

# Inventors

DIGEST

## SOFT STONE SAGA

MATT MAIER'S CHILD NEEDED  
A HEART TRANSPLANT.  
HE HAD TO DO SOMETHING.

**Nashville. Yummy!**  
3 TASTY INVENTIONS  
FROM MUSIC CITY

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FULTON, MO

*Planning to be in the DC area  
this summer? Visit the reopened*

# National Inventors Hall of Fame Museum

The National Inventors Hall of Fame Museum is now open to the public! Located at the USPTO headquarters in Alexandria, Virginia, there is something for everyone inside the storied walls of this tribute to American innovation and ingenuity.

Whether you're looking for an exciting activity for the family, or a fun and educational field trip for students, the museum's broad variety of exhibits does not disappoint.

New exhibits on display include:

- Breaking Barriers: Honoring Extraordinary Black Inventors
- Women in Innovation
- The Super Soaker® Prototype Exhibit
- Invention: The Sky Is the Limit

For more information, visit  
[www.invent.org/museum/  
plan-your-visit](http://www.invent.org/museum/plan-your-visit)



UNITED STATES  
PATENT AND TRADEMARK OFFICE



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**ON THE COVER**  
Matt Maier inventor of Design A Stone—shown with his wife, Falonn, son Liam and daughter Macie; photo by Alyssa Brooke



# Give no quarter to Patent Pirates.

Or they'll take every  
last penny.

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

**SAVE THE  
AMERICAN  
INVENTOR**

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

# Director's Direction

*Kathi Vidal blog defines USPTO mission, highlights tools for inventors*

**S**INCE her first official day as under secretary of commerce for intellectual property and director of the United States Patent and Trademark Office (USPTO) on April 14, Kathi Vidal has set a tone of activity and inclusion.

That day, Vidal held a virtual town hall with thousands of USPTO employees. “I’ve been incredibly impressed with the hard work and diligence of USPTO staff,” she wrote in her blog, “and will continue listening to their thoughts on how to strengthen our Agency and, in turn, advance our nation’s economic standing.”

Along those lines, the blog is anchored by her definition of the USPTO’s mission and vision:

“Our intellectual property system is the engine that propels our economy. Our nation’s founders created this system to drive economic growth and foster a higher standard of living for all.

“Now more than ever, we need that growth and equity, and we need an intellectual property ecosystem that will cultivate an innovation mindset and be a catalyst for inclusive innovation, economic prosperity, U.S. competitiveness, national security, and world problem-solving. We need to incentivize and protect more innovation, especially in key technology areas, and bring that innovation to impact.

“While we work collaboratively with those within the USPTO,

which comprises over one quarter of the U.S. Department of Commerce’s workforce, the Patent and Trademark Public Advisory Committees, sister agencies and stakeholders to develop the intellectual property roadmap to help propel our country forward, we are operating under a new, interim vision and mission. Our next step will be to roll out high level interim objectives for internal and public feedback.”

Less than two weeks after Vidal’s tenure began, the USPTO celebrated World IP Day on April 26.

“I began the day by meeting with second-grade students at Cora Kelly Elementary School in Alexandria (Virginia) to discuss their own invention ideas, as part of our commitment to reach great minds at every age,” Vidal wrote.

She attended another milestone event on May 5, recognizing the achievements of the 2022 class of National Inventors Hall of Fame (NIHF) inductees.

“These 27 incredible inventors hold a collective 1,772 patents and counting, and represent fields and backgrounds from communication technology to health and medicine, agriculture, and workplace safety,” the director wrote.

“Notably, for the first time ever, two Black women were inducted into NIHF: Dr. Marian Croak, for the development of Voice over Internet Protocol (VoIP), which allows us to make calls directly from our computers or other WiFi-connected devices; and Dr. Patricia Bath (posthumous), for inventing laserphaco technology, which has improved the lives of millions of people suffering from vision problems by removing cataracts.”

Director Vidal’s blog also mentions the new DOCX format that makes it easier for patent applicants to file, as well as programs for under-resourced inventors and small businesses via the USPTO Patent Pro Bono Program and the 21 regional programs that support it. Please see [uspto.gov/blog/director/entry/just-getting-started](https://uspto.gov/blog/director/entry/just-getting-started).

Director Vidal participated in an “invention challenge” with second-grade students at Cora Kelly Elementary School for Math, Science, and Technology in Alexandria, Virginia, in celebration of World IP Day on April 26.



## TRADING CARD

## NO. 23

## Stephen Gary 'Woz' Wozniak

**A**T THE CONTROLS of his single-engine, six-seat Beechcraft Bonanza A36TC with three passengers onboard, Steve Wozniak could feel the plane climbing too abruptly. Something was seriously wrong.

The aircraft stalled, plunged and crashed through two fences into the car park of a skating rink in Cupertino, California. Everyone survived the Feb. 7, 1981, crash—including his fiancée, Candice Clark—but Wozniak suffered facial and head injuries, as well as amnesia.

He eventually recovered, physically and mentally. But the accident caused the Apple cofounder to re-examine his life, just two months after Apple's initial public offering earned him a \$116 million stake.

His leave of absence was fatefully timed; Wozniak reportedly was not happy with the company's direction. He returned to Apple but eventually left again.

"Woz" didn't rest on his money and fame. In 1983, he sponsored the first three U.S.-U.S.S.R. space bridges. In 1985, he founded CL 9 to build the first programmable remote control. He also received the National Medal of Technology from President Ronald Reagan with his Apple cofounder, Steve Jobs.

During the next decade, Wozniak received his European Energy Certificate System Bachelor of Science degree at UC-Berkeley; helped found the Electronic Frontier Foundation (EFF), and sponsored computers for schools in the USSR through a U.S.-U.S.S.R. initiative.

And by 1995, fifth-grade math students at a Santa Cruz, California, elementary school were getting the lessons of a lifetime—an inspirational success story in the spirit of the USPTO's annual National Summer Teacher Institute on innovation, STEM and intellectual property to be held this July 25-29.

Wozniak taught at a school where his daughter, Sara, was enrolled. According to an account

from a former student on macobserver.com, "He bought the class computers, pulled apart floppy drives to show them what each part did, and spoiled them with McDonald's Happy Meals."

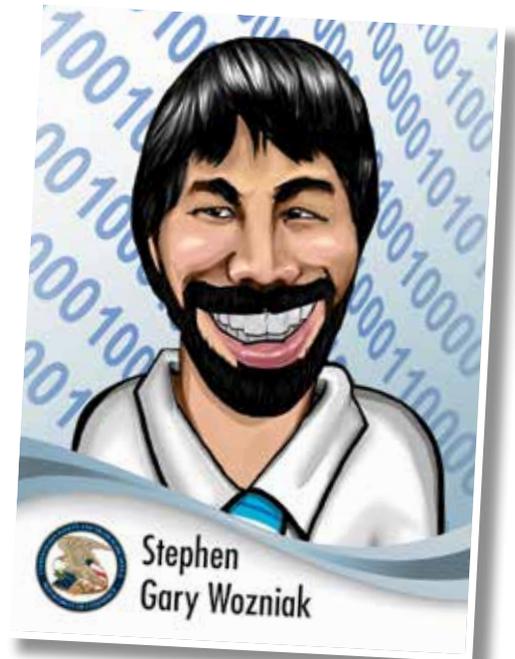
Wozniak was the main tech muscle behind the invention for which he is best known: the first true personal computer. He and Jobs built their first machines in the Jobs family garage in 1976.

The following year, Wozniak and Jobs introduced the Apple II, featuring color graphics and with electronics housed inside a plastic case. Programmers began creating applications for the Apple II, the first mass-marketed personal computer.

A 2000 inductee into the National Inventors Hall of Fame who holds four U.S. patents, Wozniak is a lifelong prankster, a Segway polo player, appeared as himself on TV's "The Big Bang Theory"—and even competed on "Dancing With the Stars" in 2009, where he danced "The Worm." Unrehearsed, of course.

"I'm so proud to be known for that," the unassuming multimillionaire said during a March 2022 podcast, "Steve-O's Wild Ride!" Few in the world have been brilliant and bold enough to launch the kinds of wild rides that Wozniak has.

This year marks the 10th anniversary of the USPTO trading cards. Requests for the cards can be sent to [education@uspto.gov](mailto:education@uspto.gov). You can also visit them at [uspto.gov/kids](https://uspto.gov/kids).



# Pro Bono is Pro-Inventor

*Free, new PTAB program connects qualifying applicants with patent practitioners in ex parte appeals*

**I**T CAN be difficult to navigate the patent system, a process that can involve proceedings before the Patent Trial and Appeal Board. To help alleviate some of this, the PTAB and the PTAB Bar Association developed a program to connect financially under-resourced inventors with qualified patent practitioners for free legal or “pro bono” assistance in handling *ex parte* appeals at the PTAB. (*Ex parte* is a Latin term that means “on or from one side only.”)

This program builds on the success of the USPTO’s Patent Pro Bono Program, which has matched more than 3,400 under-resourced inventors and small businesses with volunteer patent practitioners to file over 1,800 patent applications. This has totaled more than 84,000 hours of free legal help.

**Program scope.** The PTAB Bar Association serves as the national clearinghouse for the PTAB Pro Bono Program. Initially, the PTAB Bar will match a limited number of qualified inventors seeking *ex parte* appeal assistance with volunteer practitioners. In the future, there are plans to expand the program to match inventors seeking America Invents Act (AIA) trial assistance with volunteer practitioners.

**Inventor eligibility.** To be eligible for *pro bono* assistance, independent inventors must meet certain requirements. They must:

- Be domiciled in the United States;
- Have a gross household income less than three times the U.S. poverty guidelines;
- Establish Micro Entity Status in the application subject to appeal;
- Apply within one month from the date of the Office Action in which claims have been twice or finally rejected; and
- View the required training about the PTAB Pro Bono Program and the *ex parte* appeal process.

**Matching.** If an applicant qualifies for the program, the PTAB Bar Association attempts to match the independent inventor with a volunteer practitioner within one month of the application being submitted. For a variety of reasons, including the availability of volunteer practitioners, a match is not guaranteed.

**Volunteer practitioner eligibility.** To volunteer, patent practitioners must: (1) be a licensed patent attorney or patent agent; (2) have experience in *ex parte* matters before the PTAB; (3) provide malpractice insurance; (4) provide a representation agreement; (5) have proficiency with the technology at issue; and (6) agree not to charge fees for their representation.

## HOW TO APPLY

The PTAB Pro Bono Program fully launched on June 1, 2022. Interested independent inventors and patent practitioners can access the respective application forms on the PTAB Bar Association website at [ptabbar.org](https://ptabbar.org).

Independent inventors and patent practitioners with questions regarding the application or matching process may contact the PTAB Bar Association via email at [PTABprobono@ptabbar.org](mailto:PTABprobono@ptabbar.org).



NEWS FLASH



## A NEW ERA OF INCLUSION

*Launch of web resource details commitment to equity for innovators, and how you can help*

**EQUITY IS NOT JUST A CURRENT TREND.** It is a commitment to empowerment for all innovators that has far-reaching effects for society as a whole.

The USPTO's new inclusive innovation web resource details the importance of this commitment. It features:

- Data showing how inclusive intellectual property initiatives support both individual innovators and the broader U.S. economy;
- Disparities in innovation across demographic groups, highlighting the need to reach and inspire women and underserved populations;
- Ways to participate in activities that encourage greater equity in the innovation ecosystem.

For more information: [uspto.gov/InclusiveInnovation](https://uspto.gov/InclusiveInnovation)

**RE-OPENED FOR YOU:** On May 25, 2022, the USPTO fully reopened all locations to employees and resumed some in-person events and appointments for the public. Before entering these locations, visitors should review a health questionnaire at [uspto.gov/about-us/news-updates/uspto-enters-phase-3-and-reopens-facilities-public](https://uspto.gov/about-us/news-updates/uspto-enters-phase-3-and-reopens-facilities-public). They may not enter facilities if they answer "yes" to any of the questions.

The USPTO continues to monitor local conditions for all locations as determined by the Center for Disease Control's COVID-19 community levels. In addition to its headquarters and East Coast outreach office in Alexandria, Virginia, the USPTO has regional offices in Detroit, Dallas, Denver and San Jose.

## WHAT'S NEXT

### INVENTION-CON IS COMING!

Invention-Con—the USPTO's annual conference for independent inventors, entrepreneurs, and small business owners whose success depends on guarding their creative work—returns **August 10-12.**

This year's theme is "inspiring and redefining the innovative mindset." Join us as inventors, entrepreneurs, and USPTO staff discuss ways to use intellectual property to achieve success, resources available for innovators, and the importance of an intellectual property strategy.

*Inventors Digest* publisher and Eventys Partners CEO Louis Foreman will be a guest speaker and lead a panel discussion: "Your IP, a potential gold mine." He will share the virtual stage with Eric Ingram, CEO and co-founder, SCOUT Inc. a 2021 startup of the year.

An agenda and more information will be posted soon to [uspto.gov/inventioncon](https://uspto.gov/inventioncon).



### NATIONAL SUMMER TEACHER INSTITUTE (NSTI):

The USPTO Office of Education will conduct a virtual program for teachers involving innovation, science, technology, engineering, and mathematics (STEM), and intellectual property during the week of **July 25-29.**

NSTI combines experiential training tools, practices, and project-based learning models to support elementary, middle, and high school teachers and increase their knowledge of inventing and innovating.

The application deadline is July 15. For more information, visit [uspto.gov/teacherinstitute](https://uspto.gov/teacherinstitute), or contact [NSTI\\_Applications@uspto.gov](mailto:NSTI_Applications@uspto.gov).



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

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## EPO Invention Gala Is in its Own Class

In terms of awards ceremonies that celebrate contributions to humanity, this one made the Oscars look like the Oscar Madisons.

The European Patent Office announced the winners of the European Inventor Award on June 21. The annual event, livestreamed to a worldwide audience, honored inventors and teams from Belgium, Brazil, Canada, Estonia, France, Hungary, Spain, Switzerland, the UK—and the United States.

The ceremony included a message from His Serene Highness Albert II, Sovereign Prince of Monaco. You know—that guy who is an ocean conservationist, a philanthropist for the protection of human rights, a five-time Olympian, and the 2021 Jane Alexander Global Wildlife Ambassador Award recipient.

There were no political rants disguised as acceptance speeches. No hand-wringing or outrage over perceived snubs.

Nobody slapped anybody.

That said, a U.S. winner of this year's European Inventor Award is known for an assault on the conventional battery. Massachusetts Institute of Technology professor and chemist Donald Sadoway, who won in the non-EPO countries category, was honored for developing a liquid metal battery for storing solar and wind energy.

Briefly explained, his liquid metal batteries consist of three liquid layers of different densities that naturally separate in the same way as oil and vinegar in a salad dressing. The top and bottom layers are made from molten metals, the middle layer of molten liquid salt.

Keeping the metals liquid requires the batteries to operate at extremely high temperatures, so Sadoway designed a system that is self-heating and insulated. The liquid metal batteries have a 20-plus-year lifespan, can maintain 99 percent of their capacity over 5,000 charging cycles, and have no combustible materials.

Upon receiving his award in Munich, a humbled Sadoway told the audience:

“I am astonished. When I look at all the patented technologies that are represented at this event I see an abundance of excellence, all of them solutions to pressing problems.”

Wouldn't it be nice if our society gave inventors a greater importance than actors and actresses, and such events were shown on mainstream TV? I've got dibs on Elon Musk in the betting pool.

—Reid

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# Inventors

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## CORRESPONDENCE

I have a great invention idea. But for me to execute it, I'm going to need to involve at least one second party who is an independent contractor.

I'm afraid that once I disclose the invention and how it works, somehow my idea will be stolen or "knocked off." Is there any protection I can get for this?

—COLIN SAMPSON, ITHACA, N.Y.

*We can't give you legal advice, only an option: A mutual nondisclosure agreement (NDA) can provide peace of mind, protection, and can happen fast once there is agreement on terms. But an NDA can be complex, so for further peace*

*of mind and protection it is recommended you hire a patent attorney to draft it. This will add to your costs, of course.*

*Some legal websites provide a link to a mutual nondisclosure agreement template—which may or may not cover everything for you.—Editor*

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## 'OH, MICKEY, YOU'RE SO FINE!' TONI BASIL WINS '82 SONG RIGHTS

Forty years ago, Toni Basil was already 38 years old when she donned her old Las Vegas High cheerleading uniform and burst into pop-culture relevance with her cheesecake exemplar and music video hit, "Mickey."

In early May, the U.S. Ninth Circuit Court of Appeals ruled she is the sole owner of the recording copyright for the song.

According to [completemusicupdate.com](http://completemusicupdate.com), Basil (real name Antonia Basilotta) sought to terminate her early 1980s record deal to reclaim the rights to "Mickey," among other tracks. But Stillwater, the label that controlled the recording prior to the court ruling, claimed the song's producer, Greg Mathieson, should be treated as a co-author of the record. Stillwater claimed that by terminating her old record deal, Basil could only claim a

share of the recording rights—with the label retaining what had originally been Mathieson's share.

At issue was how big of a role Mathieson had in the recording of "Mickey." Not very much, a lower court ruled. Stillwater then took the case to the Ninth Circuit, which agreed.

The case highlights a little-known provision in copyright law. In the United States, musicians and writers who have assigned or transferred their copyrights to record labels and music publishers can use this termination right to take back control of their rights after 35 years—a growing trend.

In January 2020, Basil released a new recording of her signature song called "Hey Mickey." At that point, she told Yahoo Entertainment/SiriusXM Volume, "I really thought I should put my foot down and receive money for it."

Basil conceived, directed, produced, and choreographed the Grammy-nominated video for "Mickey" herself. She may be known as a one-hit wonder, but Basil danced and/or choreographed for "Viva Las Vegas," "American Graffiti" and "Legally Blonde"; acted in "Easy Rider" and "Five Easy Pieces"; choreographed David Bowie's "Diamond Dogs" tour and Talking Heads' "Once in a Lifetime" and "Crosseyed & Painless" music videos; and founded/managed the street-dance troupe the Lockers—who once toured with Frank Sinatra. —Reid Creager



# BRIGHT IDEAS

## OYO

### TOTAL BODY MASSAGER

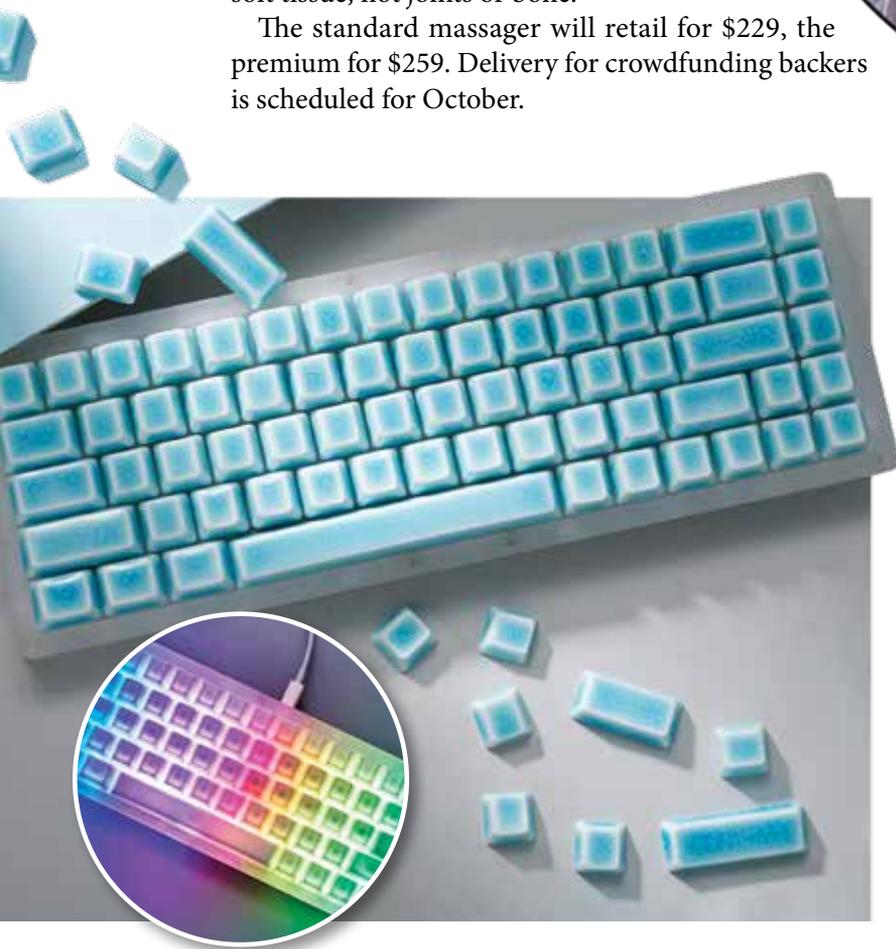
[oyofitness.com](http://oyofitness.com)

The OYO vibrating belt is a 2-in-1 device that features a side-to-side vibrating belt, with snap-on tips that can convert it into a percussion gun.

The belt can reach every body part from head to toe. Lateral (side to side) vibration can be applied to soft tissue and muscles, as well as hard tissue like joints and bones. Length adjusts for a comfortable massage in all positions.

Percussion vibration breaks up adhesions and muscle knots. It works best on muscles and soft tissue, not joints or bone.

The standard massager will retail for \$229, the premium for \$259. Delivery for crowdfunding backers is scheduled for October.



## Cerakey

### KEYCAPS SET MADE OF CERAMIC

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

Durable and wear resistant, Cerakey says it is the world's first ceramic keycaps. They come in a variety of colors with a strong backlit effect.

The caps are made of industrial grade alumina ceramic, which is lighter than traditional ceramic. Its makers say ceramic "provides a warm, jade-like feel and silky-smooth texture that no other material could compare with." The weight of most keycaps is about 3.5g, which could fit most keyboards.

Color options include a two-tone design in which the left and right perimeter keys are a different color than the main part of the keyboard.

Cerakey will retail for \$169. It is scheduled to be shipped to crowdfunding backers in August.



## MODL Infinity Tool

FLEXIBLE CARABINER FOR OUTDOORS

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

The MODL Infinity Tool is a series of small, portable plastic loops that, with the help of a metal stud, can affix and secure items in a more compact way for outdoor adventurers.

Because the loops are modular, you can link them end to end for the length you need. Its cinching capabilities allow the tool to be used as a gear tie.

The loop is made from platinum silicone; the studs are made of basic stainless steel. These materials help the Infinity Tool hold up to 70 lbs. Every wrap of it increases its strength.

The tool comes in a 20cm size and 40cm size.

The Infinity Tool will retail for \$35, with shipping available to crowdfunding backers in July.

**“Language is the most extraordinary invention in the history of humanity, the one which came before everything and which makes it possible to share everything.”**

—J. M. G. LE CLÉZIO

## Airbag Clothes

AIRBAG JEANS FOR MOTORCYCLISTS

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

Billed as the world’s first Airbag Jeans, these pants and other wearable accessories offer impact protection for the lower body.

The airbag is invisible before inflation. You can remove the airbag module from inside and machine-wash your jeans like regular pants. Knee pads are included.

The jeans are part of a larger airbag clothes collection that will be launched together with airbag vests and UHMWPE (ultra-high-molecular-weight polyethylene) jackets. The vest design pays extra attention to the spinal cord by aiming to stabilize the rider’s helmet upon inflation.

Set for an April 2023 shipping to crowdfunding backers, the jeans and vest will retail for about \$1,200 each, the jacket about \$1,575.





# Nashville. Yummy!

EXPLODING, STAR-GLAZED ‘MUSIC CITY’ IS HOME TO THREE TASTY U.S. INVENTIONS **BY REID CREAGER**

**A** **COMPELLING** cross-section of Southern glitz, wealth, celebrity, history and small-town values framed in sprawling, split-rail-fenced, treed spaces, exploding Nashville boasts the substance/success combination that bigger-name U.S. megacities lost in the crowds.

The “Music City” metro area population grew at least 2 percent a year for 30 straight years beginning in 1991—and was still close to that rate in 2021 and 2022. One report ranked Nashville No. 1 in America for economic growth in 2021.

You might know that Dolly Parton, Taylor Swift, Kelly Clarkson, Justin Timberlake, Tim McGraw and many others either live in Nashville or have strong business ties there. But you might not know that the city is home to three delicious inventions.

Yes, the first Cracker Barrel restaurant/country store opened about a half-century ago in the Nashville suburb of Lebanon. And Maxwell

House Coffee got its name from coffee that was featured at the iconic Maxwell House Hotel in Nashville.

We just happen to think you would rather read about the first combination candy bar, hot chicken and cotton candy.

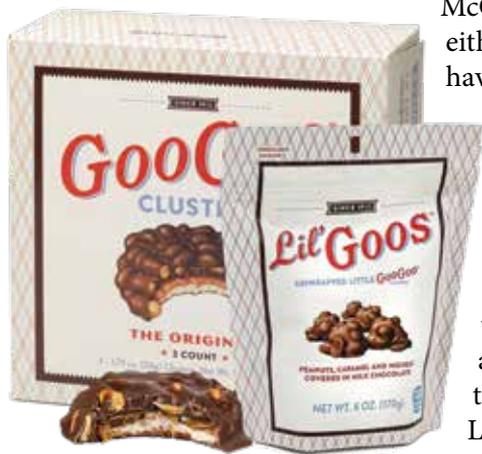
## Cluster’s first stand

When the Goo Goo Dolls perform at Nashville’s Ascend Amphitheater on August 27, maybe they will mention Nashville being the original home of the **Goo Goo Cluster**. And maybe the audience shouldn’t hold its breath.

Anyway: The Goo Goo Cluster is known as America’s first “combination” candy bar, created by Howell Campbell in 1912. It was made in a copper kettle at the Standard Candy Co., at historic Clark Street and First Avenue North in downtown Nashville.

No boring slab of rectangular chocolate here. The Goo Goo Cluster is filled with caramel, marshmallow nougat and fresh roasted peanuts, all drenched in chocolate.

The Goo Goo Chocolate Co.’s downtown Nashville storefront recently underwent a \$2 million face lift that Dolly Parton would envy.



(The factory, with a capacity to make 20,000 bars in an hour, is near the airport.)

Customers are still served a nostalgic vibe now stuffed with 21st-century innovation that includes a wall of touchscreens, where customers can design their own Goo Goo Clusters “with ingredients from the whimsical—Fruity Pebbles and potato chips, for example—to the premium,” according to *Southern Kitchen*.

Green Olive Media, an international branding and communications company headquartered in Atlanta, notes that the cluster has exploded beyond that single storefront. It’s now available in Southern supermarkets and drugstore chains. Internet sales are increasingly rich.

Goo Goo Cluster has been a registered trademark of Standard Candy Co. since 2016 despite being around for more than 100 years—another nod to the spiraling importance of intellectual property.

### He was hot; this is hotter

Timothy Davis, author of “The Hot Chicken Cookbook,” says the secret to hot chicken is basically “a ton of cayenne.” And if you are anywhere near Nashville, you’d better call it **Nashville hot chicken**.

The dish originated with a Depression-era womanizer who was punished for his happy specialty. Thornton Prince was “tall, handsome, and good-looking,” his great niece, André Prince Jeffries, was quoted as saying.

The story goes that the flesh Prince stepped out on his woman one night. The following morning for breakfast, she served him fried chicken drowning in hot pepper.

But Prince apparently liked a lot of things that were hot. Eventually, he opened a chicken shack.

Prince’s Hot Chicken shack, around for about 70 years now, draws tourists from around the world. It popped up on the menu at chain restaurants KFC and O’Charley’s. Now there are Nashville hot chicken restaurants in New York, Los Angeles and Chicago.

Bobby Meadows told NPR he has been happily addicted to the stuff for more than 50



## Nashville gets a “C” grade for its overall number of inventions. That’s a “C” as in the combination candy bar, chicken (hot) and cotton candy.

years. He drives about a half-hour from Mt. Juliet, Tennessee, for his fix.

“It’s worse than dope,” he said. “It’s got a craving worse than anything. And when you get to thinking about it and your mouth gets to water, you might as well turn your truck around and go get you some, ‘cause it ain’t going to get no better.”

### Sticky history

**Cotton candy’s** status as an iconic Nashville invention is kinda fuzzy. Many newcomers to the city—and they are good and plenty—don’t seem to know about it.

But long-timers can tell you right away that cotton candy (originally called “fairy floss”) was invented by a Nashville dentist, of all people. An inventor who held several patents, William James

Morrison partnered with candymaker John C. Wharton on an electric candy machine in 1897.

Cotton candy is made by heating and liquefying sugar, and spinning it centrifugally through tiny holes. This causes it to rapidly cool and re-solidify into fine strands.

Some claim that versions of spun sugar originated in Italy as early as the 1400s. But Morrison and Wharton are largely credited with the invention, even though internet details about the confectionary's history are sometimes erroneous.

*National Geographic*, among others, reports that Morrison and Wharton designed and patented their machine in 1897. This is false. Documents show they filed their patent application on Dec. 23, 1897, and were granted a patent on Jan. 31, 1899.

That patent—U.S. Patent No. 618,428A—says: “Our invention relates to improvements in candy making, or, as commonly called, candy-machines, in which a revoluble or rotating pan or vessel containing candy or melted sugar causes the said candy or melted sugar to form into masses of thread-like or silk-like filaments by the centrifugal force due to the rotation of the vessel.”

The Nashville *Tennessean* and other reports say Morrison and Wharton sold the patent to The Electric Candy Machine Co., also in Nashville—which “bought the patent prior

to the World’s Fair in 1904 and marketed the invention to the rest of the world.” A poster made by the company, found online, confirms this success.

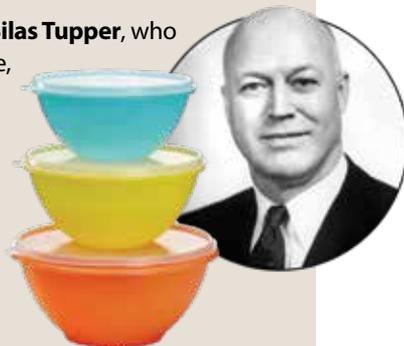
More than 65,000 boxes were sold at 25 cents apiece—a tasty haul at the turn of the last century. 🍬

Cotton candy was invented by a Nashville dentist.

## INVENTOR ARCHIVES: JULY

**July 28, 1907: Earl Silas Tupper**, who invented Tupperware, was born.

Born to a poor farming family in New Hampshire, Tupper always dreamed of invention riches. His early inventions—which never panned out—



included pants that wouldn't lose their crease, a dagger-shaped comb to attach to a belt, and a fish-powered boat.

Tupper had a tree surgery and landscaping business before getting into plastics. His Tupperware invention, which featured an airtight and watertight seal, was slow to take off because it required in-person demonstrations.

He and two other direct marketers conceived of the Tupperware Home Party in the late 1940s. Sales took off; in 1958, Tupper sold his company to Justin Dart of Rexall Drug Co. for \$16 million.

Tupper later renounced his United States citizenship and retired to Central America. He was inducted into the Plastics Hall of Fame in 1976 and died in 1983.



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# Licensing to One or More Prospects

THESE 6 OPTIONS/ACTIONS CAN DRAW YOU CLOSER  
TO SELLING YOUR INVENTION **BY JACK LANDER**

**I**N LAST MONTH'S *Inventors Digest*, I listed eight basic options for earning money from an invention. Option 1 was to file for a patent and license to a single prospect, which we will address here.

There are options within this option if we select this approach:

- File for a design patent or a utility patent.
- Contact prospects through a licensing agent.
- Contact prospects person to person on your own.
- Contact prospects by email or snail mail.
- Make your own sell sheet or have it made.
- Write your own licensing agreement or have a lawyer prepare it.

**Design or utility patent?** A design patent covers appearance only, not function. Ornamental designs of jewelry, (two- or three-dimensional), dinnerware patterns and so forth may be protected by a design patent.

The slim-waisted Coke bottle was issued U.S. Design Patent No. 48,160 in 1915. However, the patent holder could not legally defend a claim that the design's purpose was to prevent a wet bottle from slipping from the drinker's hand.

Design patents can be easily circumvented and therefore are not sought by most product producers. The utility patent should be our choice for most of our inventions if we decide to patent them.

**Engage a licensing agent?** Many of us would hope to hire a licensing agent to locate a prospective licensee and negotiate a licensing agreement for a percentage of our royalties.

Sorry, this is mainly a dream.

A few legitimate agents exist, but they are difficult to find and satisfy. They usually take on

only inventions of a certain type, such as tools, or they will charge an upfront evaluation fee; or they will only consider an invention that is obviously so easily marketed to the consumer that it will quickly convince a prospective licensee.

An upfront fee for evaluation is OK if the agent has a significant record of having licensed inventors' patents. But some self-proclaimed agents make their money on the upfront fee rather than on sharing royalties.

No license is required to become an agent, and no discipline board exists to enforce ethics.

Beware agents and inventor services that advertise extensively on TV. Ethical agents get their clients mostly by word of mouth and will likely be known by your local inventor group.

If you interview an agent, ask questions until they stutter. Ask especially what percent of inventors have actually licensed his or her invention out of all who contracted with the agent.

**Contact prospects on your own.** The best way to land a licensee is to meet face to face with an executive of a prospective company who has the authority to sign a licensing agreement.

Usually, this is the director of marketing. Contacting the prospective company and asking for an appointment for a personal meeting is seldom effective.

If the company is large, it will have a formal procedure for submitting product ideas. Follow it. Such a procedure will almost certainly demand that you have your patent in hand, or at least have it applied for—and the application must be prepared by a patent agent or patent attorney, not self-prepared.

The best way to meet face to face with the marketing executive is to attend trade shows at which several prospects will have a booth. The

director of marketing, or equivalent, will usually be present, and you can introduce yourself and present your “elevator speech.”

You can also request a business card. Never leave without that card or at least the correct spelling of the executive’s name and title. Also leave three or four sell sheets so that others who will have input to a licensing decision will have the essential information.

Follow up with a phone call to the person you met at the trade show. Ask if you can visit and demonstrate your prototype (or discuss why your invention is a winner if you don’t have a prototype).

### **Contact prospects by email or snail mail.**

U.S. Mail is a reasonable initial step if you can’t attend a trade show.

Sometimes you will be ignored; sometimes you’ll get a response such as, “We do not accept proposals from independent inventors;” and sometimes you’ll get a written procedure that spells out the conditions under which the company may accept your proposal.

Big companies often have the attitude that dealing with independent inventors is more trouble than it is worth. Small-to-medium

companies are generally more open about receiving proposals from inventors.

In any case, contact of any kind is a numbers game. Keep trying.

### **Make your own sell sheet or have it made.**

After you have established initial contact, don’t make the mistake of approaching a prospect without a sell sheet. Nothing will take its place—except perhaps a video based on the structure of the sell sheet.

*Inventors Digest* recently published an outstanding issue on making your sell sheet. If you don’t have that issue, go to [inventorsdigest.com](http://inventorsdigest.com) and click under Issues for March 2022.

If you choose to have a graphics service produce your sell sheet for you, create a rough draft sticking to the layout I advise, and insist that it be followed. Graphics services love to

**Only those of us who are brave enough to pull our own teeth should attempt to write our licensing contract.**





splash a lot color and unusual fonts on the page, but we aren't selling an impulse item; we're trying to convince a licensing prospect that we have a potentially profitable product that people will buy when it is on the market.

**Write your own licensing agreement or have a lawyer prepare it.** Only those

of us who are brave enough to pull our own teeth should attempt to write our licensing contract. Worse yet is accepting an agreement written by your licensee without having it approved by your lawyer.

The risk isn't at the outset, when all parties are still in love. The danger comes down the road when you or your licensee come to believe that your agreement conceded too much to the other party, and you aren't earning as much as you should.

Look for a business lawyer, one who writes contracts. Your patent attorney is a full attorney, but he or she probably does not routinely write licensing agreements. In any case, your agreement should contain a section on your patent rights returning to you if your licensee fails to launch the product by a reasonable date, or if the sales volume falls below a reasonable quantity.

### More than one

Landing two or more licensees is rare.

Last July in this column I told the story of Robert Kearns—the inventor of the automatic electric windshield wiper—who licensed his invention to Ford, General Motors and Chrysler early on. Kearns' invention was obviously a great safety improvement over the vacuum delay that Ford was developing, so Ford had to license it.

But Kearns understood that he could not, in good conscience, grant an exclusive to Ford. All motorists, whatever their choice of automobile brand, should benefit from the Kearns invention.

No doubt Kearns wasn't only thinking about motorist safety; he was thinking about the

added revenue he would receive from the "Big Three" companies if he licensed to all.

If I were to attempt to resolve the Kearns example into a rule for licensing to multiple prospects, a first draft might come out like this: If your invention is a component of, or an accessory to, a popular product now on the market, it must assure that potential consumer demand for it is certain to the degree that the all competitors of the standalone product to which it is connected will lose business if they do not license your invention. And if your invention solves an obvious and serious universal problem, you may find it advantageous to license to several producers.

Imagine that you have invented an ingredient for toothpaste that effectively removes plaque and thereby eliminates regular trips to the dentist for such removal. Your invention would fit the rule above.

(We can all dream of inventing such an item, but I suspect it is improbable. Still, dreams sometimes provide the answer.)

If you believe your invention is licensable to more than one prospect, you'll need an exceptionally strong licensing agreement—most likely drafted by a law firm with several lawyers to assure expertise.

### Break a leg!

That's an expression from one actor to another on the opening night of a performance. It suggests, of course, not to actually break your leg, but to perform with such enthusiasm that you might.

Stay enthused even in the face of numerous rejections. Think of Robert Pirsig's persistence when you are discouraged by rejections. His famous book, "Zen and the Art of Motorcycle Maintenance," was rejected 121 times before a publisher wisely gambled on publishing it. ☺

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



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## PART 3

# More Ideas for More Customers

12 WAYS TO BE ACTIVE AND INTERACTIVE FOR GROWING YOUR ONLINE PRESENCE **BY ELIZABETH BREEDLOVE**

**I**N THE PAST couple months, I've curated 26 content ideas for any inventor or social media manager struggling to create a content calendar and brainstorm fresh, interesting content to post. Creating inspiring and engaging content is a crucial part of any successful social media strategy.

If you're struggling with writer's block and unable to think of any new content, today I have 12 more ideas for fun and interesting social media content and posts to help grow your presence online—and your business, too.

**1 Answer an FAQ.** Are there certain questions your customers or prospective customers often ask you? Turn these questions into social media posts! Use a graphic design tool such as Canva to create an eye-catching image with the answer to the question, then include the answer in the caption as well.

**2 Highlight a cause, especially if it's one you with which you partner.** Is there a cause you feel passionately about or donate money to from your business? Or perhaps a local organization you are involved in, such as an inventors group? You can use your business' social media platforms to share more about these organizations and encourage others to get involved.

**3 Share user-generated content.** If your customer base is active on social media, or if you have an engaged audience on social media, you likely have a great opportunity to use user-generated content in your social media strategy.

When you sell a product, include a note encouraging your customer to share pictures of him or her using it on social media for you

to share—and if you have an engaged audience, create a post asking them to do the same. Then, you can collect their posts and responses and use them in your own social media campaigns.

This is beneficial because it provides you with more content for your social strategy, and it also creates social proof for future customers by highlighting all the current customers who love your product and brand.

**4 Create content related to your customers' other interests.** Is there something related to your product or industry that your customers likely have an interest?

For example, if you've invented a product related to grilling, your customers may also like content about lawn games, or content about seasoning and smoking meat. Think about what subjects are related to or adjacent to your own industry, then use that to come up with new social media post ideas for your content calendar.

**5 Share an infographic.** An infographic is simply a visual representation of information. A well-done infographic can be a great piece of content to post on social media.

Your infographic can cover anything from how to use your product to the history of your industry. Remember to keep your infographic simple, aesthetically pleasing and relevant to your audience. Include a short, interesting caption and you should be good to go.

**6 Host a contest or giveaway.** Contests and giveaways are a great way to increase engagement among your current followers and gain new followers and customers.

There are many different ways to manage these contests, but typically the easiest way is to ask people to like, comment on or share a post. You may also ask them to tag friends in the comments for extra entries.

Pick and advertise a clear end date, then pick a winner at random. Make sure you have a great prize to encourage the most engagement; a free product is usually an enticing offer!

**7 Jump on a trend.** If a certain meme or memorable pop culture moment is trending online, you can jump aboard the trending topic, too. Just look for opportunities to make it relevant to your industry or product. TikTok and Instagram Reels are also both full of trending videos that you can make your own.

**8 Partner with influencers and repost their content.** If you aren't partnering with influencers to promote your inventions and products, you may be missing a big opportunity. To begin, identify some influencers in your space who are likely to have followers that would be interested in your product. Once you create a partnership with them, you can also piggyback off their content by sharing their posts and videos.

**9 Announce new products.** If you've invented something new and will begin selling it, you should absolutely announce this on your social media platforms! However, this doesn't need to be a single post.

Leading up to the product launch, tease the announcement a few times to garner interest. After you announce it, you can continue to post about the new product, highlighting new or unique features and encouraging your followers to purchase it or visit your website to learn more.

**10 Share product reviews.** A positive, enthusiastic product review makes a big difference in providing social proof and encouraging those who are debating a purchase to order your product. If you get a good product review, it's brag-worthy! Take a screenshot and show it off, or include the text in the caption of a post encouraging people to visit your website and order your product.



**If you aren't partnering with influencers to promote your inventions and products, you may be missing a big opportunity.**

**11 Create a poll.** Polls are an easy way to get engagement on a social post because they have a low barrier to entry; typically, all you have to do is select an option and keep scrolling.

Whether you use the poll feature in Instagram Stories or set up a Facebook poll, polls are a great addition to any social media strategy. Remember to keep them relevant to your product or industry and generally applicable to most of your audience.

**12 Be direct with a call to action.** Lastly, don't overthink your strategy. From time to time, be direct!

It's OK to simply ask people to visit your site to learn more or buy your product. Just pair that call to action with an interesting, eye-catching picture, and keep posts like this few and far between. You shouldn't only ask people to purchase your invention without providing any other value. ☑

**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.



# Clear Thinking

COUPLE'S INSIDE WINDSHIELD CLEANER SEEKS TO EASE A CUMBERSOME CHORE **BY JEREMY LOSAW**

**Y**OU SHOULDN'T have to do a Mary Lou Retton impression to clean the inside of your windshield. And we're not talking about the hairstyle.

For years, Tim Probasco struggled to get his hand in the right position for this chore—as many of us have. It's not easy to get your arm and paper towel to reach over the dashboard and to the slanted surface of the glass, or to reach the corners.

"It was really hard to clean the inside of the windshield because you are contorting," he says. "If you use the back of your hand, your knuckles hit [the windshield] and leave streaks.

"I thought, 'Well, if it's a problem for me, it's probably a problem for other people as well.'"

He looked for a tool on the market that would help and found there was nothing available to fit his needs. He did some sketching and built crude prototypes made from beer Koozies and other found items.

After some refinement, he showed the version to friends and found it worked well. In 2007, he launched the inShield Wiper—a cleaning device that can be strapped to the top of the hand for cleaning the inside of windshields or the palm of the hand for general-purpose cleaning.

The device features a microfiber pad for the cleaning surface that is Velcroed to a rigid plate. Velcro straps cinch it to the hand to keep it securely attached to you while you clean.

The pad is machine washable for longevity and eco-friendliness, and is great for glass, stainless steel and electronic screens.

## Nightmare gaffe

Once Tim had the general prototype, development ramped up quickly.

He searched the website Alibaba to help find manufacturers for the components and started filing for patents around the concept. He had a small batch of units made and was able to get the

product placed in a local Bed Bath & Beyond that was managed by his friend.

Despite the retailer not having an automotive section, the product sold well from the kitchen area. That success propelled Tim to two appearances on QVC.

The first appearance coincided with the closing ceremonies of the summer Olympics, when viewership was low, and it did not sell well. He was invited again in a better time slot but had issues again: The presenter gave the audience the wrong price during the broadcast.

"We were selling a three-pack for \$25 ... and the host kept saying you got one of them for that price," he said. He was able to correct the gaffe with just 1 minute left in the segment, but it was too late.

"I didn't hit the minimums. They returned all that product to me, and I had it sitting in a warehouse."

The experience nearly killed the product.

## Love, and another chance

The journey was revived when Tim met his wife of eight years, Ramona, a fellow southern Californian. She fell in love with him and the product; the faith-based couple became partners in the journey.

A licensed marriage and family therapist, certified domestic violence counselor, public speaker and author, Ramona refinanced her home to help fund the next steps and became a majority owner. However, after watching the movie "Joy," about Joy Mangano's inventor journey, the path became clear.

Ramona recalls saying to Tim: "I believe in you. You are a person of character. When you combine a great idea with integrity and with know-how ... it's a grand slam.

"You should go for it again. Why don't you reach out to QVC and give them a call?"

Tim and Ramona Probasco boarded a plane to a QVC shoot with 19 cents left in their bank account.



Tim was reluctant to reach out again after the first two defeats. But to his surprise, QVC agreed to give them a third shot. They boarded a plane to the shoot with 19 cents left in their bank account.

This time, the product found its footing. They never looked back.

### Safeguarding success

Though it seems like a simple device, inShield Wiper is protected by a utility patent that Tim and Ramona were granted this year. They augmented this with additional IP in the form of trademarks and copyrights for the name and logos, which gives them the protection to operate.

They also protect the product with good business practices. The couple always sign nondisclosure agreements with suppliers and service providers, and work with people they trust. So far, they have not had to deal with any knockoffs.

A portion of proceeds from inShield Wiper sales are donated to U.S. organizations that help



survivors of domestic violence and their children heal, and live free from abuse.

Having a robust supply chain is crucial for Tim and Ramona. The product is made in China; they use a broker to set up and manage their factory relationships and visit the assembly lines.

They are always thinking 6-12 months out for inventory, with a network of suppliers to ensure they can handle demand. In the future, they are looking into U.S.-based manufacturing options, but presently it is not an option.

On the sales front, while QVC and e-commerce have been a primary sales driver for them, they are leveraging that success to push into retail locations such as travel centers and truck stops.

They also have not stopped innovating in the cleaning space, having developed a new FDA-approved cleaning solution that is nearly ready for market. They are working on more yet-to-be-announced cleaning tools that are still in development. 🚧

Details: [buyinshield.com](http://buyinshield.com)

The inShield Wiper is a cleaning device that can be strapped to the top of the hand for cleaning the inside of windshields.

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



# Taking the ‘Eew’ Out of the Go

WOMAN’S PUBLIC RESTROOM KIT EASES  
THE STALL HYGIENE DILEMMA **BY EDITH G. TOLCHIN**

**A**CCORDING TO marketwatch.com, the “personal care industry ... was estimated to reach more than \$716 million by 2025.”

Through the years, I’ve covered many personal care products, including Undercare (*Inventors Digest*, March 2018); Epic Wipes (November 2016); and The Pee Pocket (January 2016).

The pandemic spawned even more of a need for these products. Kenya Adams invented PantyBuddy for use in public bathrooms.

**Edith G. Tolchin (EGT): Please tell us about yourself, and if you’ve invented before.**

**Kenya Adams (KA):** I reside in Nashville with my husband and three sons. I am so excited to introduce you to my idea that was born out of pure necessity.

I don’t typically consider myself a germaphobe, but whenever I use a public restroom I become completely obsessed with avoiding germs. I do not want to make any contact with the toilet or anything else in there. I want to get in and get out as safely as possible, but I often find that I am struggling to do so.

Between holding the crotch of my panties and pants, reaching for the toilet tissue, and trying to keep the flow going directly into the toilet, it’s like a real tightrope balancing act once that stall door closes.

Over the years, I have often wished I had an extra hand to help me in the restroom. After a few months of unsuccessfully searching for a solution, I decided to create the solution!

The idea of the PantyBuddy lived in my head for about four years before I got the courage to journey down the path of inventing a product. The more I talked to women, the more I realized I’m not the only one who would love to have

better control over all that’s happening behind closed doors in a public restroom. So, I’ve taken my bright idea and have turned it into a business.

I embarked on my entrepreneurial journey and started PantyBuddy, LLC, and used the COVID-19 quarantine period to focus on getting my product manufactured to bring to market. This is my first attempt at becoming an inventor.

**EGT: What exactly is PantyBuddy?**

**KA:** The PantyBuddy is a public restroom kit for women which functions as a fashionable wristlet.

PantyBuddy is the ideal travel companion for using public restrooms—whether traveling across town, across the country, or across the world. It improves personal hygiene in public restrooms and ensures that you are never without the essentials to quickly get in and out of small, cramped, and germ-filled public facilities.

It comes with an emergency supply of toilet paper, toilet seat covers, and our patent-pending panty protecting strap. The panty protecting strap wraps around the crotch of underwear and garments and enables the user to easily pull everything away from gross surfaces when using public toilets.

The PantyBuddy is perfect for women who use public restrooms in corporate offices, airports, airplanes, concert venues, or even gas stations. It makes sure that women always have the essentials, regardless of the conditions found in the restroom.

**EGT: How did you create your prototypes? How many tries did it take before you were ready to go into production?**

**KA:** When it came to creating my prototype, I knew that I did not know how to sew, but I

knew exactly how I wanted the product to look and function.

I went to the store and purchased a boys' vinyl tri-fold wallet, a dog leash, and some Velcro. I stuffed it with tissue and toilet seat covers and started to use it. It was not pretty, but it was functional.

For my next attempt, I wanted to make it larger, so I enlisted the help of a friend who is a seamstress. I drew out what I wanted, and she was able to make three versions of the design. These prototypes were more appealing but still were too bulky.

Ultimately, I used those prototypes, enlisted the help of a professional product specifications designer, and landed on the drawing that I used to get the PantyBuddy mass produced.

**EGT: Where is it selling?**

**KA:** PantyBuddy is for sale exclusively at [pantybuddy.com](http://pantybuddy.com).

**EGT: What is the retail pricing? Is the product refillable?**

**KA:** It comes in eight trendy colors and retails for \$30. Refill packs of toilet tissue and toilet seat cover retail at three for \$5.

**EGT: Has the pandemic affected sales?**

**KA:** The pandemic affected product sales. I used it to perfect the design and manufacture the PantyBuddy and launched in January 2021.

The PantyBuddy is for women on the go and the pandemic stifled travel, which directly impacted my sales. With the world opening back up, PantyBuddy is poised to take off this year.

**EGT: Is the PantyBuddy patented? If so, was it a difficult process?**

**KA:** The PantyBuddy is patent pending. I have officially filed the non-provisional patent application for the PantyBuddy and am searching the USPTO's website weekly for approval.

The most difficult part about the patent process is waiting for approval. I would



**“The more I talked to women, the more I realized I’m not the only one who would love to have better control over all that’s happening behind closed doors in a public restroom.” —PANTYBUDDY INVENTOR KENYA ADAMS**

encourage anyone seeking to patent to hire a patent attorney.

Some say you can do it yourself, but there were a lot of things I would not have known to do if I embarked on this process solo—one of which is that the USPTO does not like you to use brand names. So you must file it as the description of the product instead of the name of the product.

**EGT: Are you planning any new products or add-ons?**

**KA:** I have recently added hand sanitizer wipes to the PantyBuddy. I am also in the process of

designing the male version because I get so many guys asking for a similar solution to nasty public restrooms.

**EGT: Where are you manufacturing?**

**KA:** PantyBuddy is manufactured in China.

**EGT: Have you had any problems during any phases of product development?**

**KA:** I am a big proponent of asking for help. The product development/manufacturing space was new for me, so I sought a mentor. She walked me through the entire process step by step and kept me from committing some huge mistakes.

That is not to say I have not faced problems.

One issue with manufacturing overseas is the delays in getting samples to review. My manufacturer would ship me a sample; I would examine and tell them what changes I wanted. Then I would wait 10 to 14 days for those changes to be implemented and sent to me.

I repeated this process three times, so it took almost 2 months to get the final approved sample.

**EGT: Do you have advice for inventing for the personal care industry?**

**KA:** My advice would be to find an issue you (or friends) are having in the personal care industry and create the solution.

Suzy Batiz, the founder of Poo-Pourri, is one of my “she-ros.” She is the perfect example of finding a creative solution to an everyday problem. Pooping is not necessarily a sexy subject, but it’s something we all do and she found a way to make poop spray a household name.

I want to do the same for the PantyBuddy. The PantyBuddy is here to change the way women use public restrooms forever! 🍷

*Details: info@pantybuddy.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).



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# One Woman, Two Missions

MICHELSON IP VOLUNTEER PHYLLIS TURNER-BRIM PROMOTES INTELLECTUAL PROPERTY AWARENESS AND GREATER DIVERSITY

BY RACHELLE MULUMBA

**P**HYLLIS TURNER-BRIM'S illustrious career has included representing Fortune 500 companies among the likes of Wal-Mart, Starbucks, and now HP. A chemical engineer turned patent attorney, she credits her time as a product developer for Procter & Gamble for sparking her interest in patent law after working closely with P&G's patent attorneys.

Deputy general counsel and chief of intellectual property at HP Inc. (formerly Hewlett-Packard), she recently sat down with The Michelson Institute for Intellectual Property (Michelson IP) to share her experiences and reflections as a nationally recognized intellectual property expert.

**“Before my interactions with patent attorneys at P&G, I didn't know anything about patent law or that patent lawyer was a profession.”**

— PHYLLIS TURNER-BRIM

“The data are clear that diverse teams and organizations with greater diversity achieve better results, including financial outcomes,” Turner-Brim says. “In order to solve the problems of today and tomorrow, we need everyone engaged.”

One of the challenges in achieving greater diversity among inventors and IP professionals is ensuring awareness of the field and understanding of the importance of copyrights, trademarks, and patents. Turner-Brim wishes she knew IP existed earlier in her career.

“Before my interactions with patent attorneys at P&G, I didn't know anything about patent

law or that patent lawyer was a profession”—a revelation that permanently changed her professional trajectory.

## Volunteering for Michelson IP

Recently, Turner-Brim volunteered to be an executive editor for the Lessons in IP Strategy project presented by Michelson IP—a free, eight-week, micro course adapted from real-world business cases.

Michelson IP works to provide intellectual property education for non-law learners and educators. Today, over 400 institutions use Michelson IP materials, including MIT and the University of Southern California.

Last year, Michelson IP reached more than 20,000 learners around the world; you can even earn a certification by the National Academy of Inventors upon completion.

Leading up to the launch of the Lessons in IP Strategy project, Turner-Brim analyzed the trademark story of bridal wear designer Haley Paige Gutman—of “Say Yes to the Dress” TV fame—and her battle with bridal fashion company JLM Couture.

So what can we learn from this case in particular? An individual can relinquish rights to her name, Turner-Brim underscored—as the designer did with JLM Couture.

Many people do not realize that social media accounts frequently contain valuable intellectual property. This is particularly important to know in today's digital creator's environment, she reflected, as “recently, there has been a lot of interest in trademark, name, image and likeness IP issues, driven



in part by the explosion of social media platforms and changes to the NCAA [National Collegiate Athletic Association] rules.”

Another lesson presented by Gutman’s story involves the weight contracts carry.

“Read contracts carefully,” Turner-Brim warns. “Always consider long-term consequences, especially what happens if things don’t work out. If at all possible, consult a legal professional to ensure that you understand your rights and obligations.”

### Spreading the IPOEF gospel

Turner-Brim also serves as a board member for the Intellectual Property Owners Education Foundation (IPOEF), which familiarizes students with invention and intellectual property and encourages them to enter STEM careers.

Asked why IP education is an important issue, Turner-Brim says: “In the knowledge economy, IP and related issues are front and center, yet [the] average person has limited knowledge of how IP impacts their life, particularly in marginalized communities.

“IPOEF has a mission of educating the public on the importance of IP and has undertaken a strategy of focusing on communities that are underrepresented in innovation, patenting, and as IP professionals.”

Whether you’re a student, an entry-level professional aspiring to be a patent practitioner, or an inventor and creator, Turner-Brim offers words of encouragement.

“Dream big. Do hard things. Take on the most daunting problems. If you push yourself, you will rise to meet the challenge.”

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

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THE MICHELSON INSTITUTE FOR INTELLECTUAL PROPERTY



# TIME WELL SPENT

IN THE HOSPITAL FOR MONTHS  
WITH HIS HEART-DAMAGED  
YOUNG DAUGHTER, MATT MAIER  
INNOVATED TO SUCCEED

BY REID CREAGER

**I T WAS APRIL FOOL'S DAY 2019**, but this was no joke. Matt and Falonn Maier of Champaign, Illinois, parents of a young boy and girl, had recently seen some warning signs involving their 6-year-old daughter, Macie. They took her to a doctor's appointment.

"Macie is always a happy girl," Matt Maier said. "But in March 2019, we noticed she was a little fussy, puffy in the face, and spitting up. While getting tests done, there was a vibe something wasn't right."

It wasn't. By day's end, the Maiers were informed that Macie had heart failure, as well as a blood clot in her heart.

"They wanted to admit her into ICU immediately," Matt said. "We learned that day that a

heart transplant may have to be an option. It was two days later before they let us know it had to happen."

Macie was put on a transplant list. But before receiving a heart, she went into complete failure and had to have heart surgery to get a mechanical heart put in until a transplant became available.

"It was extremely hard, emotional, and stressful," Falonn Maier said. "The unknown was the hardest on our family."

## Rare in so many ways

From the start, Macie was and is a special child.

She was born with a rare condition called hypoplastic left heart syndrome. Half of her heart never formed. The Centers for Disease Control and Prevention estimates that about 1 of every 3,841 babies has this congenital condition.

"She had three open-heart surgeries prior to the transplant," Matt Maier said. "We knew one day a transplant would be required but did not expect it at such a young age."

"She has adjusted amazingly since her transplant, with zero rejection. She is the happiest little girl that is obsessed with Mickey Mouse!"

Her road to health was long and painful.

Two of the open-heart surgeries were at the Lurie Children's Hospital of Chicago. Macie was heavily sedated much of the time as Dad sat with her throughout her 6-month recovery. Mom visited often, of course, but had a young son at home and a hairstyling business.

Not surprisingly, the ordeal took a toll on Matt's work: "I owned a sign company with only one employee. So I had to be present to do in-person estimates, construction, as well as assist in larger installations."

That wasn't possible now. While not working, he had to come up with a plan to pay for his daughter's care.

Some days, Macie would only be awake for a few hours. And given the high stress level for Matt and his wife, "my sleep was very limited, so I could some days study 16 to 18 hours. I always had interest in e-commerce but never this amount of time to study and learn it."

Matt Maier—shown with his wife, Falonn, son Liam and daughter Macie on the opposite page—conceived of and planned Design A Stone while he sat with his sleeping 6-year-old in need of a heart transplant.



*Welcome*  
— *to the* —  
*Maiers'*

## Dual accomplishment

By the time Macie returned home in September 2019, Matt had the relief of knowing his daughter was recovering and the satisfaction that he had put his time to good use in more ways than one.

With what he learned about e-commerce, he methodically crafted a plan to create a product offering, business plan and website (designastone.com) for his company now known as Design A Stone—large, engraved stones for lawns to decorate homes and businesses.

The concept wasn't new. But the most successful entrepreneurs understand that smart, well-executed innovation can often be more lucrative than invention.

Few, if any, companies similar to Maier's had broken though during this digital era of commerce. The company brand name and logo are trademarked; Maier said quality and care are unofficial trademarks that set his company apart.

"I pride Design A Stone on the quality of the product, design and service. We aim to provide you with the highest quality décor stones on the market.

"As we grow, I make sure the quality of the product increases and we are always able to ship all orders within four business days.

"People are shocked when they can place an order, and within a week a personalized engraved stone is at their doorstep."

## Unfading commitment

He said the company takes pride in using quality materials and equipment, and that the paint used on the stones does not easily fade or peel whether it's on frozen tundra in Anchorage or in a posh garden in Miami.

"We do 100 percent of the engraving in house with state-of-the-art equipment to ensure crisp, perfect designs, then follow up with a proprietary paint that will never fade or peel," he said. "We manufacture all our stone

**"My sleep was very limited, so I could some days study 16 to 18 hours. I always had interest in e-commerce but never this amount of time to study and learn it." —MATT MAIER**

Maier works on a stone (below). All the company's engraving is done in house. Opposite page: Maier works to prepare a shipment. "People are shocked when they can place an order, and within a week a personalized engraved stone is at their doorstep," he says.



with a proprietary process we developed out of an extremely durable and dense engineered, enhanced concrete to last a lifetime outdoors in the elements. Manufacturing our own (all in the USA) allows us to make sure every stone is perfect and we have 100 percent consistency.”

All this is done with a small, connected team of professionals—seven workers in manufacturing and shipping, and two remote workers.

“I want to show my employees my loyalty to them, the company, and our growth,” he said. “I have an amazing group of employees who treat the company as if it was their own and treat the products as if they are going in their yard.”

Maier said he is attentive to all reviews and feedback, which sometimes say the product is expensive.

“With the materials we use, there are a lot of ways to make the product cheaper—but then our quality goes down. I always select the best on the market.

“Five-star reviews that do say we are expensive are better than a bunch of 1-star reviews complaining it’s a cheap product. We want to make sure these will last a lifetime.”

### **Giving with gratitude**

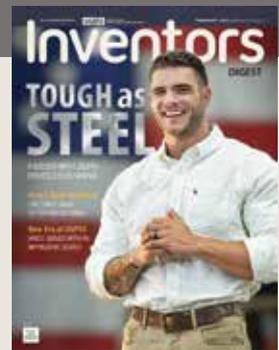
The words “a lifetime” have profound significance for the Maiers, no longer between a

## **DESIGNING MEN**

One of Matt Maier’s biggest inspirations is a recent *Inventors Digest* cover subject.

“When I started researching e-commerce, I came across Colin Wayne,” he said. “He’s the owner of Redline Steel, an e-commerce steel décor manufacturing company that *Inventors Digest* also showcased.

“I studied everything he had done to get to the point where he is. I even reached out to him. I have now formed a friendship with him and have been to his facility multiple times.”



stone and a hard place. Macie is 9 now, living as normal a life as possible at home with her 11-year-old brother, Liam, Mom and Dad.

Said Matt Maier: “I feel like the luckiest guy in the world to have such an amazing family. Anything involving kids and children’s hospitals, we do what we can to support. My favorite stones are the ones we donate for fundraising events.”

Said Falonn Maier: “Macie’s strength, bravery and courage are what kept us positive.” 🍀



# Raising Money: Do's and Don'ts

ASK YOURSELF 10 QUESTIONS BEFORE SEEKING INVESTORS OR VENTURE CAPITALISTS **BY LAWRENCE J. UDELL**

**I**N TODAY'S economic climate, with or without Covid19, no matter where I am traveling, I hear the same question: "Where can I find investors or venture capitalists?"

Before you, the inventor, can ask this important question, you had better be prepared.

In the simplest terms:

- Have you filed for a patent, or at least a provisional patent application?
- Have you visited a Patent Depository Library for assistance?
- Have you conducted a patent search?
- Have you done extensive market research?
- How much of your own money—cash, not time—have you invested?
- Do you have a business plan with financials and projections?
- Have you built a prototype that works?
- What have you done to validate the product and potentials?
- To whom have you shown this?
- What realistic value have you placed on it?

## **VCs: Rarefied air**

The venture capital industry invested in 17,054 deals totaling \$330 billion in 2021, setting new records for number of deals and dollars.

But do not even consider venture capital unless you have experience and a qualified management team with credentials. From my 60-plus years of working with and guiding inventors on the path to success, I estimate that about 1 in 1,000 inventors are qualified or prepared to meet with a venture capitalist.

Besides, you will most likely need a personal introduction. Money managers do not open their doors to anyone with an idea, invention or what-ever, unless they know in advance who is calling and the specific reason. If you have a track record

and are known for previous startups, the doors may be open.

Venture capitalists are looking for investment opportunities requiring millions of dollars, not the \$50,000 or \$100,000 you think you need.

But money is not always the path to success. How much do you need—and when it is gone, how much more?

Therefore, in-depth research is required so you can put together an extensive financial projection. Every time you go back to the funding well, you lose more control and ownership in your company and its product.

Reliable sources estimate there is more than \$100 billion of angel or private investment money available in the United States. That is not the venture capital industry.

You not only have to know exactly how much money you need, but justification for it and how the investor can cash out in about five years with a minimum of 10 times his or her investment.

## **Be open to what you don't know**

Once you have either a working prototype or drawings with description and after you have done your homework to see what it will cost to produce and package your invention, calculate your financial projections based on market statistics.

I don't mean to calculate based on what you think it will or should sell for; I mean actual calculations between the cost of the finished product, the cost of distribution and the retail price for which it will sell.

Then start to assemble your promotional package of a brief description of the business. That will become your Executive Summary, which will hopefully become details of your business plan.

I always advise inventors to seek out who they know, either as a friend or relative who can be an



## I estimate that about 1 in 1,000 inventors are qualified or prepared to meet with a venture capitalist.

adviser to the effort. Maybe your accountant or tax person can help with the financials; maybe your patent attorney or family adviser.

If you approach a funding source without seeking advice from those in your world who know more about what you are trying to do than you do, you will unfortunately find all your mistakes.

In many cases over the decades, I have found an arrogance with inventors who do not like to be questioned as to what they know.

It is interesting that all the very successful and wealthy inventors in my life were both humble and willing to accept constructive criticism. They became successful in part because they realized they did not have all the answers but were constantly open to learning and listening.

You cannot learn by talking, only by listening.

### Are you truly invested?

If you believe that money in the form of funding is what you need to be successful, consider this question: “Would you reach into your pocket and invest in what you are proposing?”

That is one of the key questions you will be asked by an investor. “How much of your own money/cash—not time—have you invested?”

Add a few more very simple questions: “Who is the competition? How long have they been in the business? Why is your product better than theirs? What will, if any, be the advantages of your product? How big is the market? What are your projections for sales and profits?”

And perhaps if you have done all that is required: “Should I consider licensing rather than go into the business? (See my article, “Basics of a Licensing Deal,” in the May 2020 *Inventors Digest*. Also, check out the free articles at [CaliforniaInventionCenter.org](http://CaliforniaInventionCenter.org).)

Over the years I have found doctors, dentists and other professionals interested in investing in any number of things. So, when you are ready for funding and prepared to answer all the questions, ask those folks you know if they would be interested.

### Debt carries responsibility

Last but not least, remember the responsibility and potential liability of accepting money from anyone—unless you have a very loving grandmother who is wealthy and will not disown you if your dream loses her investment.

In summation: Plan carefully, don’t get too excited about your idea, be very realistic, and plan to live your dream. And stay away from invention promotion firms that promise you success if you keep spending money with them.

If I can help: [Larry@les-svc.org](mailto:Larry@les-svc.org) 📧

**Lawrence J. Udell** is executive director of the California Invention Center and founder of the Licensing Executive Society, Silicon Valley Chapter. He is a teacher, lecturer and consultant who has created more than 35 corporations. He consults to Fortune 500 firms and smaller businesses.



# You Got a Licensing Deal! But ...

KNOW WHAT THIS MEANS AND DOESN'T MEAN BEFORE YOU START COUNTING YOUR MONEY **BY APRIL MITCHELL**

**C**ONGRATULATIONS, you signed a licensing contract!

Everything is 100 percent golden. Now you just wait a year or so and collect royalties once your product/invention hits the store shelves, right?

Not so fast.

Ideally, this is what should happen, but it doesn't always pan out this way. Even though the purpose of signing a licensing contract is for the company to bring your concept to the market because it likes it and believes in it, your product does not always make it to market—nor do you always make money from it.

I have signed multiple licensing contracts and have had a few fall through, meaning the product never was made. It is tough when this happens and does not get easier.

But understanding how things work will allow you to be prepared and knowledgeable on the topic, so you aren't caught off guard if it happens to you.

Here is a breakdown regarding what I find a licensing contract to really mean, versus what it does not mean.

#### *What it does mean*

- Your product is liked by a company, and that company feels it is a great fit for its product line.
- Your product is off the market for pitching to other companies.
- You are hopefully one step closer to seeing your product on the market for sale.
- The company plans to manufacture your product and get it on the market to sell at retail.

#### *What it does not mean*

- Your product will make it to the market.
- You will make any money from your product.
- You will become a millionaire from your product.

**A nonrefundable advance on royalties is the best way I have found to ensure I will make some money on my product, whether it makes it to the retail space or not.**



#### **Seek an advance**

A nonrefundable advance on royalties upon signing a licensing agreement is the best way I have found to ensure I will make some money on my product, whether it makes it to the retail space or not. You earn this money up front. (Note I am not a lawyer and do not give legal advice; I have learned this from my experiences.)

Not all companies offer a non-refundable advance toward royalties, but it doesn't hurt to ask.

We as inventors take a risk when we sign a licensing contract. We take a risk that the company we sign with is going to follow through with the contract and get our product on the market.

When the company doesn't follow through for whatever reason, it can feel like time wasted—that we were like sitting ducks unable to pitch our concept or do anything with it while we waited out the contract time.

Companies we sign licensing agreements with also take a risk by investing in our concept. It costs a lot of money to invest in a new product, from possible molds to marketing and placement.

Unfortunately, a lot can happen between signing a contract and the follow-through.

Sometimes when a company realizes or decides it is not going to follow through on manufacturing your product, it will let you know as soon as it has decided and release you from the contract. When this happens, I like to ask for a statement with a signature stating so. This way, I can get pitching the concept once again.

### Legalities

Legal questions may arise, even after you have a licensing contract.

“What happens to the company if it does not uphold its end of the contract?”

“Isn't it illegal for the company not to manufacture and sell my product, since we signed a contract?”

For these questions, I direct you to a lawyer who directly deals with licensing contracts. Simply put, the more contracts you see, negotiate and sign, the better you will get at deciphering what is a good and fair deal for you. Also, you will get better at deciding what products you are willing to take a risk on if there is not a non-refundable advance upon signing.

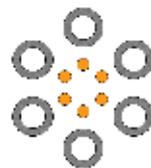
I am a big believer in licensing concepts to companies. I think it's a great way for an inventor to get one or many items on the market without starting a business for each product.

I encourage you to celebrate the steps along your licensing journey—yes, signing that contract, and especially when your product makes it to the retail space! 🎉

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



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# Fertile Solutions

4-DAY DOMINICAN REPUBLIC BOOTCAMP YIELDS PROTOTYPES AND PRESENTATIONS, WITH EMPHASIS ON SUSTAINABILITY

BY JEREMY LOSAW

**A**LTHOUGH the azure water and sun-kissed sand of Punta Cana in the Dominican Republic is more than worth the visit, it would be an immense oversimplification to not look beyond the water's edge.

The D.R. is a rich tapestry of history, culture and natural beauty. I am grateful for the opportunity to recently return there for the first time since before the pandemic for a week of innovation programming.

I value the opportunity to share my experiences as an engineer and product development pro. I was fortunate to be part of a team that, with the backing and funding provided by the U.S. Embassy in Santo Domingo, delivered a four-day innovation bootcamp in the city of Santiago and a one-day speakers day in the capital of Santo Domingo.

Our week of innovation programming started with a 4-day session in Santiago.

It has a population of a little over 1 million and is in the heart of the Cibao region, a fertile area that is the country's major agricultural breadbasket.

## Challenging challenge

Our innovation trainings always start with a challenge question. Staying true to the region's agrarian roots, we challenged the 20 participants to come up with a solution to "How might we help the Cibao produce agricultural goods more sustainably, and increase awareness and demand for these goods?"

With a focus on getting started versus getting it perfect, teams were intentionally given an aggressive timeline.

They had just four days to come up with a solution, build

prototypes, and present to Embassy representatives and other guests.

Working at the Centro Cultural Dominicano-Americano (CCDA), a nonprofit for binational education and teaching English language to the local community, each team rose to the challenge.

The training session is rooted in the Design Sprint methodology. The idea is to reduce "group think" brainstorming sessions that often feel good but lead to little or no action.

Alternatively, Design Sprints allow a team to work separately but together and purposefully make decisions that lead to well-thought-out solutions.

My colleagues Eric Gorman and Julia Jackson run a Charlotte-based firm called Wily that helps established firms and startups work through challenges and validate key business questions. They are well versed in helping teams get the most from the sprint.

Eric and Julia spent the first day and a half helping teams define the problem, empathize with the human side of the issue, and help them think two years ahead to what the best and worst cases would be.

Guest speaker Gustavo Gandini from Blue Mountain Forrest Vanilla gave a great presentation about organic farming in the Cibao region. By the time the teams were ready to build a prototype, they had well-conceived solutions that had real-world perspective and buy-in from all.

## Fast prototyping

The second half of the training was focused on prototyping. With help from engineers Miguel Herrera and Miguel Vasquez from Xolutronic, an electrical engineering firm in the D.R., we coached the teams in effective rapid prototyping processes.

I brought a bunch of development boards and sensors, and IoT company Particle supported the program and provided a suite of its Argon WiFi

Trainers and students gather at the CCDA.





## Participants were challenged to help the Cibao region produce agricultural goods more sustainably, and increase awareness and demand for those goods.

development boards for the students at no cost. This allowed me to do a lab session to show how easy it is to use the Particle hardware and platform to build IoT devices in minutes.

I also brought some Adafruit Circuit Playground Express boards to show the students fast electronic prototyping techniques with block coding. Armed with the electronics and a suite of physical prototyping tools, the teams set off to execute their prototypes.

It wasn't long before the sound of Dremel tools and drills filled the air as cardboard and plastic were cut and shaped into prototypes.

Solutions ranged from compost bins that would give you points for how much food waste was recycled to just-in-time produce delivery systems to match crop readiness to demand at the grocery store, reducing transportation costs.

The teams also did some digital prototyping, creating brands for their new companies and functional prototypes of mobile apps to support their physical products. At the end of the program, all four of the teams presented their solutions to representatives from the U.S. Embassy and the staff from the CCDA.

The presentations and prototypes were deservedly met with applause and with

wide-eyed wonder at how the teams developed viable solutions and came so far in so little time.

### Speaking of success

After a successful bootcamp, we made our way back to the capital of Santo Domingo to deliver an innovation speakers day.

The program was held at the Instituto Cultural Dominicano Americano (ICDA), an English-speaking K-12 school in the heart of the city, and had approximately 60 attendees across the five different sessions.

I did two presentations about product engineering and ways that development programs can go wrong. My colleagues, Eric and Julia, spoke on the power of the design sprint process. Dominican residents Marizeth Beato and Ricky Gluski spoke on open-source hardware development and crowdfunding, respectively.

The lively sessions were high value and elicited great conversations and connections between talks—a great way to finish the trip.

It was a privilege to get to work closely with our Dominican partners and learn more about Santiago and the Cibao region, as well as its great natural resources, and involve with local innovators and change makers. 🌱

This prototype was a model of a just-in-time produce delivery solution. It used the Particle system to monitor conditions on the transport truck and alert the colmados (Dominican markets) when the items were ready.



# THE LATEST Patent Market Report

IT'S STILL A HEALTHY ENVIRONMENT, BUT ONLY THE STRONGEST BROKERS SURVIVE **BY LOUIS CARBONNEAU**

**F**OR THE PAST DECADE, Richard Oliver Insights (ROI) has been tracking the brokered patent market—all patent transactions that result from intermediaries, as opposed to direct sales between buyers and sellers.

This is no small feat. The market is relatively opaque, and some buyers take a long time (sometimes forever) to record the assignments confirming their new title, while others buy through shell vehicles and make the tracking even harder.

The latest report provides a great opportunity to review shifts within the market, including the direction in which brokers and buyers see things evolving.

The following reflects data provided confidentially by more than 35 very active participants, reflecting 760 transactions and over \$2 billion in sales. Note that the brokered market is only a subset of the overall ecosystem.

### Solid overall activity

Let's start with the basics, reflecting activity during the past year. The market is growing at a decent pace, and the asking price per U.S. issued patent is relatively stable year to year.

Most recent data show:

- \$166 million worth of brokered patent transactions;
- 17 percent growth in brokered packages from last year; and
- An average asking per U.S.-issued patent of \$208,000.

### A select few, doing a lot

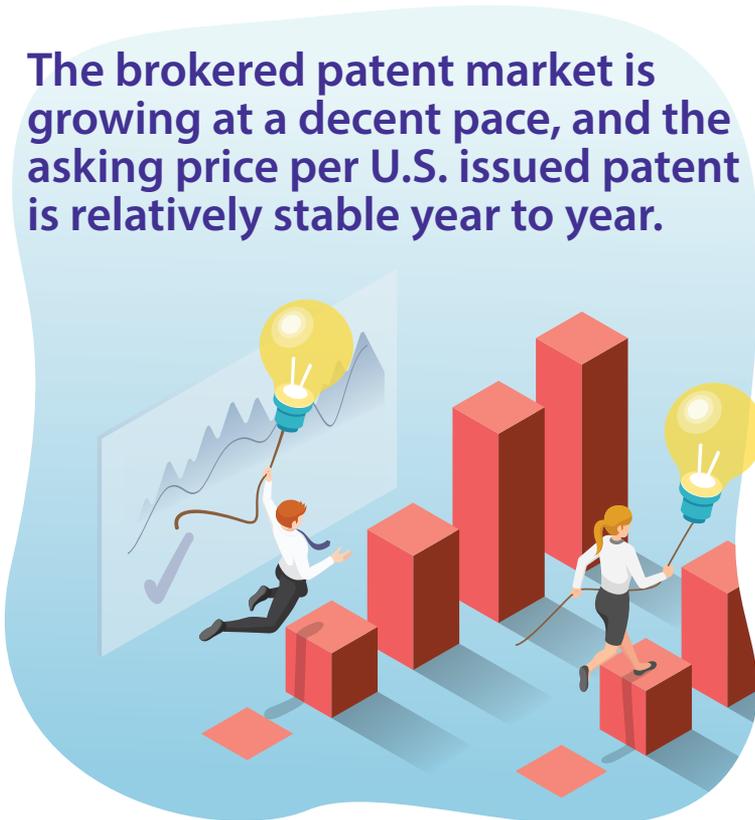
In 2021, there were only 17 brokerage firms that presented five or more packages to buyers, a decrease from 26 in 2016.

Interestingly, there are fewer and fewer “hobbyists” in this trade, reflecting the fact that successful brokers have to put in the hours and diversify their portfolios.

In 2021, 10 of the 40 total brokers took 10 or more packages to market, which accounted for 91 percent of all packages listed (up slightly from 2020). In short, only a very small number of us are covering the market's needs; I doubt there is room for many more.

However, people will always come and go. Many brokers are approaching (or have already passed) retirement age. Assuming they decide to slow down, this may open new opportunities for existing brokerages or new entrants.

The brokered patent market is growing at a decent pace, and the asking price per U.S. issued patent is relatively stable year to year.



## A software surprise

Volume-wise, the market in 2021 revealed 467 patent packages, which was 17 percent greater than in the previous year. But packages were slightly smaller on average, resulting in a 6 percent decline in the total number of assets offered for sale.

It is also interesting to track over the past three years the package distribution by technology group, which should naturally reflect what buyers want.

Interestingly, software packages—which had taken quite a hit last year as a result of some patent eligibility uncertainty—appear to have almost regained their 2019 spot with 38 percent. Hardware-related packages are down, from 19 percent to 13 percent. This seems a bit counterintuitive, so is important to note in passing.

## Asking prices

Regarding asking prices (sale prices are almost never reported), there has been a small but constant decline in the last three years on the average price—from \$162,000 to \$146,000 per asset. But the overall median price (where most packages are priced) has remained fairly consistent throughout.

## Summary

The above data reflect a market that has matured and is definitely there to stay but has been seriously constrained from the heydays of the early 2010s by a combination of case law (the software-unfriendly *Alice* ruling by the Supreme Court in 2014) and new tools such as *inter partes review* offered to defendants to challenge the validity of this asset class.

It remains largely a very Darwinian marketplace where only the best patents sell and the best brokers survive. There is no room for the dodo in our world! 🐘

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



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*Best wishes, Jack Lander*



# 20 Months for This?

WTO'S COVID-19 VACCINE WAIVER DEAL CHANGES LITTLE FROM ORIGINAL, MAKES FEW PEOPLE HAPPY **BY EILEEN MCDERMOTT**

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

**F**OLLOWING a week of round-the-clock deliberations, the World Trade Organization announced a deal on waiver of IP rights for COVID-19 vaccine technologies under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The final text, released June 17, made almost no one happy and largely mirrors the draft text entering negotiations, with a few key changes.

The proposal was introduced by India and South Africa in October 2020. Developed

member countries were largely opposed, but in May 2021 U.S.

Trade Representative Katherine Tai announced that the United States would back the waiver.

That led to more than a year of negotiations.

The final agreement indicates that all developing country WTO members will be considered eligible to take advantage of the waiver, but those with “existing capacity to manufacture COVID-19 vaccines

are encouraged to make a binding commitment not to avail themselves of this Decision.”

This language is primarily targeted at China, which has publicly stated that it would not use the waiver provision but objected to language based on percentage of global vaccine exports that would have categorically excluded it.

## ‘Rich countries’ blasted

The waiver can be used by eligible members for up to five years from the date of the final decision. According to James Love of Knowledge Ecology International (KEI), this is not enough time.

He said that “a developing country would have to issue a compulsory license on a vaccine

or vaccine input, obtain regulatory approval for that vaccine, and export more than 50 percent of output. Under optimistic scenarios, it could take 2 to 3 years to bring a new COVID vaccine into the market, given the increasing challenges in obtaining regulatory approval ...”

Max Lawson, co-chair of the People’s Vaccine Alliance and head of inequality policy at Oxfam, said “[t]he conduct of rich countries at the WTO has been utterly shameful.”

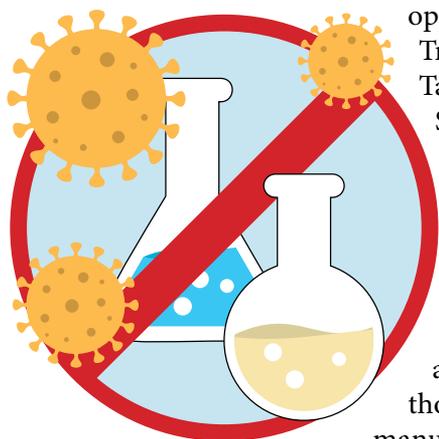
Lawson accused the UK and Switzerland of using “negotiations to twist the knife and make any text even worse,” adding that “the U.S. has sat silently in negotiations with red lines designed to limit the impact of any agreement.”

## True problems not addressed?

Industry and business groups say the real problems are far more multifaceted and complex—including supply chain bottlenecks and reducing border tariffs on medicines. U.S. Chamber of Commerce Global Innovation Policy Center Senior Vice President Patrick Kilbride explained:

“Waiving intellectual property rights would only hobble the innovation that is critical to improving lives and raising living standards globally. If enacted, this move would set an unfortunate precedent and may limit innovative companies’ ability to devote unprecedented resources to quickly discover and deliver solutions for the next global crisis, be it pandemic, food security, or climate related.

“The proposed TRIPS waiver ... would not get any more vaccines into arms. ... The two years spent discussing IP waivers has been a waste of valuable time and a missed opportunity to tackle the real problems.”



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



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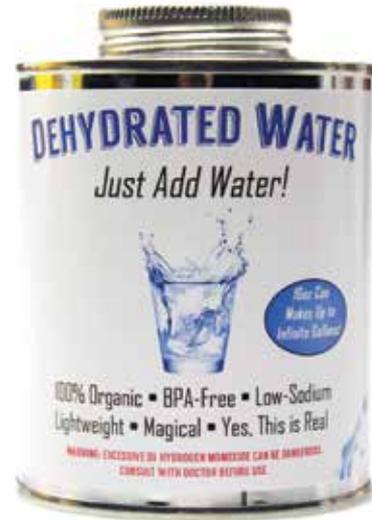
## IoT Corner

After two months in the dark, **Insteon** IoT servers came back online in June.

The Irvine, California-based company allows light switches, thermostats, motion sensors and other electrical devices to interoperate through power lines, radio frequency communications, or both. It shut down its servers in April without warning—icing out its 1 million-plus users.

But a June 9 post titled “A New Day for Insteon!” said: “We are a small group of passionate Insteon users that have successfully acquired Insteon.”

The cloud integrations are functional again, including Alexa integrations, and the ecosystem is mostly back to normal. However, the app has been removed from app stores and users who deleted it cannot get it back —*Jeremy Losaw*



## What IS that?

Just read the can. How could there be any confusion?

One prospective buyer wrote: “Is this suitable for giving to my unicorns?”

The response: “I’m not sure about your unicorns, but my friend Tinker gives it to all her unicorns on every full moon. She swears it makes their coats sparkle.”

## Wunderkinds

As a worldwide audience watched online June 21, Stanford student and scientist **Erin Smith** was announced as the winner of the inaugural Young Inventors Prize. She developed an AI-powered app that uses video to detect minute facial expression changes that are indicative of Parkinson’s, enabling earlier diagnosis of the disease. The European Patent Office honors young innovators who develop solutions that contribute to the United Nations’ Sustainable Development Goals. Smith will receive a cash prize of EUR 20,000 (about \$21,000 U.S.).



## 581,601

Number of entries displayed when we typed in the words “outdoor thermometer,” using the USPTO’s Patent Public Search. (That’s about 5 percent of all U.S. patents.) The results pertain to anything air-conditioning innovation and the like. Stay cool.



## WHAT DO YOU KNOW?

**1 True or false:** “The Star-Spangled Banner”—the U.S. national anthem—is in the public domain and free for anyone to use without permission.

**2** The best-known trademarked NBA logo is a silhouette of former superstar guard Jerry West dribbling a basketball. Recently, some have suggested he be replaced with which more recent superstar?

- A) Kobe Bryant
- B) Stephen Curry
- C) Earvin “Magic” Johnson
- D) Luka Doncic

**3** Which was invented first—the Pet Rock, or the disco ball?

**4** Juliette Gordon Low founded the Girl Scouts of the USA and patented the organization’s iconic trefoil badge in which year?

- A) 1885
- B) 1914
- C) 1931
- D) 1942

**5 True or false:** “Interactive network directory service with integrated maps and directions” is Elon Musk’s most popular and cited patent.

**ANSWERS:** 1. Uh, true AND false. Generally, that statement is true. But it is not permissible to use a recorded version of the anthem—say, from a sporting event—without obtaining the rights to do so. 2. A. The movement has gotten little traction. 3. The Pet Rock was invented in 1975. The disco ball goes back to the late 1800s or 1920s in ballrooms, depending on the information source. 4. B. 5. True. U.S. Patent No. 5,944,769 was granted on Aug. 31, 1999.

ERIN SMITH PHOTO: © STAN OLSZEWSKI/SOSKIPHOTO

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