

Inventors

FLOP STOP

DIGEST

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Historic Feud

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WHAT AN INVENTOR
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**Nominations are due
by July 30, 2021**

For more information, contact
Linda Hosler, Program Specialist
Phone: 571-272-8514
Email: nmti@uspto.gov

UNITED STATES
PATENT AND TRADEMARK OFFICE



Inventors

DIGEST

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The Sad Saga of the Successful Failure

It's hard to miss among the items in our "Flop Stop" cover montage this month: part of a rental case displaying most of the once-ubiquitous Blockbuster video label.

But does Blockbuster qualify as a flop? Depends on your definition of failure—and I'm failing to come up with a definitive answer.

The first Blockbuster store opened on Oct. 19, 1985, an instant success. The company's dominance in the VCR tape rental industry thundered unabated through the 1990s and into the next century, showing in a reported \$4 billion a year at 3,600 locations in 1994.

Blockbuster peaked at 9,100 worldwide stores in 2004. What ultimately happened is a reason the company made *Time* magazine's 2017 list with this creatively counterintuitive title: "The 20 Most Successful Technology Failures of All Time."

Basically, the company was out-innovated by its main rival, struggled with debt as a physical retail store, and made some bad decisions.

It's an oversimplification to say that Netflix's streaming options via the internet killed Blockbuster. Formed in 1997, Netflix did not offer this service until 2007.

Before that, however, Netflix allowed customers to rent an unlimited number of DVD movies that were mailed to them for a fixed monthly subscription fee. Returning one was as simple as mailing it back. This was much more convenient and inexpensive than one visit to Blockbuster. And no hated late fees!

Despite its market dominance, the blue and yellow was often in the red. *Inc.* reported in 2019 that Blockbuster was only profitable during two years from 1996 to 2010.

Blockbuster also passed on a chance to buy Netflix for \$50 million in 2000, before video streaming had been introduced and the internet was still gaining a foothold. Oops.

The company didn't always sit still. Blockbuster offered its own video-on-demand service in 2001 but couldn't get the technology to work as desired.

Fate wasn't kind. It was too late to rewind.

Failure isn't always a plan that doesn't work. Sometimes, failure is a successful plan with holes that are leveraged by others. This competition ideally results in stronger products and services for all of us.

—Reid
(reid.creager@inventorsdigest.com)



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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.



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ON THE COVER
Dr. Samuel West,
curator of the
Museum of Failure,
with display items;
photo by Sandra Gao



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COMMISSIONER'S CORNER

Springing Into Action

*Commissioner for Trademarks
David Gooder oversees initiatives
as filings soar since COVID-19*



IF ANYONE knows how to adjust to dramatic change in a hurry, it's David Gooder.

One month after his Feb. 5, 2020, appointment as USPTO commissioner for trademarks, concerns about the COVID-19 pandemic and the safety of employees forced the USPTO to shutdown its campus in Alexandria, Virginia.

Many American businesses and agencies floundered. 2020 was essentially a lost year for them. Many did not survive.

But December 2020 was one of the trademark office's strongest filing months on record. As the pandemic persisted through early 2021, April was another healthy month—which required the Office to continue its aggressive campaign to address filing

backlogs that started in late 2020. “At first, filings were declining, but since last summer the growth in filings has been unprecedented,” said Gooder.

As of June 4 this year, the office's fiscal year-to-date application class filing levels were up 52 percent.

“Our takeaway is that companies continued to innovate even during the pandemic, and trademarks became even more valuable as much of the economy moved online,” Gooder said.

To encourage that innovation—particularly with respect to COVID-19-related goods and services, as well as responding to the increasing number of applications—the USPTO took these actions:

- On June 15, 2020, the USPTO announced the COVID-19 Prioritized Examination Program for certain trademark and service mark applications so that important COVID-19-related trademark applications could be expedited out of turn and immediately assigned for examination.
- This April, the USPTO hired 47 new examining attorneys to help address its pendency concerns.
- In early Spring, the office launched a new webpage that provides current processing wait times. This information allows attorneys to provide appropriate expectations regarding processing times to their clients. Another goal is to bolster trademark support staffing.
- The Office of Liaison and Petitions recently hired five new attorney advisors and two new paralegals.
- Workloads have been reorganized among staff, and Information Technology (IT) solutions and process improvements have been implemented. These include translating foreign language marks before assigning applications to examining attorneys, in addition to developing bots to automate some administrative tasks.

TRADEMARK QUESTIONS?

The Trademark Assistance Center (TAC) is the main support center for all customers. Call 1-800-786-9199 (press 1).

The TAC can answer questions on a variety of trademark topics:

- General information about registering a trademark
- Trademark literature and publications
- Updates on the status of trademark applications and registrations
- Answers to case-specific questions about an application or registration
- Help navigating electronic forms and systems
- Help finding information on the USPTO website about the meaning of trademark terms and concepts, how to start the application process, application and registration timelines, and more.

The TAC cannot give legal advice.

TAC WEBPAGE: uspto.gov/TrademarkAssistance



When asked which categories have recently seen the most application activity, Gooder had a surprise.

“The one anecdotal thing we learned as a result of the pandemic is that we Americans love our pets,” he said. “We have seen the most growth in this field over all other categories.

“As we know, many families brought new pets into their lives over the past year and a half, and folks working from home spent significantly more time with their four-legged friends as a result of the pandemic. So we have surmised that entrepreneurs, manufacturers, and retailers noticed this trend, and an uptick of trademark applications in this category soon followed.”

He said the second-biggest growth category has been electronic goods. “This makes sense, as so many workers and businesses were forced to transition to telework and online retail environments. This required consumers to acquire goods that would support them being as efficient as possible in this virtual environment.”

Gooder said that with total filings increasing, so did fraudulent filings and others that violated USPTO rules. Register protection became even more important.

His office looks forward to the implementation of the Trademark Modernization Act (TMA) by the end of the calendar year. “The TMA was designed to provide trademark owners better means of getting rid of deadwood that blocks their own entry onto the register, and to allow owners to clear trademarks more quickly,” he said.

In particular, the TMA will provide the USPTO and stakeholders with new non-use cancellation

mechanisms before the director, rather than the Trademark Trial and Appeal Board (TTAB), as well as a new claim for cancellation before the TTAB for a mark that has never been used in commerce.

“The TMA will also allow us to increase examination efficiency once we are able to implement flexible response periods to office actions by the middle of 2022. Also, we are dialing up our investigations and sanction process to fight inaccurate or improper-use claims, the unauthorized practice of law, and fraud and abuse in the filing of applica-

tions—which all diminish the trust we have in our register.”

The Special Task Force on Improper Activities (STF)—a relatively new but integral part of register protection initiatives—is tasked with investigating and developing strategies to address suspicious activities and scams.

“This has already had a number of successes,” Gooder said. “In May alone, our Special Task Force stopped bad actors in China and Vietnam from continuing to file applications.”

The trademark office is working more closely than ever with the Department of Commerce inspector general, the Department of Justice, the Postal Service inspector general, and the Federal Trade Commission. It is also using IT to spot patterns and trends, which includes continuing to study the effectiveness of Artificial Intelligence technology to address issues surrounding fraud.

“We will not stop until we explore and investigate every tool at our disposal to guard the register from bad actors,” Gooder said.

“The one anecdotal thing we learned as a result of the pandemic is that we Americans love our pets. We have seen the most [trademark application] growth in this field over all other categories.”

—DAVID GOODER

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NEWS FLASH

DOCX Streamlines Patent Filing Process

Word-processing format for applications will be required for users next January 1 in order to avoid surcharge

DOCX IS THE LATEST result of the USPTO's ongoing mission to modernize and streamline its patent application systems.

Now you can file patent application-related documents in this word-processing file format through EFS-Web, Private PAIR, and Patent Center. To improve application quality and efficiency, the USPTO will transition to DOCX for all filers on Jan. 1, 2022. PDFs will continue to be an option; however, a non-DOCX surcharge fee will be effective on that date.

DOCX is supported by many popular applications, such as Microsoft Word, Google Docs, and LibreOffice. As an open standard format, DOCX offers a safe and stable basis for authoring and processing intellectual property documents. Its benefits include:

- **Increased efficiencies**, eliminating the need to convert structured text into a PDF for filing.
- **Higher data quality**, reducing conversion errors that can occur when converting to a PDF file.
- **A smarter interface** that detects common errors, such as formatting errors, and provides instant feedback to prevent unnecessary delays in processing your application.
- **Privacy**, providing automatic metadata detection (e.g., Author and Comments) and removal features to support the submission of only substantive information in the DOCX file.
- **Improved application quality**, providing content-based validations pre-submission, identifying issues up front, and allowing for them to be addressed before examination begins.
- **Ease of use** via automated document indexing.
- **Compatibility** by eliminating the non-embedded font error, the most common

obstacle in uploading a PDF, through uploading your file with supported fonts.

The USPTO published a Federal Register Notice last year and received helpful feedback that prompted a few changes during the transition to the DOCX format. Now, office actions are available in DOCX and XML formats with further enhanced DOCX features—including accepting DOCX for drawings in addition to the specification, claims, and abstract for certain applications.

Also, based on customer feedback, the submitted DOCX files will be adopted as the authoritative document. That change will simplify the filing process, allowing the applicant to only review the DOCX files before submission rather than reviewing the USPTO-generated PDF version.

The USPTO is offering DOCX training sessions and is ready to answer any questions you have about the new format. A DOCX information page, which includes FAQs, is at uspto.gov/patents/docx.

The training sessions will provide more information; demonstrate how to file and retrieve DOCX files in Patent Center, EFS-Web, and PAIR; and answer any questions.

Applicants can also file test submissions through Patent Center training mode to practice filing in DOCX. Training mode does not save or store data in USPTO systems.

There will be a listening session this fall to gather feedback and suggestions for further improving DOCX features.

For more information and to view frequently asked questions, visit the DOCX page of the USPTO website. If you need assistance, contact the Patent Electronic Business Center at ebc@uspto.gov or 866-217-9197.



TRADING CARD

NO. 24

John Goodenough

JOHN B. GOODENOUGH'S battery is still going strong—in more ways than one.

The co-developer of the lithium-ion battery will turn 99 on July 25. He still holds faculty positions at the University of Texas at Austin, in the Cockrell School's Walker Department of Mechanical Engineering and Department of Electrical and Computer Engineering.

"Don't retire too early," Goodenough joked on Oct. 9, 2019, when he was announced as the oldest Nobel Prize winner in the award's history. He was in London to receive the Copley Medal from the Royal Society—the world's oldest surviving scientific award, dating to 1731—when he learned he was a Nobel laureate in chemistry. He was awarded the prize along with M. Stanley Whittingham and Akira Yoshino.

Goodenough is a major player in the wireless revolution. He identified and developed crucial materials for providing the high-energy density needed to power portable electronics, from laptops to smartphones and electric/hybrid vehicles.

Whittingham developed the first functional lithium battery in the early 1970s before Goodenough used lithium cobalt oxide as the cathode of a lithium-ion battery. Yoshino created the first commercially viable lithium-ion battery, using Goodenough's cathode as a basis.

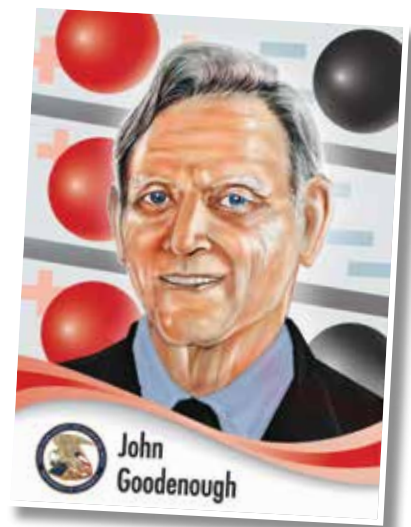
"Lithium-ion batteries have revolutionised our lives since they first entered the market in 1991," the Nobel Foundation said in a statement.

"It's how people use the technology," Goodenough said in an interview with the Nobel Prize website the day his selection was announced. "That's the important thing."

"You put the technology out there, and it could be used for ill or for good. And if they use it for good, I'm very happy...Technology is morally neutral." He was recently still developing new polymers and battery concepts with researchers in his lab.

Goodenough received his bachelor's degree in mathematics from Yale University in 1943 and his master's and Ph.D. in physics from the University of Chicago in 1951 and 1952, respectively. The author of eight books and more than 800 journal articles, he is the recipient of numerous national and international honors, including the National Medal of Science (2011).

Requests for the trading cards can be sent to education@uspto.gov. You can also view them at uspto.gov/kids.



WHAT'S NEXT

TRADEMARK BASICS BOOT CAMP

Your free guide, from filing to keeping registrations alive

Small business owners and entrepreneurs can get help with trademark applications and information this month through four free, virtual USPTO modules.

July 6: Module 5 in the eight-part series focuses on the USPTO's Trademark Electronic Application System (TEAS), including a live demonstration of a trademark filing. TEAS is the required system for making any trademark submission to the USPTO.

July 13: Module 6 involves responding to office actions, the official letters that USPTO examining attorneys issue after reviewing your trademark application.

July 20: Module 7 focuses on what happens after registration, including mandatory filings to keep your registration alive.

July 27: Module 8 is a question-and-answer session.

All events are livestreamed from 2:30 to 3:30 p.m. ET.

TO REGISTER:

uspto.gov/about-us/events/trademark-basics-boot-camp



Visit uspto.gov/events for many other opportunities to attend free virtual events and/or training.



Whether you have a conceptual idea, stick-figure diagram, full-scale prototype or market-ready product, we want to hear about it.



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CORRESPONDENCE

Letters and emails in reaction to new and older **Inventors Digest** stories you read in print or online (responses may be edited for clarity and brevity):

"Your Customer is NOT Everyone"
(January 2021):

Very informative and insightful article, especially focusing on where the rubber hits the road.

The real art of success is in execution. Although ideas are sold dime a dozen, only those entrepreneurs who stand firm behind them can make it happen. —ZEERIK AHMAD

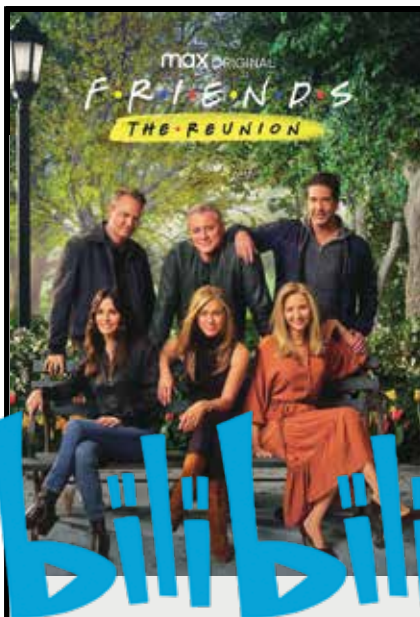
"Digital Marketing Resources"
(April 2019):

Wow! Such an articulate post it is! I am a fan of your writing (contributor Elizabeth Breedlove). Being a new writer, it's always good to see inspiring posts like this. —MEGHA

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IN CHINA IP DISPUTE, VIDEO SITES ARE NOT FRIENDS

heavy censorship laws, Sohu.com scored a major coup when it won the rights to air the show in 2010 through 2018.

So when the highly anticipated "Friends: The Reunion" aired on May 27 after delays caused by COVID-19, it was welcomed with great excitement among the Chinese. The topic "Friends reunion" drew 200 million hits within 24 hours on Weibo, China's Twitter-like social platform.

China's leading video streamers—iQIYI, Tencent and Youku—paid an undisclosed amount to air the special, deleting cameo appearances by Lady Gaga, Korean boy band BTS and Justin Bieber. (The Chinese government has had issues with all of them.) But *Variety* reported that within hours of the official release, uncensored, pirated versions of the comedy appeared on Chinese video streaming platform Bilibili.

The official broadcast rights holders were not laughing. They issued a joint statement blasting the "disrespect of intellectual property rights, open piracy

and disruption of online video broadcasting order."

Bilibili did not comment on the copyright infringement allegation, but it got the message. The company quickly took down the episode and apparently avoided any fines. A Bilibili representative told the *South China Morning Post* in a statement that the full "Friends" show will be available on the platform, along with Sohu and the current rights holders, by the second half of 2021.

The reunion special aired five days before a new China law on copyrights went into effect on June 1. The Chinese government had passed an amendment to the Copyright Law in 2020, with one of the key changes an increase in infringement fines—from RMB 500,000 to RMB 1 million.

The irony of the controversy was not lost on some Chinese social media commenters, who asked why the three platforms that censored the show can be so concerned about protecting original source material. —Reid Creager

Paid rights for exclusive entertainment specials are serious business all over the world—even if it involves a TV show that was arguably little more than an updated, more polished version of "Three's Company" with more cast members and without Don Knotts.

The world loves the TV show "Friends," which originally aired on American network NBC-TV from 1994 to 2004. This includes China. Despite the country's

BRIGHT IDEAS

Moulin Salt Mill

PROFESSIONAL-GRADE SALT MILL
weberworkshops.com

Featuring a sleek, modern design, Moulin lets you control salt size and volume with a simple twist. It has 10 times more output than standard mills and 10 grinding levels, so you can adjust with precise granularity to the ideal size.

The external dial hits everything between a fine powder (around 0) and a coarser grain (around 9). It technically goes below 0 and above 9, plus in between each number, providing 50-plus grind options.

Moulin is said to “last forever.” The grinding mechanism is made of engineered ceramics, because ceramic won’t corrode in the presence of salt.

Moulin has a manufacturer’s suggested retail price of \$320. Shipping to crowdfunding Rewards backers is planned for October.



Fingerbot Plus

ROBOT FOR AUTOMATING
NON-SMART APPLIANCES
adaprox.io

Fingerbot Plus turns “dumb” appliances into smart ones by letting you turn on nearly anything, from a light switch on the wall to a coffee machine or printer.

The battery-powered device improves on the original Fingerbot with stronger pressing power, extended range, and an integrated touchpad for manual control.

You can also control Fingerbot Plus through voice with an accessory called the Adaprox Home Hub. This makes it compatible with voice assistants such as Amazon Alexa and Google Assistant, as well as with other services.

Fingerbot Plus is available to crowdfunding Rewards backers for \$25, with planned August shipping.

SES PRO

SMART-MOTION ELECTRIC SCREWDRIVER

arrowmax.deoum.com

This multi-featured, smart-motion and electrical torque screwdriver features a sleek and lightweight pen-shaped design.

Gently rotate the direction to tighten or loosen screws. The SES PRO motor automatically powers the torque. Digitally select from five torque settings, ranging from 0.5kgf.cm-2.0kgf.cm, for needed control and power.

The screwdriver features a built-in OLED with drill direction, torque and battery indicator bar.

The SES PRO is available to crowdfunding Rewards backers for 613 Hong Kong dollars (\$79 U.S.), or 380/\$49 for the SES Mini, with planned August shipping.



**"Innovation is the central issue
in economic prosperity."**—MICHAEL PORTER

POSSIBLE DELAYS

Coronavirus-related factors may result in changing timetables and later shipping dates than companies originally provided.



Airable

WEARABLE FAN

airable.co

A lightweight (5.7 oz.), wearable fan that passes a breeze along the wearer's neck, Airable bills itself as the only wearable fan in the world with a magnetic fastener for your clothes. This keeps the device in place through rigorous outdoor or indoor activities.

The fan turns 180 degrees. Airable is easy to assemble and detach, and is made of flexible material that is durable and easy to clean.

The product uses a dedicated battery certified by UL, CE, KC, and PSE. A dedicated cable with two USB-C ports can also charge both sides of the Airable simultaneously. It runs without a battery when connected to a power bank.

Airable has a retail price of \$70.

Game-Changing Feud

NINTENDO-SONY POWER PLAY, ANNOUNCEMENTS 30 YEARS AGO LED TO EMERGENCE OF PLAYSTATION

BY REID CREAGER



Nintendo President Hiroshi Yamauchi (left) and Sony Computer Entertainment CEO Ken Kutaragi were among the principals in a tense business collaboration that turned acrimonious.

IN A CREEPY launch commercial for PlayStation's American debut on Sept. 9, 1995, a dark, menacing voice challenged the public: "You are not ready." But in the wake of a brief, tumultuous partnership between Nintendo and Sony several years earlier that led to this new gaming frontier, was *anybody* ready?

In 1988, the two companies entered into an agreement to develop a CD-ROM attachment known as the Super Disc for the soon-to-be released Super Nintendo. But it can be argued that Nintendo Game Boy started all this.

The handheld console's massive commercial success in 1989 attracted the eye and envy of Sony, possibly the world's most renowned electronics brand. In turn, Nintendo's wary eye toward Sony and its gaming intentions fueled a cutthroat power struggle that could have inspired the title in PlayStation's "Resident Evil" series.

Buildup for a breakup

As the last decade of the 20th century dawned, cartridge-powered console units were the reigning format in gaming. This all changed with a surprise announcement on May 28, 1991, at the influential Consumer Electronics Show in Chicago.

Sony announced that it had secretly been working with Nintendo for two years on a new system with a built-in CD-ROM drive, unveiled at the show and tentatively called Nintendo Play Station.

"Tentatively" is the operative word here. According to "Replay: The History of Video Games," by Tristan Donovan, "Nintendo had become increasingly nervous about Sony's intentions, fearing that it wanted to use the project to muscle in on the games business."

But the uneasiness between Nintendo and Sony went beyond corporate distrust.

HE'S GAME

Dan Holmes of Banbury, Oxfordshire (England), changed his name to PlayStation 2 in 2002.

At that time, the 29-year-old had about £7,000 worth of PlayStation games (almost \$10,000 U.S.) and played for about four hours every day. He said he had asked a few vicars to marry him with his console but they were "not keen on it."

At last report, he was unmarried to any consoles or humans.



“Back then, we saw Sony and Nintendo approaching the gaming market in very different ways,” Donovan told *Newsweek*.

“Sony was pushing that they were marketing to adults, that they were about 3D images and CDs. Meanwhile, Nintendo was still sort of saying, ‘No, games are meant to be family friendly, we like cartridges’ and so on.

“We were seeing this tussle for the future of video games. Everything that came before and after was really defined by that.”

Wet strawberries

London-based Trusted Reviews summed up the testy partnership thusly:

“On one hand there was Nintendo and its famously power-hungry boss Hiroshi Yamauchi—the man who had little interest in video games beyond their potential to generate cash, and who had cannily changed the company from a humble toy maker to a global gaming behemoth.

“On the other was Sony, one of Japan’s most famous corporations and a firm that had achieved international renown thanks to its excellent line of TVs, stereos and the iconic Walkman.

“Nintendo would benefit from Sony’s expertise with CD-ROM technology, while Sony would gain a valuable foothold in an industry that had thus far largely ignored it. The trouble is, neither firm was flexible enough to make this arrangement work.”

So the day after Sony’s excited announcement, Nintendo gamed its gaming partner with an announcement of its own. Again, per Trusted Reviews:

“The next day, Nintendo well and truly piddled on Sony’s strawberries by revealing to the assembled throng that it had inked a new deal with Philips to produce a CD-ROM drive for the SNES (Super Nintendo Entertainment System).”

Nintendo PlayStation never came to market. The company would not be making games for

PATENT PLAYER



As a heralded innovator in gaming, PlayStation is synonymous with patents. We couldn’t determine how many it has. But it’s a lot.

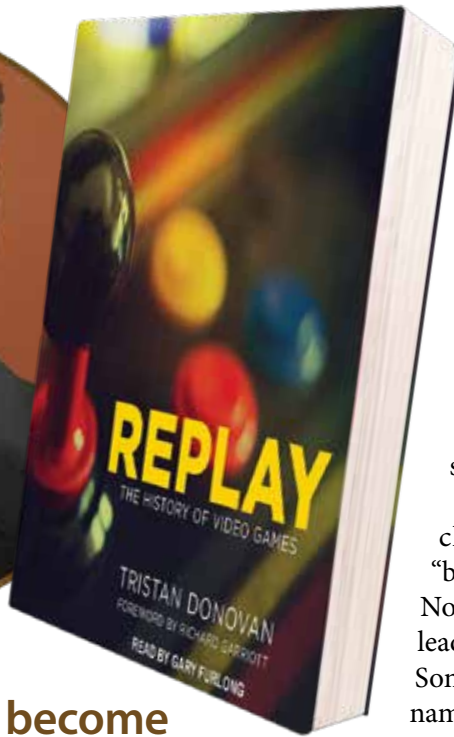
In 2014, IPWatchdog contributor Steve Brachmann unearthed a few PlayStation patents—two relating to design elements (U.S. Patents No. D367,895, “Game Machine” and D382,603, “Controller for Computer Game”) and another involving improved techniques for recording digital material onto a compact disc (U.S. Patent No. 5,390,158).

Ongoing, rapid-fire technological improvements are evidenced by PlayStation patents this year.

In April, Sony Interactive Entertainment published a patent for technology that would create a default play profile for each user, developing artificial intelligence behavior that mimics their playstyle by observing their gameplay over time. The player could be tagged-in during story games to help defeat hard levels or substitute in during multiplayer matches when the player has to step away.

A bigger eyebrow-raiser came in May, when Sony published a patent describing a system to allow betting on live esports events with both traditional and digital currencies such as Bitcoin. The feature would work as an overlay that allows gamblers to bet in real-time while watching the games live. Betting odds would be established by an AI system and based on the game’s history of the competing players.





“Nintendo had become increasingly nervous about Sony’s intentions...”

—TRISTAN DONOVAN

PROTOTYPE JACKPOT

Sony wasn’t the only winner in its doomed partnership with Nintendo. Last year, a prototype of the ill-fated Nintendo Play Station fetched \$360,000 at auction. Winning bidder Greg McLemore, founder of Pets.com and Toys.com, beat rivals that included Palmer Luckey, founder of Oculus VR.

The console is one of only 200 prototypes created from the failed Sony- Nintendo partnership. Valerie McLeckie of Heritage Auctions, where the console was offered, said it’s believed the console was the only such remaining prototype and that the others were destroyed.

Polygon reported that the prototype was discovered by Terry Diebold in a box of items once owned by former Sony Computer Entertainment CEO Olaf Olafsson. The two had both worked at Advanta Corp. and when that company went bankrupt, the console was one of many items that ended up at private auction where Diebold acquired it.



the console that it and Sony had conceived. On top of that, Philips was a Sony rival.

Decisive revenge

The industry buzz was palpable, especially since Nintendo had swatted down a hornet’s nest.

The stunning action—routinely characterized by media as a “betrayal”—enraged Sony President Norio Ohga and inspired him and lead engineer Ken Kutaragi to create Sony Computer Entertainment and name Kutaragi as CEO.

Sony quickly got busy to form its own console game empire. The empire struck back with resounding force.

When its world release was announced in Japan in December 1994, Sony’s debut PlayStation console featured two revolutionary elements in handheld video games: CD storage and state-of-the-art 3D graphics.

It was an instant success. Introduced to the United States at the Electronic Entertainment Expo in Los Angeles in May 1995, PlayStation pre-sold more than 100,000 units by its September U.S. launch.

Within a year, sales reached almost two million units in the United States and seven million-plus worldwide.

Sony’s accomplishment is more than a story of revenge; it is one of determination in the face of long odds that could inspire the most pessimistic inventor.

Donovan noted that when Sony decided to get into gaming, it had “no video game experience, no video game studios, nothing apart from ‘We think we can build a video game machine.’ There was no infrastructure or relationships with video game companies. They were starting with nothing.”

Solid successors

The Nintendo-Philips pairing didn't work out. Philips' compact disc device was a commercial failure, even though Nintendo remained the industry leader through the rest of the decade.

It now seems like eons since PlayStation was dueling with Nintendo and Sega for market dominance. That memory is buried in a bam-bam-bam-bam of PlayStation spinoffs: PlayStation 2, released in October 2000; PlayStation 3, November 2006; PlayStation 4, November 2013; and PlayStation 5, November 2020.

The gaming landscape is in constant flux, with Sony still a powerhouse among a group

INVENTOR ARCHIVES: JULY

July 27, 1960: The first episode of "**The Andy Griffith Show**" was copyright registered. Its pilot episode appeared on "The Danny Thomas Show," in which Griffith and Thomas met.

The comedy, centered around a widowed sheriff in a fictional North Carolina town, aired on CBS-TV from 1960 to 1968 and spanned 249 episodes (159 in black and white, 90 in color).

Griffith's hometown of Mount Airy, North Carolina, is home to the Andy Griffith Museum.



that includes Nintendo (which began releasing video game consoles in 1983, 11 years before PlayStation's debut), and Microsoft Xbox. But there is little question that Nintendo's abandonment of Sony changed the gaming game forever. 🎮



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Each sports version will come in 3 different levels to grow with the user. **The first version has been developed for basketball.**

🌐 www.e-sportstrainer.com



A Fight to His Finish

INVENTOR OF AUTOMATIC INTERMITTENT WINDSHIELD WIPER TOOK ON THE BIG 3 AND WON—OR DID HE? **BY JACK LANDER**

WE DON'T TALK much about the fate of Robert Kearns these days. The automatic intermittent windshield wiper he invented may not be impressive when contrasted with the effects of various apps on our cell phones and tablets. But his story is worth retelling, because many inventors are tempted to take on the “big guys.”

Kearns was granted the patent on his electronic device in 1967. He attempted to license it to Ford, General Motors and Chrysler, all of which thumbed their noses at Kearns and added it to their cars without his permission. The Big 3 and 23 other auto and auto parts companies were sued by Kearns for violation of his patents.

Violations of independent inventors' rights by auto companies have been around since the days of Henry Ford—who vowed to never pay royalties to an inventor or purchase their patent rights for a fixed price.

I can understand the car companies' position. The solid-state, time-delay circuit was well understood and its components available off the shelf when Kearns applied it to an electric motor-driven windshield wiper.

And the car companies found fault with the patent system for protecting the common sense of such a combination. They claimed that Kearns' invention did not pass the United States Patent and Trademark Office's “nonobviousness” test. Their argument may have been that it was only a matter of a short time before they would have developed the same invention. Why should they be blackmailed by a piece of paper, pay millions of dollars, and be admonished for what was rightfully in their domain?

Aside from that, Ford was experimenting with a vacuum-operated intermittent windshield

wiper, even though the public was never happy with the regular vacuum-operated windshield wipers that stalled when going up hills due to the nature of carburetion in those days.

So, it wasn't that Ford hadn't identified and defined the problem. It simply hadn't advanced to using electric motors for its wipers.

Destructive obsession

In Kearns' lawsuit against the Big 3, the litigation was bitter on both sides. The suit against Ford began in 1978 and went on for 12 years, ending with a \$10.2 million settlement. The suit against Chrysler (1982-1992) resulted in an \$18.7 million payout, plus interest.

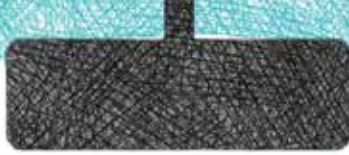
Kearns was obsessed with the battle, mainly for recognition and vindication rather than the roughly \$30 million he was eventually awarded by Ford and Chrysler. (The suit against GM was dismissed because of a failure to meet filing deadlines.)

He had planned to start a manufacturing company to produce his inventions, in which his wife, Phyllis, and their six kids would participate. But his admitted obsession with righting the perceived wrongs committed against him, and lack of pre-settlement money, prevented launching that ambitious plan.

Kearns had originally sued Ford for \$141 million in 1968. Thus, the Mercedes-Benz company was well aware of its infringement when nine years later it incorporated a nearly exact copy of Kearns' invention in its cars.

From the history above, you might imagine Kearns to be an inventor with a Walter Mitty complex.

However, he had achieved a Ph.D. in engineering, taught at the university level, and



Robert Kearns was filled with pain from his legal battles and the stress that his obsession imposed on his family and him during the second half of his life.

worked in a high position at the then-U. S. Bureau of Standards. He had spent several years of experiments in the development of his intermittent windshield wiper. He claimed to have been awarded more than 30 patents.

But despite his remarkable accomplishments, Kearns was filled with pain from his legal battles and the stress that his obsession imposed on his family and him during the second half of his life. Much of the time he lacked money and relied on disability payments. His legal costs alone would take much of whatever money he may have gained early.

Much of the time he was displeased with the results of the attorneys he hired. He served as his own attorney after having fired at least three law firms.

Don Quixote story

After the Mercedes-Benz infringement, he suffered a spell of dementia and spent several weeks in a psychiatric hospital. His wife claimed they had no life together; he answered that *this* was his life. They divorced in 1980. Kearns was later tried and sentenced to 120 days in jail for his failure to pay \$600 in alimony.

One daughter among six children admitted she didn't care much for her father, describing

him as "the guy who worked in the basement."

I recall seeing a newspaper photo of him several years ago. It showed him in his final years living alone in a farmhouse among several four-drawer filing cabinets full of legal papers and related correspondence. He still drove his 1978 Ford pickup and his 1965 Chrysler. He died in 2005 of brain cancer and Alzheimer's disease.

Whatever lessons we may gain from Robert Kearns' story are for you to decide and apply to your own journey as an inventor.

I believe he was a latter-day Don Quixote—flawed, brilliant, determined—a hero to some and a damned fool to others. But he jousting with the giant windmills against the odds.

I would argue that in the end he won, even though he left a great deal of money on the table. After all, there are millions of us driving cars that keep us safer because of his invention. What greater recognition could there be? 🍷

Jack Lander, a near legend in the inventing community, has been writing for *Inventors Digest* for 25 years. His latest book is *Marketing Your Invention—A Complete Guide to Licensing, Producing and Selling Your Invention*. You can reach him at jack@inventor-mentor.com.



Leveraging TikTok

SOCIAL NETWORK RIFE WITH OPPORTUNITIES FOR SMALL INVENTORS, BUSINESS OWNERS **BY ELIZABETH BREEDLOVE**

TIKTOK has been on the scene for several years and keeps becoming more ubiquitous. Hootsuite compiled these statistics in May 2021 that provide some insight into the platform's explosive growth:

- As of August 2020, TikTok had been downloaded globally more than 2 billion times.
- In January 2021, TikTok was the seventh-most used social network in the world, behind Facebook, YouTube, WhatsApp,

Facebook Messenger, Instagram and WeChat.

- TikTok had nearly 100 million monthly active users in the United States as of August 2020.

- TikTok's user base increased almost 800 percent between January 2018 and June 2020.

- Forty-eight percent of adults in the United States between 18 and 29 use TikTok.

- In the 2020 Global Web Index survey, most respondents said they use TikTok to find funny/entertaining content.

- TikTok notes that 46 percent of its users say they use the app to discover new things.

- TikTok ranks as the second biggest app in consumer spend, behind Tinder.

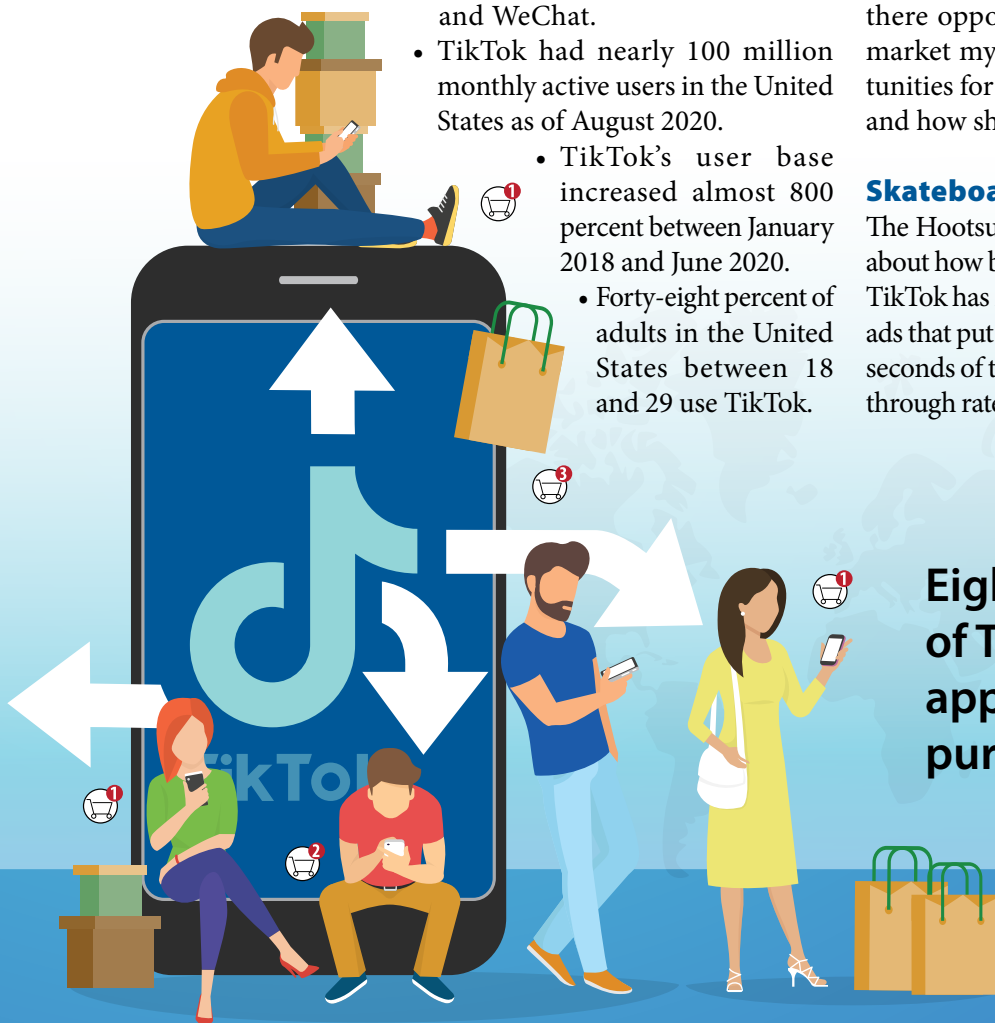
As with any other social network, its growing popularity raises questions for businesses and marketers, including inventors.

Who uses TikTok? How do they use it? Are there opportunities for me to use TikTok to market my own business? If there are opportunities for me to use TikTok, what should I do and how should I do it?

Skateboard sensation

The Hootsuite survey also gathered information about how brands are using the app. For example, TikTok has reported that more than 63 percent of ads that put a product or message in the first three seconds of that ad have some of the highest click-through rates. The app has also stated that vertical

Eighty-three percent of TikTok users say the app plays a role in their purchase decisions.



videos have a 25 percent higher six-second watch-through rate than horizontal videos.

In some ways, TikTok is like the Wild West. The app's provided insights give businesses a general idea of what works well, but some businesses see success by doing the exact opposite, or even by doing nothing at all.

For example, Ocean Spray earned 15 billion impressions in less than a month after a viral video by TikTok star Nathan Apodaca (@420dogface208) showing his skateboard commute to work featured the brand's Cran-Raspberry drink. The brand did nothing to get these impressions but saw an uptick in both reach and sales.

For this reason, some brands, such as Walmart and Dunkin' Donuts, have encouraged their employees to use TikTok to post videos while at work in hopes that a viral video will give them similar results.

However, larger national and international brands aren't the only ones finding success on TikTok. Many small businesses also report an exceptional return on investment on the platform.

To celebrate National Small Business Week in May, TikTok launched a series of promotions, ad tools and resources for small businesses to leverage the platform. This included a guide for small business marketing on the platform.

Reaching Gen T

If you are a small business or inventor with an interest in how TikTok can help your marketing, consider:

TikTok users want to engage with small businesses. TikTok refers to its user base as Generation T and says users view it as a safe space where "creativity runs free, with no limits or judgment."

Generation T is described by TikTok as "contradictory, active, engaged and curious," and a group of people looking to shop with small businesses. It notes an increasing popularity in hashtags such as #SmallBusinessLove and #ShopSmallBusiness.

In fact, the TikTok community is 15 percent more likely to shop at small businesses compared to other social networks. Additionally, TikTok reports:

- Sixty-seven percent of users say the platform introduces them to new brands and products.
- Fifty-seven percent have been inspired to make a purchase based on something they saw on TikTok.
- Eighty-three percent say TikTok plays a role in their purchase decisions.
- Fifty-six percent say that TikTok helps them decide what to buy.

5 SUGGESTIONS

SOCIAL NETWORK HAS WAYS TO HELP SMALL BUSINESSES MAKE BIGGER GAINS

TikTok Tips

Start with a good profile. Stay authentic and true to yourself to ensure you accurately represent your brand. Include all the pertinent information, including a profile picture (typically your logo), an informative but fun bio, a link to your website and an email address.

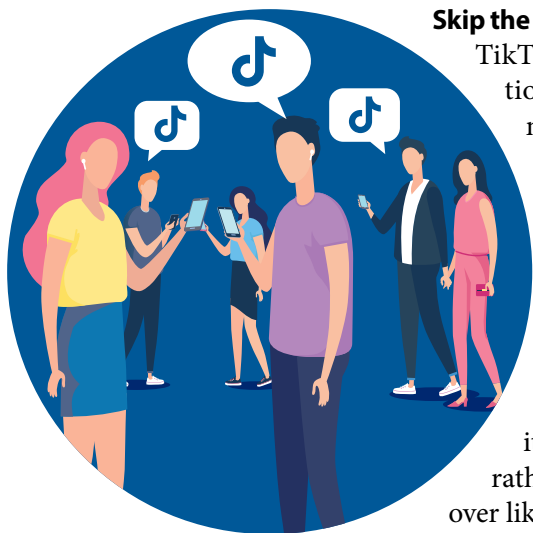
Create content that keeps your audience engaged. This means it shouldn't just be entertaining. It should also encourage them to interact with you and keep them coming back for more. Ask questions, continually interact with your followers, and invite them to create content.

Post often. Things move fast on TikTok. When you find a type of content that works well for you, create more of it and post as often as you can.

Follow the trends. Trends and challenges are the lifeblood of TikTok. When a challenge is trending or a hashtag is gaining popularity, don't miss your chance to hop on the bandwagon. Keep tabs on your Discovery page to see what's popular, then use those insights to create your own content.

Get creative. Although it's important to follow trends and track what type of content your audience likes, it's also important to be experimental, innovative and creative. The key is to find a balance between creating content you know will resonate and trying something new to show off your creative side while remaining true to yourself.





Skip the ads in favor of TikTok.

TikTok's business proposition is "don't make ads, make TikToks."

This refers to the way ads fit right into the platform. The entire platform is fueled by creativity thanks to short-form video content, so if you create similar content, it fits into the platform rather than being skipped over like a traditional ad.

Small businesses that use TikTok successfully tell their story in a creative way that speaks directly to the audience, and they find great success when they do it well.

Stay relevant with organic and paid content.


This is the best way to reach people. Using this mixture allows you to capitalize on key moments, keep your audience's attention, and stay relevant using current hashtags while still being authentic to your brand.

When you publish a piece of organic content that resonates and performs well, use paid media to amplify it and increase your reach. 📌

To learn more about how TikTok can help inventors and small business owners, visit [tiktok.com/business/en-US/smbcenter](https://www.tiktok.com/business/en-US/smbcenter).

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.





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Buzr Beater

FRONT-DOOR MANAGEMENT ISSUES OVERCOME WITH DEVICE THAT CONNECTS INTERCOM WITH PHONE **BY JEREMY LOSAW**

TONY LIEBEL developed a smart solution for his stupid front door problems.

An Airbnb host in New York City who worked in finance, Liebel would often travel for work and did short-term rentals on his apartment while he was away. This proved challenging for his building.

Although he had a smart lock on the door to his unit, his did not have a doorman, so it was difficult to transfer keys to renters if he was not there to meet them.

"I was giving them [keys] to the guy at the bodega on the corner, and having my guests pick them up from there. I was burying them in the cracks of the sidewalk near the tree in front of the building," he recalls. "This is the pain that I discovered a lot of people in the city have—the management of the front door."

He also had problems getting packages because there was no one available to let the delivery person in the building. This could delay his deliveries for weeks.

The technology behind most intercom systems is from the late 1800s. There are also security risks: People can "shoulder surf," where uninvited guests follow an authorized guest into the building, or a resident who is lax about security may buzz in anyone who calls from the intercom.

Liebel knew there had to be a better way to give people

access to the main entry: to connect their intercom to their mobile phone.

"I realized that as a resident I could make no changes to the building front door, but I did have the intercom station in my apartment. If I could somehow remotely push that buzz button, I would be able to solve all those problems—as well as the problems of others living in beautiful, historic buildings who do not have updated technology."

Secure remote access

His solution was Buzr, which brings IoT-enabled security and flexibility to the main entrance.

Buzr is a door buzzer for residences with a wired door opening and intercom system. The device replaces the faceplate control inside the user's unit and allows remote operation of the main door.

Users can talk to people at the front door through the app and provide virtual keys for guests.

The device, a direct retrofit of existing buzzer systems, is compatible with thousands of different buzzer configurations. This includes old-style analog through modern digital units.

Buzr runs on four AA batteries. It has a built-in temperature sensor to monitor conditions inside the unit to track how well landlords heat and cool the buildings.

It also installs quickly—in 15 minutes—with no changes to the front of your building.

Finding prototype, partner

Once Liebel had his idea, he went to work on a prototype.



"If I could somehow remotely push that buzz button, I would be able to solve all those problems." —TONY LIEBEL



He used a Raspberry Pi and some relays, hooking that to his intercom system that was connected to his WiFi. He wrote code that would allow him to send a text message to remotely buzz the main entrance.

It worked perfectly. Liebel used it for his Airbnb clients and found it useful for package carriers as well.

With a working prototype in hand, he started working toward turning Buzr into a business. Liebel enrolled in an MBA program at Cornell Tech, a satellite of Cornell University in New York City, and used the opportunity to help find a co-partner.

There he met Jeremy Walker, who became his cofounder and technical lead in June 2020. They entered Buzr into the Cornell Tech 2020 Startup Awards competition and were one of the four winners. This validated the concept in front of Cornell business faculty as well as venture capitalists, providing them seed money and access to co-working space.

Furthering the buzz

They quickly installed a few units at friends' apartments in a 20-unit pilot run and started working

on the manufacturing design. Because there are more than 2,000 types of intercom designs of various vintage and technology, the part-

ners had to spend a lot of time ensuring that Buzr has universal compatibility and is easy to retrofit in any situation. They also filed a patent portfolio to help protect the product—and especially the novel way they handle audio.

Liebel launched the product to the public at the all-virtual Consumer Electronics Show in January 2021. This yielded major publicity for the product and drove pre-sales while the design work was being finished for the first manufacturing run.

Liebel is now pushing to do a larger-scale pilot run that he hopes to run over a few square blocks. The goal is to prove that Buzr enhances building security and results in fewer lost packages.

Work with contract manufacturers is under way; pre-orders will start shipping early next year. 📞

Details: getbuzr.com

A door buzzer for residences with a wired door opening and intercom system, Buzr replaces the faceplate control inside the user's unit and allows remote operation of the main door.

You Can **Handle It**

WOMAN'S PADDED CARRYING APPARATUS TAKES THE HASSLE OUT OF SCHLEPPING BIG LOADS **BY EDITH G. TOLCHIN**

HOW OFTEN have you finished grocery shopping and fumbled for your keys while holding several heavy bags? Or perhaps the kids are tired and want to get in the house after shopping, but you can't unload the parcels and car seats at the same time?

Click & Carry®, a unique bag handle/carrying apparatus invented by Kimberley Meckwood of Los Angeles, is a creative solution to these and many similar dilemmas. Held in one hand or over your shoulder while you shuffle the kids, pets or groceries, Click & Carry lets you carry up to 80 lbs. of bags, paint cans and the like, with padded comfort. Even "Shark Tank" is a fan!

Edith G. Tolchin (EGT): Is your background related to inventing the Click & Carry?

Kimberley Meckwood (KM): I hail from a background of medical device and pharmaceutical sales. I worked for Medtronic, ACADIA Pharmaceuticals, Inc., Schwarz Pharma and Wyeth-Ayerst Pharmaceuticals.

I had a life-altering experience when I was diagnosed with breast cancer in 2012. The journey through cancer gave me the faith and determination to quit my stable job and attempt to bring my product to market. I have been on "Shark Tank" (12/11/20), "Food Fortunes," "The Bethenny Frankel Show," and I am a frequent guest on QVC in segments such as "In the Kitchen with David" and "Down Home with David."

My background is not related to Click & Carry, although a breakup with my boyfriend inspired it. I no longer had help bringing in the groceries, and I knew that I had to come up with an easier way to schlep in all my purchases. I live in a condo, so to get to my front door is like competing in an obstacle course.

EGT: How did you arrive at a perfect prototype?

KM: I worked with a student at the Pasadena Design School. I didn't have a lot of money when I was making my prototypes, so I paid the student \$40 an hour and she had access to a 3D CAD printer at the school. Each prototype was \$175, and I went through nine iterations before coming upon the winner.

EGT: Was it difficult to get on "Shark Tank"? Did you get a deal?

KM: My day on "Shark Tank" was both the most exciting and scariest day of my whole life. I had prepared for about two months. I had a list of questions and answers that I committed to memory, and I worked on my pitch with two amazing producers each week until the episode was taped.

It is very difficult to get on the show. In fact, I auditioned seven times before finally making it to air. I believe approximately 40,000 people apply to be on the show each year and only 150 are selected to film. Of the 150 participants who film, only about 120 make it to air.

I was lucky to be offered a deal with Barbara Corcoran and Mark Cuban.

Kimberley Meckwood's journey through breast cancer "gave me the faith and determination to quit my stable job and attempt to bring my product to market."



EGT: Where are you manufacturing? Has that been difficult?

KM: I am currently manufacturing in China. I hope to move manufacturing to the United States one day, but I can't afford to do so at this time.

EGT: Had you tried crowdfunding before "Shark Tank?"

KM: No, I bootstrapped my business. I think crowdfunding provides an incredible platform for exposure. Looking back, it would have been a great way to get Click & Carry to the market more quickly.

EGT: How did you go about patenting Click & Carry?

KM: I hired an incredible patent attorney, Jason Far-hadian. I knew it was very important to protect my product properly.

The first utility patent took almost three years for approval. The second, which is a slight modification, was approved about a year later. I also have a trademark for Click & Carry.

EGT: Where are you selling?

KM: Click & Carry is available on our website, on Amazon.com and at QVC.com. It will be on Lowes.com and Walmart.com soon!

EGT: What problems have there been?

KM: Oh, boy, the list is endless. The first that comes to mind is that the first and second productions of C&C were not ideal.

The product was so well made that it was difficult to open and close the Click & Carry, which made it difficult for people with dexterity issues. I needed to reengineer the product. The good news is that the process allowed me to use less material in the creation of C&C, and the weight went from 5 oz. to 3.2 oz. The cost decreased by \$0.81 per unit as a result of the changes.

EGT: Are you planning any new products?

KM: Yes, I am launching my newest product this year. I can't give away too many details, but I

can say it is an attachment for the Click & Carry that will help make the lives of surfers, skiers and construction workers a little bit easier! I'll be announcing it in my newsletter. You can sign up for the Click & Carry newsletter on my website.

EGT: What advice do you have for inventors starting to develop a new product?

KM: I think it's smart to ask for help or to find a mentor. I have been helped by so many brilliant mentors along the way, including Rick Tell, Mark Friedman, Albert Napoli, Don Loewel, Salvatrice Cuomo, Scott Herring, Patrick Stacy and Tyson Jacobson.

I recommend utilizing the free services of both the SBA (Small Business Administration) and SCORE. You would be amazed by the quality of mentors at both organizations. 📧

Details: clickandcarry.com

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



Held in one hand or over your shoulder while you shuffle the kids, pets or groceries, Click & Carry lets you carry up to 80 lbs. of bags, paint cans and the like, with padded comfort.

MUSEUM OF FAILURE INNOVATION



FLOP STOP



MUSEUM OF FAILURE TEACHES US THE IMPORTANCE OF MAKING MISTAKES—AND WHY IT CAN BE SO FUNNY **BY REID CREAGER**

THOMAS EDISON was a prolific and enthusiastic failure. Legend has it that he failed 10,000 times before perfecting the incandescent electric light bulb. The first of his 1,093 patents, for an electrographic vote recorder to be used by governing bodies, was not a successful invention.

The most iconic inventor of all time chose to view failure in the context of his life's mission—discovery: “I have not failed. I’ve just found 10,000 ways that won’t work.”

Dr. Samuel West gets it. The curator of the Museum of Failure is an expert on the subject as a licensed psychologist and PhD in Organizational Psychology who has given many international speeches on the subject.

“Successful inventors already know that progress is made via failure, he told *Inventors Digest*. “But I think they, too, need to remind themselves that there are different grades of failure.

“Good failure is done in the name of progress. Bad failure that should never be accepted is failure due to sloppiness, incompetence, et cetera.”

Vacation inspiration

The Museum of Failure—an international touring exhibition of failed products and services that spends 2-4 months at each location, with a smaller pop-up that is hired for innovation experts or company events—doesn’t make those distinctions. It simply reminds us that failure is often inevitable, necessary and fascinating.

Dr. West long thought “of new and interesting ways to present the exciting research on the fear of failure as an obstacle to innovation, and how difficult it is for organizations to accept failure. But I wasn’t making much progress.

“Write a book? TED talk? Do some seminars? Nah ... those were not terribly exciting options.”

His inspiration came during a vacation with his family in Zagreb, Croatia. “I stumbled upon a small museum, the Museum of Broken Relationships ... so interesting. It was there and then I decided to open a museum of failure. I received funding from the Swedish Innovation Authority and opened the first exhibition in Helsingborg, Sweden, in Summer 2017.”

An inexplicable foray into beef lasagna from a company known for its toothpaste since 1873. A model of the Vasa, the world’s most high-tech warship in 1628 when it sank about 1,400 yards into its maiden voyage. The world’s best-selling ketchup brand making weird-colored alternatives that didn’t cut the mustard. An internet camera that attaches to your head (above). Welcome to Dr. Samuel West’s Museum of Failure.

His idea has continued his lifelong success with failure.

"It's been a crazy ride. The global media attention was insane and the museum grew quickly with donated objects, companies wanting to collaborate."

The worldwide attention is such that Dr. West said most companies are good sports and happy

to be featured in the museum. These include Microsoft, IKEA and Procter & Gamble.

"We started with 80 failures and now have nearly 200," he said. "The most recent donation is an Amabrush, a revolutionary toothbrush. Many unhappy crowdfunders. You gotta Google it to see what it looks like."

Understanding failure

Dr. West said both failure and success can be misunderstood, especially when our modern culture tends to measure the latter in terms of monetary wealth and personal recognition on social media.

"The whole notion that people can be failures is a rather new concept," he said.

"Before capitalism, failures could only be in terms of an event being a failure. But once we started evaluating people in terms of how 'valuable' they are to society which is the exploiting capitalist, we started seeing certain people as failures also."

"It is interesting that society looks up to (Tesla CEO) Elon Musk or (Amazon CEO) Jeff Bezos as successful merely because they have made a lot of money. This is only one aspect of life. Are they happy? Are they successful parents? Good spouses? Good citizens?"

"We are far too focused on money as the measure for a successful life. I guess it is easiest that way; money is easy to count. The other factors are not easy to measure."

The company that operates the touring exhibition also finds failure compelling.

"This is one of my favorite projects that we tour for a multitude of reasons," said Eric Leong, associate producer and manager of licensing at SEE Global Entertainment. "Failure is fascinating."

"Society's obsession with success can be seen from the marketing we are bombarded with to our social media feeds to the pressure parents put on their children from an early age. And there's nothing wrong with celebrating success, but I wish we celebrated failure as well."

"It's been my experience that life rarely takes a straight path from point A to B. The journey along the way can be equally as interesting to the destination."

FAILURE'S FLOP 5

MUSEUM OF FAILURE WEBSITE
(MUSEUMOFFAILURE.COM):

1

New Coke: This bittersweet saga, chronicled in the January 2020 *Inventors Digest*, is one of the most controversial marketing episodes in recent memory.

A blind taste test in 1975 known as The Pepsi Challenge showed consumers preferred Pepsi's sweeter taste to Coca-Cola. In 1985, Coke replaced its classic formula with New Coke—prompting a national uproar. People in Seattle set up a hotline. Fidel Castro reportedly called New Coke a sign of American capitalist decadence.

Coke reintroduced its classic formula after just three months; New Coke was renamed Coke II in 1992 and the newer brand was discontinued in 2002. Pundits are split as to whether New Coke was a marketing disaster or an ingenious plan to keep Coca-Cola in the news.



2

The DeLorean (DMC-12). The Eighties brought us New Coke, padded shoulders for women, the mullet—and this space-age clunker in the 1985 movie "Back to the Future."

The first prototype was actually built in 1976. The DeLorean's engine was weak, the woefully undertrained workforce at the company's Northern Ireland factory resulted in a poor build, and John DeLorean was arrested (and later acquitted) on drug trafficking charges in 1982.

DeLorean? Edsel? Pinto? Take your pick, but we'll take the bus.



(Continued on page 35)

“It can also be funny as hell.”

For that reason, Dr. West oversees the project with a fun spirit. He wants this to be a part of the museum’s identity.

“Those who don’t understand humor don’t understand seriousness, either,” he said. “Humor is an essential part of many of the stories of failure at the museum.”

“Humor enhances learning. It also gives us a bit of perspective and allows us to approach what otherwise would be a more painful and sensitive subject.”

The Failure Confessional

He sees humor in failures such as Betamax, Apple Newton, Blockbuster and New Coke. But even some of the biggest flops helped inspire improvements that led to more viable products.

Leong noted: “The straight-up ‘What were they thinking?’ exhibit items like Bic for Her or the Shared Girlfriend are objectively hilarious.

But stories like the Apple Newton eventually contributing to the iPhone or the Ford Edsel confounding drivers of its era with technology in the steering wheel, a feature that is commonplace today—those stories stick with me after I walk out of the exhibit. I also really like that the exhibit continues to add items and evolve with each show.”

An added feature at the exhibits is The Failure Confessional, which invites museumgoers to write their biggest failures on a huge board. Much of the contributions are fun. Some are poignant reminders of regret and missed opportunities.

“The visitors to the exhibitions are not looking for mindless entertainment, so we get some very interesting people,” Dr. West said. “For many, the failure confessional is just a fun thing ... write something funny and take a photo to share on social media.

“But for others it is an emotional

Below: Dr. Samuel West holds a bottle of Heinz Green Sauce, as well as a similarly short-lived portable phone model. Bottom: The battery-run Sinclair C5 (left), unveiled in 1985 in the UK, barely had room for the driver. The Segway scooter (center) never fully caught on. The Swedish Itera plastic bicycle (right) was unsteady and expensive to manufacture. Piles of them were buried after their short 1981-1985 ride.

“Humor is an essential part of many of the stories of failure at the museum.” —DR. SAMUEL WEST, CURATOR





Above, left to right: A can of fat-free chips containing olestra (see opposite page); a hat from IKEA's Lattjo series of toys that Dr. West says "looks more like poo than a snail"; and a model version of the 1920s French Villa Savoye, a poorly built modernist country retreat that its owners hated. It eventually was heavily restored and turned into a museum.

experience, a time of reflection, of accepting what is and owning up to one's failures. Most of the failure confessions have little to do with innovation, but they nonetheless offer insight in how we often avoid accepting our failures."

Some posts to the board that he remembers:

- "My first marriage."
- "My first and second marriage."
- "Starting a startup company, thinking it would be easy."
- "Sticking to a career I hated, now it is too late."
- "I have failed to teach my children to accept and deal with failure."

Post-COVID comeback

Struggle—not necessarily failure—was a painful reality for the museum in 2000 after COVID-19 hit early in the year.

Dr. West said the publicly funded exhibitions and museums don't provide any numbers, but the commercial ticket-driven exhibitions drew more than 25,000 visitors pre-COVID. The smaller, pop-up (1-7 days) version of the museum has been all over the world and larger events, with no tangible way to determine how many have seen it.

After March 2000, "Well, COVID sabotaged everything. It went from 100 percent full steam ahead to zero. I even sent myself emails just to see if my email actually worked.

"One difference is that much of the collection is now available on our site. But things are picking up, and we now have exhibitions scheduled for the San Francisco Area, Las Vegas and Taiwan."

Leong said the exhibit will "hopefully inspire our visitors to fail more often and with gusto. I don't want to guarantee it's going to change someone's life ... but it might!" 🐼

FIND OUT MORE

For exhibitions and general information,
museumoffailure.com

For general inquiries, press, donations
and suggestions for new exhibits,
info@museumoffailure.com

For inquiries about Dr. Samuel West as a
keynote speaker or more information on the
exhibit and mini-popup for events,
booking@museumoffailure.com

3

Google Glass. When megacorporate arrogance marries a poorly conceived invention, there will be ugly children.

Google Glass—basically a computer worn on the head like eyeglasses, including a camera—debuted with a \$1,500 price for a limited period in April 2013. The device displays information in a smartphone-like, hands-free format. Wearers communicate with the internet via natural language voice commands.

Google Glass looks, well, ridiculous, and the camera has caused concerns and even altercations from people afraid they were being filmed without consent. The device was banned in several places. The Museum of Failure refers to it as “The Evil Eye.” Users have been called “Glassholes.”

In February 2020, Google announced the release of Google Glass Enterprise Edition 2, tailored for business users.



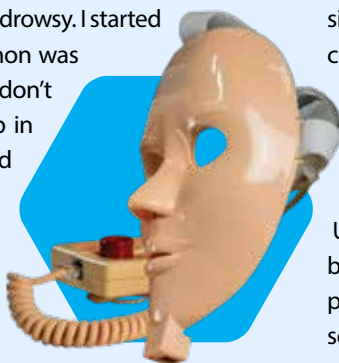
4

Rejuvenique. Former “Dynasty” star Linda Evans should have stopped her endorsement career with Crystal Light. This beauty mask not only looks more like Crystal Dark, many reviewers have reported an unpleasant sensation while their facial muscles are purportedly being toned with electricity in 15-minute intervals.

The Museum of Failure cited one review in which the user said the mask “feels like a thousand ants are biting my face.” And Yahoo! Life published this comment, which was as strange as it was unbelievable:

“As I was using it, I started to feel drowsy. I started to feel ‘controlled,’ as if some demon was possessing me. After 2 minutes, I don’t know what happened, I woke up in a corn field in my underpants and covered in blood. I do not recommend this product.”

Rejuvenique is still widely available online. New underwear not included.



5

Olestra. Museum of Failure curator Dr. Samuel West says “I never get tired of telling the story of Olestra”—the fat substitute that was included in some brands of potato chips.

Calorie counters rejoiced as the Food and Drug Administration approved the additive in 1996. Then the s**t hit the plan.

Because the body cannot absorb Olestra, many users reported side effects that included gastric cramps and diarrhea. Sales also went down the plumbing, from \$400 million in 1998 to half that two years later.

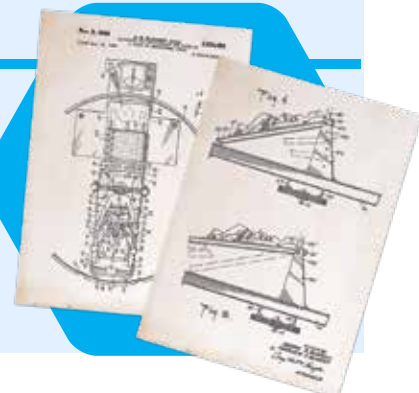
A study by professor Ronald Jandacek at the University of Cincinnati revealed that Olestra had a possible link to reducing PCBs, a known carcinogen. Meanwhile, products containing Olestra can still be bought at stores in some countries.



Honorable Mention

The Blonsky birthing table. This item is from the Museum of Failure blog. In 1965, a married couple got a patent for this device in which a pregnant woman is strapped onto an electro-mechanical device that is rotated at high speed until the baby is propelled into a basket.

U.S. Patent No. 3,216,423, “Apparatus for Facilitating the Birth of a Child by Centrifugal Force,” was patented by George and Charlotte Blonsky. Mr. Blonsky, a mining engineer, was not a father but was reportedly fond of children.



PART 2 OF 2: ELECTRIC MOTORS

3 Options, Many Benefits

HOW TO CHOOSE THE RIGHT ELECTRIC MOTOR FOR YOUR PROTOTYPING NEEDS

BY JEREMY LOSAW

IN PART 1 of this series, I discussed the history and applications of electric motors. In this second and final part, I will discuss the different types common for prototyping and how to pick the right one.

The three common types of motors used in prototyping are brushed DC, servos and steppers. All have different characteristics that make them useful for different types of prototypes. All use DC power and are safe to use.

1 Brushed DC motors

DC-brushed motors, found in a multitude of consumer products, are used when continuous motion is required. If you are driving a belt or a wheel or using a gearbox, this is the right motor to use.

DC-brushed motors run just by applying DC voltage to its terminals. Its speed can be varied by using different voltages in its rated range.

One drawback is that they draw too much power to be controlled directly from an Arduino or similar microcontroller, so they require either relays or a motor driver circuit to be used with a controller. Because they provide no inherent feedback about their position or speed, they have to be combined with other sensors if precise motion is desired.

A brushed DC motor with a gearbox was used to make this fire-breathing robot dragon.



A servo motor is commonly used for RC cars to control the steering arms.

2 Servo motors

These motors are used when reciprocating, non-continuous motion is required.

Inside a servo is a DC motor (brushed or brushless), a gearbox to increase the torque output, and a potentiometer (angle sensor). The potentiometer, a three-terminal resistor, compares the angle that the motor is controlled to and its actual position, and will move it until it gets to where it is commanded.

Most servos have a 180-degree range of motion for a maximum of 90 degrees from the neutral position in either direction. This must be taken into account when considering their use. They often have an arm or wheel attached to the drive spline to attach the linkage that is being controlled.

Servos are commonly used in RC cars to control the steering arms, and are great for driving similar types of linkages.

Brushed DC motors, servos and steppers all have different characteristics that make them useful for different types of prototypes.



3 Stepper motors

As their name suggests, stepper motors move in incremental steps. Typically, they have 200 steps per revolution, which gives them an accuracy of 1.8 degrees per step.

Steppers are actually a form of brushless motor, as they have the coils in the stator (non-rotating housing of the motor). The magnets on the rotor have small teeth that, when energized, align with corresponding teeth on the stator that allow for use in small steps.

With appropriate circuitry, steppers can be commanded to move with high accuracy. They are often used on the axes of 3D printers to drive the print head for high-accuracy prints.

How to choose

With so many different options, it can be difficult to choose the right motor.

The first step is to figure out the type of motion you need. If you need continuous rotation, a DC-brushed motor is probably best. If you need precision motion of a linkage or a reciprocal motion, a servos is the right choice. Steppers are used in situations where you need precision control of something that requires multiple rotations and relatively little torque.

The size of the motor can be a daunting decision. Fortunately, most motors available through electronics suppliers have associated data sheets that show the torque output and speed of each motor. Then you can calculate whether the specs will be right for your application based on the load and speed of what you need to move.

Electric motors usually make the most amount of torque at zero speed, so make sure they have enough torque capacity to drive what you need at the motor speed you require. A good data sheet will show a curve of torque vs. speed to help.

A gut check is to compare the size of the motor you are thinking of using with similar commercially available products. If you are prototyping an immersion blender, the motor you use will probably be roughly the same size as a blender you can find in the store. 🍷

A stepper motor drives the y-axis belt of a 3D printer.

Jeremy Losaw is a freelance writer and engineering manager for Enventys. He was the 1994 Searles Middle School Geography Bee Champion. He blogs at blog.edisonnation.com/category/prototyping/.



GEARBOXES

A gearbox to a motor is like whipped cream on a pumpkin pie. You don't always need it, but they tend to work better together.

Gearboxes magnify the torque output of an electric motor at the expense of speed. They are most commonly used with continuous rotation motors like brushed DC. (Servos already have them, and stepper motors are usually used for low-torque applications.)

The simplest form of a gearbox is a small gear attached to the shaft of a motor that drives a larger gear on the shaft of what is being driven. In this case, the torque increase is the number of teeth on the driven gear divided by the teeth on the motor gear.



These are the inner workings of an RC car gearbox. Motor torque comes in from the shaft on the upper right and out through to the wheels from the largest gear on the bottom.

Do Influencers Fit for You?

UNDERSTAND THE 2 TYPES AND WHO YOUR CUSTOMERS ARE
IN ANSWERING THIS MARKETING QUESTION **BY ALYSON DUTCH**

INFLUENCERS. It's a new title, a trendy new career path and something every entrepreneur thinks he or she needs.

But unless you are a fluent Instagram user, they can be elusive, even guarded by agents and publicists.

How do you reach them? More important, how do you know if you really need them?

While we're at it, what exactly is an influencer?

Influencers and social media are a small part of a marketing tool kit. Before embarking on the marketing journey, you must ask yourself who your customers are. This will determine whether influencers and social media are a choice for you.

New term, old concept

There are two types of influencers: self-created and those whose accomplishments make them influencers.

The first have indeed reached stratospheric levels of significance recently. This happened because the internet democratizes exposure to anyone. Prior to this, gathering an audience required being on radio or a film/TV stage to get exposure from a screen or airwave.

What kinds of businesses need influencers, and is this really something new? The answer lies in defining the meaning of influence.

Influence has existed since the dawn of time. It has taken the form of chieftains, warlords, royalty, presidents, prime ministers, celebrities, experts, educators, governments, religious beliefs and probably much more.

People are influenced by those they admire, see as a role model or believe have something to teach them.

Influencer campaigns can be powerful; the self-appointed type is indeed new. Before you start spending money thinking this is the marketing Valhalla for your business, let's see how this fits into the basic tenets of marketing.

Humans follow humans

The No. 1 marketing method is word of mouth. I call it the "Oh, yeah, I've heard of that" response.

When we hear about the inventive strawberry rhubarb or chocolate pudding shakes with handspun vanilla whipped cream that are served at the Shake Shack, this paints a delicious mind picture of what your experience might be like at that burger chain. If you hear this from someone you admire or respect (and you like food), the chance of your trying the Shake Shack is extremely high.

Because humans can sense when something is unbiased versus biased, the likelihood of you spending your lunch dollars at the Shake Shack are much higher than if you saw an ad for the restaurant or if an influencer you liked was paid to say nice things about it.

No matter what time we live in—with prehistoric cavemen or when we will have microchips implanted in our arms to open doors, this will be true.

Why?

Like animals that herd, bees that swarm and fish that school, we are territorial animals. We gather in places that we consider safe and with the like-minded. When one member of that tribe displays leadership, wisdom or style, others follow.

In the 1940s, Betty Grable was such a big celebrity that her legs were insured for \$1 million. In



The two types of influencers are self-created and those whose accomplishments make them influencers.

a publicity stunt for a maker of nylons at the time, DuPont, her stockings were auctioned at a war bond rally and fetched \$40,000.

Not always a good match

Influence is relative.

If you Googled “top 5 celebrities of 2021,” songstress Billie Eilish tops the list, followed by Demi Lovato and Justin Bieber. After their names are their social media follower statistics, signaling the type of audience to whom they appeal.

If you’re talking about science, the list includes those dominating in the fields of quantum physics and virology. If you have a scientific product that needs to become known, would you be worrying about your social media, or what YouTube you should be using for your marketing campaign?

Let’s say that product is a cooling coil for a quantum computer, and cooling is one of the biggest problems to overcome for quantum computing engineers. Influencers for you will be engineers and product developers in computer science at IBM, Hughes Research Labs and Google.

If you got your product in front of these people, they become your influencers. These thought leaders or experts could make or break your business—and because they have accomplishments behind their notoriety, their opinion is worth its weight in gold.

This is an unbiased opinion. Reporters are paid to do the same thing. This is why public relations is so valuable.

Creative use of influencing

Apple does an annual state-of-the-state address. Google did one this year for the first time called I/O, in which Sundar Pichai—CEO of Google’s parent company, Alphabet—outlines what the company is up to and where it’s going. For a public company, this is similar to a shareholder letter that Warren Buffett writes in his annual report.

I recently watched I/O because a good friend of mine is the lead engineer at Google and is building the quantum computer there.

For all the different parts of Google’s business, the department leads gave presentations. But when it came to one of the most influential

things that Google is doing (quantum computing), it hired a celebrity, Michael Peña, to pithily question my friend Erik Lucero about the nature of quantum computing. It was entertaining and made a difficult subject more understandable.

In this case, the influencer is Google, which is using a celebrity from another world of “Oh, yeah, I know who that guy is” to interface with a PhD physicist to express this. What a brilliant use of influence!

The influencers people speak of today are self-appointed and using the viral nature of social media to look pretty or sound fun and collect as many others to watch them. After they’ve collected an audience of followers, this provides value and they charge money to talk about your stuff to that audience.

This is not really that different than The General or Icy Hot hiring Shaquille O’Neal to be a spokesperson. But unlike influencers of today, he has become an influencer because he’s already had a career of stupendous accomplishments in basketball.

Remember the 2 questions

The biggest question about the self-appointed influencers of social media today is: Why are their followers following them? If that reason matches what you’re trying to do, it may be worth paying them to say what you want them to say.

Before you choose an influencer or tastemaker in your sandbox, however, the most important thing you need to begin with is: Who is my customer? Where does he or she hang out? Who do they believe is influential?

This levels the playing field of choices and is the only way that any business—whether it makes cooling coils for quantum computers or designer shoes—must do if one expects to build a business or even sell an invention. 📱

Alyson Dutch has been a leading consumer packaged goods launch specialist for 30 years. She operates Malibu-based Brown + Dutch Public Relations and Consumer Product Events, and is a widely published author.



Even if your customer is someone who spends plenty of time on social media, he or she still may not be influenced by influencers. First, get clear about social media audiences.



Snapchat is for younger audiences but specifically those who don’t want a lasting footprint of their posts.



Instagram is image driven and younger than the written-word- forward Facebook.



Pinterest tends to attract mommies and aspirational young women.



TikTok is video central for pre-teens and teens.



Twitter tends to be more international.



LinkedIn is a business networking place.



YouTube is a wide audience, and only videos.



Weibo and WeChat are used by Chinese speakers for everything from IM to shopping and payment.

Each of those audiences are influenced by different things.

For example, iGen aka GenZ (ages 9-26 in 2021) will likely buy mascara from a beauty influencer who has been paid to say nice things about it and not think twice about the bias they were just suckered into. These young people grew up on social media, so culturally, they define personal worth by social media popularity.

A Baby Boomer or Gen X (57-75 and 42-56) would generally not be as wooed to buy and consider being paid to recommend or “sell out.” Two very different customers—neither better than the other but influenced differently.



The Great Debate

BACKERS OF COVID-19 WAIVER ARE MISSING THE REAL ISSUES

BY LOUIS CARBONNEAU

EACH TIME a large effort like the one to find and develop a vaccine for COVID-19 is underway, people celebrate the financial and legal (i.e. proper IP protection) incentives that are in place for companies to embark on such a risky adventure. Companies allocated countless resources to deliver results and hopefully a healthy return on what is a massive and very uncertain investment.

With COVID, these companies sure did deliver, with several of them bringing a very efficient and safe vaccine to market within months instead of the usual years. Note that we only hear about the successful ones; a few others also spent the same billions of dollars trying but ultimately failed to develop an efficient vaccine and now face a huge write-off for 2020.

They took on that huge risk because they knew that if they got it right, it would be worth it. At least they assumed so...

Naturally, now that we have a solution, everyone wants it, and they want it cheaply—thus collapsing the very business model that supported its development in the first place.

We have seen clamors from across the world for pharmaceutical companies to waive their rights on patents related to

their respective vaccine. The Biden administration has publicly supported this request, likely because it knows very well that it would be a mostly symbolic gesture.

These patents don't even exist yet (as it takes years from filing to obtain one), meaning they are still pending, and generic pharma knows that reading a patent does not make a company a vaccine producer overnight. This also requires access to a ton of confidential data and know-how transfer before someone can replicate the same results. These drugs then need to be approved by the various regulatory authorities after proper clinical trials.

This is why the European Union did not take Biden's pledge too seriously and quickly called it insufficient when it was announced.

Now that we have a solution, everyone wants it, and they want it cheaply—thus collapsing the very business model that supported its development in the first place.





BACK TO THE WILD WEST?

I remember from my days at Microsoft 15 or so years ago, where the company was on the receiving end of about 40 active patent litigations year after year. No matter how many cases it settled along the way, others would sprout.

Interestingly, 90 percent of these cases were from NPEs (*Editor's note:* Non-practicing entities are people or companies who have patent rights with no plans to develop the product). Virtually all of them were introduced in the Eastern District of Texas, where Judge Rodney Gilstrap had established the famous "rocket docket" (i.e. a very short time to trial) and the city of Longview seemed to teem with patent-friendly jurors.

Fast-forward to a couple of years ago. The U.S. Supreme Court had nearly killed the great state of Texas as the venue of choice for patent owners by doing away with forum shopping with its decision in the T.C. Hartland case in 2018. After that, you pretty much had to sue a company in the district it was headquartered or where it had substantial commercial activities.

Because not many were based in Longview—a quiet city of 80,000 souls located 130 miles east of Dallas—most cases had to be filed elsewhere and, in many cases, ended up in Delaware where so many companies are incorporated.

Even Apple famously closed two of its Apple stores in the eastern District of Texas rather than fearing another lawsuit there. Talk about the tail wagging the dog.

Then came the appointment by then-President Trump of Judge Alan Albright at the end of 2018 for the Western District of Texas.

Judge Albright is a former patent litigator at a large national firm. Unlike his colleague from the Eastern District, he also has the good fortune of presiding over a judicial district that includes cities such as Austin, San Antonio and Waco, to name the three largest.

Austin is a large and fast-growing tech hub in its own right, where most of the big technology companies have a massive presence and where closing shop is simply not in the cards. As a result, and because of Judge Albright's declared agenda to welcome patent cases and move them fast, Texas is back in full swing as the venue of choice for plaintiffs.

Add to this that Albright will not entertain most preliminary motions and will not stay a case just because the defendant concurrently filed an inter partes review with the PTAB, and you understand why we are now back to a situation that resembles the Wild West of patent litigation from the 1990. This provides a sliver of hope to patent owners who had lost faith in the courts' ability to vindicate their claims.



This is an interesting debate, with serious arguments to be made on both sides.

Like most people, I have a love/hate relationship with big pharma and believe that too often it gouges customers who have no choice other than to buy the drugs they rely on for their survival. However, and without oversimplifying the current debate, the fight around a patent rights waiver for the vaccine is largely a red herring in my view.

The real debate is about availability given current production capacity, distribution (should every American baby be vaccinated before a dose is sent to vulnerable elderlies in emerging countries?), and pricing.

This last aspect is probably the easiest to deal with, as governments around the world are buyers and regulators at the same time. They have leverage to negotiate better prices, they can afford to borrow on public markets and run massive deficits to save lives, and can also rely on compulsory licensing schemes present in most countries, if need be, to start or accelerate local production.

Ultimately, the forces of supply and demand dictate most of the interactions here. We are already seeing some saturation in the vaccination rate in more affluent markets, increased production capacity across the globe, and millions of doses sent in countries/regions in need through COVAX.

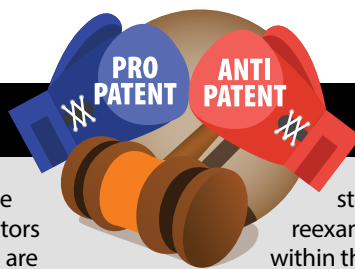
Thus, and while the situation is far from perfect, the system has worked for the most part and the "rights" incentives from the start have delivered not one but several solutions in record time.

Let's not forget this before moving the goalposts. Because otherwise, when the next pandemic takes place, there may be very few players left to find a solution. 🍷

Louis Carbonneau is the founder & CEO of Tangible IP, a leading IP strategic advisory and patent brokerage firm, with more than 2,500 patents sold. He is also an attorney who has been voted as one of the world's leading IP strategists for the past seven years. He writes a regular column read by more than 12,000 IP professionals.



INVENTOR VS. BIG TECH 2.0



In the United States, there is still a void left by the change of guard at the United States Patent and Trademark Office. The acting director, Drew Hirshfeld, is essentially a caretaker while we await the nomination of a new commissioner to replace the influential Andrei Iancu, who was at the helm during the past four years.

Everyone is trying to read the tea leaves by scrutinizing the roster of candidates being leaked to the press in order to determine whether the “pro” patent (i.e. the inventors lobby) or “anti” patent (i.e. Big Tech) forces will get their choice. At least one candidate who was associated with Big Tech has found another position in the administration, so this leaves a few candidates both liked and disliked, depending on your views. Stay tuned.

Meanwhile, those representing inventors and patent owners are voicing their concerns over a suggested amendment to what is a rather rare bipartisan draft bill in Congress called the Endless Frontier Act. It works to establish U.S. dominance in crucial areas of basic research including artificial intelligence, high-performance computing and advanced manufacturing. It also represents a bipartisan effort to address China’s ambitions to become a globally dominant technological power, an effort that is long overdue.

However, an amendment (one of 215) to the proposed bill by U.S. Sen. Patrick Leahy (D-Vermont) and Thom Tillis (R-N.C.) would create a series of

statutes related to ex parte reexamination proceedings within the USPTO, such that a party challenging patent claims can assert that particular patent claims should be unenforceable due to inequitable conduct.

This may seem fairly trivial to the uninitiated; but remember that when the America Invents Act introduced inter partes reviews in 2011, very few people could have predicted these would become such a powerful tool to invalidate patents.

Nonetheless, some of the worst excess of the Patent Trial and Appeal Board appear to have subsided in the past couple of years. When I talk to litigators, they do not seem to fear the IPR route as much as they did only a few years ago. —Louis Carbonneau

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A Different Way

EU OFFERS ALTERNATIVE TO COVID-19 IP WAIVER THAT SUPPORTS INNOVATION, ADDRESSES SUPPLY CHAIN PROBLEMS

BY STEVE BRACHMANN

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

ON JUNE 4, the European Commission submitted to the World Trade Organization its proposal for improving access to COVID-19 vaccines and treatments in countries suffering from vaccine shortages. The plan was submitted as an alternative to other proposals that would eliminate international patent and other intellectual property rights for COVID-19 vaccines and treatments—under the premise that such action would improve vaccine access in poorer countries.

Although the European Union alternative contemplates the possible use of compulsory licensing, it addresses supply chain issues that would help to inoculate the entire globe against

COVID-19 much more quickly than any patent waiver could accomplish.

3 key elements

The EU's proposal to the WTO regarding COVID-19 vaccine access focuses on three main components:

- International supply chain issues. It advocates for countries producing vaccines to increase international exports and to avoid any trade restrictions on vaccines or their raw materials that could hinder the supply chain, either for countries in need or the global COVAX Facility initiative. Supply chain issues have a real and devastating effect on unvaccinated communities, as evidenced by the recent news that Thailand government officials acknowledged delays and reductions for a promised shipment of 17 million doses of Thai-produced AstraZeneca vaccines to the Philippines.

One of the biggest supply chain issues facing the unvaccinated world is the decision of India's government—which, along with South Africa, proposed the patent waiver at the WTO—to stop exporting vaccines manufactured by the Serum Institute of India, the world's largest vaccine manufacturer, to address India's own exploding COVID-19 infection rates. For its part, the United States under President Joe Biden recently announced an increase of 20 million doses to the country's planned COVID-19 vaccine exports.

- A request that governments support vaccine manufacturers and developers to ensure affordable vaccine supplies. This portion of the EU's proposal acknowledges the beneficial impacts of licensing, which ensures that developers and manufacturers enter into agreements that those companies are incentivized to uphold because they promote business interests.



More than 60 nations have publicly supported the India-South Africa proposal to waive patent rights for COVID-19 vaccines. The European Union does not.

- A focus on intellectual property, recognizing that “voluntary licenses are the most effective instrument to facilitate the expansion of production and sharing of expertise.” Although compulsory licensing could be available without voluntary licensing due to the extraordinary nature of COVID-19, the EU advocates for using existing mechanisms for compulsory licensing under the Agreement on Trade-Related Aspects of Intellectual Property Rights.

The EU was clear on its thoughts regarding the India-South Africa proposal backed by many governments, including the Biden Administration:

“As regards the broad waiver proposed by a number of WTO members, the European Commission, while ready to discuss any option that helps end the pandemic as soon as possible, is not convinced that this would provide the best immediate response to reach the objective of the widest and timely distribution of COVID-19 vaccines that the world urgently needs.”

Waiver has big support

The forces urging the world toward waiving international patent rights under TRIPS for COVID-19 vaccines are legion.

On June 7, the WTO announced it had received a petition signed by 2.7 million people around the world calling for the suspension of patent rights on COVID-19 vaccines. More than 60 nations have publicly supported the India-South Africa proposal to waive patent rights under TRIPS for COVID-19 vaccines.

However, as the EU’s proposal indicates, developing effective responses to international supply chain issues regarding vaccines do not have to dismantle the system for encouraging the investment in pharmaceutical R&D that produced the vaccine in the first place. In fact, the EU’s proposal recognizes that properly respecting IP rights and encouraging voluntary licensing will be a much more effective answer. ☞

Steve Brachmann is a freelance writer located in Buffalo, N.Y., and is a consistent contributor to the intellectual property law blog IPWatchdog. He has also covered local government in the Western New York region for The Buffalo News and The Hamburg Sun.



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Best wishes, Jack Lander

IoT Corner

The U.S. Army now requires its remote workers to turn off the IoT devices in their home workspaces. Army Chief Information Officer Dr. Raj Iyer announced the policy amid a spike in home-based workers due to the coronavirus pandemic.

IoT devices pose a cybersecurity risk because they extend the nodes of the network, creating additional avenues for bad actors to gain network access. In addition, smart home devices record a lot of data, including audio and video that could contain sensitive information regarding key military initiatives. —*Jeremy Losaw*

Wunderkinds

Anish Bhethanabotla, an eighth-grader from San Jose, won the California Invention Convention's 2021 Most Innovative Award for his comprehensive, low-cost automatic ventilator and vital signs monitor. The invention, called ADVENT, can work in urban settings during a pandemic or rural settings where health care infrastructure is limited. About 3 million people die annually of respiratory illnesses, and the average cost of an ICU ventilator is nearly \$40,000.

What IS that?

It's the **Potato Pal**. Just upload your image, send it, and you receive an Idaho potato with your image as well as an optional message. One reviewer wrote: "I hand these out to advertise my business. It's a little more difficult than a regular business card as I have to carry a massive sack of potatoes everywhere I go, and it won't fit in my wallet. You also have to make sure to hand them all out before they sprout or get all mushy and gross."



44% The percentage increase in patents by South Korea-based Kia Motors in 2020 from 2019—giving it a total of 1,323, per Nasdaq.



WHAT DO YOU KNOW?



1 Thomas Edison, Henry Ford, Harvey Firestone and naturalist John Burroughs took annual camping trips between 1916 and 1924. What did they call their group?

- A)** The Roustabouts **B)** The Vagabonds
- C)** The Lightbulbs **D)** Camp Clever

2 **True or false:** Lawrence Welk patented his accordion-shaped ashtray after hearing the 1972 Deep Purple hit "Smoke on the Water."

3 Which was invented first—the ballpoint pen, or the electrically operated typewriter?

4 **True or false:** You can trademark a number.

5 The Mothers of Invention was a 1960s rock band led by:

- A)** Neil Young **B)** Todd Rundgren
- C)** David Bowie **D)** Frank Zappa

ANSWERS: 1. B. 2. False. Come on. 3. The electrically operated typewriter was invented by Thomas Edison in 1872. John J. Loud invented the ballpoint pen in 1888. 4. True, so long as you use the number as a brand for your products or services. 5. D.

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