

Inventors

TALE OF A TAPE

HOW CASSETTES CHANGED OUR MUSIC EXPERIENCE

DIGEST

Building Your Website

KEY STEPS TO PROMOTE,
SELL YOUR INVENTION

The Clapper

A POP CULTURE ICON'S
COLORFUL HISTORY



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by July 30, 2021**

For more information, contact
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Lights! Camera! Wrong Kind of Action



As we reminded you via last month's *Inventors Digest* cover story, video-conferencing is one of the most impactful inventions of recent years. But professionalism still matters to many people, and "slob" is still a four-letter word.

Barbara M. Lynn, judge of the United States District Court for the Northern District of Texas, has literally seen enough.

Speaking recently at an American Bar Association Section of Intellectual Property Law conference, she said remote court hearings are turning some attorneys into The Reverend Jim Ignatowski. She took formal action.

IP Law360 quoted her as saying: "I had to issue a standing order for our court telling lawyers that baseball caps, whether turned the right way or the wrong way, and T-shirts were not the appropriate attire for a court proceeding conducted remotely.

"It was shocking to me that people felt at liberty to show up like a slob, to put it bluntly. Or, alternatively, to show up for a hearing in their bedroom with their unmade bed in the background or with lighting that looked like a broadcast of 'The Blair Witch Project.'"

At least they wear clothes.

Sadly, Judge Lynn's outrage was not picked up by any other news outlets. But when a Canadian lawmaker accidentally appeared naked on a House of Commons Zoom conference, he became a media star.

William Amos, a lawyer serving as member of Parliament for the riding of Pontiac, Quebec, accidentally left his laptop camera turned on as he changed clothes after a jog. Though a long way from Missouri, he appeared in a show-me state and was reportedly "caught covering his nether regions with a mobile phone."

"I made a really unfortunate mistake today & obviously I'm embarrassed by it," he tweeted.

Opposition party whip Claude DeBellefeuille responded, per the Canadian Press: "It may be necessary to remind the members, especially the male ones, that a tie and jacket are obligatory—but so are a shirt, boxer shorts or pants.

"We have seen that the member is in great physical shape, but I think members should be reminded to be careful and control the camera well."

Sometimes, professionalism is in the eye of the beholder. Cara Fields of Greenfield, Indiana, who works from home, says her husband, Matt, likes to "Zoom-bomb" people in the background by wearing silly outfits.

She says people love it. Friends started sending him Halloween costumes.

—Reid

(reid.creager@inventorsdigest.com)



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DIRECTOR'S CORNER

Double Duty

Commissioner for patents also performing functions and duties of USPTO director

HAVE YOU EVER wondered what happens once a patent application has been submitted? Drew Hirshfeld may be more uniquely qualified to answer that question than anyone.

The USPTO commissioner for patents is also performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on an interim basis. He began his career in 1994 as a patent examiner and became a supervisory patent examiner seven years later.

In addition to understanding the technology behind a patent, an examiner follows several steps once he or she understands the law about the standards for what is deserving of a patent.

"You basically read it, understand it, you do the research to see if there's anything like it, to see what's similar to it," he said.

"And then you make a decision. Are you going to issue this as a patent, or reject it? If you reject it, then the applicant can argue with you. They can change things, right? They can tell you 'we disagree.' They can amend their claims that they have and really try to convince you otherwise.

"That's what examiners do. They make those decisions on what's patentable and what's not."

Hirshfeld's plain-speaking enthusiasm resonates when discussing patents.

His interest began when he was in law school and took a patent prosecution class where there were two patent examiners. He was so impressed with

their knowledge, he remembers thinking that "I want to go to the office and be a patent examiner to learn what they know."

He needs an even greater breadth of knowledge now. In his regular job as USPTO commissioner for patents, Hirshfeld basically runs the patents organization. But while temporarily filling in as the USPTO's director—a position confirmed by the Senate and appointed by the president of the United States—"I'm responsible for everything: patents, trademarks, budget, IT, the entire organization.

"So my days are making sure that the patent and trademark examiners have the tools and the ability to do what they need to do. I've got to make sure our budget is in the right place, make sure the USPTO is moving in the right direction. It's quite overwhelming, but it's been really enjoyable the last few months I've held the position."

Hirshfeld emphasizes that the USPTO does much more than examine and issue patents and trademarks.

"Education and outreach are a very significant portion of what we do, so actually my role is considered the president's advisor on patent policy," he said. "We're always looking for how to help society even more."

One such effort is the recently launched National Council for Expanding American Innovation. "This gets right to the idea that the more innovation, the better it is for all of us."

Regarding the future of patents and technology, Hirshfeld sees current trends expanding: "I think the medical space is always going to continue to evolve, but another space that I think is really important is artificial intelligence. ... And I think we're going to continue to see growth in green technologies as well."



"Education and outreach are a very significant portion of what we do... the more innovation, the better it is for all of us." —DREW HIRSHFELD

A Library of Help

Patent and Trademark Resource Center Program gives inventors electronic resources with a human touch



IT DOESN'T SEEM too long ago that if you needed to find detailed information about something, you would visit the library. But even now, with all kinds of information instantly available via the internet, a USPTO library program with a human touch is a great resource for anyone researching patents and trademarks.

The Patent and Trademark Resource Center Program (PTRCP), formerly the Patent and Trademark Depository Library Program, features a slew of electronic resources and staff trained to use search tools for accessing patent and trademark information.

Eighty-three libraries (academic, public, state, and special libraries) are part of the PTRC program. Representatives from each library attend an annual PTRC training seminar, receive one-on-one virtual

training and assistance, and receive materials from the PTRC Program Office including print copies of plant patents, brochures, and other handouts for the public.

PTRC library representatives can:

- Assist patrons in person and provide remote assistance via phone, email, chat, letter, and virtual conferencing such as Zoom
- Provide access to resources such as PubEAST and PubWEST, examiner-based search systems
- Direct you to information and explain the application process and fee schedule
- Demonstrate how to use search tools to conduct a patent or trademark search
- Show you a directory of local patent attorneys

who are licensed to practice before the USPTO

- Offer classes on intellectual property (varies by location)
- Offer assistance on how to do historical research on patents and trademarks
- Show you how to track current research by company or nonprofit
- Help you find assignee information and much more.

PTRC libraries often host speakers from USPTO as part of their outreach, and to help connect the USPTO to stakeholders. PTRC representatives are not attorneys and cannot provide legal advice.

For more information and a link to view locations:
uspto.gov/PTRC

GET KIDS INVOLVED!

Camp Invention builds hands-on STEM learning skills

THE TIME FOR SUMMER CAMP IS ALMOST HERE, with a unique opportunity for kids to flex their mental muscles of curiosity and creative problem solving.

Camp Invention, a program by the National Inventors Hall of Fame (NIHF) in partnership with the USPTO, can provide kindergarten through sixth-grade students these rewards in addition to collaboration, entrepreneurship, confidence, and persistence.

Camp Invention is the only national summer camp that combines hands-on STEM learning, intellectual property literacy, and the inspirational stories of NIHF Inductees. The curriculum is new every year—which is especially important in trying to bridge the gaps in reading, math, and social emotional learning skills left by COVID-19.



If you want to sign up but are not sure whether you will want an in-person or at-home experience for your child, no worries. The program's new PEACE OF MIND PROMISE allows you to sign up and save today, and finalize your experience format six weeks before your camp date.

Dates vary from state to state. For more information, visit **invent.org/programs/camp-invention**.

For parents seeking self-led STEM experiences for their children any time of the year, NIHF's Innovation Exploration Kits are available for purchase at **invent.org/kits**.

TRADING CARD

NO. 15

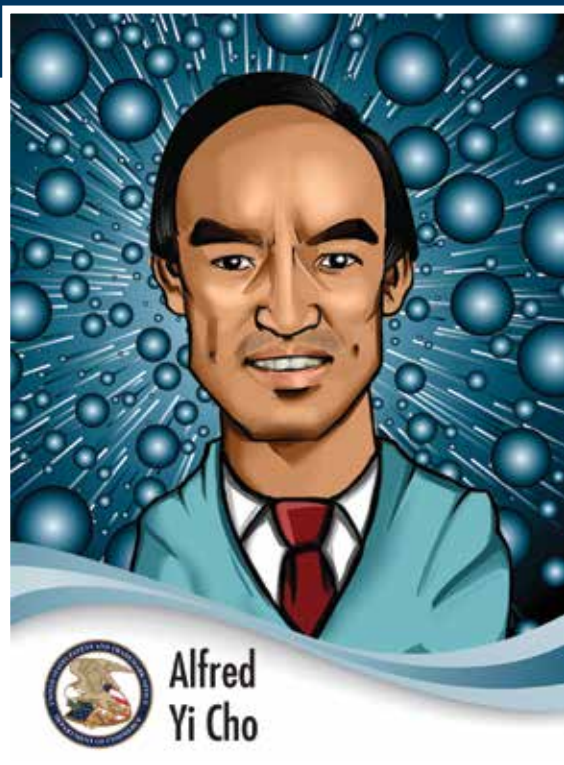
Alfred Yi Cho

MOLECULAR BEAM EPITAXY. It sounds like an otherworldly concept created for “Star Trek.” Dr. Alfred Yi Cho’s invention was indeed where no man has gone before, but with vast impacts on Earth. Whenever you make a cellphone call, read words on a computer, watch a DVD, or use a microwave oven, you are benefiting from molecular beam epitaxy (MBE).

Dr. Cho was the principal developer for the technology in the late 1960s at Alcatel-Lucent’s Bell Labs in France. MBE is the ultra-precise process of growing high-purity crystals within a vacuum, one atomic layer at a time. That technique, which forms devices such as transistors and lasers, is now used to manufacture electronic and optoelectronic semiconductor chips throughout the world.

Switches in cellphones that carry conversations over radio frequencies are made using MBE; lasers used in CD/DVD players and drives also derive from it.

U.S. Patent No. 3,830,654 was the primary impetus for Dr. Cho’s induction into the National Inventors Hall of Fame in 2009. The Hall notes that his technique also included the first of several types of diodes, and the first field effect transistor that operates at microwave frequencies.



More benefits: Because MBE can produce compounds that are not present in nature, it is used for research purposes and as a practical demonstration of quantum physics to university students.

Born in Beijing, Dr. Cho and his family moved to the United States when he was in the sixth grade. According to the National Science & Technology Medals Foundation, he wanted to study art but was told by his mother that “If you major in art, you’ll be very hungry.”

She wanted him to study medicine, but he was queasy around blood. One sibling had chosen

MAGIC MOMENT**CARBORUNDUM AND THE ELECTRICAL FURNACE**

EDWARD GOODRICH ACHESON is not a familiar name to most people, although he worked for Thomas Edison and experimented on making a conducting carbon that Edison could use in his electric light bulbs.

But Acheson’s legacy is very much his own. May 19 marks the 175th anniversary of the chemical genius receiving U.S. Patent No. 560,291 for an electrical furnace, one of history’s most impactful inventions.

Raised in the coal fields of southwestern Pennsylvania, Acheson left school at 16 to help support his family after his

father died. He conducted many electrical engineering experiments and at age 25 got a job at Edison’s Menlo Park, New Jersey, laboratories, where he helped develop the incandescent lamp.

Eventually becoming Edison’s assistant chief engineer, Acheson installed the first electric lights for him in Italy, Belgium, and France. Upon returning to the United States in 1881, he left Edison and eventually became superintendent of a plant manufacturing lamps that competed with those invented by his former employer.

In 1884, Acheson experimented with

ways to produce artificial diamonds in an electric furnace. He heated a mixture of clay and coke in an iron bowl with a carbon arc light and discovered some shiny, bright green hexagonal crystals—silicon carbide—attached to the carbon electrode. Acheson trademarked silicon carbide as carborundum.

Carborundum is used as an abrasive for cutting, grinding, and polishing; because of its high temperature resistance, mass production of precision-ground, interchangeable metal parts was almost impossible. (It is also referenced in the mock-Latin slogan *Illegitimi non*



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CORRESPONDENCE

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

I loved your Editor's Note for this month (February 2021). I found it very clever and very true!

I would like to add my idea to your list (of proposed inventions): a dentist drill that is quiet. I don't get why they are always so shrill and loud, which makes the experience even more traumatic. Maybe I've just had more exposure to them than the average person.

—DOLLY MARKS, FAIRFAX, CALIFORNIA



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Via inventorsdigest.com, comment below the Leave a Reply notation at the bottom of stories. Or, send emails or other inquiries to info@inventorsdigest.com.



A FAMILIAR TUNE FOR AGING SINGERS

Why might **Bob Dylan** be even more business savvy than trademark-obsessed Taylor Swift? And why should inventors care?

The answer is associated with the recent flurry of announcements that recording artists have sold their music catalogues: Dylan. Linda Ronstadt. Paul Simon. Stevie Nicks. These sales involve selling ownership of copyrights in songs and/or recordings.

Had these stars (or the companies to whom they are contracted) not filed for copyright protection on their works, we wouldn't be hearing about such truly rocking ka-ching—as with Dylan's December sale of his back catalogue to Universal Music Group for roughly \$300 million.

The United States Patent and Trademark Office website explains the importance of copyrights for innovators of all kinds: "Every year, millions of Americans create original works—books, music, research and other forms of creative expression. All of these creations are intellectual property, and all of them are protected by copyright. For writers, editors, and publishers, understanding copyright issues is essential, especially now that the production of counterfeit and pirated goods, including written works, has become so prevalent."

This trend of catalogue sales in recent months can be partially attributed to COVID-19. Some of it is good timing related to other industry factors.

The emergence and apparent staying power of music streaming services such as Spotify has rejuvenated an industry that was tangled up in blues a decade ago. According to MIDiA Research, streaming contributed over \$3.4 billion to the music industry in 2018 (latest data available), and streaming profits accounted for more than three-fourths of the overall revenue for the recorded music industry.

Such an impact gives artists predictable returns whether there is a pandemic or not. And said pandemic has put a sizeable dent in the live entertainment industry.

Then you have artists such as Ronstadt, whose Parkinson's disease prevents her from singing anymore; and an aging Simon, who (thankfully!) announced in 2018 that he will no longer be touring.

The Dylan deal is especially impressive because he had full control over it.

Most music copyrights are owned by corporations. Not in Dylan's case; he had personal ownership. So even though Taylor Swift's master rights for six albums were sold for more than \$300 million in November, she did not own the copyrights and was full of bad blood.

Why? None of the profits go to her.

Corporate titans holding mega music catalogues include Sony Music Publishing, which represents the catalogues of artists including the Beatles, Michael Jackson, Motown, Carole King, Stevie Wonder and Queen. —Reid Creager

BRIGHT IDEAS



SOAPBOTTLE

PACKAGING FOR BATH GEL
MADE FROM SOAP

projectsoapbottle.com

SOAPBOTTLE is billed as a zero-waste system—a container for bath gel that is made entirely of soap, including a recycled paper label. After using the bath gel, you use the soap.

The soap is biodegradable, using no animal testing and all-natural ingredients.

Open SOAPBOTTLE by cutting the marked corner, then place it on a sponge or hang it with a ribbon. After using the body care liquid, close the bottle with the reusable metal clip.

The future retail price is unavailable, but Kickstarter Rewards backers could buy three SOAPBOTTLES for about \$53. Shipping is scheduled for May 2022.

Torshn

COMBINATION PUZZLE

torshndesign.com

Torshn is a puzzle made from anodized aluminum, with a matte finish and featuring glass marbles that are the centerpiece of the challenge.

The goal is to align the colors to each other by sliding the marbles and twisting the halves. Like Rubik's Cube and the original orb puzzle, the puzzle is complex enough to be fun after multiple solves but simple enough to be approachable.

Torshn's makers say it helps improve brain health and problem-solving skills, and boost productivity. The sleek design makes for an attractive desk accessory.

With a future \$60 retail price, Torshn is set for delivery to crowdfunding Rewards backers in September 2021.

POSSIBLE DELAYS

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



Reevo

HUBLESS E-BIKE

beeno.io

Reevo's patent-pending hubless wheels are built from aerospace-grade alloys and engineered for maximum durability, impact tested to be safe up to 265 lbs. Strong but lightweight, the bike comes with a powerful electric drivetrain.

Reevo is billed as virtually theft proof with its one-touch fingerprint sensor; integrated, automatic lock; and GPS tracking. An advanced wheel-locking mechanism, integrated within the frame, nullifies bolt cutters.

An ambient light sensor detects darkness and automatically turns on and off the bright headlamps and taillight.

The premium Reevo airless will retail for \$3,998, the airless for \$3,499 with shipping for crowdfunding Rewards backers set for July.



"Innovation is an evolutionary process, so it's not necessary to be radical all the time." —MARC JACOBS

Ferrule

DRAWING PENCIL AND HOLDER

makerscabinet.com

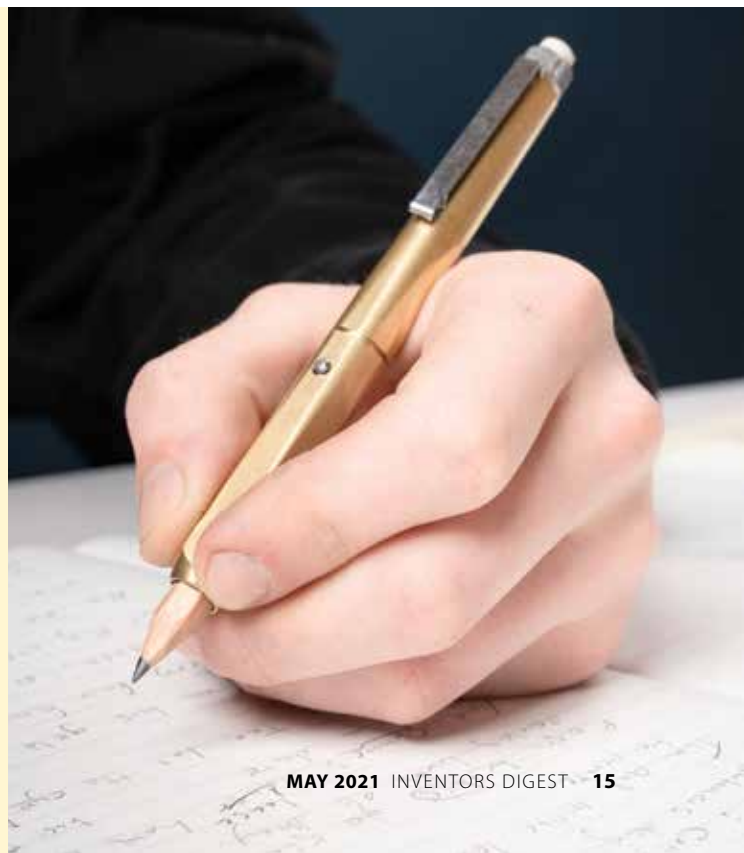
Ferrule is a pencil holder that combines premium pen design with a wood-cased graphite pencil. Its highlight is a double-helix clutch mechanism that twists to secure the pencil in place.

A collet grips the pencil so it can extend to many desired lengths; the eraser is replaceable and can be extended easily.

The pencils use PEFC Certified incense cedar, which is not painted but has a light coat of natural nitrous cellulose. Unlike lacquered or painted pencils, Ferrule pencils will be fully biodegradable.

Optional accessories include a leather sheath, as well as a notebook.

Ferrule will retail for about \$95, with an October 2021 shipping timetable.



Campy Pioneer

POP CULTURE FAVORITE THE CLAPPER REPRESENTS
EARLY HOME AUTOMATION **BY REID CREAGER**

AND YOU THOUGHT Alexa is cool—or for lazy people, depending on your point of view. The Clapper was an early home automation innovation almost a half-century ago. Just plug it into any standard wall outlet and clap twice to turn a lamp on or off. Clap three times to turn off the TV.

A simple invention with a kitchy commercial (“Clap on! Clap off!”) that is an enduring part of popular culture, The Clapper has a colorful history.

Some People of a Certain Age remember seeing generic commercials for The Clapper in the 1970s, but the iconic commercial featuring an old woman lying in bed and activating the device with two

hand claps first appeared in 1984. The TV ad was still appearing into the 2000s, the product advertised as the ubiquitous “great holiday gift.”

(Incidentally, some websites claim that woman was octogenarian Clara Peller of “Where’s the Beef?” fame, but the woman does not resemble her and there is nothing factual to support this. A least a couple other sources say the woman was Thelma Goodwin of Indianapolis.)

Getting Smart

Tedium.com says the original Clapper was patented by Peter Liljequist of Canada and Kou I. Chen of Taiwan in 1985. But it had its problems: Foremost was the frequent occurrence of lights turning on or off when a dog barked or a door slammed.

Inventor Carlile Stevens told the *Palm Beach Post* in 2001 he called Joseph Pedott, owner of

As with many inventions, The Clapper evolved and improved over time.

“It was a Crapper, really.”

—CARLILE STEVENS, ON THE ORIGINAL PRODUCT

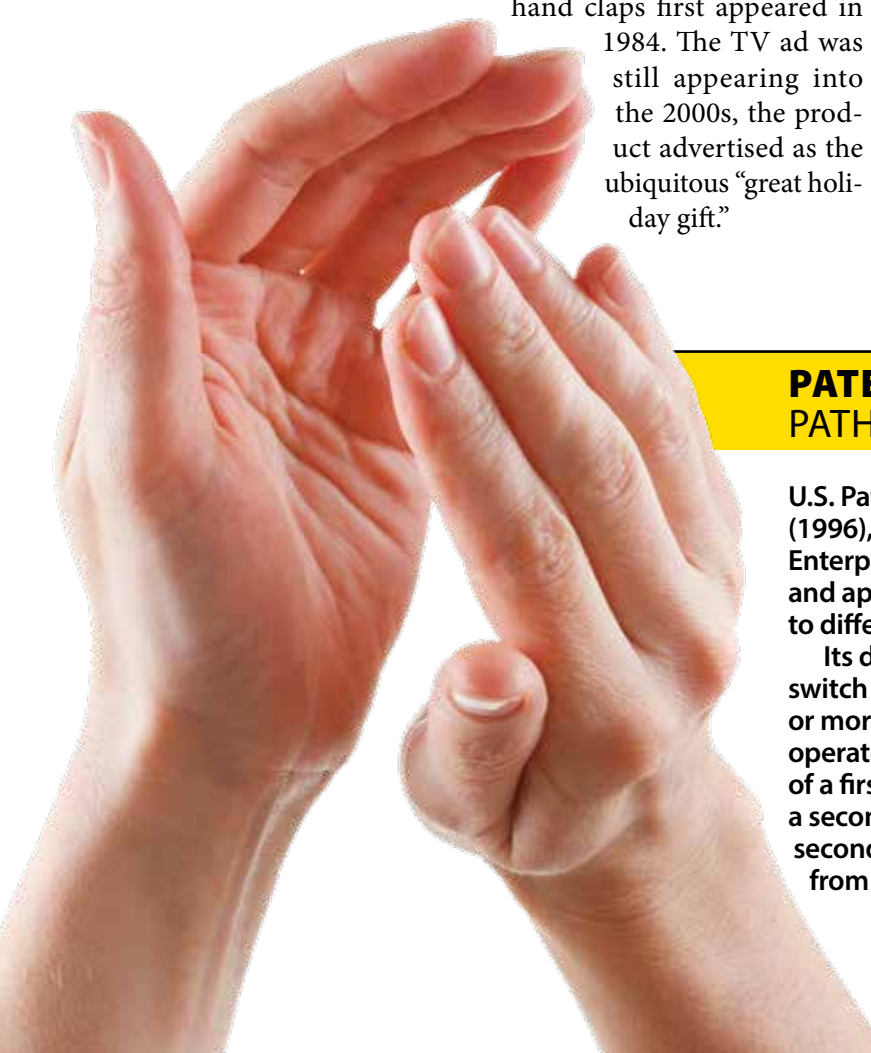


**PATENT
PATHWAY**



U.S. Patent No. 5,493,618A (1996), assigned to Joseph Enterprises, is titled “Method and apparatus for activating switches in response to different acoustic signals.”

Its description (or Abstract) says: “An acoustic switch device that independently operates two or more electrical appliances. The acoustic switch operates a first electrical appliance upon receipt of a first series of acoustic signals and operates a second electrical appliance upon receipt of a second series of acoustic signals that is different from the first series of acoustic signals.”



THE CLAPPER IN POP CULTURE

- In an episode of the TV show “Nanny and the Professor” (1970-71), the professor’s son, Hal, demonstrates his invention of a sound-activated switch that is triggered when he claps. Ironically, the switch is also activated by other loud household noises.
- In the 1989 movie “Uncle Buck,” the title character uses The Clapper to turn on the lights in his apartment.
- In the 1991 movie “What About Bob?” Richard Dreyfuss turns off his lights with The Clapper.

What
about
BOB?



Joseph Enterprises. The San Francisco-based novelty and gadget company, also known for the Chia Pet, had begun selling the product in 1984.

“It was a Crapper, really,” he told the newspaper. “I said, ‘Wouldn’t it be nice if you had one that worked? Think how many more you could sell.’”

Stevens and co-inventor Dale Reamer improved the product with The Smart Clapper, equipped with a microchip that can turn on and off random things based on the number of claps. He and Reamer were granted U.S. Patent No. 5,493,618A in 1996, assigned to Joseph Enterprises.

Really?

Joseph Enterprises still sells The Clapper on Amazon, among other places; the product is either considered a gag item because of the corny commercial with the old woman, or a true home convenience.

Another association with an old woman was not as pleasant. Not long after the notorious McDonald’s “hot coffee lawsuit”—when a 79-year-old woman sued the company after spilling hot coffee on her lap in her car in 1992—80-year-old Edna Hobbs sued Joseph Enterprises. She claimed she injured her hands while using The Clapper.

Hobbs argued The Clapper was defective and that the manufacturer failed to warn about the potential for injury by clapping. But a New York appeals court cited The Clapper’s manual,

which said “[s]enior citizens or handicapped persons who find clapping difficult may prefer to use an inexpensive clicker, available at most novelty retailers.” The court also said the plaintiff admitted to not adjusting the device’s sensitivity control.

Case dismissed. No one in the courtroom gallery was allowed to clap. ☺

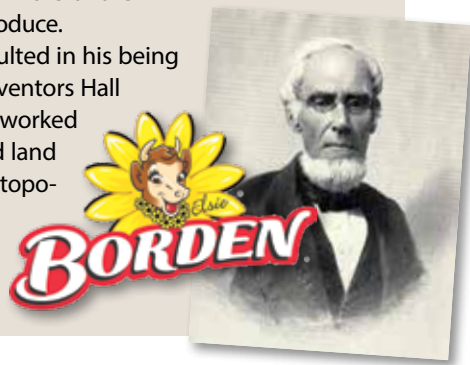
INVENTOR ARCHIVES: MAY

May 14, 1853: Gail Borden invented his process for condensed milk, not long after witnessing children dying aboard a steamship because of a lack of fresh milk.

With one year of formal schooling, Borden developed a process that was the first way to preserve milk without refrigeration so that it could be stored and shipped long distances. This helped change the dairy business from a local farmer-to-consumer business into a major industry.

Borden used a vacuum pan with a heating coil to vaporize the water from the milk without burning or souring it. During the Civil War, the Union Army ordered more of the milk than Borden’s factory could produce.

U.S. Patent No. 15,553 resulted in his being inducted into the National Inventors Hall of Fame in 2006. Borden also worked as a newspaper publisher and land surveyor; he prepared the first topographical map of Texas as well as surveying and planning the city of Galveston.



Seeking the Eureka Moment

THE UNCONSCIOUS MIND CAN PROVIDE INVENTORS WITH SOME AMAZING SURPRISES **BY JACK LANDER**

ARCHIMEDES sat in his bathtub, pondering how to prove that a certain goldsmith had adulterated the gold object he was making for his customer.

Adding less-expensive silver to the gold was a dishonest way a goldsmith could increase his profit. And in the third century BCE there was no way, visual or chemical, to be sure the goldsmith wasn't cheating.

In an instant of revelation, Archimedes had the answer: Dip the object in water and determine its volume from the volume of water it has displaced. Then, calculate how much it should weigh.

Pure water weighs one gram per cubic centimeter. Gold weighs 19.3 times as much as water. If the weight is less than the calculated weight, the gold has been adulterated—probably with silver, which weighs only 10.5 times as much as water.

Archimedes yelled, “Eureka, eureka!” Translated: “I have found it.” His wife came rushing in, scolding, “Well, whatever it was, it had no business being in our bathtub.”

Our ‘Yesterday’ moments

The point is that Archimedes, noting the displacement of water from entering his tub, grasped a new insight to his reasoning on the gold authenticity problem. We have no way of knowing how long he struggled with the problem, but chances are it had been longer than just the few seconds it took him to lower himself into the water.

Isaac Newton is said to have discovered the principle of gravity from the inspiration of an apple falling on his head. Einstein “saw” the equivalency of gravity and accelerated motion in his eureka moment. And Paul McCartney woke up one morning with a tune in his head.

With a bit of work on the lyrics, it became the famous Beatles song “Yesterday.”

You, too, may have experienced solutions to problems, or the finding of misplaced objects, at a time when the answer seemed to appear “out of the blue” or upon awakening. It is our unconscious mind that contemplates the problem and often provides the answer without our conscious struggle.

I suspect that in most cases, we have fed information to the unconscious without being aware of doing so. But the process can be intentionally practiced and provide amazing results.

That instant instance

Several years ago, I was daydreaming about my boyhood experiences on a farm in Michigan. I recalled a small newspaper, two sheets of copy paper folded in half. It was published in a town that had a post office, a diner, and a bakery—that's all.

The *Mears Newz* cost 5 cents, and was hand delivered to many farmers over many miles on foot by its editor and publisher whose unusual name I could not recall. I went to bed that night asking my unconscious mind to locate the fellow's name. In the middle of the night, I sat up, still half asleep, and announced, “Swift Lathers,” the publisher's name.

My wife, now awake, looked at me with a frown and asked, “What the heck is a Swift Lathers?”

I have also experienced solutions to mechanical problems by carefully defining the problem. I sketched out as much of the mechanism as I could on paper and wrote down the solution I was seeking.

I was working on a novel bicycle transmission that would be superior to the derailleur. It would be shiftable under power. The answer came a

couple of weeks later as I was driving from my home in Connecticut to visit friends in Vermont.

I visualized the components and how they operated to achieve the effect I was seeking. I built a prototype and was pleasantly surprised to witness its operation to be close to what I had anticipated.

This was not a gradual comprehension but an instant of visualizing in a two-dimensional layout, the form and operation of the critical parts.

An old plan awakens

On a larger scale, when my first son was a baby, I walked into the electronics supplier where I bought components for projects that I was working on and discovered a display of hand-operated machines for fabricating precision sheet metal products. I imagined owning these well-made machines someday as the basis for a business.

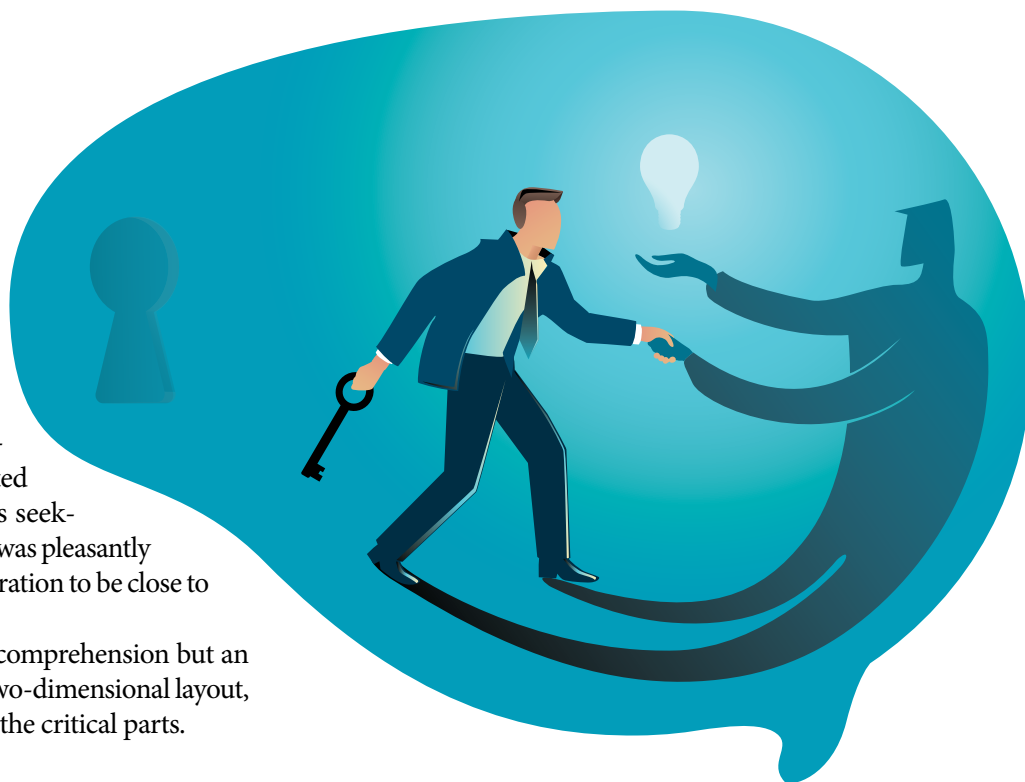
I was not in a position to risk starting a business, but I wrote out a plan for the specific machines I would acquire, who my customers would be, and forgot about it. Twenty-seven years later, quite unexpectedly, even impulsively, I started a business when my employer had a need for power supply housings and a local vendor could not be found. I was generally not impulsive, but in this case I acted without deliberation.

About a year later, my employees had gone home and I was standing, arms folded, looking over the machines, feeling comfortable about the progress that had been made. Eureka! (I really didn't yell it, or even say it, but I felt it.)

I was shocked. This was the unfolding of the plan I had written so many years before.

Write it down—often

So, in summary, define what you are searching for by writing. I believe that communicating with the unconscious mind requires specifics and that there is precision and magic in putting



It is our unconscious mind that contemplates the problem and often provides the answer without our conscious struggle.

a pencil to paper—not only in the act itself, but in the affirmation that comes from seeing the words on paper, preferably repetitively.

Psychologists are still working on a fuller understanding of the unconscious mind. But psychologist Carl Jung had this to say for inventors or entrepreneurs: “The creation of something new is not accomplished by the intellect but by the play instinct acting from inner necessity.”

In any case, we need not fully understand the theory to have the advantage of what works. Try it.

And prepare your mate or significant other for unexpected cries of “Eureka!”—hopefully not in the middle of the night. 🗨️

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



Building Your Website

THIS KEY SELLING AND MARKETING TOOL FOR INVENTORS SHOULD HAVE THESE BASICS—AND PERHAPS MORE

BY ELIZABETH BREEDLOVE

DO YOU HAVE a website for your company or invention? If not, why not? If so, when was the last time you updated it?

A good website is an incredibly important part of launching and growing a successful business. High-performing websites have several things in common, ranging from specific types of pages to the content they include.

Whether you need to create a website or revamp your current one, include these elements.

Homepage: As I'm sure you know, every website has a homepage: the screen view you reach when you type in a domain (for example, inventorsdigest.com).

This is the page most people see first, the page that will likely show up first in search engines such as Google.

This page should be interesting and engaging so that it captures viewers' attention in a second or two. It needs to load fast, look professional, and clearly explain your business, product or invention in a way that is easy to understand quickly.

It should also include some information about how your business can benefit the site visitor. Additionally, it must include some sort of call to action such as purchasing a product or contacting you about a service.

Shop, Product or Service page: This page (or pages) may be the most important page on your website, because it's where you make your money.

Think of your Shop page as your storefront. It's where you'll show off all the products you are selling, where site visitors can purchase your products. Typically, this page is set up with a grid that includes the product name, price and a photo. These link to the individual product pages.

Product pages usually include a summary of the product with a photo, followed by more detailed information below it. This is where you should include descriptions, specs, tech info, sizing or dimensions, ingredients if applicable, information about the benefits the product offers, and any other information that is pertinent for someone purchasing your product.

Make sure the pages thoroughly explain what your product is and why the customer should purchase it. If your site is an ecommerce site and will function as an actual store, you should also include an Add to Cart button for any site visitors who want to make a purchase.

Service pages are similar to Product pages, though service-based websites often don't function as a storefront. Instead, they invite interested viewers to contact the company to learn more.

Your Service pages should start with a summary of the service offered, followed by a more detailed explanation of it, as well as benefits to the customer and anything else that sets you apart from the competition. If you offer multiple services, you may want a page with a short overview of all your services and additional pages dedicated to each service that provide more detailed information.

About page: Now that you've covered all the information about the product or service you are offering, you'll need a page that explains more about you or your company.

Your goal with this page should be to give your customers a look into who you are and who your business is. Use it to explain who your company is, the company's history, and a bit about you, the founder. Explain what makes



Your Shop, Product or Service page may be the most important page on your website, because it's where you make your money.

you an expert and the best choice for whatever you're offering.

You can also use this page to show off your team, so site visitors and customers can get to know the people behind the company.

Contact page: The contact page helps any potential or current customers get in touch with you. Include multiple ways for them to reach you—phone numbers; an email address or a contact form; links to your social media profiles; your office address, and anything else that seems relevant.

You may want to include some of this info in your site footer as well.

Privacy policy, and Terms and Conditions page: Every website needs a privacy policy, which explicitly outlines how personal data are collected and used. You'll also need a Terms and

Conditions page, which details any rules or guidelines your site follows such as the country's laws that govern it, an intellectual property disclosure, and any other related clauses or disclosures.

Upping your game

Once you have nailed down the most important pages of a website, you can begin to consider other pages to add to your site map. Depending on the nature of your business, there are many different pages and types of content you can add. All should work together to provide a better, more thorough picture of your business; to improve the website's functionality; and/or to increase your website's presence in searches performed via search engines such as Google.

Testimonials, case studies, success stories, or media mentions:

Providing social proof to encourage customers to make a purchase is an important part of any



If you find yourself asked the same questions over and over, you can probably benefit from an FAQs page or some how-to content.

successful marketing tactic, and your website is no different.

What this actually looks like varies depending on the nature of your business, but look for opportunities to show how others are using and loving your product or service. This may mean you have a page dedicated to testimonials, another to case studies and success stories, and a third to media mentions—or you may have one page for all of this. Or perhaps it doesn't make sense to

have an entire page dedicated to this, so instead you include reviews on your product pages or testimonials on your service pages.

Regardless of how you go about it, showing how others are benefiting from using your product or service will go a long way toward helping you find success.

FAQs and how-to content: If you find yourself asked the same questions over and over, you can probably benefit from an FAQs page or some how-to content. As you create the page, be sure it doesn't just answer questions but also eases any concerns customers may have—while encouraging them to purchase your invention or contact you about your service.

Blog: This is not a necessity, but blogs are certainly helpful! They are especially important for Search Engine Optimization (SEO), which is how you ensure your site shows up in search engines such as Google.

Blogs provide more information for site visitors, but they also provide context and content for search engines to use to categorize your site. Keep your blog posts relevant to the product or services you offer, and use them to provide valuable and interesting information to your customers.

Careers: If you're actively hiring or looking to grow your team, your website is a great place to market open positions. Include information about what job you are looking to fill, what requirements the right candidate has, and what duties the position entails. Include information about how to apply. 📧

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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.



Direct Response TV Still a Spot to License

POTENTIAL REWARDS: BIG EXPOSURE,
AND YOU AVOID MANY COSTS **BY DON DEBELAK**



IN THIS DAY of social media and selling on the internet, inventors should remember that infomercials—and short-form commercials produced by Direct Response TV or DRTV companies—still take submissions from inventors. (*Editor's note:* DRTV is television advertising that asks consumers to respond directly to the company, usually via calling a toll-free number, sending an SMS message, or by visiting a website.)

If a DRTV company takes on an inventor's product, it pays the costs of bringing that product to market: sourcing, purchasing, producing buying ads, operating call centers and fulfillment, and all other costs. The inventor normally gets a small royalty while getting big exposure for the product and potentially large sales.

DRTV companies are looking for products that are unique and can't be found on the internet. They need a product with a high “wow” factor that demonstrates well, that people can understand immediately.

They also like a big market, but your product doesn't have to appeal to everyone. It just has to appeal to a big enough group that can be targeted.

For example, food preparation products for the person who loves to cook can be sold on Food Network; the costs of ads are lower; the audience is ideal. Having Facebook groups or other internet groups that will be interested in your product also helps DRTV companies succeed with a new product.

Steps to success

- 1. Have a prototype that really works and looks great.** You can't go in with anything less; if not, the companies are not going to approve your design.
- 2. Make a demonstration video that really wows people.** Consider getting a local actor to enhance the video.

- 3. Include some testimonials,** ideally in a video with the user demonstrating the product, or at least with written copy.
- 4. Have a very short presentation;** five minutes is best.
- 5. Be prepared to let your contact use the product.** Bring all the supplies you need.
- 6. Be flexible.** Contacts are not going to sign confidentiality or non-disclosure agreements; they are going to offer you a low royalty, and their contracts will greatly favor the DRTV company. If you want to negotiate items, be prepared for the company to walk away.
- 7. Be willing to accept losing all control of the product.** The DRTV company is going to invest a lot of money in your product and can make changes. This is alarming to most inventors, but if you want to insist you probably won't have a deal.

DRTV can be very good for inventors. Your presentation to a company will be hard work, and I recommend people approach DRTV even if doesn't work out because your effort in preparing the invention for a presentation will be useful to you when approaching other companies.

You can find interested and interesting DRTV companies through online searches. Be sure to investigate whether these are proven companies with unquestioned integrity. 📺

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



Plush Purpose

GERMAN TRANSPLANT'S COMPANY MAKES STUFFED ANIMALS FROM RECYCLED PLASTICS **BY JEREMY LOSAW**

MALTE NIEBELSCHUETZ quit his corporate job in Deusseldorf, Germany, in 2010 and moved to San Diego for its sunshine and beautiful beaches.

Blue skies? Dream realized. White sand? Check. Green-conscious residents? Whoa, dude.

The young serial entrepreneur remembers going to beach cleanup events where people would pick up garbage with one hand while carrying a plastic bottle that was soon to be garbage in the other.

"What really tipped me over was the restaurant industry," he said. "You sit down at a restaurant and someone puts a plastic cup right in front of you. What is going on? The ocean is right there."

Frustrated by the sometimes-hypocritical actions of Californians in terms of single-use plastics, Niebelschuetz began researching. He found a company named Petagonia that makes outdoor jackets from recycled soda pop bottles.

When he put away his laptop, the first thing he saw was a stuffed seagull he had brought with him from Germany. He wondered whether these could also be made of recycled plastics, figuring that if "you can make a T-shirt from recycled plastic bottles, you certainly can make a stuffed animal."

Thus marked the unofficial birth of his company, Shore Buddies. Not to mention the birth of Finn the Dolphin, Sammy the Seal, Shelly the Sea Turtle, Steven Seagull, Emma the Whale ...

Shore-to-shore search

Niebelschuetz's four-year odyssey to get his product to market was rife with challenges, especially finding a factory that could make plush toys from recycled materials.

He started his search locally in California. No one had made stuffed animals this way, so it was difficult to convince people to help.

Eventually, he shifted his search to overseas options. He used the website Alibaba to identify factories and eventually found one in China that had experience with recycled plastic fabrics.

"China has historically had a long history in fabrics," he said. "China and India used to be the ones developing new styles of fabric. They were really ahead of the curve when reutilizing plastics."

The factory used techniques of harvesting recycled plastics similar to those done for seats in Tesla cars and adapted it for use in Shore Buddies.

The bottles are collected and sorted by recyclable collectors, then cleaned and shredded into plastic flakes. Some of these flakes are used for the plush toys' stuffing; others are melted and turned into polyester yarn for the soft outside.

Niebelschuetz launched Shore Buddies by taking them door to door. He made a first production run of 5,000 of the toys and started bringing them around to shops in the San Diego area. He had Shore Buddies in more than 100 stores by the end of 2015.

His company slowly built a regional following that he leveraged into an ecommerce strategy to sell nationwide and eventually into international



"You sit down at a restaurant and someone puts a plastic cup right in front of you. What is going on? The ocean is right there." — MALTE NIEBELSCHUETZ

markets. He also launched a Kickstarter campaign for Shore Buddies in 2018 that raised more than \$10,000.

Paradigm mission

Niebelschuetz has quoted statistics that say there will be more plastic than fish in oceans by 2050.

Plastics are seen as cheap and easily disposable. This non-biodegradable mass fills our landfills. When it does not make it to landfills, it starts to choke natural areas including oceans and beaches.

Each of the five Shore Buddies characters takes approximately six water bottles worth of plastic to make one of them. When pressed, they make a realistic sound from the animal based on recordings from the actual species.

Each animal has a backstory and mission that highlights an aspect of recycling and sustainability. For example, Sammy the Seal hates single-use plastic bags and encourages reusable grocery bags.

A children's book, "Shore Buddies and the Plastic Ocean," brings to life the plush characters as they help fight ocean pollution, and a YouTube channel hosted by Niebelschuetz supports the characters and sustainability mission.

Shore Buddies also donates \$1 with every purchase to a local, ocean-minded nonprofit organization. The company goes to low-income communities and gives out keychains that feature the characters. Niebelschuetz visits schools to educate children about sustainability and the growing amount of plastic in our oceans.

Niebelschuetz hopes his company can become a new paradigm in sustainability for the toy industry. He uses books and streaming video content to create a connection with the characters and deliver the message in a palatable way.

"With Shore Buddies, we really see the opportunity to educate what is going on with single-use plastic," he said. "Our vision is to build this big ecosystem of educational information around ocean plastic and make sustainability a second language literally through play."

His innovative process and positive messaging garnered him a Toy Association Toy of the Year finalist award.



Building on success

Despite the pandemic that began in 2020, it was the company's most successful year. Shore Buddies expanded internationally.

Niebelschuetz continues to work on new developments to the product and adding content to his YouTube channel. He is working on baby characters to complement the current five offerings, and is working on a version made from recycled plastic that is specifically harvested from the ocean or beach.

He has also been approached by other plush toy companies to make sustainable versions of their more popular characters, which will expand the reach of the technology and boost his mission to keep garbage out of our oceans on an even larger scale. 🌱

Details: shorebuddies.com

Each Shore Buddies animal has a backstory and mission that highlights an aspect of recycling and sustainability.

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



Goal: Bee-ing Safer

HOME BEEKEEPING SYSTEM DESIGNED TO ALLEVIATE FEAR
BY ASPIRING HOBBYISTS **BY JEREMY LOSAW**

DID YOU KNOW that bees are the deadliest attacking animal in America?

That's according to worldatlas.com. (Yes, bees are technically an insect, and yes, deer are actually No. 1 on the list, but that is in connection with vehicle crashes and not attacks.)

Bee stings account for more than 60 deaths ever year, per the Centers for Disease Control and Prevention. So beekeeper and inventor Roberto Pasi sought to make a home beekeeping system that would greatly reduce people's fear of being stung.

Enter the B-Box, a primarily wooden beehive system with a goal of being easier and safe to use at home and in urban areas.

The only way bees can get into and out of the hive is through a chimney 2.2 meters off the ground. This ensures that humans stay out of their flight path and keep from unintentionally aggravating them.

The patent-pending honeycomb system keeps the living area and honeycombs separate from each other. When a lever is pulled, the bees can leave the honeycombs but cannot get back in. Once they are gone from the area,

the honey harvesting can be done without the need for special equipment and does not risk crushing the bees—as in traditional bee hives.

The combs are set inside of clear plastic housings so users can observe the bees at work and monitor honey production. A wooden cover keeps the area dark and hospitable for the bees when not being observed.

Seeing a need

Pasi's relationship with bees began two generations ago. His grandparents were beekeepers in the Italian countryside who passed along their knowledge and skill of honey production.

Pasi's first beehive-related product was an IoT device with an app called BeeSecure that allowed monitoring of conditions in beehives and had a GPS tracking system to track stolen hives. He also ran a program that studied pollution and air quality by analyzing honey.

Through these endeavors, he worked closely with bees and beekeepers and recognized that more people would participate in the activity if not for the clumsy equipment and fear of being stung.

"We get a lot of requests from people that want to have a beehive, but they feel a bit scared," he said. "Any time you need to work on the beehive, you have to wear a mask and gloves. [We wanted to] find a new way to help people to interact with bees in a safe way."

So he set out to create a hive that would work for humans and bees—especially because bees play an immensely important role in the ecosystem and in our survival.

Beyond the production of honey, bees are key pollinators for myriad crops—including most fruits and leafy greens. However, due to pesticide use, viruses and pathogens, bee populations are declining. Fortunately, these issues are being recognized, resulting in a strong movement to save the bees by reducing chemical use and providing them with habitats in which to thrive.

As part of this movement, people are starting to set up hives at their homes to support honey production and help bee survival. But the fear factor is an obstacle.

With the B-Box, Roberto Pasi (left) and partner Gabriele Garavini wanted to make an elegant and low-profile system that would merge into the urban environment in a nice way.



"We get a lot of requests from people that want to have a beehive, but they feel a bit scared." —ROBERTO PASI

Refining the process

It took three years and 10 major prototype iterations before the B-Box project was launched. Pasi and partner Gabriele Garavini started by trying to make something elegant and low profile that would merge into the urban environment in a nice way.

“We are Italians. We tried to ... design something pretty,” Pasi said.

The first prototypes were made from wood and had metal legs. They looked great but had two major problems.

The first was that the cost of goods for the design was more than 1,000 euros (about \$1,200 U.S.), which was too high for the market. The second problem was ordinances about keeping bespoke beehives in urban areas in Italy, and the entrance to the hive had to be above head height.

So they went back to the drawing board. The metal legs were removed in favor of an all-wood structure, and they created a chimney to satisfy the regulations but also keep the bees farther from beekeepers.

B-Box was successfully launched on Indiegogo in 2019. Pasi was rewarded with \$342,377 raised by 470 backers between the primary campaign and the on-demand campaign that followed.

He and Garavini used feedback from supporters to update the design by adding a wooden blockout plate to cover the clear plastic that housed the main hive. This keeps bees darker and cooler.

The B-Box's novel features are patent pending in Europe. Pasi plans to extend the coverage to other major parts of the world, including the United States, once that intellectual property is issued.

“Patents are super powerful. When you are a little startup, it helps you to feel safe—also against the giants that are always more powerful than you from a marketing point of view. It is a little weapon.”

Latest updates

Once the crowdfunding campaign was complete, Pasi began working on manufacturing. He eventually had orders for 500 units and started contacting different companies to help build the B-Boxes.

He went to five different manufacturers around Italy before settling on one that had great quality at a reasonable price. The team then updated the design in small ways to reduce the cost of goods, taking cues from IKEA furniture in the way that the wood panels were made and fit together before units were ready for shipment.

The team continues to push forward. All crowdfunding backers were delivered product; now the plan is to work to increase sales and find new sources of venture funding to grow the business.

Although the COVID pandemic hit Italy very hard, it has actually helped the business. Pasi has found that people want to be more connected to nature and get value from where they live, so beekeeping has been on the rise.

Design updates are in the works. The team is looking for a way to make B-Box more economical for buyers on other continents, particularly in the United States. 🐝

Details: beeing.it



The revised B-Box has an all-wood structure, with a chimney to satisfy regulations but also keep bees farther from beekeepers.



Kids' Fun on the Go

COUPLE'S TOILET-TRAINING PRODUCT INSPIRED BY CHALLENGES WITH THEIR FIRST-BORN DAUGHTER **BY EDITH G. TOLCHIN**

FOR THOSE with young children, grandchildren, or even with relatives who are beginning the arduous path toward toilet-training a toddler, inventor Mindy Wright's Potty Time ADVENTures is a unique and colorful option.

Edith G. Tolchin (EGT): I understand you have an interesting backstory.

Mindy Wright (MW): My husband, Brandon, and I have been sellers on Amazon since 2009. It was the Wild West time of Amazon, when they recently opened the marketplace to products other than books.

We started selling small home and kitchen goods as a side gig in hopes it would become

a full-time job for us. We lived in a tiny, one-bedroom apartment in Green Lake, Washington, about a 10-minute drive from downtown Seattle. We lined our apartment walls with shelving to house our product and used our bedroom as a shipping station. Our bed was in place of the dining table.

In 2011, we quit our other jobs (interior design and pressure washing) and moved to Renton, Washington, and bought our first home—which is where we still live—to do this full time. By 2015, we were doing over \$1 million in sales annually on Amazon. This continued and we thrived until 2018 when Amazon Basics launched, and the market became oversaturated with sellers and duplicate listings.

When this happened, we immediately saw a huge decline in sales. Brandon and I still wanted to sell on Amazon but knew we had to start, create, and manufacture our own proprietary product to set us apart.

Amid all this happening, we were struggling with potty-training our daughter Ruby. One evening, Brandon thought of things he enjoyed as a child, and Advent calendars came to mind.

He said, "Wouldn't it be fun to mash-up an Advent calendar and a potty chart?" My response was, "Brilliant!" That weekend, I created a mockup and tried it with Ruby. Her response was overwhelmingly positive and that weekend, Lil ADVENTS was born.

EGT: How long did it take to potty-train your children using this product?

MW: On average it takes kiddos 60 to 90 successful deposits to become fully potty-trained. When we thought of this product

Potty Time ADVENTures was conceived as a mash-up of an Advent calendar and a potty chart.



“Since this product has not been made before, we needed to clearly think everything through and visualize how our customers would use this from start to finish and get the best bang for their buck.”—MINDY WRIGHT



Husband-and-wife team Brandon and Mindy Wright saw great progress while testing their invention with their children Daisy (second from left) and Ruby.

and tried it out with Ruby, she was around the 60-deposit mark; hence, our frustration and reason for thinking outside the box.

When we started her on our prototype, she was potty-trained in two weeks. Our second child, Daisy, just became potty-trained and it took her about three weeks total.

EGT: How did you create your first prototype? Did you have to make many before you were production-ready?

MW: We created one prototype over a week-end by manipulating a cardboard game box and taped graphics on it. After that, we went to work by learning (Adobe) Illustrator software and creating all our graphics and documents for the manufacturer.

Next, we went through three sample rounds with the manufacturer to get all the kinks worked out before we went into full production. Our first 40-foot container landed on November 18, 2019.

EGT: Have you patented PottyTime ADVENTures—and if so, was it difficult?

MW: We have a patent pending currently. We hired a patent lawyer to do this for us, so it wasn't necessarily difficult, but it is very expensive and is a lengthy process.

EGT: How many different types of ADVENTures are you manufacturing?

MW: We have three themes: Farm Animals, Dinosaurs and Busy Vehicles. Our fourth theme should be available soon: Unicorn Friends.

EGT: Where are you selling?

MW: We sell on our website, Amazon.com,

BuyBuyBaby.com, BedBathandBeyond.com, Walmart.com, eBay.com and will have soon launched on Target.com.

We are also in over 40 “Mom and Pop” shops across the United States.

EGT: Because these are products for children, is each production batch CPSIA (Consumer Product Safety Improvement Act) certified?

MW: Yes, 100 percent. The intended age range is considered “for 18 months and older.”

EGT: Tell us about your manufacturing experience.

MW: We manufacture our products in China. Just by our stars aligning at the perfect time, we were able to get in contact with a toy mogul and present him with our idea over a video chat. He loved the idea and just by chance was planning a trip to China three weeks later.

EGT: Have you found any glitches or obstacles while developing the products?

MW: I think the biggest obstacles while developing Potty Time ADVENTures has been creating a new category in the potty-training space and doing it well. Since this product has not been made before, we needed to clearly think everything through and visualize how our customers would use this from start to finish and get the best bang for their buck. It seems simple, but when you start from square one, the possibilities are endless.

The real challenge arose when our first container left China. It was marked for an

intensive exam (by U.S. Customs) when it arrived in the Port of Tacoma, Washington. This is because we are new importers. This extended our delivery date by a few weeks during the worst time possible for sellers and cost us thousands of dollars.

Then when listing our products on Amazon, another seller was fraudulently using our UPC codes, so our listings were not showing up correctly until about February or March of 2020. If you searched our product, a black T-Shirt would pull up, which was very frustrating!

EGT: How have sales been so far? How long have you been selling?

MW: We launched on Amazon in late November 2019 but didn't have everything worked out until about February or March 2020 due to the whole

UPC fiasco. Our sales really started at that time. For 2020 we hit about \$200,000 in revenue, with roughly 8,000 units sold.

EGT: Any advice for inventors looking to develop a new children's product?

MW: Put yourself in your customer's shoes. I know this answer is extremely played out, but that's because it's true. Think about who your customer is so you can really target your market. If your product doesn't appeal to your market, it won't sell. 🐼

Details: Mindy@LilADVENTS.com

Books by **Edie Tolchin** (egt@edietolchin.com) include "Fanny on Fire" (fannyonfire.com) and "Secrets of Successful Inventing." She has written for *Inventors Digest* since 2000. Edie has owned EGT Global Trading since 1997, assisting inventors with product safety issues and China manufacturing.



2 Critical Steps to getting your NEW PRODUCT "out there"

1 GET IT MADE

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Get more BANG for your BUCK from two professionals with a combined total of over 60 years of experience!

STEPS TO PREPARE YOUR PRODUCT IDEA FOR MANUFACTURING

Prior to manufacturing, your product idea will go through three main stages – concept design, prototyping, and preparing your prototype for production. And while your concept design is being created, you can start getting ready. Use the following steps to navigate this process smoothly and effectively.

SETTING MANUFACTURING PURPOSE

- for first demo - to test the demand
- for soft launch - for specific market or customer segment
- for full-scale production - after establishing distribution channels

CONSIDERING OTHER VARIABLES

- PRODUCT COST:
 - expensive, average, low
- PRODUCT VOLUME:
 - hundreds, thousands or more
 - forecasted or proven
- PRODUCT QUALITY:
 - hedonic – high-end, unique, crafted
 - utilitarian – mass produced for functionality's sake

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MIX EMOTIONS

CASSETTE TAPES GAVE US THE CHANCE TO BE OUR OWN DJs,
FACILITATE NEW MUSIC GENRES, AND SOLIDIFY FRIENDSHIPS

IT WAS THE BEST OF RHYMES; it was the worst of rhymes. During the post-college decades that my lifelong best friend and I made and swapped dozens of cassette mix tapes, our love for music fortified an enduring bond. With creations that ranged from electric to eclectic to pathetic, among our many shared delights were lyrics that could be amazing or amusing.

From Barry McGuire's "Eve of Destruction":
My blood's so mad, feels like coagulin'/I'm sitting here just contemplatin'

And Loretta Lynn's "Coal Miner's Daughter":
The work we done was hard/At night we'd sleep, 'cause we were tired

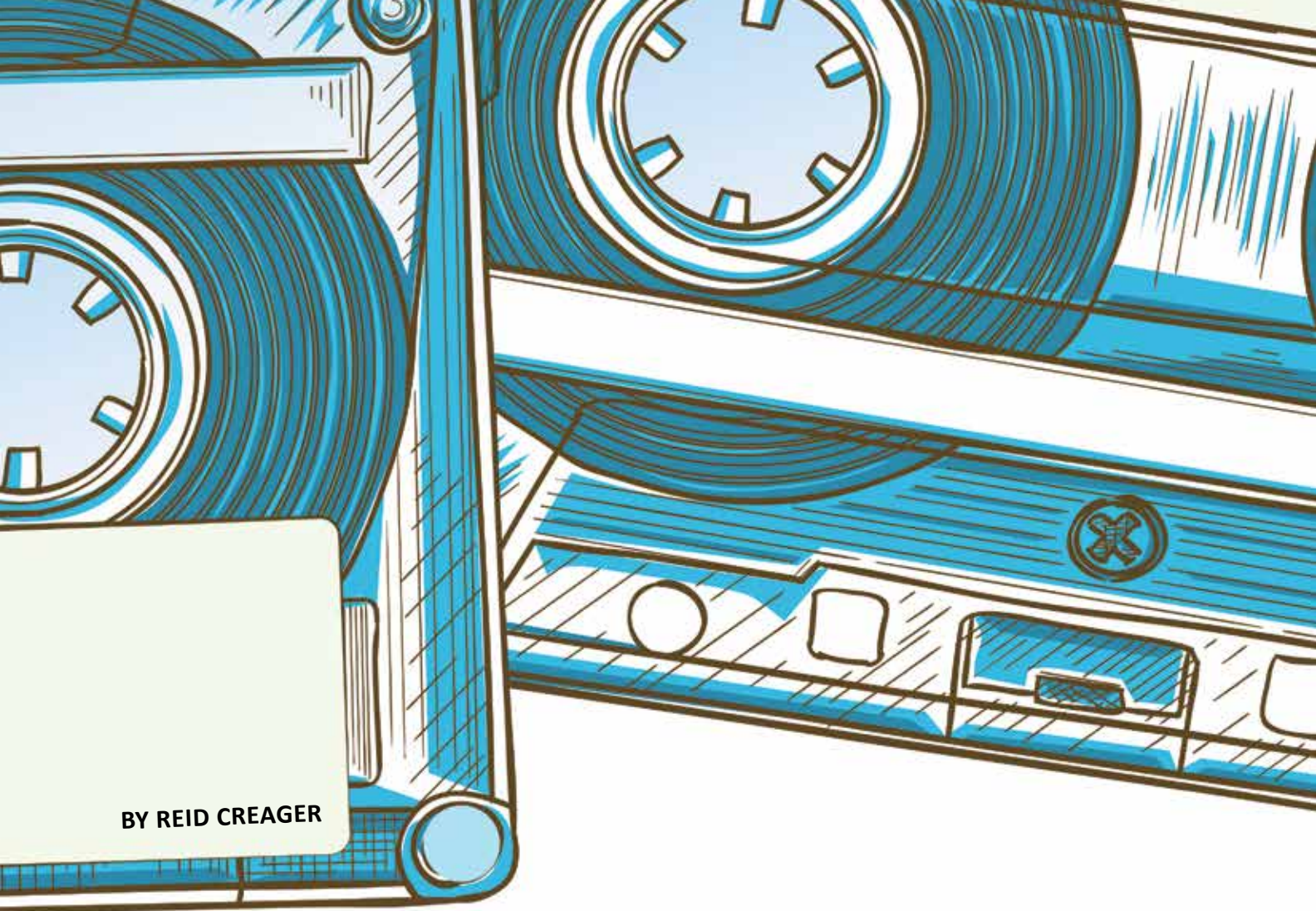
Miss Loretta's lyrics require an explanation. Her heavily Southern pronunciation of "tired" came out "tarred"—which, with all due respect, earned her our honor of this fittingly rhyming distinction: Worst Song Rhyme of All Time.

We all can thank Lou Ottens for giving us the ability to play DJ via creating our own playlists (sans commercials) while buttressing our musical interest and appreciation. The Dutch inventor and engineer, who died March 6 at 94, not only invented the cassette tape but pioneered its successor, the compact disc.

Reel-to-reel and even home tape recorders had forever been bulky when Ottens began conceiving a smaller alternative in the early 1960s while leading the product development department at electronics conglomerate Philips.

"He had a wooden block made that fit exactly in his coat pocket," Olga Coolen, director of the Philips Museum in Eindhoven, The Netherlands, said on the Philips website. "This was how big the first compact cassette was to be."

Ottens finalized his invention in 1962; Philips estimates that more than 100 billion cassettes have been sold since. Especially during the less



BY REID CREAGER

copyright-enforced times of the late 1900s and early 2000s, music aficionados recorded their favorite songs playing on the radio as well as from records and other sources.

Let's get small

The Beatles' arrival in America was almost a year away when Ottens' team presented its plastic-encased cassette tape to the world at a 1963 Berlin Radio electronics fair.

Small and smaller was *de rigueur* for electronics, with the transistor radio fast becoming a household staple. So the new product's slogan, "Smaller than a pack of cigarettes!," had more than a whiff of timeliness and relevance.

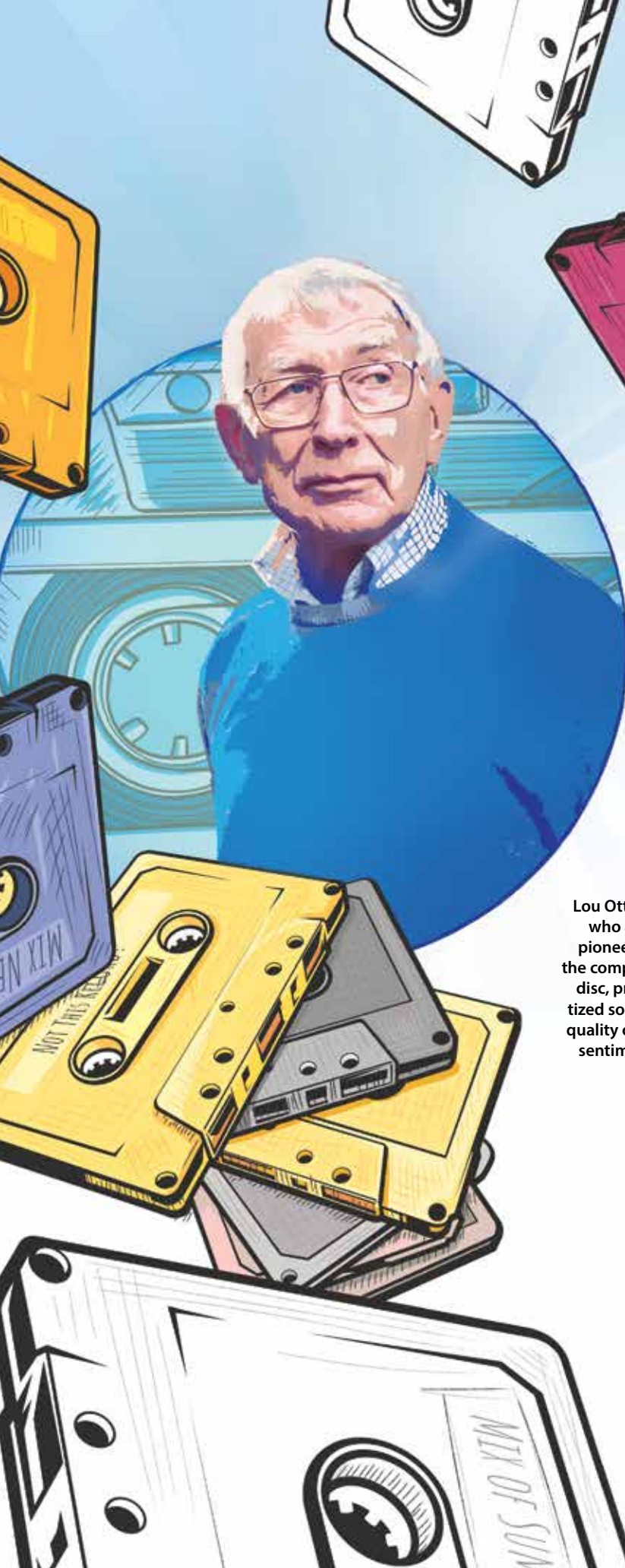
Ottens recalled the cassette tape as an instant hit (though other accounts dispute this). Interest was verified by emerging attempts to duplicate: Japanese companies created their own version before Ottens reached a deal between Philips and

Sony that would ensure his team's product would become the patented cassette on the market.

But the widespread popularity of the cassette tape was pre-empted by the mid-Sixties emergence of 4-track and 8-track tapes for car stereos, the latter an omnipresent but significantly flawed presence from the early 1970s to early '80s. Eventually the cassette's more compact format—and especially the ease with which music could be recorded with acceptable quality—made it the primary consumer music medium of choice into the early 1990s.

Though proud of his achievement, Ottens always seemed more focused on the fact there would always be The Next Big Thing in Little Things.

"Of all the musicians and historians I interviewed for the cassette documentary, Lou was by far the most critical of the format," Zack Taylor, the director of "Cassette: A Documentary Mixtape," told *Rolling Stone* after Ottens' death.



Lou Ottens, who also pioneered the compact disc, prioritized sound quality over sentiment.

“When I arrived on his doorstep in 2013, I expected to find a proud engineer, ready to take a bow and talk about the revolution he helped start.

“In reality, Lou couldn’t understand why people were still talking about the primitive, lo-fi cassette, even as the format celebrated its 50th anniversary. As an engineer, he was always focused on fidelity and reliability.”

Hip-hop chop-chop

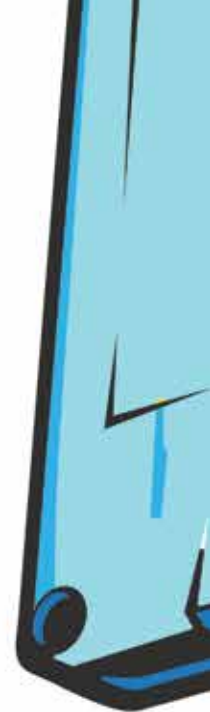
“NOT THIS RECORD! NOT THIS RECORD! NOT THIS RECORD!”

No fidelity concerns there. Those screams from “Monty Python”—followed by the sound of a record player needle being yanked across a record—were a regular interruption in the tapes my friend and I made and shared. (You can hear the 7-second clip on vimeo.com.)

We would record a few seconds of a stunningly bland hit song by, say, Hall and Oates, and then drown it out with the Monty Python yelling.

Sophomoric comic relief? Sure. But it also demonstrated an attractive feature of recording on cassettes: If you practiced enough and became really good at it—as both of us did—you could end up with seamless segues that had no sound gaps. You could also record very short snippets or even single words from a song, quickly hit Pause on the cassette recorder, and ultimately create a creatively unique mishmash of “music.”

(My friend once embarked on a tirelessly incredible project that should have been played at every radio station: He recorded every “Yeah,” “Oooh” and similar sounds from every song



Lou Ottens finalized his invention in 1962. It is estimated that more than 100 billion cassettes have been sold since.

on every Beatles album and “spliced” them together—with not a single second of “dead air.” The result, which I recall lasted almost 10 minutes, will never be heard by anyone else. We both lost our copy of the tape.)

This ability to “chop up” songs and create something new was prominent in the emergence of hip-hop. It also led to playlists on Spotify, the dominant digital music streaming service provider.

Of course, the practice of recording onto cassettes from the radio or other conventional music sources was not well received by the music industry. “Home Taping is Killing Music” was a prominent slogan during the 1980s.

But making a *noncommercial* mix tape such as an analog audiocassette of copyrighted songs is immune from claims of copyright infringement, per the Audio Home Recording Act of 1992. That law requires manufacturers or importers of devices and media such as blank CDs, personal audio devices, automobile systems, media centers, and satellite radio devices that have music recording capabilities, to make royalty payments.

Redbullmusicacademy.com provided an excellent insight into how music cassettes facilitated the growth of hip-hop, as well as many other music genres, when taping music onto cassettes was seen by some as a dirty little secret.

“The cassette was also giving legs to many niche musical movements that otherwise would have remained frozen in place. Not just hip-hop but metal, hardcore, industrial, New Age and more. It’s probably not a coincidence that these

genres all emerged during the late ’70s and ’80s as the cassette tape rose in prominence. ...

“A dub of a tape could travel hundreds of miles and in the process spawn off a dozen more copies. New Yorkers could slide dubs to out-of-town cousins. Bleary-eyed suburbanites could record late-night radio shows off the airways and spread those static-blanketed secrets outward.”

NOSTALGIC RESURGENCE

Lou Ottens was never sentimental about the cassette tape being replaced by the CD. “Everything disappears in the world when it has done its time,” he said. “So will I.”

Not so fast.

Cassette tape album sales in the United States grew by 23 percent in 2018 to 219,000, according to Nielsen Music.

Online music marketplace Discogs reported that last year, cassette sales increased 33 percent from 2019.

Cassette production does not rival that of vinyl and CDs, but demand is there—possibly because people are hoping they become collectibles that appreciate in value. The Killers and Lady Gaga are among the acts to recently release their music on cassette; the latter’s “Chromatica” was the format’s biggest seller in 2020 with 14,000 copies.

Ottens noticed the surge in recent years. He called it “nonsense” because the audio quality of the CD is stronger.





PHOTO BY REID CREAGER

The death of Lou Ottens on March 6 at age 94 prompted an email from my best friend Ed, with whom I exchanged dozens of music mix tapes over the years.

Intangible thrills

Ottens helped co-create the CD in the 1970s. The combined effort by Philips and Sony made its public debut in 1982.

He retired four years later with one big regret: A rival company, Sony, created the iconic cassette tape player known as the Walkman.

But it was never difficult for him to move on. Ottens eventually used the original prototype wooden block for the cassette to prop up his jack while fixing a flat tire, and left the block by

the side of the road. He was preoccupied with the progression of superior sound quality, nothing else.

My friend and I saw it differently, and still do. So did the millions of others who created 60-, 90- and even 120-minute love odes with their favorite and most personally important pre-recorded songs.

He recently wrote how our friendship would have been different without our tapes—carefully conceived and crafted over the years through marriages, divorces, moves across the country.

It wasn't just the enjoyment of the music and often listening to the results together; it was the great technical care that went into each tape, from the songs to the cover art. We were much less focused on pure sound quality.

The same was true for my siblings, all seven of whom made at least one cassette mix tape for me. I still own them all.

The fast-forward and reverse functions on my cassette player don't work anymore. But it's still a simple, comforting joy to sit back, figuratively hit the reverse button on what has been a beautiful life, and to laugh and remember. ☺

THE BIG 3: SING BLING

Don't toss your music cassette tapes without checking out this list.

There is big money in some cassette titles. Discogs reported in February of this year that among its 100 most expensive cassettes sold, every item goes for \$500 or higher.

1 "Xero" by Xero, 1997: \$4,500

This self-titled, self-released demo tape is one of the only recordings of the California-based group when it still went by Xero in the 1990s. Discogs reported that only 12 of its users claim to have it in their collections.

Linkin Park released its debut full-length album, "Hybrid Theory," in 2000. That brought the nu-metal genre into the mainstream, adding interest to the Xero days.

2 "The Versace Experience—Prelude 2 Gold" by The Artist (Formerly Known as Prince), 1995: \$4,117

This promo tape—handed out to attendees of a Paris Fashion Week show in 1995—was the most expensive music cassette from 2016 until recently. The tracklist features the artist's (The Artist's?) well-known songs, remixed or edited.

3 "Untieddiaries 1979-87" by various artists, 1987: \$2,300

United Dairies (no typo) is a UK-based label that launched in 1979 with an LP from the Steven Stapleton-led project Nurse With Wound.

After Stapleton took over label operations in 1987, he dropped this catalog-encompassing, 32-chrome tape box set complete with a convenient suitcase for storage. It was only available by mail order, with an edition of 50.



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Get Feedback, in Stages

ASKING FOR OPINIONS ABOUT YOUR CONCEPT AND INVENTION CAN ULTIMATELY HELP YOU GROW SALES **BY JEREMY LOSAW**

I T CAN BE EXHILARATING to have a new product idea: fun to think about how you might prototype it, what it will look like, and fantasies about all the units you are going to sell.

But this does no one any good unless it sees the light of day. This means sketching and prototyping the idea, then showing the concept to people to get their feedback in hopes of eventually getting their dollars when it is ready to sell.

You can answer many questions about the product by prototyping it in isolation but also gain important insights by showing it to other people and letting them see the concept or use a prototype. Some techniques to solicit purposeful feedback for your new product:

Napkin sketch feedback

Many of us have had those lightning-bolt moments when a new product idea storms you, and you are certain it will be a thundering success. Because it is definitely going to sell millions of units, the instinct at this stage is to keep your shiny new product idea to yourself. But this is a great time to solicit feedback.

You may only have it in your head or as a rough sketch, so it is only appropriate to share with close family and friends. However, feedback from friends and family has the potential to be misleading and should be approached carefully.

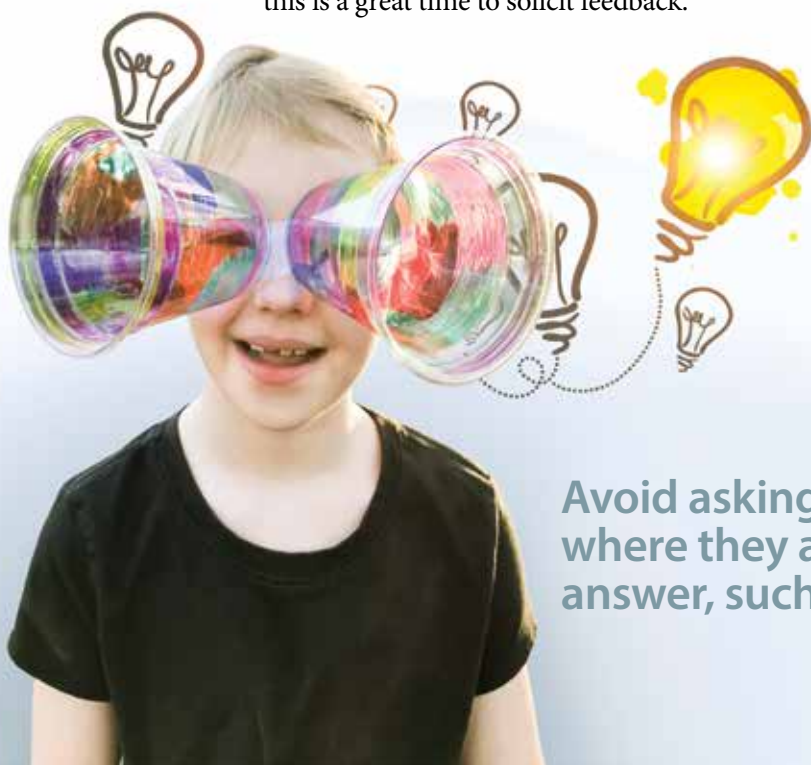
Friends and family often will value your feelings over the quality of the feedback and may lie to you, even if they think it is a stupid idea. So avoid asking questions such as, “Is this a good idea?”

De-risk the situation by being deprecating and humble. Lead with a more open-ended script, such as, “You know I always come up with silly ideas, and I had a concept for a new product the other day. Before I devote any more time to it, I want to see if something like this would solve a problem for you, too.”

This will invite more introspection and encourage them to think of additional ways it could be used, or features they might add.

The key feedback at this stage is not whether the idea is good but that you have identified a good problem to solve. If you are getting feedback such as “I always have that problem,” or “Why hasn’t someone come up with something for that yet?”, you know you have found a pain point that a good product can help eliminate.

These “chameleon goggles” were quickly prototyped and then brought to the playground for user testing and feedback from family and friends.



Avoid asking friends and family questions where they are cornered into a singular answer, such as, “Is this a good idea?”

Early prototype feedback

Feedback from early-stage prototypes is valuable because it is the first time people can physically see and interact with the product being designed.

The key for an early-stage prototype for consumer testing is that it is built to the Goldilocks standard: “just right.” It must look good enough to keep users in the moment but have as little as possible spent on the details of making it a manufacturable product. The goal is to keep as much flexibility in the design as possible, so user feedback can be used to make the product better.

Once the prototype is ready, you can literally take it to the street to get consumer insights. If the product is for general consumer use, you can approach people in public areas and ask for their time (allowing for proper Covid related safety measures).

If the product is more niche, you may want to bring it to a gathering of people who would be end users, or approach people in forums and set up a video conference to demonstrate the product. Ask open-ended questions to allow people to tell you about their habits and the environment where the product will be used.

Start by asking for a few minutes of their time to show them your prototype, then get into key questions: “How do you normally do [insert activity]?” “What parts of the experience are pain points for you?”

Show them the prototype, explain the use case and features. Then ask more direct questions: “Would a product like this help you with your pain points?” “Could you see yourself using a product like this?” and the key question: “How

much would you pay for this product at retail?”

Take copious notes and gauge reactions as well as responses. Although this feedback is not from friends or family, people still like to say polite things and may lie about liking it. However, reactions from them may be harder to mask.

After 5-10 people, you should have a catalogue of great feedback and concepts that you can use (or not) in the next iterations of the product.

Advanced, late-stage feedback

The process of user testing and feedback should continue throughout the prototyping process and into production.

Because the design is more locked down as development continues, testing will become more targeted. For example, you may not be trying to figure out whether the invention is a good idea or what core features to add, but you may be testing different geometry for a handle, or the design of the screens for a display.

Later-stage testing uses a more formal process. The sessions are longer than a chance meeting on the street, and you will likely find some bespoke space to invite some key users. Have a test plan with clear goals and a script to help guide the conversation.

It is recommended that testers sign nondisclosure agreements (NDAs) before the session to help protect your intellectual property, and you may also offer a small honorarium for their time—often in the form of a gift card. Providing a comfortable and fun atmosphere helps your testers be at ease; the more comfortable they are, the more candid the feedback is likely to be. 🍷

IP CONSIDERATIONS

Throughout the testing and feedback process, it is important to protect any patentable features that you may have developed. In later-stage testing, this is a little easier to control; the product may already be patent pending and testers will sign NDAs for formal testing sessions.

However, it can be muddier during early-stage testing. Practically, a random person to whom you show your prototype in a park is unlikely to steal your

idea, and it is not that risky from a legal standpoint, either.

The key to protecting your intellectual property is what constitutes a public disclosure.

Private conversations in your own home with friends and family and with select people you meet on the street are not typically a valid public disclosure. However, if you post pictures online, sell the product, or show it at a large group

meeting such as a trade show, you have likely made an official public disclosure.

Fortunately, in the United States and some other countries, you still have one year to file a patent from the date of the first public disclosure so there is still the ability to file patents even if you make a mistake. In any case, you should seek advice from a patent lawyer throughout the process so that you and the product are protected.

PR and Expectations

MANY COMPONENTS GO INTO SATISFACTION ON BOTH SIDES OF THE DEAL INVOLVING YOUR INVENTION OR PRODUCT

BY ALYSON DUTCH

PUBLIC RELATIONS, one of many marketing methodologies a startup can use to launch a product, is often the first and least-expensive choice for the most exposure.

For inventors who have decided to build their own brands, there's so much to learn about creating a company that is sustainable and profitable. Chief among them is hiring, and the art of checking expectations of those you hire.

Our PR company works with so many different kinds of people and varied products. For those who are new to hiring a PR agency, we've learned to become very flexible in providing services that mean something to each client. Being in the service business, we've learned that the expectations of each customer are very different.

To a publicity professional, PR means something very specific: getting a product or service reported about in the media that is read, seen or heard by your particular customer. There are other things that a publicist, PR firm or public relations person will do to create awareness, but getting "placements" in the media is the defining service.

Achieving the right fit

I bring up the subject of expectations because PR seems to be one of those amorphous activities that some may describe as "free advertising" or simply "getting awareness."

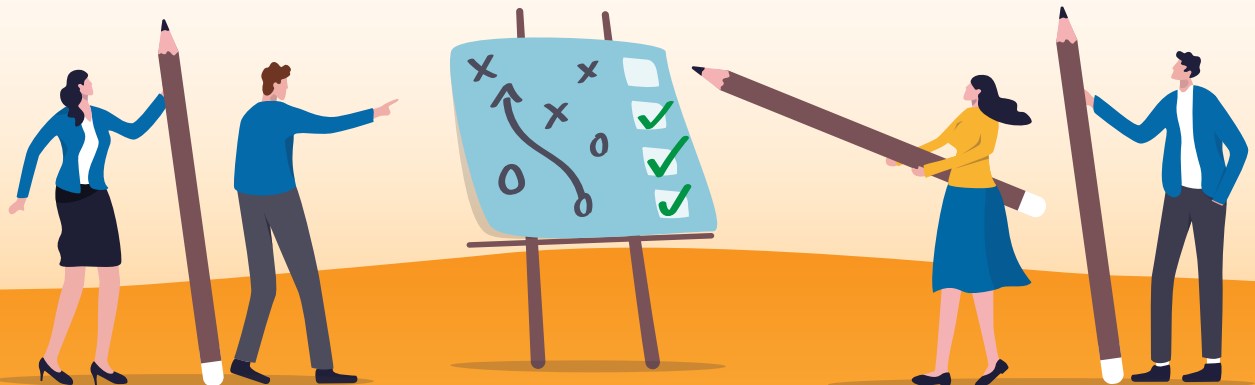
Some clients are only interested in being on TV; some are interested in entrepreneurial profiles only; some are interested in product reviews only. Some may wish for awards or speaking opportunities.

These are all activities that a publicist provides for a client, but a good publicist will choose what kind of publicity will help move the needle for your business.

For example, if you have invented a new consultancy service, entrepreneurial profiles would be best to demonstrate your ability to consult. If you have a product that is sold to 12-16-year-olds, TikTok would be a good place to create awareness and would be chosen over another social platform such as Facebook that appeals to a much older audience.

If you have a product and a big celebrity attached to it, as our company recently had for a

A good publicist will set forth an action plan with a very specific list of tactics upon which both parties agree.



product with Shaquille O'Neal, you can expect the national morning show producers to take the story. Alternatively, if you have a medical device product with no clinical trials, no doctor or a celebrity attached, those same producers will not book you.

Publicity is an effort-driven marketing method. You should expect that your publicist gets you placements in places that mean something to your business. This should be spelled out in detail in advance, so you know what to expect and the PR outfit is held accountable.

Ask for proven tactics

Your publicist should do a deep dive into your customer profile first, then create press lists that match. He or she should also engineer press releases and pitches that appeal to the reporters whose attention they want to get. The lion's share of what a publicist does is a constant pitching to reporters that makes the best sense for your product or service.

A good publicist will also set forth an action plan with a very specific list of tactics upon which both parties agree.

Tactics should include the writing of a press kit. These documents synopses messaging for your product to be used by the press to create a repetition of your message. This includes press releases written at times that are newsworthy for your product; a fact sheet; executive biographies; and a backgrounder that explains how the product or company came to fruition.

Other tactics include media solicitation, at the very least. Publicists may add tactics such as the solicitation of awards and speaking opportunities, partnerships, social media, and/or cause marketing collaborations. Depending upon your product and your customer, the action plan tactics may include sampling to celebrities.

Sampling is something you should expect 100 percent of the time if you embark on a PR campaign. You must provide samples to the press if you expect them to report about you. This means full-size samples or experiences.

Why? Because if a reporter is being asked to give his or her opinion about your product, there is no way for that person to have an experience—without having an experience.

PR versus advertising

PR is a unique form of marketing that solicits the *unbiased, unpaid and therefore purely editorial opinion* of a reporter that means something to your customer. Of all the types of marketing you can use, it's incredibly valuable because it provides a real and trusted opinion.

PR is a soft marketing method and usually not tied directly to sales. Yet it's incredibly important, because people often don't buy things because of advertisements. They want to hear about it from others they trust in order to pull out their credit card.

When you buy advertising of any kind, including paying an influencer to say something nice about you, the value is far down the ladder of influence.

Word of mouth is the No. 1 type of marketing because when your friend (someone you already know and trust) knows about the sushi at the neighborhood sushi bar, it's probable that you'll try it too.

If a reporter you watch on TV or someone who you read or hear says the same thing, it's the second-best marketing. You watch, hear or follow this person because you trust and like his or her opinions.

Advertising—yes, even influencers who are all paid—is No. 27 on the list of trust. That said: Younger consumers up to age 35 do buy from influencers and aren't concerned about the fact that they are paid to showcase a product.

Older consumers are very turned off by advertising and have no respect for a product being hawked for payment.

In summary, you must be ultra clear to your publicist about what you expect before making the hire. Expectations can be dangerous, but only when they're not put on the table in advance and agreed to by both parties. 📌



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





Awaiting on You All

FALLOUT FROM \$2.2 BILLION AWARD AGAINST INTEL,
POSSIBLE ARTHREX PTAB IMPACTS, NEW USPTO DIRECTOR
ON THE HORIZON **BY LOUIS CARBONNEAU**

A RECENT MOMENTOUS court award against Intel caught many by surprise, given that we do not see patent cases lead to a \$2.2 billion award very often. Actually, this was the second-highest jury award in history (just behind Idenix Pharmaceuticals, awarded damages of over \$2.54 billion from Gilead Sciences in 2016).

The jury in Waco, Texas, determined on March 2 that Intel infringed two patents owned by closely held VLSI Technology. It awarded \$1.5 billion for infringement of one patent and \$675 million for infringement of the second, for a total of \$2.18B.

What's noteworthy is that although the patents originate from Dutch chipmaker NXP Semiconductors (which will get a piece of the action, according to its lawyers), VLSI, the current owner, is a wholly owned subsidiary of Fortress Investment Group.

Fortress is a well-known industry player associated directly or indirectly (via funding assertion campaigns) with litigation. It is considered a non-practicing entity or NPE, in that it does not directly develop the several patents it owns—although some of its subsidiaries might.

That's what makes this interesting. This is a great example where a set of patents changed hands from an operating to a non-operating company while preserving all their attributes. Most important, it validates patents as an asset class in its own right—regardless of who might own those rights at any given time, just like real estate and other types of property.

This may seem trite, but it is often argued in court by defendants that NPE plaintiffs should not be rewarded for asserting other people's inventions (aka the "patent troll" stigma).

It is widely expected that Intel will appeal the decision to the United States Court of Appeals for the Federal Circuit (who wouldn't, to be honest?), and it is very possible that the award will be reduced and possibly overturned on appeal. But it will take time for such an appeal to unfold, and in the interim boardrooms should take notice of this decision that follows a trail of recent awards of a certain magnitude in patent cases.

A string of headline-making awards has a tendency to invite change within corporate policy—perhaps making "efficient infringement" less attractive as the first option as the alternative suddenly becomes quite expensive. So, let's hope that this latest case will bring a few more people to the negotiating table when it makes sense to do so.

Arthrex anticipation

Another important moment, although the outcome is still unknown, was the March 3 oral hearing by the Supreme Court bench in the *Arthrex* case, which essentially calls into question the existence of the Patent Trial and Appeal Board administrative patent judges as having been appointed in violation of the U.S. Constitution.

Most judges asked pointed questions at the hearing. The consensus emerging from those who read the tea leaves of SCOTUS hearings seems to be that the court will uphold the decision of the federal circuit—affirming that the APJ appointments were unconstitutional.

But pundits differ as to what the actual effect will be, as the Supreme Court has several options at its disposal. These are well summarized in an article by the law firm White & Case, an excerpt of which I reproduced:

"If the Supreme Court upholds the federal circuit decision, the IPRs [inter partes reviews]

The Intel ruling validates patents as an asset class in its own right—regardless of who might own those rights at any given time.



currently in abeyance before the PTAB will be reheard by new APJ panels. Other cases currently before the PTAB or future post-grant proceedings would not be affected.

“If the court holds that there was no Appointment Clause violation, the court will likely vacate the federal circuit’s remands under *Arthrex*, and briefing in those appeals would resume. Other cases currently before the PTAB or future post-grant proceedings would not be affected.

“If the court holds that the appointment of APJs was unconstitutional but disagrees with [the] federal circuit’s remedy, the court will have to decide if another remedy is appropriate or whether the entire IPR scheme must be struck down.”

The Supreme Court’s decision is expected by the end of the current session in June. Should it decide to eliminate PTAB APJs, this would also be the end of inter partes reviews (IPRs)—which have played a very large role in desecrating the perennial conventional wisdom that all issued patents have a strong presumption of validity by invalidating thousands of those since its inception.

Director drama looms

Meanwhile, we await a replacement for the departing director of the United States Patent and Trademark Office, Andrei Iancu. This matter should not be underestimated.

As we have seen with both Iancu and his predecessor Michelle Lee (formerly of Google), the USPTO director can exert substantial influence on the state of the U.S. patent system.

Whomever steps into this role will see his/her actions scrutinized from Moment One.

Everyone waits with bated breath to learn if we are bound to see a continuation of current policies, or a return to a few years ago that inventors and patent owners greatly fear.

In this regard, it is noteworthy that the two U.S. senators who have been the strongest proponents of a stronger patent system (and co-sponsors of the aptly named STONGER Patent Act) are still at the helm. (*Editor’s note:* They are Chris Coons, D-Del., and Thom Tillis, R-N.C.)

In an early-April interview with Tillis on IAM, the ranking Republican on the Senate Judiciary Committee’s IP subcommittee clearly reiterated how much he cares about IP and how important it is to the U.S. economy. He had some frank comments about the mess he believes has been made with respect to patent eligibility and the desperate need for reform. He also set out the qualities he expects from the next USPTO director, emphasizing he will not support any nominee intent on undoing the Iancu reforms.

This should be music to the ears of patent owners! 🎵

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





Code Red

IN *GOOGLE V. ORACLE*, THE SUPREME COURT RULES THAT CUT-AND-PASTE COPYING OF COMPUTER CODE IS FAIR USE

BY GENE QUINN

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

FOR EVERY ACTION there is an equal and opposite reaction, according to Newton's third law of motion. It is safe to say that Newton never met an intellectual property lawyer and never had to deal with the whims and fancy of an arbitrary and capricious Supreme Court.

On April 5, the Supreme Court issued its much-anticipated decision in *Google v. Oracle*, in which the court ruled that Google's intentional copying of 11,500 lines of computer code from Oracle was fair use. (*Editor's note: Oracle sued Google in 2010 for copyright infringement.*)

This despite the fact that Google made many tens of billions of dollars in the process—and despite the fact that the record showed Google consciously chose to copy rather than independently create because programmers were already familiar with the 11,500 lines of code they wanted to take.

Unanswered questions

Why independently write our own code, Google thought, when programmers already are familiar Oracle's code? A perfectly legitimate question for Google to ask, and one that everyone will now ask given that cut and paste copying of software code is a fair use.

Yes, the court attempted to create a distinction between “declaring code” and “implementing code.” But as software expert Bob Zeidman explained, “there are no such technical terms, and the court offered no useful definitions.”

So, what is declaring code and what is implementing code? We can probably guess what the Supreme Court was thinking, given the application programming interface context, but we can be certain that this fair use case will be applied well beyond the facts of the case.

And even in other software cases, will what district court judges and circuit court judges think be what the Supreme Court thought, given the lack of useful definitions?

The better question the Supreme Court should have asked, however, was: Why shouldn't Google be required to acquire the rights to the original code it wanted to take?

After all, even with the attempted distinction between “declaring code” and “implementing code,” Google could have still written its own original code. The copying was not a matter of necessity but convenience.

Unintended consequences

Much has and will be written about how this case is a win for innovation because it allows programmers to copy code for the purpose of

interoperability. And interoperability is something that we all should want—but at what cost?

Will those with valuable, original code put that code at risk for being cut-and-paste copied in the future? Be prepared for a disproportionate, unequal and massive overreaction by creators of all types.

“Companies must now keep their software code secret and never release code to the public unless they are willing to give up all rights in it,” Zeidman said.

And that is the reaction you would expect, to the extent possible, which will result in less sharing and less ability to copy. Business models will change.

Software suffers again

The actions of the Supreme Court on software are puzzling (going back to the landmark 2014 *Alice* ruling), Congressional inaction even more so.

We are at a point when two-thirds of all innovations patented at the U.S. Patent and Trademark Office relate to software, most believe China will dominate the market for artificial intelligence and machine learning innovations, and there is a growing fear that the United States’ lackadaisical approach to AI is already having national security implications.

Meanwhile, the Supreme Court is doing everything in its power to make software the red-headed stepchild of the innovation world in the United States. Why? So a handful of very powerful and extraordinarily rich companies can copy without creating.

Copyrights in software were already weak; now they are nonexistent. ☹

Gene Quinn is a patent attorney, founder of IPWatchdog.com and a principal lecturer in the top patent bar review course in the nation. Strategic patent consulting, patent application drafting and patent prosecution are his specialties. Quinn also works with independent inventors and start-up businesses in the technology field.



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Best wishes, Jack Lander

IoT Corner

Qwake Technologies announced a new Augmented Reality- and IoT-enabled headset for firefighters.

C-THRU is a helmet-mounted device that gives firefighters an AR view of their surroundings so they can navigate buildings in otherwise low-visibility conditions. The WiFi- and cellular-enabled devices transmit data to the cloud for the incident commander to track movements of team members on a tablet application. This allows for better control and coordination of the team in real time; incidents are recorded in the cloud for post-event analysis and training. The technology is designed to make it safer for firefighters to navigate burning buildings and more effectively control fires.—*Jeremy Losaw*



Wunderkinds

Teenager **Claire Du** noticed it was hard to lift the carpets that were used as a surface when she trained with her rhythmic gymnastics club in Calgary, Alberta, Canada. So the China-born student designed and built a device to transport the carpets. Global News reported that her invention has two flaps on the side to support the middle of the carpet, with two big wheels on the back. She won a \$1,000 youth scholarship award at the 2019 Immigrants of Distinction Awards and represented Alberta at the Canada-wide science fair.



What IS that?

It's **Nothing**, really. And many who spent \$5.95 for this gag gift complained it wasn't even the nothing they wanted. They said it came in flat packaging, sans the clever text pictured: "Nothing is precious. Nothing is simple. Nothing is sacred. . . . Open the pack and be enthralled when nothing happens." It's pretty bad when you buy nothing and learn you were aiming too high.

5.5 million

The approximate number of **Peeps**—those marshmallow chicks and bunnies so popular at Easter—that can be made daily at Just Born's Bethlehem, Pennsylvania, factory.

WHAT DO YOU KNOW?

1 National Inventors Month, held every May, was originated in 1998 by *Inventors Digest* and what other entity/entities?

- A) *Popular Science*
- B) United Inventors Association of the USA
- C) Academy of Applied Science
- D) B and C E) None of the above

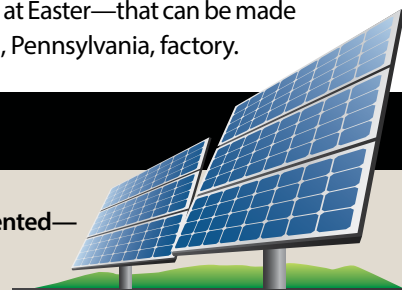
2 **True or false:** Thomas Edison, who lived in Port Huron, Michigan, from age 7 to 17, hated the town and vowed to never return.

3 When were solar panels invented—the 1800s, or 1900s?

4 **True or false:** A major sports network listed artificial turf as the worst sports innovation of all time.

5 Which celebrity inventor/entrepreneur and *Inventors Digest* cover subject accepted an invitation to work behind the counter at a Dairy Queen for a day?

- A) Maria Sharapova B) Mark Cuban
- C) John Ratzenberger D) None of the above



ANSWERS: 1. D. 2. True. 3. In 1839, Alexandre Edmond Becquerel discovered the photovoltaic effect that explains how electricity can be generated from sunlight. 4. False. That dubious distinction went to performance-enhancing drugs. But player Dick Allen said of artificial turf: "If a horse can't eat it, I don't want to play on it." 5. B. The Dallas Mavericks owner had been fined \$500,000 by the NBA for saying, "Ed Rush might have been a great ref, but I wouldn't hire him to manage a Dairy Queen."

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