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MAY 2024 Volume 40 Issue 05

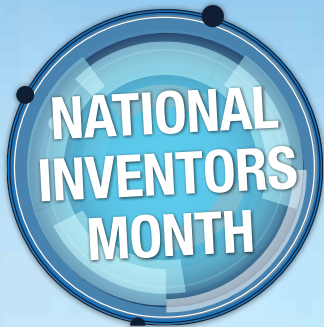
Inventors

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Give no quarter to Patent Pirates.

Or they'll take every
last penny.

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



SaveTheInventor.com

Making History

In partnership with USPTO Patent and Trademark Resource Centers, Historically Black Colleges and Universities make lasting patent gains



Staff and supporters celebrate at the Southern University PTRC ceremony in March.

2024 headlines trumpet an escalating refrain of accomplishment and far-reaching impact by historically black colleges and universities (HBCUs):

- *March 6: Morehouse School of Medicine announces Team SAMBAI, awarded a \$25 million grant.* The global SAMBAI (Societal, ancestry, molecular and biological analyses of inequalities) team received the first grant of its kind awarded to a historically Black college and medical school. Led by a Black woman, researcher Dr. Melissa Davis, the revolutionary project will study cancer disparities among people of African descent.
- *March 19: Morgan State University achieves record high for single-year patents awarded, topping all HBCUs nationwide.* The university set a record among all HBCUs with the highest number of patent awards in a calendar year. MSU secured 13 patents in 2023, surpassing the previous HBCU record of 11.
- *March 29: Florida A&M University opens its Chevron STR²EAM Innovation Fab Lab.* The design studio is equipped with cutting-edge technology, including 3D printing, laser and vinyl cutting, and electronic workspaces.

HBCUs have played a crucial role in advancing intergenerational economic mobility for

Black families and communities throughout generations. Additionally, HBCUs have been instrumental in fostering innovation and intellectual property (IP) development. A late 2021 report by ThePlug said HBCUs accounted for almost 400 U.S. patents.

The USPTO is encouraging these historic achievements through its Patent and Trademark Research Centers (PTRC).

PTRCs are part of a national network of public, state, and academic libraries designated by the USPTO to offer trademark and patent assistance to the public. These local centers support the IP needs of the public by providing a human touch.

PTRC library staff are local information experts trained by the USPTO on how to use search tools to access information and help people navigate their patent and trademark journey. Services include online resources, research consultations, and workshops to share information on the importance of IP.

Four HBCU libraries have been designated as PTRCs to help empower underserved communities:

- Howard University's Founders Library, designated on December 8, 1986.
- John B. Cade Library at Southern University and A&M College, designated on October 12, 2023.
- John B. Coleman Library at Prairie View A&M University, designated on October 16, 2023.
- Miller F. Whittaker Library at South Carolina State University, designated on December 6, 2023.

In an attempt to expand the number of PTRCs across the United States, Under Secretary of Commerce for Intellectual Property and USPTO

HBCUs foster innovation among Black inventors and entrepreneurs with the help of Patent and Trademark Resource Centers (PTRCs) in partnership with the USPTO.

Director Kathi Vidal issued letters to 600 libraries across the country, including all HBCUs, inviting each institution to consider becoming PTRCs to assist local innovators.

The USPTO combines with the USPTO Chapter of the National Society of Black Engineers (NSBE) and the Howard University College of Engineering and Architecture and the College of Computer Science to encourage minority faculty to promote a culture of innovation, and create IP awareness by adding and integrating IP to certain courses.

The USPTO's NSBE Chapter helps to develop and deliver the program, which introduces students to IP concepts, such as patents, trademarks, copyrights, and trade secrets; provides students with interactive challenges to incorporate the various aspects of IP; shares information on IP careers in and out of the USPTO, and provides information about diverse resources provided by the USPTO.

"Patents and trademarks are key to establishing ownership rights to inventions and brands that bring tangible economic benefits to their owners," Vidal said. "We are committed to increasing the number of PTRCs at HBCUs and educational programs across the country to ensure that Black creators, inventors, and entrepreneurs have access to these key resources."

ENROLLMENTS SOARING

A culture of innovation and inspiration is spawning enrollment increases at many HBCUs. Morgan State University is reaching historic numbers: a 27 percent surge since 2018, with 9,808 students attending, according to HigherEdDrive.

North Carolina A&T State University, America's largest HBCU, had a 3 percent enrollment increase in 2023 from the previous academic year to 13,883 students. Others reporting gains include Howard University, Delaware State University, North Carolina Central University, Wilberforce University, and the University of Maryland Eastern Shore.

HBCU leaders attribute the gains to internal policies and practices, including new retention and recruitment efforts and academic support for incoming students. Others cite new sources of philanthropic and government funding.

PATENTLY PROGRESSIVE

Morehouse School of Medicine,

a private, co-educational medical school, is the nation's leader among HBCUs with

168 U.S. patents, per a count at

Justia Patents. MSM has made significant contributions in HIV/AIDS research, with four such patents in the past 17 years. (Its home, Atlanta, is ranked third in new HIV infections nationwide.)

By contrast, North Carolina A&T State University, America's largest HBCU by enrollment, has 20 patents.



Baltimore-based **Morgan State University** is on pace to be awarded an average of at least one new patent per month throughout 2024.

The USPTO granted the university's first patent in 2016. By the end of 2023, MSU rose to the fifth-highest cumulative total of U.S. utility patents awarded to an HBCU with 32. Justia Patents lists Morgan State with 34 patents overall.



WHAT'S NEXT

FEDERAL TRADEMARK SEARCHING: Get an overview of the fundamental mechanics of using the USPTO's trademark search system, May 10 from 3 to 4 p.m. ET. The free webinar is geared toward new users and anyone interested in conducting basic searches.

Among the topics covered will be why you should search; a basic search strategy; common searches, and finding help. The webinar will end with a question-and-answer session.

For more information, go to TMWebinar@uspto.gov. Register through uspto.gov/events.



PATH TO A PATENT: Parts 5 and 6 of this eight-part recurring virtual series will be May 9 and 16 from 2 to 3:30 p.m. ET.

In Part 5, experts will discuss the parts of the claim, show examples of claim illustrations from issued U.S. patents, and help participants develop a better appreciation of how a patent examiner views a claim. To get the most out of this workshop, you should have an intermediate knowledge of the intellectual property system and of patents specifically. We recommend you complete the previous sessions in the series.

In Part 6, International Patent Legal Administration experts will discuss considerations and options for filing foreign patent applications. The discussion will include an overview of the Patent Cooperation Treaty (PCT) and the use of the Paris Convention for non-PCT countries. Register through uspto.gov/events.

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

JOURNEYS OF INNOVATION

Burgers With ‘The Sun Queen’

Hungarian-born Maria Telkes was an energetic, accessible, determined pioneer for solar energy who was underappreciated **BY AXEL ALFARO-HERNANDEZ**



Known as the “Sun Queen” for her lifelong promotion of solar heating, Maria Telkes was a press-friendly public intellectual who struggled to have her aspirations and work taken seriously by her colleagues and collaborators throughout her career.

Inset: Maria Telkes (left) and architect Eleanor Raymond stand in front of the Dover Sun House. At the time, the house was a unique collaboration between three women—Telkes, Raymond, and philanthropist Amelia Peabody.

With a prism-shaped aluminum box tucked under her arm, 54-year-old scientist Maria Telkes walked across the campus of New York University toward a group of faculty members and students who gathered under the midday sun.

Making her way to the center of the group, she set down the box, slipped on four shiny metal sheets, and popped in some burger patties. Soon, the fat from the burgers began to sizzle, the meaty aroma wafted outward, and surrounding stomachs started to rumble.

Thirty-five minutes later, crispy brown burgers—cooked entirely by the sun—awaited the hungry crowd.

“It will bake, broil, roast, and toast—everything except whistle,” Dr. Telkes joked to a journalist about this latest invention of hers, the solar oven.

At this point in her career, in 1955, Telkes was called “The Sun Queen” for a reason. The public had watched her promote solar energy in TV shows and read about her work in print.

Now, after decades of speaking theoretically about the usefulness of the sun, she enjoyed showing off the tangible benefits of solar energy: cooking food using nothing but the sun.

Telkes’ solar oven was something different from her previous work, but it had drawn her closer than ever to her vision—one of universally accessible and affordable energy—that led her to the United States in the first place.

Born in Hungary, Telkes developed an interest in chemistry as a child. At age 11, a school experiment

she observed led her to set up a “laboratory” inside her parents’ garden-house in Budapest.

Telkes’ at-home experimentation, including one “loud but harmless explosion,” was thankfully tolerated by her amused parents. Her passion for science eventually led her to pursue higher education despite the fact that only 14 percent of university students in Hungary were women.

As a freshman at the University of Budapest, Telkes read a book on alternative energy sources that ignited her lifelong fascination with solar energy and defined her career moving forward.

“The book explained that the usual energy sources have geographical limitations, especially in the less-developed tropical regions, but the sun is directly overhead in the tropics, and you do not have to explore for it,” she recalled later.

She pictured a day when people in developing countries would have access to free energy to satisfy their basic needs, and she wanted to make it a reality.

Telkes obtained a doctoral degree in physical chemistry in 1924 and served as an instructor for a time at the university before immigrating to the United States, then a leader in solar energy research. In 1928, she took a job as a biophysicist at the Cleveland Clinic Foundation, a nonprofit academic medical center founded just seven years prior.

For nearly a decade, Telkes assisted surgeon, scientist, and clinic co-founder Dr. George Washington Crile with projects like using dead organic matter to create synthetic cells that could theoretically help scientists better understand cancer cells.

It was there that she had her first encounters with the media. Initially attracted by the foundation’s research, journalistic focus quickly shifted away from the science to the superficial—an indication of things to come.

For the entire story, see uspto.gov/learning-and-resources/journeys-innovation.

NEWS FLASH

DID YOU KNOW?

There's Help for Intellectual Property Newcomers

Whether a debate over intellectual property (IP) rights in the development of vaccines or news of Bob Dylan selling his music publishing catalogue, the value and impacts of IP have never been more in the public consciousness.

The USPTO has a section at the top of its homepage for IP newcomers that provides links regarding patent and trademark basics, inventor and entrepreneur resources, USPTO locations, and more. Go to uspto.gov.



SHARE WITH IP CHAMPIONS: The USPTO recently launched the Community Outreach Campaign: Intellectual Property Champions. This program connects USPTO employees—trained in providing IP awareness and educational resources to diverse audiences—with high schools and community centers.

USPTO IP Champions educate communities on the importance of IP protections such as patents, trademarks, copyrights, and trade secrets to innovation. They support local educators and are available to discuss important IP concepts, share our free online resources, and empower the next generation of innovators and entrepreneurs.

If you're interested in bringing the expertise of IP Champions to your community, email CommunityOutreachCampaign@USPTO.gov.

To learn more about the IP Champions program and additional educational opportunities for you and your community, go to uspto.gov/initiatives/ci2/ip-champions.

UTILIZE DATA ON DIVERSITY: The Diversity Information Platform (DI Platform), a new effort to advance diversity and inclusion efforts throughout the innovation landscape, provides a no-cost tool for data-driven analyses and a one-stop shop for discussing and sharing best practices.

The unique online platform is free and available to anyone with an internet connection. It offers several novel features that include visual representations of the demographic makeup of U.S. states and industries from 2014 through 2021; a tool for any organization to benchmark its demographic data against its own industry sector (over 100 U.S. industries included); a discussion forum for sharing best practices for increasing participation in the innovation ecosystem; and, for the first time, a set of visualizations that show the demographic makeup of the USPTO workforce by geography and occupation.

The DI Platform is built on public data available from the U.S. Census Bureau, the Equal Employment and Opportunity Commission, and the USPTO. All visualizations and data on the DI Platform are downloadable and usable without restrictions for creating presentations or using the data directly in other applications or software.

For more information, visit uspto.gov/initiatives/equity/ci2 and developer.uspto.gov/diversity-data/home.



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Stand and Kneel for Innovation Celebration



We said hello to Mr. Peanut Farmer, goodbye to Mr. Peanut Butter and Banana Sandwich. Welcomed “Rumours” and the arrest of “Son of Sam.”

Baseball was still the national pastime in 1977—decades before its self-impalement with \$16 beers, \$8 hot dogs, technological obsession and insecure tinkering via a series of arcane rules changes.

Long before these sorry lows came the invention of the high five.

The Los Angeles Dodgers’ Dusty Baker had just hit his 30th home run in an October 2 game, making Major League baseball history as the team’s fourth player to reach that milestone in a season. Reserve outfielder Glenn Burke, near home plate as the next hitter, greeted him.

“His hand was up in the air, and he was arching way back,” Baker once told ESPN. “So I reached up and hit his hand. It seemed like the thing to do.”

When Burke followed with his first major-league home run, the teammates got slap-happy again. Seemed like the thing to do.

Some of the most enduring inventions aren’t products or services. They don’t carry or warrant intellectual property. But they’re still inventions—and whether it’s first to the moon or first to take a Selfie (sorry, Paris and Britney, you have no proof), we like to be the first at something.

When New York Giants wide receiver Homer Jones spiked the ball in the end zone after scoring in a game on October 17, 1965—his first NFL start—that pioneering gesture of questionable sportsmanship also seemed like the thing to do.

His reasons were excitement and saving himself some money.

The NFL had recently instituted a rule whereby any player who threw the ball into the stands would be fined \$50. So Jones fired it into the ground instead.

Just like the Baker-Burke high five, there is no video evidence of Jones’ sports first. But there is enough documented and widely accepted confirmation of these accounts to give them credence.

In 2012, former New York Jets quarterback Tim Tebow trademarked “Tebowing”—an on-field pose in which he goes down on a knee and holds a clenched fist against his forehead while praying. He said the move was not intended for any financial gain, only to ensure the term was used in the right way.

Innovation comes in many forms, doesn’t it?

—Reid

(reid.creager@inventorsdigest.com)

Inventors

DIGEST

EDITOR-IN-CHIEF
REID CREAGER

ART DIRECTOR
CARRIE BOYD

CONTRIBUTORS
ELIZABETH BREEDLOVE
LOUIS CARBONNEAU
JACK LANDER
JEREMY LOSAW
APRIL MITCHELL
GENE QUINN
WILLIAM SEIDEL
EDIE TOLCHIN

GRAPHIC DESIGNER
JORGE ZEGARRA

INVENTORS DIGEST LLC

PUBLISHER
LOUIS FOREMAN

WEBSITE ADMINISTRATOR
ELIZABETH BREEDLOVE

FINANCIAL CONTROLLER
DEBBIE MUENCH

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Ad rates, subscriptions & editorial content:
520 Elliot Street
Charlotte, NC 28202
info@InventorsDigest.com
www.InventorsDigest.com
reid.creager@inventorsdigest.com

CORRESPONDENCE

Inventor Group's Support Of Legislation is Misguided

The US Inventor group has been on a crusade for years to overturn the system they believe unjustly revoked their patents. In some instances, it may have a good case, but I think its current efforts to push through the “RALIA” act or Massie Bill HR 5874 are grossly overreaching and in general not good for the vast majority of independent inventors like myself.

(Editor's note: RALIA stands for the Restoring America's Leadership in Innovation Act, 2021 legislation that reverses several purportedly harmful changes to patent law that arose from Supreme Court rulings and the enactment of the 2011 Leahy-Smith America Invents Act.)

Generally, there is room for some reform, but I think the adage that we should not throw out the baby with the bathwater is appropriate here. For instance, what do the First-to-Invent rule, the 18-month publication rule or multiple Supreme Court rulings on patentable subject matter have to do with what happened with patents being overturned?

When the American Inventors Act (AIA) was fully implemented in 2013, the United States finally got away from the chaotic interference proceedings and joined the rest of the world in assigning inventors the date of filing their application as their exact invention date. We in the United States are fortunate to also have an option of a provisional patent application to give us an inexpensive means to get that date a year earlier than those in other countries.

There is a good reason the rest of the world uses first-to-file. It would be absurd to return to the chaos of the interference proceedings and how big companies would game the system so they could exact more royalty payments (e.g., polypropylene).

US Inventor says it wants to restore the one-year grace period. But from what I have read, it never went away.

I agree that when the validity of a patent is being challenged, the patent holder should have the option of going before the Patent Trial and Appeal Board or into a civil court. I also agree with the provisions in HR 5874 regarding burden of proving invalidity and irreparable harm.

Despite some sensible clauses, the bill in general is greatly flawed.

After being in place for over 10 years now, there undoubtedly are portions of the AIA that many in the business would say need revision. This should be done by involving all stakeholders, US Inventor included, and not just this handful that are unhappy with one part of one portion of the PTAB.

In addition, I am aware of some examples of patents that clearly should never have been granted, and US Inventor is ignoring those.

JOHN AIKEN

President, Pittsburgh Inventors Club

CONTACT US

Letters:

Inventors Digest
520 Elliot Street
Charlotte, NC 28202

Online:

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.

THAT'S A FOUL

This sign was seen at an eye care business during this year's NCAA Basketball Tournament. Because the NCAA has trademarked “March Madness” for decades, using that phrase in connection with an advertising promotion can result in a cease-and-desist letter or worse. “March Gladness” might have worked better—and shown some creativity.



CORRECTION An editing error in the March 2024 Think Marketing column resulted in the name Gerald Udell of the Innovation Institute being changed to Larry Udell.

BRIGHT IDEAS



MIGO Ascender

STAIR-CLIMBING ROBOT VACUUM

pre-launch.migrorobotics.com

Billed as the world's first robot vacuum and mop cleaner with stair-climbing capability, MIGO Ascender features state-of-the-art AI algorithms; a large-capacity battery; and a sleek, fully enclosed, all-in-one dock.

Specifications include 9700Pa suction power and 17N downward mopping pressure (about three times that of a typical vacuum). The device is designed to climb stairs of different heights up to 8.7 inches. It climbs a grade slope of up to 5380 square feet on a single charge.

The bottom brush pivots 90 degrees during lateral movement for picking up larger particles such as coffee beans or pet food.

MIGO Ascender, which retails for \$1,499, is to be shipped to crowdfunding backers in July.

Audien Atom 2

WIRELESS, RECHARGABLE,
MULTIPLE-MODE HEARING AID

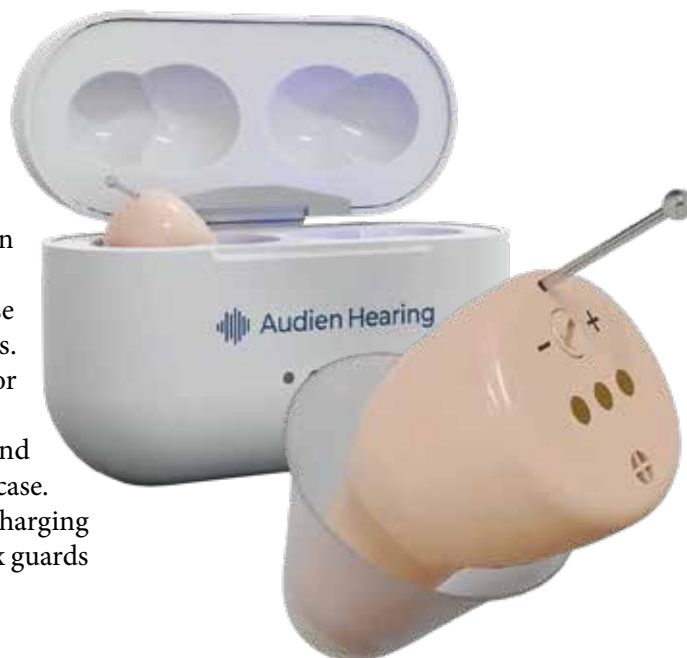
audienhearing.com

One of the company's seven assistive-hearing device models to customers online, Audien Atom 2 upgrades the original Audien Atom with an even smaller size.

Atom 2 offers clear sound and background noise cancellation with four different hearing modes. The device's new, contoured design is intended for comfortable all-day wear.

Atom 2 offers wireless charging capabilities and comes with a 20-hour battery life via the charging case.

Contents in the box include the hearing aid, charging dock, charging cable, wall plug, carrying case, wax guards and ear tips. It retails for \$189.





Tenikile

FLEXIBLE SUCTION MOUNT

gettenikle.io

Inspired by the octopus, Tenikile is an all-in-one, flexible, portable suction mount designed to secure devices to objects and smooth surfaces.

With 360-degree motion and a removable fourth arm attachment, it holds more than 100 times its own weight.

Tenikile allows you to mount your phone, tablet, camera or more without obstructing your camera, sound or ports. No setup is required.

With the Shutterbug remote, you can easily take photos from a distance without stressing about timers or struggling to fit everyone in the frame.

Tenikile retails for \$39.99.

“Television is an invention that permits you to be entertained in your living room by people you wouldn’t have in your home.” —DAVID FROST

Physio

PORTABLE BREATHING AID

funnel.getairphysio.io/offer-01

AirPhysio is a patented device that uses Oscillating Positive Expiratory Pressure (OPEP) to naturally improve breathing.

When you exhale through AirPhysio, gentle pulses of positive pressure are created in the lungs and airways. These pulses expand airways and help loosen excess mucus, so you can clear it out naturally with productive coughing.

OPEP is used by pulmonologists to help people with symptoms from a range of lung conditions, including asthma; atelectasis; bronchiectasis; cystic fibrosis; COPD; chronic bronchitis; flu; common cold, and more.

AirPhysio retails for \$59.99.



The Greatest Thing Since ...

THE FIRST SLICED BREAD MACHINE, NEARING ITS 100TH ANNIVERSARY, IS A TRUE GRIT TRIUMPH **BY REID CREAGER**

Otto Rohwedder had a degree in optics and owned three jewelry stores in St. Joseph, Missouri—the latter pursuit emboldening him with mechanical things.

THAT'S THE SPIRIT, Spirit of the Holidays.org. It was a revelation to stumble upon its webpage that celebrates National Inventors Month, which declares: “If it weren’t for the creativity of inventors through the ages, we would still be traveling on horseback, writing with quills, and heck, tediously cutting a loaf of bread every morning.

“That’s right. Someone came up with the idea of sliced bread, the breakfast staple we all take for granted.”

Although the words “breakfast staple” may not whet the appetite of the literal minded, an examination of the origins of sliced bread is food for thought. As with many inventions, the

first machine that sliced bread was a byproduct of perseverance through major challenges.

Tinkering, then tragedy

In the early years of his professional life, Otto Rohwedder had as much to do with bread as Orville Redenbacher had to do with weightlifting.

The Iowa native graduated from the North Illinois College of Ophthalmology & Otology in Chicago in 1900 with a degree in optics, apprenticed himself to a jeweler, and became the owner of three jewelry stores in St. Joseph, Missouri.

His work with jewelry and watches made him increasingly handy with mechanical things and confident about what he could build—including a machine that could cut a loaf of bread into individual slices. This would be a convenience for consumers, as well as preventing them from risking injury by using knives to cut bread.

Rohwedder sold his businesses and moved back to his hometown of Davenport. By 1912, the 32-year-old was working on prototypes. One of them, according to Lemelson-MIT, held a sliced loaf together with metal pins. It was unsuccessful.

After five years of tinkering, he had design blueprints for a 10-foot-long metal box with a row of sharp blades, pulsating up and down and side to side. It was so formidable that a Monmouth, Illinois, factory agreed to build his device.

Then, a fire at the factory destroyed his blueprints, prototype and equipment.

A FOREVER DISTINCTION

Today, the small town of Chillicothe—population about 10,000—remains proud of its slice of U.S. inventing history.

The main strip of town features a large mural that says, “Home of sliced bread.” The town’s Grand River Historical Society Museum has a bread slicing display where you can see one of Rohwedder’s early machines.

Sliced Bread Day, every July 7, was made official by the Missouri General Assembly in 2018. Attended by thousands, the celebration includes a parade, concerts, a 5K run, golf tournament, and—of course—a bread baking competition.

Chillicothe also bought Bench’s old bakery and converted it into a Welcome Center.

Just look for the giant loaf of sliced bread on the roof.



Fortuitous reconnection

Rohwedder's project went on forced hiatus as he reworked his designs and started over with funding. Another obstacle came in the form of bakers who said the machine would result in bread that would fall apart and quickly go stale once it was sliced.

Ten or 11 years later—around the time the newly patented pop-up toaster was catching fire with the American public—Rohwedder finished an updated version that also wrapped the slices.

Soon, finally, the bread would be rolling in. With the help of an old friend.

According to Suzanne Hogan at KCUR Radio in Kansas City, Missouri, research by former reporter Catherine Strotz Ripley says Rohwedder reconnected with Frank Bench, who operated The Chillicothe (Missouri) Baking Co. Bench decided to buy the machine and quickly advertise it.

The two put an ad in the *Constitution-Tribune* on July 6, 1928: "The greatest forward step in the baking industry since bread was wrapped—a fine loaf sold a better way.

"The idea of sliced bread may be startling to some people. Certainly it represents a definite departure from the usual manner of supplying the consumer with bakers loaves."

The next day, sliced bread from Rohwedder's machine was made available to the world for the first time.

Great Depression-proof?

Rohwedder was having a delightfully hard time keeping up with requests for his machines at his newly formed Mac-Roh Sales and Manufacturing Co., when a different kind of disaster emerged: The Great Depression of 1929.

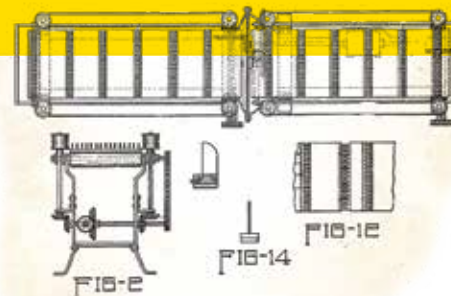
PATENT PATHWAY



U.S. Patent No. 1,867,377A,

Machine for slicing an entire loaf of bread at a single operation, was assigned on July 12, 1932, nearly six years after the application was filed. The description reads in part, unedited:

"Cutting through work characterised by the nature or movement of the cutting member or particular materials not otherwise provided for; Apparatus or machines therefor; Cutting members therefor involving a cutting member which does not travel with the work having an endless band-knife or the like with a plurality of band-knives or the like having adjustable spacing between knives."



With his invention soaring in popularity but not yet fully established as a money maker, he sold the rights to his bread slicing machine to Micro-Westco Co. of Bettendorf, Iowa, which hired Rohwedder to serve as a vice president and sales manager. (He remained in those capacities until his retirement in 1951.)

When Wonder Bread began marketing and promoting sliced bread—using its own equipment—the concept caught on permanently. According to Lemelson-MIT, by 1933 bakeries were selling more sliced bread than unsliced bread.

On January 18, 1943, in an effort to keep prices low during World War II, the U.S. Office of Price Administration banned bakeries from selling pre-sliced bread. The hugely unpopular move was rescinded after less than two months. 🍞

STARTING ITS SECOND QUARTER-CENTURY

National Inventors Month began as a collaboration between the United Inventors Association of the USA, the Academy of Applied Science and *Inventors Digest*. It was first recognized in August 1998 but moved to May in 2011 to coincide with the annual National Inventors Hall of Fame ceremony and better align with the academic calendar.

INVENTOR ARCHIVES: MAY

May 23, 1930: President Herbert Hoover signed the **Plant Patent Act** into law. The act provided intellectual property protection for new varieties of plants but excluded new varieties grown from seeds.

Over 1,000 plant patents are typically approved each year, a fraction of overall patents. But according to a 2023 report by patentexperts.org, the average approval rate for plant patents from 2011 to 2020 was 96.4 percent.



Utility Patent Options, Alternatives

ONCE YOU'VE SEARCHED PRIOR ART, CONSIDER THESE CHOICES FOR GETTING YOUR INVENTION TO MARKET **BY JACK LANDER**

FROM TIME TO TIME, I have written about the early steps for protecting our inventions. However, in re-reading some of that material, I see that I might add a few alternatives to filing for a utility patent.

The patenting process typically begins with a search of prior art—a search of inventions similar to yours to determine if your invention has any potentially novel features not already disclosed in issued patents or existing products. You will establish a confidential relationship with your searcher, who may or may not be a registered patent attorney.

Most patent attorneys delegate the process to a professional searcher. It usually follows that if the search results are promising, you will want to hire the patent attorney who advises you about the probability of getting a patent based on the results of the search.

Although the patent search is often begun by contacting a patent search service on your own, the searcher's opinion may not be as thorough as that of a patent attorney. I prefer to start by contacting the patent attorney first.

Depending on the results from the search, these are your usual next-step options:

- File a regular utility patent application, using a registered patent attorney.
- File a PPA (provisional patent application).
- Produce and market on your own if patenting is not recommended.
- Create a trade secret and attempt to license or sell it as you would a patent.
- Create a unique, “ornamental” design of the product, and prepare and file your own design-patent application. At least you can honestly claim to have a patent, even if it cannot protect your invention's utility claims.

(Although another patent classification exists, that of the plant patent, the above rules do not apply to it. Plant innovations rarely originate with typical inventors.)

Your patent options and alternatives:

1 File a regular utility patent application, using a registered patent attorney. Many of the patent rules are subtle and cause amateurs (including me) to lose a large chunk of the patent's strength and value if we prepare a patent on our own. If you feel strongly that you can master the subtleties of patent writing, practice on an invention that is of little or no value to you.

Practice especially the writing of claims. And don't even begin until you have studied either James Yang's book, “Navigating the Patent System” (\$10.00 on Amazon) or Nolo Publishing's book on writing patents.

I recommend Yang's book because of the details he reveals, and he is not afraid to criticize the system when needed. He is a patent attorney and a self-publisher practicing in Orange County, California.

2 File a provisional patent application. Caution: The PPA is good for only one year. You must follow up by filing a non-provisional (regular) patent application within one year, or you forfeit all future patent protection for the invention involved.

The main advantage of the PPA is that it proves your date of filing on the intellectual property you plan to protect in your ensuing non-provisional patent application.

Now, you may wonder: Why not file your non-provisional first, right?



Many of the patent rules are subtle and cause amateurs (including me) to lose a large chunk of the patent's strength and value if we prepare a patent on our own.

The reason is that time will pass—probably a few months—before you will have your claims written broadly enough for the most licensable value, and you will also have your drawings done. During this time-lag before any form of filing, another inventor may file on the same invention as yours and become the “first to invent,” according to patent law, unless you have filed either your PPA or your non-provisional (regular) application.

So, the PPA buys you time to perfect your claims and drawings, or enables you to get into the market quickly and claim “patent pending.”

3 Produce and market on your own without a patent. Suppose your invention has a very limited market. Let's say that only one-tenth of 1 percent of the U.S. population is your customer base. That's about 330,000 persons.

If you intend to patent your invention and license your patent, you must ask yourself if you will find a licensee who is interested in marketing to this “small” market. If there is a profitable way to reach potential customers, you might think of producing and marketing your

invention on your own without a patent. Invest the \$2,000.00, more or less, of patent expense in entering the market and securing your segment.

However, if you are first to enter the market, you eventually could have competition if a producer of several associated products decides he or she can make a profit by making and selling your invention even though the market is small.

Bad news? Not necessarily.

Such a competitor might popularize this otherwise unknown product, and you still capture a substantial share of sales due to the popularization even though your competitor may sell the lion's share. Competition isn't always bad news.

4 Create a trade secret and attempt to license or sell it as you would a patent.

First, it is very difficult to create a secret ingredient or method of manufacture. I should say that even if you create such a secret, its probable lifetime as a secret is most likely counted in months rather than years.

I believe the time of trade secrets as intellectual property has passed us by.

A chemist can detect an ingredient, and a manufacturing engineer can either determine your manufacturing method or devise one that is as good as your secret method or better.

Second, your potential licensee may resent being asked to pay for an item that lacks the protection and acknowledged standing of a patent.

Third, your potential licensee may consider your secret a challenge to be solved rather than simply agreeing to pay you to reveal your secret.

Finally, a typical royalty rate for a patent is around 5 percent. There is no typical rate for a trade secret, but my gut feeling is that 5 percent or more is fair considering that a trade secret's life is short. Your licensee may be more receptive to the deal if you asked for 10 percent for the first two years before revealing the secret.

5 Create a unique “ornamental” design of the product, and prepare and file your own design-patent application. The design patent has only one claim: the drawings. It is therefore the only kind of patent that an amateur should attempt to prepare and file on his or her own without considerable claims writing experience.

Because of the lack of ordinary claims, only the appearance of the invention is protected. Of course, appearance alone is relatively easy to circumvent. And if we do find an appearance feature that doubles as a function, such function is not protected.

So, consider how a design patent can possibly protect your invention. Chances are that it can't unless your design is uniquely attractive, such as an artistic pattern on dinnerware.

Examine several design patents and see for yourself the kind of items that are protected.



Pick and choose

The five options above are those I have seen inventors use over my many years in this field. And I've used some of them myself.

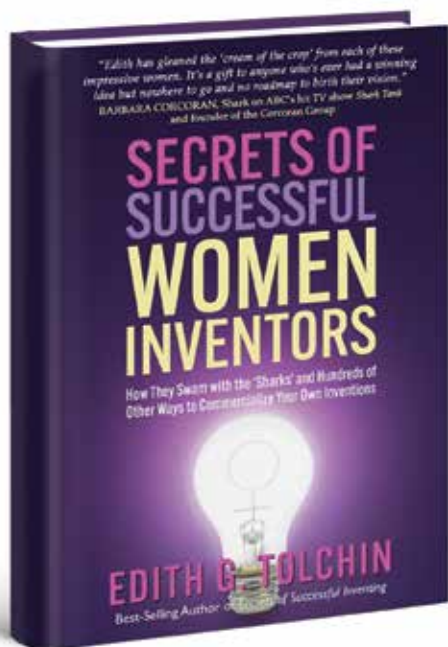
But I don't want to leave you with the idea that these are equally popular and each worth a try. Trust your patent attorney to arrange for your patent search and then advise you as to the wisdom of filing a regular utility patent application, or a PPA followed by a regular (non-provisional) patent.

Patents are expensive. But if someday you discover your invention as a new product for sale in Walmart, you'll regret not acting when the opportunity tempted you. 📦

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



Endorsed by Barbara Corcoran of The Corcoran Group and “Shark Tank”...



“... A gift to anyone who's ever had a winning idea...” Read the compelling stories of 27 esteemed, hard-working women inventors and service providers, (many of whom have appeared on “Shark Tank”). All have navigated through obstacles to reach success and have worked hard to change the stats for women patent holders, currently at only about 13 percent of all patents.

HEAR US ROAR!

Available for purchase at Amazon (<https://tinyurl.com/334ntc3w>), Barnes & Noble, edietolchin.com, and at squareonepublishers.com.



Edith G. Tolchin knows inventors!

Edie has interviewed over 100 inventors for her longtime column in *Inventors Digest* (www.edietolchin.com/portfolio). She has held a prestigious U.S. customs broker license since 2002. She has written five books, including the best-selling *Secrets of Successful Inventing* (2015), and *Fanny on Fire*, a recent finalist in the Foreword Reviews INDIE Book Awards.

Edith G. Tolchin
(photo by Amy Goldstein Photography)

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Get Automated

MARKETING AUTOMATION STREAMLINES CAMPAIGNS TO MAXIMIZE EFFICIENCIES **BY ELIZABETH BREEDLOVE**

MARKETING SOMETIMES inadvertently takes a back seat to the excitement of creating a groundbreaking product. Because many of us have limited time and resources to devote to all aspects of product development, marketing efforts can become sporadic or inconsistent, hindering an invention's potential success.

This is where marketing automation comes into play. It offers inventors a powerful tool to streamline campaigns and maximize efficiency in reaching their target audience.

Explanation and benefits

Marketing automation refers to using technology to automate repetitive marketing tasks. This platform offers a wide range of features and functionalities that include email marketing automation, social media scheduling, lead nurturing, campaign tracking, analytics and more.

Here are some ways inventors can benefit.

Time and resource efficiency: This may be the platform's main benefit. Instead of manually managing multiple marketing channels and campaigns, automation allows inventors to set up predefined workflows that execute tasks automatically. This frees valuable time that can be allocated to other areas of the business.

Personalized communication: Effective marketing is all about delivering the right message to the right audience at the right time. Marketing automation enables inventors to personalize their communication with prospects and customers based on their preferences, behaviors, and interactions with the brand. By delivering relevant content to each individual within their audience, inventors can build stronger relationships and increase engagement, ultimately leading to conversions and sales.

Improved lead nurturing: Generating leads is essential for driving interest and sales for inventions. However, not all leads are ready to make

a purchase immediately. Marketing automation allows inventors to nurture leads over time by delivering targeted content that addresses their specific needs and weak points. By providing valuable information and building trust, inventors can guide leads through the sales funnel and convert them into loyal customers.

Enhanced campaign tracking and analytics: Measuring the effectiveness of marketing campaigns is crucial for optimizing performance and maximizing return on investment. Marketing automation platforms provide inventors with robust tracking and analytics tools that allow them to monitor the success of their campaigns in real-time. From email open rates to website traffic and conversion metrics, inventors can gain valuable insights into customer behavior and preferences, enabling them to make data-driven decisions to improve their marketing strategies and, ultimately, sell more of their inventions.

How to strategize

Knowing the benefits of marketing automation is not enough. Here is how to use them to your advantage:

Define your goals and objectives. Whether you aim to increase brand awareness, generate leads, or drive sales, having a clear roadmap will guide your automation efforts and ensure they align with your overall business objectives.

Identify your target audience. Take the time to research and identify your ideal customers, including their demographics, interests and challenges. This information will help you tailor your messaging and content to resonate with your audience effectively.

Choose the right automation tools. With a plethora of marketing automation tools available, it's important to choose the right one that meets your specific needs and budget. Look for a platform that offers robust features, an intuitive interface,

scalability, and integration capabilities with other tools in your marketing stack.

Create compelling content. This is the cornerstone of any successful marketing campaign. Whether it's blog posts, social media updates, or email newsletters, focus on creating high-quality, relevant content that provides value to your audience. Then, leverage marketing automation to schedule and deliver your content at optimal times to maximize engagement.

Implement lead-nurturing workflows. Develop automated lead-nurturing workflows that guide prospects through the sales funnel with targeted content and interactions. Segment your leads based on their interests and behavior, and tailor your communication accordingly to move them closer to making a purchase decision.

Monitor and analyze performance. Once you have your automated processes in place, regularly monitor the performance of your marketing campaigns using the analytics tools provided by your automation platform. Track key metrics such as open rates, click-through rates, conversion rates, and return on investment to evaluate the effectiveness of your efforts. Use these insights to iterate and optimize your strategies for better results.

Hypothetical example

To illustrate the power of marketing automation for inventors, let's look at a hypothetical case study.

John Smith developed a revolutionary home automation device that simplifies household chores. Excited about his invention, John initially struggled to reach his target audience and generate sales. However, after implementing marketing automation strategies, he saw a significant improvement in his business's performance.

Using marketing automation, John segmented his audience based on their preferences and behaviors. He then personalized his email campaigns and social media posts to address their specific needs and interests. This resulted in higher open-and-click-through rates, as well as increased engagement with his brand.

John set up automated lead-nurturing workflows to guide prospects through the sales funnel. By delivering targeted content and offers at each stage of the buyer's journey, he was able to nurture



Benefits: Email marketing automation, social media scheduling, lead nurturing, campaign tracking, analytics ...

leads effectively and convert them into customers. This led to a steady increase in sales and revenue for his invention.

With the help of marketing automation analytics, John was able to track the performance of his campaigns in real-time. He monitored key metrics such as email open rates, website traffic and conversion rates, allowing him to identify areas for improvement and optimize his marketing strategies accordingly.

By automating repetitive marketing tasks, John was able to save time and resources that he could then invest in other aspects of his business, such as product development and customer support. This enabled him to scale his business more efficiently and focus on driving long-term growth.

This example shows how automation can help inventors transform their marketing efforts and propel their products and services to success in a competitive marketplace. 🚀

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.



Happy to **Make Waves**

MINNEAPOLIS WOMAN TARGETS THINNING HAIR NICHE
WITH VOLUMIZING DIFFUSER HAIRBRUSH **BY EDITH G. TOLCHIN**

HERE'S AN INVENTION to help turn a "bad hair day" into a winning hairstyle. Meet Cherie Monson of Minneapolis, inventor of the CLM Volumizer.

Edith G. Tolchin (EGT): Please tell us about yourself and your background.

Cherie Monson (CM): My late father, who was my inspiration for inventing, was always finding a way to make something he couldn't find or was too expensive to purchase. I graduated with a business degree from the University of Minnesota and spent the next 37 years working in sales and marketing.

Two years after a breast cancer diagnosis in 2020, I decided to retire from my stressful 26-year career as a sales consultant. I wanted to dedicate my time to building my then-two-year-old company selling my patented CLM Volumizer.

EGT: How did the idea come about?

CM: My journey began 15 years ago, when I stopped getting permanent waves to start

coloring my hair. After a few years of trying every hair tool available to re-create my previous wavy hairstyle, I finally discovered a volumizing diffuser hair dryer attachment that could add volume to my thin, straight hair.

I quickly discovered that I could not re-create the look on vacation without bringing my heavy hair dryer and clunky diffuser with me. So, I asked myself, "How can I replicate the results of a diffuser without the hassle?"

After several years of perfecting a travel-friendly volumizing diffuser hairbrush that nobody else invented, I applied for a design patent.

EGT: How many prototypes and test users did it take before you were sure of marketability?

CM: My nephew 3-D-printed my prototypes. It took us about three or four changes to the prototype handle before we found a good option. He printed out 15 for me that I passed out to co-workers, neighbors and other acquaintances. I was very happy that several of the testers were excited about my brush and what it could do for them.

EGT: Is the CLM Volumizer patented?

CM: The CLM Volumizer has two design patents: the original patent for my Volumizing and Diffusing Hairbrush, and a continuation to further protect the design of my brush.

My attorney and I discussed both a utility and a design patent but decided we would have a better opportunity of getting the design patent, since there are so many hair tools that claim to be volumizers and diffusers.

EGT: Is the CLM Volumizer made overseas, or in the USA?

CM: I'm very satisfied with my USA sourcing company, EarMark Sourcing. They connected me with the two manufacturers I'm working with in China (custom logo zippered bag) and South Korea (injection molded brush and

"Travel friendly" is a key feature of the product.



“The CLM Volumizer has two design patents: the original patent for my Volumizing and Diffusing Hairbrush, and a continuation to further protect the design of my brush.”

—CHERIE MONSON

casing). I love that EarMark Sourcing handles all the communication with the manufacturers.

I chose to go overseas, where the minimum order quantity and price per piece were substantially less than domestic manufacturing. I hope to move manufacturing to the USA when my sales increase, so I can manage the higher minimum-order quantities.

EGT: Any plans for additional products?

CM: I am considering a smaller brush that is thinner with the same type of plastic “fingers.” I am also looking at creating a fragile/thinning hair packaging bundle with a hair towel, hair mask or serum, and my brush. This is the three-step process I started using after radiation damage to minimize hair loss.

EGT: Which issues have you had?

CM: I have had three major challenges during my entrepreneur journey.

It took me nine months to find a manufacturer. I originally used Protolabs online to help with the injection mold design, but they were unable to manufacture my casing. I then spoke with a local referral from a friend. They ultimately decided they didn’t want to manufacture a consumer product after all (they only do industrial manufacturing).

After receiving very high quotes from other online manufacturers, I finally asked for help from The Women Inventors Club Facebook group. They recommended EarMark Sourcing, which found me my manufacturers.

I originally tried selling my Volumizing Diffuser Hairbrush on Amazon. After several months of low sales, even while using “Pay Per Click” advertising, I realized my ideal customer might be looking at social media to find their hair styling tools, not Amazon.

I knew very little about social media. So, I hired a market research company to completely relaunch

my product, now called the CLM Volumizer.

After another year of continued low sales, I have decided to pivot my marketing to a smaller niche that focuses on women with fragile or thinning hair. This pivot will align with my brand story and the “Clean Beauty & Wellness” movement I’ve chosen to pursue.

EGT: Many women inventors serve as mentors to each other. Have you had any mentors?

CM: Marcy McKenna and The Women Inventors Club Facebook group have been invaluable mentors for me. I also appreciate my membership with the United Inventors Association. Without these networking groups, I might not be speaking with you today.

EGT: What advice would you give to a prospective inventor?

CM: Before spending your money to patent, design or manufacture your invention, I highly recommend:

Research your product everywhere (Walmart, Amazon, Alibaba, Google, USPTO, etc.).

Create inexpensive prototypes and have anyone you know in your target market test your prototypes. Use their feedback to help with the final design.

Create a research survey using your digital design and distribute it to your target market/ideal customer to validate your product. 📊

Details: clmcreations.com



Edith G. Tolchin has written for *Inventors Digest* since 2000 (edietolchin.com/portfolio). She is the author of several books, including “Secrets of Successful Women Inventors” (<https://a.co/d/fAGlvZJ>) and “Secrets of Successful Inventing” (<https://a.co/d/8dafJd6>).



10 QUESTIONS WITH PATENT ATTORNEY CAROLYN Favorito

LONGTIME *Inventors Digest* contributor, author and inventor resource provider Edith G. Tolchin was referred to Carolyn Favorito, Esq., by Lisa Lane, who Tolchin interviewed for *Inventors Digest* (Rinseroo, April 2022). Tolchin needed a patent attorney to complete the Service Providers section of her book, “Secrets of Successful Women Inventors” (Square One Publishers, 2024), and conducted this separate interview for *ID*.

You can reach Favorito at carolyn@favoritolaw.com or favoritolaw.com.

Please tell us about yourself: education, background, hobbies, etc.

Edie! It’s so wonderful that we kept in touch. These days, I enjoy living in sunny San Clemente, California, after living in several states near the eastern seaboard from Massachusetts to Tennessee.

After receiving a Bachelor of Science in Chemistry with a concentration in Biochemistry from the University of Delaware, I received a Juris Doctor from American University in Washington, D.C. I worked at several large law firms before opening Favorito Law.

Like many chemists, I enjoy cooking (read: eating) and gardening to grow food for said

cooking. I also love traveling and trying new foods as a part of experiencing new cultures. During a recent trip to Southern Africa, I tried kudu, impala, crocodile and kapenta, which tastes like a mouthful of crispy guppies and is on my short list of foods to never eat again.

I went on safari to Botswana’s Okavango Delta, bungee-jumped over the Zambezi River in Victoria Falls, and ate my way through foodie heaven, Cape Town, South Africa.

To keep fit, I enjoy yoga, weight training, and—since my marathon running days are over—brisk beach walks.

What is involved in your practice?

After more than a decade at large law firms, I began Favorito Law in 2011. My primary focus has been patent prosecution and client counseling for startups in the pharmaceutical and life sciences space, and other areas such as medical devices and consumer products. Many startups can benefit from the intellectual property advice that large law firms provide but typically cannot afford the hefty price tag.

In addition to providing sound advice at a more competitive rate, my business model includes acting as part-time, in-house patent counsel for

startups that may not yet have the resources or portfolio size to hire a full-time patent attorney.

With over 25 years of relevant professional experience, I can cost-effectively guide a company's patent strategy to align with their business objectives, which is where I shine.

Why did you choose intellectual property law? When did you determine this would be your area of practice?

After graduating with a chemistry degree and realizing I would be unfulfilled as a bench chemist, I worked as a chemical sales representative. Chemical sales teetered on the cusp between business and science, which I enjoyed.

After a few years, the job required less science and more business, so I began pursuing a more challenging occupation: patent law. In addition to combining business and science, patent law by its very nature provides an endless stream of cutting-edge inventions with a science focus while unavoidably focusing on business and law. Never a dull moment.

Who was your first client?

Coincidentally, Favorito Law's first client was related to one of my first clients at my former firm. My first major project at the former firm related to a venture capital firm's due diligence for funding a target company, Trius Therapeutics.

During the due diligence process, I found an error in the prosecution history and the venture capital firm insisted that I take over the prosecution and fix the problem, which I did. The venture capital firm's representative was later installed as Trius's CEO, and we continued to work together.

Eventually, in addition to patenting its antibiotic (Sivextro®), I shepherded Trius through its initial public offering due diligence. When I started my firm, Trius was eager to follow me and capitalize on my institutional patent knowledge.

At Favorito Law, I continued to guide Trius through major milestones—including a massive international collaboration with Bayer Pharma AG, various SEC filings, and ultimately a high-stakes acquisition.



Have you ever visited the U.S. Patent and Trademark Office in Virginia?

Many times! I continued working in Washington, D.C., for several years after graduating from law school there. Early in my career, I successfully interviewed examiners, often with their supervisors present, to hash out particularly thorny issues in person.

I have also had the opportunity to argue a few patent appeals in front of the Board of Patent Appeals and Interferences (now called the Patent Trial and Appeal Board).

I have participated in focus groups at the USPTO with its personnel and other patent practitioners to make the patent process run more smoothly. Although I moved across the country, I am still in contact with patent examiners with whom I developed relationships early in my career who now have risen to influential positions in the USPTO. I contact them occasionally to suggest improvements to the patenting procedure.

Carolyn Favorito's primary focus is patent prosecution and client counseling for startups in pharmaceutical and life sciences, as well as in medical devices and consumer products. She is involved with USPTO activities that help the patent process run more efficiently.

IP Law is predominantly a male practice. Have you ever encountered any prejudices or subtle discrimination because you are a female IP lawyer?

Early in my career, I chose to pursue patent prosecution instead of patent litigation to establish more control over my schedule, which otherwise could be derailed by unplannable litigation.

Patent prosecution, a mentally intense occupation, affords little billable downtime that might be available to litigators. Thus, it's more difficult to achieve the level of billable hours needed to make partner. Further, raising children while practicing at a large firm makes for an exhausting life that's likewise incongruent with billing sizeable hours.

As making partner is generally a numbers game, only those with the highest billable hours will advance. My daughters were young when I was initially up for partner, and I did not make it.

Would it behoove firms to be more inclusive and make meaningful accommodations for

mothers who have children at inconvenient times for the law firm? Yes. Whether I'd describe the result as overt discrimination is another question. Nonetheless, I have often said that the best thing that happened in my career was not making partner (and starting Favorito Law).

For those starting out, I'd suggest having a Plan B in case you do not make partner or do not want to become a partner. Building relationships with and becoming indispensable to your clients can help you springboard to your next adventure.

In "Secrets of Successful Women Inventors," you contributed your own chapter. What was it about?

I found it fulfilling to provide vital how-to advice to female inventors who may not have resources or mentors to help them protect their intellectual property.

Household inventions, often invented by women, account for about 30 percent of research and development, and unfortunately also account for an unrecognized portion of the gross domestic product. Further, many household inventions can be patented, manufactured and sold relatively quickly in comparison to drugs, which have a long runway from patenting to sales.

Working with consumer products for the Rinseroo® brand has enabled me to work with patents, trademarks, and copyrights on an ongoing and often urgent basis. In the book, I discussed all areas of intellectual property on which these women relied. I hoped to convey that forming a viable business from a good idea is well within reach.

Why should a student in law school choose IP law? Can you recommend any undergraduate classes to help them prepare?

Regarding patent law, most law students who have sufficient technical credits or a scientific degree are usually already eyeing patent law as one of the few career options that combine the two specialties, so it's a pretty soft sell for these law students to convince them to choose patent law. The requirements for the technical background may be found here: [uspto.gov/sites/default/files/documents/OED_GRB.pdf](https://www.uspto.gov/sites/default/files/documents/OED_GRB.pdf)

Favorito (right) was instrumental in helping college friend Lisa Lane (left) secure a patent for her product, Rinseroo. Lane said Favorito "did a patent search, found that it was something that I could possibly patent, and worked on it as if it was her own. She encouraged me and motivated me to make it happen."



However, as a law degree is not necessary to take the patent bar, I recommend sitting for the patent bar exam before graduating from law school, which is what I did. Including admission to the patent bar on your resume could be considered a valuable asset for an attorney position and, if nothing else, shows a commitment to the field.

As a career, I found patent law to be not only interesting but, from a practical standpoint, recession-proof.

Patent law is a niche market spanning science and law. While inventors keep inventing, they need sound patent advice providing job security to patent attorneys. Further, trademarks and copyrights provide value to almost all businesses, and a career choice in these areas of intellectual property law will likewise remain relevant.

What has been your most challenging case?

Well, various situations may present different types of challenges. For example, sometimes a complicated technology makes the case challenging; sometimes threading the patentability needle is the challenge; sometimes the time pressure is challenging; sometimes patent examiners throw in an unexpected challenge, and sometimes budget issues come into play. And I've experienced them all.

On the patentability and time pressure front, the backstory involves Trius, my first client mentioned earlier.

Trius was developing its patented antibiotic. Generally, new antibiotics are needed because microbes become resistant to old antibiotics. When Trius was developing its exit strategy, its scientists discovered that combining a minute, otherwise ineffective amount of Trius's new patented antibiotic with the competitor's old antibiotic would prevent microbes from becoming resistant to the competitor's old antibiotic.

The competitor's antibiotic was coming off patent, so generic companies' sales would soon start diminishing the competitor's market share of roughly \$1 billion in annual worldwide sales. From a business perspective, the competitor did not want to compete with Trius's new combination using mostly the competitor's soon-to-be-off-patent antibiotic.

Potentially this patented combination could achieve sales of \$1 billion—i.e., the amount of the competitor's antibiotic sales alone. So, in addition to the challenge of building patentability arguments into the patent application to rebut any potential examiner rejections regarding combinations, we needed to patent this valuable combination pronto.

We requested an expedited examination, interviewed the examiner and supervisor, and convinced them straight away that this combination was no ordinary, unpatentable combination. The extensive preparation in drafting the patent application paid off as we succeeded in receiving a warp speed allowance in under six months.

Within no time, the competitor offered to acquire Trius for about \$800 million, the largest biotech acquisition that year. I certainly felt the pressure cooker on that one.

“Patent law by its very nature provides an endless stream of cutting-edge inventions with a science focus while unavoidably focusing on business and law. Never a dull moment.”

As a side note, even though I was a mere conduit of their collective genius in getting a patent, the scientists were so ecstatic that in a selfless gesture, they put my name along with theirs on their commemorative patent plaque and presented me with one.

What would you advise a new inventor about seeking IP protection?

Intellectual property may be a company's only significant asset, and it's therefore worth the initial investment.

The company's viability relies on the ability to prevent competitors from infringing patents, trademarks, and/or copyrights. If a competitor can swoop in and take market share for an unpatented invention, competitors will price the product inexpensively to get sales, thereby squeezing the innovator's profit margins and destroying the company. ☺

ALL GOOD

NIKO MOON'S NEW WATER AND CLOTHING BRANDS
REFLECT A HARD-LEARNED WELLNESS MISSION

BY REID CREAGER

“SIDE HUSTLE” is negative-sounding work jargon that often doesn’t work. It actually means a way to earn extra income—an often admirable or necessary pursuit.

The term is even less flattering, or accurate, when describing two new pursuits of country star Niko Moon. Because after just a few minutes of hearing him talk excitedly about both his artisan drinking water and clothing brand, it’s readily apparent these projects are part of a larger mission.

Genial, gracious and grateful, the singer who exploded into fame with his chart-topping 2020 single “Good Time” is not content being a superstar entertainer. His new single, “Better Days,” is a theme for his life—namely, overcoming mental issues and addiction. He’s donating all streaming profits from the song to his Happy Cowboy Foundation.

A hardscrabble backstory with some elements of “The Perfect Country & Western Song” has shaped and refocused Moon toward building a better world for himself, loved ones and strangers.

“At the end of the day, I just love creating things,” he told *Inventors Digest* during a break in his world tour—“whether it be a song or the

Happy Cowboy Foundation that my wife and I started to help people with addictions get therapy who are looking for it but can’t afford it.

“What’s the best kind of water that is good for you? What are the best kinds of clothes that are good for you? The most important thing is to create something positive for the world.”

A breakup, a beginning

Born in Tyler, Texas, to a waitress mother and truck-driving (and drumming) father, he appreciates hard work and simple joys. He once told *People* magazine about his favorite Thanksgiving: His family didn’t own a kitchen table, so his father set up a rotisserie chicken from the store and some canned cranberry sauce on an ironing board.

He is also well versed in anxiety and depression, a lifelong battle he described as a constant low hum in the background.

Moon’s orbit turned and then turned some more after a difficult romantic breakup 15 years ago. Eventually, he was an alcoholic.

Scrambling to emerge from the emotional and physical rubble after getting professional help, he embarked on a determined health and wellness

Happy cowboy: Chart-topping country star Niko Moon and his wife, Anna, set up the Happy Cowboy Foundation to help addicted people get therapy. Now he’s launching innovative brands with a theme of water and clothes that are good for us.



A tireless researcher, Niko Moon learned a lot about which elements should be in our drinking water but generally aren't.

journey. Moon has always educated himself about anything with a potentially positive impact.

He began researching what is in our food and water a few years ago. "I'm wanting to make sure I buy organic food and that I'm eating clean," he said. "Well, how do I drink clean? What's the best kind of water to drink?"

Like many of us, he knew that minerals must be present in quality drinking water to absorb the water. He didn't know that one of those minerals is salt.

"I definitely didn't know about the differences between purified water or spring water or artesian water, or anything like that. I'm the kind of person who, when I find something I'm interested in, I just kind of go down deep, grab ahold of it. I found this subject just really fascinating.

"Water is the most vital thing to our life. I got really interested in what makes good water—the kind we should all be trying to get our hands on and put into our bodies."

Going underground

His research confirmed that our water isn't as clean as many of us think it is, whether municipal or bottled. "A lot of the bottled water out there these days is municipal water, purified and put into a bottle," he said.

Moon's new product is billed as the world's first artesian water infused with pink Himalayan salt. It's called Happy Himalayan.

"When I made that connection about salt and electrolytes in the water to absorb it to hydrate properly, I started looking into 'OK, what are the best minerals out there?' And pink Himalayan salt has the most trace minerals in it of any other salt out there. It has 84 different trace minerals in it.

"It's just chock full of all this natural goodness. It's really, the way I think of it, like nature's best electrolyte. I want the purest water you can possibly get your hands on, and that's artesian water."

Artesian water is basically underground spring water. Moon said the water he will use comes

A hardscrabble backstory with some elements of "The Perfect Country & Western Song" has shaped and refocused Moon toward building a better world for himself, loved ones and strangers.



from 400 feet underground, encased in rock. The water that is drilled out is safe from environmental toxins.

Moon originally wanted to invest in spring water because it has so many minerals. He even spoke with spring water facilities about partnering with them.

Then, he said, one facility learned it has PFAS—per- and polyfluoroalkyl substances commonly known as forever chemicals—in its water. This group of about 15,000 chemicals is widely used in various products and do not naturally break down, causing health and environmental risks.

“These are chemicals that are found in non-stick cooking pans,” Moon said in disbelief. “I was like, ‘How is that possible?’”

The answer was literally just down the road. “Near the spring water facility was a factory that spewed toxic chemicals into the air. When it would rain, those chemicals would come down in the rain and get into the spring water supply. Now this place is having to spend millions of dollars to get all this stuff filtered out of their spring water.

“So, spring water in and of itself is a really great thing, a great source of water. But unfortunately, with it being on the surface, it has that potential to be affected by environmental factors.”

Sparkling the senses

As a singer/songwriter, Moon thrives by making an audience feel the music.

Happy Himalayan is an extension of that sensory experience. It’s not enough for it to meet his goal of being the most pure and healthful drinking water he can find; he wants his drinking water to be part of a better mental health experience as well.

The bottle changes color when the user goes outdoors. “There’s a kind of like a mountain peak on the bottle with sunshine on it, and it goes from white to pink. I did that to encourage people to get outside—you know, Vitamin D is really important to our overall feeling of well-being.

“And when we get outside, we get in nature. We get moving. It’s so easy for us to kind of just get locked in, especially after COVID.”

The label on the bottle is embossed “so when you hold the bottle, there’s a tactile feeling to it. I did that to make it fidget friendly” for a feel of comfort.

Moon is committed to keeping the product as ecofriendly as possible, with a debut in aluminum containers before also using glass and plastic. The raw material cost for a can is about 25 percent to 30 percent more than a PET (polyethylene terephthalate) bottle of similar volume, according to analyst Uday Patel at consultancy Wood Mackenzie.

“It’s this interesting play of wanting to do what’s right, wanting to do the best thing possible, but at the same time wanting to make sure that everyone can have access to it,” Moon said, adding that the Virginia water bottling facility his company will use is the only such solar-powered facility in America.



2 in tune

If Happy Himalayan proves as successful as Moon’s first obsession, he will have the world taking notice all over again.

A high school state track champion runner, he went to Stanford University on a scholarship but left as a freshman. “For the entire time I was there, I was just completely

obsessed with music. It had always been a love of mine throughout my childhood.

"I just couldn't think about anything else. I didn't want to go to class. I just wanted to stay in my room and write songs."

He went back home to where he grew up—Douglasville, Georgia—moved in with a buddy,

"What's the best kind of water that is good for you? What are the best kinds of clothes that are good for you? The most important thing is to create something positive for the world."



did some construction and electrical work, and "would gig around the Atlanta area playing honky-tonks and bars anywhere that would let me play."

Around 2012, he met a fellow singer/songwriter. They felt perfectly in tune. Anna Moon remembers.

"A mutual friend who was a videographer had collaborated with Niko and showed me the video they created. I thought the video was cool, but I was immediately more interested in the guy in it," she said with a laugh.

"After finding out his name, I sent him a friend request on Facebook, and a few days later he messaged me. He invited me out to a show he was playing in town, and once we met, we've been pretty much inseparable ever since!"

Their commonalities range far beyond their profession, both of them intimately acquainted with major personal challenges.

Anna suffered abdominal pain and went to a doctor in 2020. Large fibroids were found in her uterus. She was diagnosed with a condition called hereditary leiomyomatosis and renal cell cancer (HLRCC), which presents a high risk of kidney cancer.

Anna underwent a series of tests to ensure the gene could not be passed along if she wanted to have a family. She has undergone surgeries; her kidneys are monitored every six months.

She prefers to focus on the fact that being proactive keeps her pain largely manageable, and that the couple's 1 ½-year-old daughter, Lily, is the bright and healthy star of the household.

"There's a saying that I love, which is, 'Gratitude is the foundation of joy.' I truly believe that. I think if you can start each day with a grateful heart, you can face anything that comes your way."

Niko feels the same, crediting Anna with helping him uncover a better version of himself.

"She believed in the goodness in me, and the better me that was inside. She's an integral part of everything I do.

LEARN MORE

- NikoMoon.com
- HappyCowboyFoundation.org
- HappyHimalayan.com
- Instagram.com/NikoMoon

“Professionally, she’s my co-writer on the music. She’s the head of my social media. She works with me on the nonprofit, on and on. In fact, in all my businesses I have an amazing team of people as well.”

The couple occasionally reflect on each other in mutual amazement.

“The thing I admire most about Niko is his dedication—not only in his professional life but also with our family. He is one of the most driven people I’ve ever met, and it’s been so inspiring to learn and grow beside him.”

Imagine: Healthy clothes

Moon’s American Palm clothing brand, set to launch July 4, continues the wellness and water theme. He said this vision goes back farther than the drinking water but that they just happen to coincide.

He has always been drawn to what he calls the coastal influence, especially water: “You put me near some water, and I just feel at peace. It doesn’t matter if it’s a beach or lake or river.

“I started wearing Hawaiian shirts at my shows because I like to think of my shows as kind of like a vacation. There’s a feeling of community and positivity. People love the shirts and are always asking, ‘Where can I get mine?’

Moon could easily make a Tommy Bahama-style shirt—he loves the brand—but merely doing something well isn’t enough for him. “I don’t want to just make water or music or anything that doesn’t bring improvement to the table,” he said.

His endless research reveals that clothing, like water, can be toxic.

“A lot of clothing can be plastic. A lot of clothing can have really un-environmentally friendly processes that they go through that end up making you retain a bunch of really unhealthy things that are then on your skin. You sweat and absorb these chemicals into your skin in trace amounts.”

He wants to make clothes that are good for people.

“I know there’s organic cotton and things like I kind of think of as not being bad for you but not really being ‘good’ for you, in the sense of they’re not adding anything. Is there something out there that you could wear that would actually benefit you in some way?”



NIKO MOON

OCCUPATION: Singer/songwriter, entrepreneur, philanthropist

AWARDS/ACCOMPLISHMENTS: 2021 Songwriter of the Year, SESAC Nashville Music Awards; has written eight No. 1 hits and 40-plus major record label cuts for artists including Morgan Wallen, Avicii, Dierks Bentley, Pitbull, Zac Brown Band and Rascal Flatts

BORN: Tyler, Texas

HOME: Nashville

EDUCATION: High school

FAMILY: Wife Anna Moon, daughter Lily Ann, 1 1/2

FAVORITE COUNTRY SONG: “It’s a Great Day to Be Alive,” Travis Tritt

FAVORITE OVERALL SONG: “At Last,” Etta James

FAVORITE BOOK: “The Obstacle Is the Way,” Ryan Holiday

FAVORITE MOVIE: “Braveheart”

FAVORITE QUOTE: “The obstacle is the way.”



Moon said he has found a fabric—details to be revealed later—that is “good for you in a nutritive way via vitamins and minerals.”

In addition to rebranding Hawaiian shirts as Palm shirts, Moon has a long-term vision of American Palm as a made-in-America lifestyle brand that will expand into sunglasses, flip-flops—everything that embodies the coastal/water experience. This includes Palm hats, which will mirror the style of hat that is Moon’s signature look.

While immersed in improving others’ lives, he reminds us of the simple ways to improve our own:

“Taking a moment and embracing the beauty of life, and the gratitude that we’re all even existing—that life is beautiful amongst all of these messages we’re getting that it’s not. That’s something I’m always putting out there.” 🌿

Opposite page: Singer/songwriter Anna Moon, who has faced myriad health challenges, “believed in the goodness in me, and the better me that was inside,” Niko said. She co-writes his songs, established their foundation with him, and directs his social media.

Evolutionary Vs. Revolutionary

IMPROVEMENTS AND MODIFICATIONS TO SUCCESSFUL PRODUCTS ARE SAFER THAN WHAT IS UNPROVEN

BY WILLIAM SEIDEL

EVOLUTIONARY and revolutionary product development define how companies improve existing products, introduce new products and innovate.

Both approaches have their advantages and drawbacks.

Evolutionary products are meaningful improvements and modifications. The common types are adding new features, improving existing products. This creates a steady progression, allowing adjustments to market demands, competition and technological advancements.

The purpose for evolving existing products is to reach new customers or increase benefits for existing customers. The primary benefits are low risk, a safer path for businesses with predictable results. They fit existing product lines, established distribution channels and existing merchandising requirements.

This can mean speed to market, saving enormous time and money. Adding a Wi-Fi function to a phone is a new feature and an improvement.

Product line extensions are new product offerings that sustain the brand and business. They improve something that exists, making it better, more appealing and changing with the times. A line extension could be a different color, size or flavor.

An example is the evolution of Oreo cookies, with over 85 products that include Fudge Covered Oreo, Mint Oreos, Mini Oreos and even Watermelon Oreos.

It is low risk to build line extensions on an existing brand, because ready customers are willing to try a variation of a popular product. It is easier to keep the customers you have and expand

the shelf presence with a name brand than it is to launch a new product with no customers.

It is also much less expensive to improve existing products than to develop new products from scratch. An improvement to an existing product can forecast potential earnings, while a new product has an unknown return.

For evolutionary products, this mitigates much of the financial risk and allows for better budget management.

Extensions and limits

Line extensions usually segment the market—and when done right can capture more customers and increase profits. When done wrong, this can cannibalize your best product.

The purpose of product line extensions is to extend profits, not products.

Most large companies are conservative and protect what they have, which often means nothing new. Nine of 10 corporate product introductions are line extensions.

The leading corporations do not need to take any risks. It is a more secure investment to launch evolutionary products.

But developing evolutionary products has limitations.

Minor improvements can lead to ignoring underlying issues and not seizing new opportunities. Overreliance on existing success may result in complacency, leaving companies vulnerable to disruptive competitors.

Kodak engineer Steve Sasson invented the digital camera in 1975. Kodak R&D acquired over 1,100 digital imaging and processing patents. However, management refused to introduce it

because it would cannibalize its enormous photographic film and processing business.

Kodak owned the technology for the next generation of cameras but shelved it. The iPhone was introduced in 2007; Kodak filed for bankruptcy in 2012. Its digital imagery patents sold for \$525 million in 2013.

Revolution: Excitement with risk

Revolutionary products affect existing industries, create new markets and disrupt the competition. They may replace all or part of an existing industry and make prior products obsolete. They can change the product category, the merchandising, and sometimes even the distribution system and manufacturing.

Digital downloadable music revolutionized the music industry, making CDs, record stores, and conventional music distribution obsolete.

One of the key advantages of revolutionary products is the potential for significant market impact. They can redefine and create new markets, expand revenue opportunities and be first to market, known as First-Mover Advantage.

This allows companies to establish a strong position before competitors enter the space.

Revolutionary products come with inherent risks: the disadvantages of high startup and marketing costs, uncertainty surrounding new products, and a high risk of failure.

Resistance to change is very real. Revolutionary products change things, challenge existing norms and introduce new solutions.

The Segway was revolutionary and innovative, with brilliant engineering from an experienced inventor. It looked great with overinvestment but had massive underperformance.

It was a \$5,000 solution looking for a problem to solve—but there was no demand, with no benefits and substantial price resistance. It was a fatal ending when sold to James Heselden, who died testing an experimental Segway.

Revolutionary does not mean profitable.

Wikipedia replaced all encyclopedias with a free, nonprofit, community-edited online encyclopedia with unlimited size, and instant updates at no cost. Encyclopedia Britannica was the market leader with sales of \$650 million,

It is much less expensive to improve existing products than to develop new products from scratch.



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

www.Inventor-mentor.com

Best wishes, Jack Lander

4,411 contributors and 2,000-plus salespeople—and was obsolete in a few years. Wikipedia now depends on donations to survive.

An evolutionary product can evolve into an industry revolution.

For decades, Procter & Gamble advertised Tide as “new and improved.” In 2010, P&G co-ventured with MonoSol, Inc., to develop a water-soluble film. Tide Pods is a line of concentrated liquid detergent tablets with dissolving film chambers: the detergent released first, the stain fighter second, the fabric brightener third.

Tide Pods make laundry neat and easy. The time-released

dissolvable film turned many steps into one, solved consumer complaints and captured over 60 percent of the market. Tide Pods revolutionized the brand and made competitive laundry products obsolete.

Many companies play it safe

Most inventors I meet believe revolutionary is a benefit. Surprise, surprise!

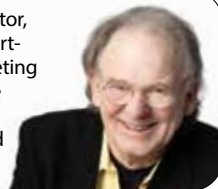
Companies claim they want innovation but usually turn it down. Why? Because it is unproven, the risks and costs are too high, and consumer acceptance is unknown. Instead, they internally develop evolutionary improvements to existing brands.

Companies need to adapt to survive. Their decision depends on financial position, company objectives, market position and many more factors.

For the inventor, the fastest path to market and to revenue is a license agreement for a protected improvement to an existing product.

Licensing an evolutionary product will often meet with quick acceptance because a low-cost, easy-to-implement improvement will have great interest. ☺

William Seidel is an author, educator, entrepreneur, innovator, and a court-approved expert witness on marketing innovation. In his career and as the owner of America Invents, he has developed, licensed, and marketed billions of dollars of products.



Pitching to a New Industry

IS IT WORTH THE TIME? WHAT HAS WORKED BEFORE?
WHAT WILL HAVE TO CHANGE? **BY APRIL MITCHELL**

CONSIDER FOR a moment that you have been inventing and/or designing for some time. You have designed products in the same industry and made connections and built relationships with people within the industry. You feel confident that whenever you have a new product, you can take it to or pitch it to the people you've now known for years.

You may be still adding to your list of potential licensees, but you have a really good base of companies to present your ideas to for licensing.

But what happens when you create a new product for an industry you have not yet invented in or designed in before?

Consider time efficiency

When I create a product for an industry that is new to me, I first evaluate the product. I take the product through my typical research and evaluation to help determine if it's a viable product worth my time.

I look into factors such as demand, market size, manufacturability, cost and trends. I also do an extra layer of evaluation.

Are you more likely to be able to design several new products and pitch them in your current industry in the time it takes for this one?

I have put a couple of projects on the back burner before because of the time and effort it can take to get into a new industry. I did not have the time to start from the ground up with everything else on my plate.

Reflect on successes and act

It's important to reflect on the process of how we got where we are as an inventor and designer.

Think about the connections and relationships you have. Think about where most people in your current industry hang out or where they respond to communication.

Are the companies in the industry on LinkedIn? Is it easy to get responses on LinkedIn when you send messages?

What other social media platforms are companies typically using in the industry? What is the best way to meet or get ahold of companies you are just meeting? Do you have to call them? Do you have to locate emails by doing detective work?

If you choose to move forward with a product in an industry that is new to you, start with what you know.

Try new methods

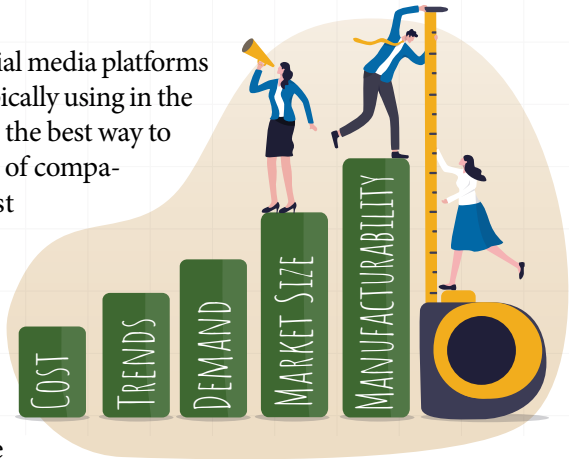
What if what you know and what you are used to isn't working? What if you are finding the industry as a whole doesn't typically answer phones or you can't even find a company profile on LinkedIn?

You'll have to try other methods to get into these new companies.

Not all industries are similar in how they communicate. I am embarking on the same journey and am finding that a company in an industry that is new to me, to which I am pitching a product, doesn't seem to be on LinkedIn.

So I am making phone calls to inquire about outside innovation far more than I have to in my specialty industries of toys/games and housewares.

Stay determined about "getting in" via LinkedIn, phone calls, emails, chat boxes on websites, PMs or DMs on social media accounts. 📞



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



PART 1 OF 2

We Have Liftoff!

IP CONSIDERATIONS AND DETERMINING YOUR STORYTELLING STRATEGY ARE KEY PLANNING STEPS **BY JEREMY LOSAW**

ARE YOU READY TO LAUNCH?

You cannot prototype forever. At some point, you have to launch the product you are working on and share it with the world.

This can be a nervy time for the inventor: the real test of whether the device can stand on its own in the marketplace, and whether people want to buy it. Because the launch has such high consequences, you must take the utmost care in preparation to ensure you have everything right.

From the preparation and making sure you have the right intellectual property protection to choosing the right platform that suits your product, there is a lot to consider.

This is the first of a two-part series that will provide key insights into having the best possible launch for you and your product. This part covers the preparation before considering a launch. Part 2 will focus on the nuts and bolts of how to maximize different launch platforms to generate the most traction in the marketplace.

What is a launch?

A product launch is the first time a product is shown to the world. Typically, the launch is timed when the product is ready to either be sold or pre-sold.

Launch too soon, and you risk your potential buyers being bored or fatigued from hearing and seeing the device by the time the product ships. Launch too late, and you risk a competitive product beating you to market and losing out on first mover advantage in the marketplace.

There are myriad ways to execute a product launch. Four that are common for most physical products: crowdfunding, trade shows, press releases and social media.

No matter which platform or combination of platforms you use, you need a well-thought-out strategy before investing time and money into

the exercise. The two main pillars are protecting innovation and finding your story.

Are you protected?

Above all else, be sure you have some form of intellectual property protection before sharing your product on any platform.

Failure to do so may result in the product and the key features being ripped off or copied by someone else, leaving you with no recourse to force them to stop.

In a perfect world, this will come in the form of a utility patent that covers the important features of the product you have worked so hard to build. However, because it often takes years for a utility patent to fully issue, it is more practical to at least have a provisional patent application in place. This can be done quickly and provides the protection required to share the innovation.

To get the best value for this exercise, patents should be filed with the help of a lawyer or patent agent who can help ensure claims are written robustly and that you receive the maximum amount of protection. This process will cost thousands of dollars, so be prepared with enough cash.

There are certain instances when it is OK to launch without a patent. If your product is more of a craft where the competitive advantage is the hand or technique that produces the product, pursuing a patent may not be worth the effort.

Similarly, if the secret to your product is the software that runs on the device, you may choose to keep the software a trade secret. In this case, you can maintain control of the “secret sauce” and not bother with trying to file a patent.

It never hurts to spend a little money for a consultation with an attorney to determine the best strategy for you, even if you do not feel intellectual property protection is necessary.



4 storytelling genres

No matter how or what platforms you use to launch your product, the launch is about telling the story about your product and your brand.

Humans are emotional creatures and natural storytellers. We resonate more with a well-told story than with facts and figures.

For example, if you are selling a cleaning device, customers may prefer to hear about how your cleaning product will make it easier to keep their home free from viruses and give them time back to spend with their family, rather than hearing about how many square feet of coverage it will clean.

Presentation matters. It is worth investing in the time to have a carefully considered, succinct story.

Different genres of stories include the “origin story,” where there could be an interesting circumstance relating to how the product was born. There is the “finding your why” story, where you may have had some interesting life change that bore the seed for your product.

The “bad experience” story is one where you may have had a negative experience with a product—or a product did not exist to solve your problem—and use that as the crux of your narrative. Finally, there is the “problem-solution” scenario, where you may have recognized an unmet need and found a way to fill that void.

Each product and journey is different, but you will likely be able to spin your product story from one of these four genres.

Try the 3-question exercise

It can be difficult to hone in on your story and have it resonate with consumers. We build products to help other people, but also to make money to support our own needs and desires outside of industry. So it can be difficult to extract the real

No matter which platform or combination of platforms you use, you need a well-thought-out strategy before investing time and money into the launch.

meat of a product story, especially when you have been in the depths of development.

A good technique to drill down to the core of your story is the three-question exercise, where you or someone you know asks you three times to tell you why you came up with your product. This forces you to go deep into the why.

Because we can tend to be guarded when answering questions, our first answers may be unrevealing, such as “I saw an opportunity in the market where I could make a profit.”

This may be truthful, but it is uninspired.

It is only after some repeated questioning that we allow ourselves to reveal our truth, such as: “My sister struggled as a wheelchair-bound child when we were growing up. It killed me that she could not get around the playground as easily as the rest of the family and experience the joy that the rest of us did. That experience has stayed with me my whole life.”

This answer can then be crafted through one of the four storytelling genres from above, from which you craft your product story and pitch for your launch. 📌

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





Patent Transactions Up, But ...

... ACTIVITY IN FINAL QUARTER OF 2023 WAS PROPORTIONALLY SMALL, GIVEN THE SIZE OF THE ASSETS CLASS **BY LOUIS CARBONNEAU**

EACH QUARTER, defensive aggregator Allied Security Trust, which represents roughly 50 large operating companies, issues a report summarizing patent transaction activities and trends. Here is the “Reader’s Digest version.”

(Full disclosure: Tangible IP has been retained by AST for the past three years to assist it in divesting patents acquired through its IP3 program.)

AST analyzed more than 27,997 United States Patent and Trademark Office assignments involving 84,343 U.S. assets with 810 sale assignments, recorded from October 1, 2023, to December 31, 2023. In the final quarter of 2023, the USPTO recorded 467 patent transactions involving 1,900 assets, with 460 sellers and 439 buyers participating.

Despite the significant economic challenges and geopolitical tensions throughout 2023, the year concluded on a positive note with an increase in patent transactions. This upturn in activity within the patent secondary market coincided with a growing interest among companies to invest in research and development, particularly in the technology sector.

Three key trends revealed:

- 17 percent of transacted assets were bought by non-practicing entities or NPEs (people or businesses owning a patent but with no intention of developing it).
- 33 percent of NPE buyers are first-time buyers.
- 20 percent of assets were related to the

UPC AFTER 9 MONTHS

YES! I have commented often on how the recently opened Unified Patent Court is becoming a game changer in terms of where patent holders will assert their cases against infringers. But it also redefines how innovators need to think strategically about where they file patents going forward.

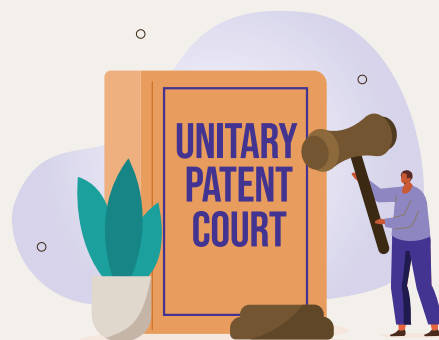
The law firm Allen & Overy recently published a very useful article summarizing the main aspects of UPC activity after 9 months, which is worth reading.

I quote: “It is also clear after nine months of operation that, despite

some initial skepticism (no doubt caused by the decade of planning and ‘false starts’ in relation to the UPC), the Court has been enthusiastically welcomed and widely adopted by litigants. This is reflected in the statistics—as of February 2024, the court has seen more than 210 cases filed, including more than 80 infringement actions and 25 independent revocation actions.

“It is also noticeable that emergency relief has been widely applied for, with more than 20 applications in seven months.

Furthermore, more than 100 decisions have already been issued, a clear signal that the Court is working and working quickly.”



Semiconductor segment, protecting the invention of new computer memory chips. This data tell(s) us two things.

First, while the patent market is not dead (yeah!), it is still embryonic when you consider the size of the assets class (well over 100 million patents in circulation).

Any market where such a small percentage of assets each year change hands with such a large inventory means there is a serious issue with the asset class itself, for there is no shortage of sellers. For this we have to thank mostly Big Tech, which has lobbied extensively for years to water down patent rights.

Second, the above numbers are quite at the opposite end of what brokers see in general: i.e., most sales being made to NPEs. This means that direct sales tend to be primarily between operating companies, while brokered sales cater more to the NPE buyers' pool. 📦

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



TIMES BITES APPLE

I commented extensively a couple of months ago on how Apple has pushed predatory patent infringement to an art. We saw to what level it used every play in the book to get away from an unfavorable International Trade Commission decision in the Massimo case.

The *New York Times*—not one to spend too much attention on IP matters—recently wrote an article displaying how aggressively Apple is lobbying politicians of all azimuths (during an election year to boot) in order to undo some of the damages and force the ITC to rewrite some of its rules.

After all, this approach worked with the Patent Trial and Appeal Board and the U.S. courts, and Apple is working with the European Union officials on standard-essential patent rules. So why not?

If there is anyone left with illusions that money alone doesn't drive these important policy decisions, I have a bridge in Baltimore to sell you.



HUAWEI UNDAUNTED

Although Chinese communications equipment giant Huawei has not been allowed to sell products in the United States and a few other countries since November 2022 due to national security concerns, it has become very adept at leveraging its vast IP portfolio around the world.

Yet again it demonstrated its prowess when the company entered into two consecutive IP licensing deals with Amazon and Vivo, respectively, on the heels of similar deals with Xiaomi and Oppo. Huawei has now become one of the most active—and successful—patent licensors worldwide, joining the likes of Nokia and Ericsson.



POTENTIAL IMPACT ON PATENT CASE VENUES

Those who have followed the tribulations of Judge Alan Albright in the Western District of Texas are familiar with the tactic of “random assignment,” which ensures one specific judge who sits alone in a division is not guaranteed to hear a given case.

This happened recently in a case—not related to IP at all—that was highly publicized and led the Judicial Conference in the United States to announce that in certain types of cases, judge assignments would be done randomly going forward.

It will be interesting to see how this new rule affects judge assignments in other districts that have seen a high concentration of patent cases filed. In the Western District of Texas, the random assignment initiated in 2022 resulted in Judge Albright's share of cases dwindling from 23.4 percent of all patent cases nationally to 6.6 percent in 2023.



You Have an Idea. Now What?

HOW BEGINNERS CAN DETERMINE WHETHER THEY HAVE SOMETHING VIABLE, AND WHAT TO DO NEXT **BY GENE QUINN**

I AM FREQUENTLY asked a version of the same question by inventors, many of whom are not sure whether they have an invention yet:

“I have an idea, but I am unable to turn it into anything myself. I am going to need some help. What should I do to make sure I am protected?”

Of course, every invention starts with an idea. This truth can make it difficult for inventors to appreciate when they have crossed over the idea/invention boundary, from merely having an unprotectable idea to having an invention that could be protected.

Thus, this question begs the essential inquiry: At what point does an idea take enough form to be considered an invention that can be protected?

Many times, there is an invention that could be defined and protected well before one might suspect. I find that to be the case particularly with sophisticated inventors who frequently, and mistakenly, believe that if they came up with it that it couldn't possibly be an invention.

Conception = invention

It is correct to say that ideas cannot be patented. It is equally correct to say that you have to start somewhere, and at the beginning every inventor will have nothing more than a mere idea.

Patent laws in the United States differentiate between a mere idea and a conception. When you have a conception, you have an invention.

The easiest way to define the term “conception” in lay terms is an idea plus some knowledge regarding how to bring the idea into being—whether your idea is a compound, a product, a process or unique software.

The actual bringing of the invention into being is reducing the invention to practice, which concludes the invention process.

Patent law recognizes two types of reduction to practice. The first is an actual reduction to practice, which is when you actually build the invention or carry out the process. The second is a constructive reduction to practice, when you adequately describe the invention in a patent application.

Many inventors, or would-be inventors, get caught up somewhere between idea and conception. Still others get caught up after a conception, but without the ability to move forward to either an actual reduction to practice or a constructive reduction.

Crossing that line

So, how do you decide whether you have a mere idea or a conception that is on the road to a full-blown invention?

That is a difficult question to answer. However, if you can sketch the invention on paper (in the case of a device) or list the steps (in the case of a process), you likely have something that is tending toward the invention side of the idea-invention continuum.

This is because in order to file a patent application, you do not have to have ever made the invention or used it. You just need to be able to explain to others how to make and use the invention.

Proofs on paper associated with written text explaining the particulars is enough to satisfy the patentability requirements in the United States. So, in many—if not most—cases, inventors have an invention capable of obtaining protection far earlier than they likely expect.

Still, creating a prototype is worthwhile. You learn so much from trying to make even a crude one that you should endeavor to do this to prove the concept.



A conception is an idea plus some knowledge regarding how to bring the idea into being.

We are starting to get ahead of ourselves, though. Because in most situations, those asking “What do I do?” are not capable of providing detailed sketches of the invention, engineering drawings or modeling the invention in 3D on a computer—all of which are relatively inexpensive but critical first steps.

So, what you need to do is define the invention you have to the greatest extent possible and file a provisional patent application.

Whatever you define in that PPA will be the foundation of the overall invention for which you ultimately file a patent application. It will also cast in stone what you have come up with, and that you are the undisputed inventor, before you seek help from others.

Search, and search again

I recommend a patent search before filing a PPA, because it is a waste of time to engage in a project if there is no chance at obtaining a patent—and even if there is a likelihood of getting it, not knowing what to focus on as the most likely unique aspect of the invention means you are describing the invention in a vacuum. Nothing good can come of that.

Start by doing your own patent search. If it looks good, move on to a professional patent

search. (For more on doing your own search, see my column “Patent Searching 101” at IDWatchdog.com.)

As you search, you will start to see things that are similar. Read the patents, and you will start to see how others have described their inventions. This will help you focus on the unique aspects of what you have come up with, which is how you will identify the patentable features.

It will also likely be a surprise to many that patent applications and issued patents are generalized discussions of the big-ticket aspects of the invention—with a focus on aspects that render the invention worthy of a patent (i.e., those things that are unique).

In fact, engineering drawings are almost never used in a nonprovisional patent application, although they will be required if you are ever going to build the invention. It’s not that engineering drawings are bad—if you want very specific drawings, that is fine—but you also need to also have generalized drawings that do not include sizes, etc., that you normally see in engineering drawings.

Having specific versions of the invention is fine. But if that is all you have, your patent will be far more narrow than necessary in virtually all cases.

The best PPA strategy

Once you have done a patent search, start describing what about your idea is unique—and why.

If you can do this and sketch what you have, you have something that is ready for a provisional patent application. Once you have that PPA filed, you have 12 months within which to file a nonprovisional patent application claiming the benefit of that provisional filing date.

An effective use of PPAs—particularly when you are going to need help from others—is to secure that first filing date relative to whatever you can explain yourself, and seek help. Then, as you make

progress and the full glory of the invention takes further shape, file another provisional patent application.

You can file as many provisional patent applications as you want over those 12 months. Then, within 12 months of the first filed PPA, you file a nonprovisional patent application wrapping together all the provisionals you filed and adding whatever else new you have since the last PPA.

Filing a provisional application as close in time to conception is very important.

It is also important to know that when you file a nonprovisional patent application, you have no additional ability to make additions without filing another nonprovisional patent application. So, filing one during development is frequently not the right choice. ☞

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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IoT Corner

Tech giant Samsung recently announced that two of its product lines are the first IoT devices to earn the coveted UL Diamond certification for IoT security.

The Bespoke Jet Bot Combo vacuum and Family Hub refrigerators passed the rigorous standard that tests connected devices for their ability to prevent malicious software and access by bad actors, and anonymization of user data.

UL rates IoT devices on a five-segment, bronze-to-diamond scorecard to encourage device manufacturers to increase the security of their IoT devices —*Jeremy Losaw*

Wunderkinds

Vyshal Sreenivas and **Ira Shroff** from Chandler, Arizona, were recent winners for App of the Season at the Student Ideas for a Better America contest, sponsored by the National Museum of Education.



They invented the Smart Medicine Dispensing System—a cost-efficient, tamper-resistant, sustainable, programmable device that helps prevent overdose and medication non-adherence by dispensing a patient's medications at controlled times, guiding each patient through the correct treatment.



What IS That?

Well, the product packaging sort of tells you what it is, and sort of doesn't. Sweet or dill? It's dill. Pickle solved.

Get Busy!

October 27 is the deadline for registrations and virtual submissions at the 19th annual Young Inventor Challenge, part of the Chicago Toy & Game Week in November. It's for youths ages 6-18. Details: ahren@peopleofplay.com

WHAT DO YOU KNOW?

1 True or false: The term "intellectual property" first appeared in the 1700s.

2 Which NASACR driver was the inventor on at least nine U.S. patents?

- A)** Smokey Yunick **B)** A.J. Foyt
C) Mario Andretti **D)** Dale Earnhardt

3 True or false: American-based businesses only need a U.S. patent for worldwide patent protection.

4 Which famous design patent came first—the original Coca-Cola bottle, or the Statue of Liberty?

5 Per a survey by the American Intellectual Property Law Association, black IP attorneys make up what percentage of all IP attorneys?

- A)** 1.7 percent **B)** 6 percent
C) 10 percent **D)** 13 percent



ANSWERS: 1. False. It first appeared in the 1800s, though not accepted into international legal systems until the 1900s. 2. A. One was a Movable Race Track Crash Barrier. 3. False. You must file for a patent with every foreign government where you plan to operate. 4. Coke bottle, 1915; Statue of Liberty, 1879. 5. A.

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