microsoft Azure have led the market. The service will officially shutter on Dec. 1, 2023.

—Jeremy Losaw



## Wunderkinds

**Om Guin**, a seventh-grader at Fulton Science Academy Private School in Alpharetta, Georgia, won the Lemelson Early Inventor Award for the second straight year for inventing devices that detect indoor air quality. His newest, Lungsaver, is a system that measures indoor and outdoor air quality and alerts users if it is inadequate. Several of his family members have asthma.



## What IS that?

This **vintage ad**, sent by California Invention Center Executive Director Larry Udell, is a hot one indeed. After all, who *doesn't* want a childish tailpipe attachment for racecar wannabes? And it's a great way to meet many of your curious local police officers.

## 2070

The projected year that **gender parity** will be reached in global patent applications, according to a study by the UK's Intellectual Property Office.

## WHAT DO YOU KNOW?

**1 True or false:** Ironically, one of the songs that become part of the public domain in 2023 is "The Best Things in Life Are Free."

**2** Which innovation quote was not said by Elon Musk?

- A) "Don't be afraid of new arenas."
- B) "Just because you build it doesn't mean they will come."
- C) "Great companies are built on great products."
- D) "Any product that needs a manual to work is broken."

**3** Which was invented first—the electric hedge trimmer, or the electric toothbrush?

**4 True or false:** Not only was George Harrison sued for copyright infringement for his song "My Sweet Lord," Paul McCartney faced a similar suit in the early 1970s.

**5** Which quote was not said by Hedy Lamarr, co-inventor of the frequency-hopping technology behind WiFi, Bluetooth and GPS?

- A) "All creative people want to do the unexpected."
- B) "All my six husbands married me for different reasons."
- C) "Because you don't live near a bakery doesn't mean you have to go without cheesecake."
- D) "Boring people seem to have no stress. This fascinates me."

**ANSWERS:** 1. True. 2. B. 3. The hedge trimmer, 1940; the toothbrush, 1954. 4. False. It was John Lennon who was sued in 1973 by Morris Levy, owner of the copyright to Chuck Berry's song "You Can't Catch Me." Levy argued that the Beatles' 1969 hit, "Come Together," had Berry's "Here come ol' flattop" line and was a slowed-down version of Berry's song. The out-of-court settlement required Lennon to record three songs owned by Levy. 5. D.

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