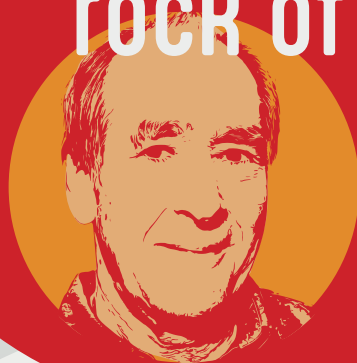


Inventors

DIGEST

SATISFACTION

How
John Pasche's
iconic logo became a
rock of IP



Original logo design by John Pasche. © Musicor BV

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Journeys of Innovation

We tell the stories of inventors and entrepreneurs

Through engaging interviews, in-depth research, and stunning visuals, the United States Patent and Trademark Office's (USPTO) monthly Journeys of Innovation series tells the stories of inventors and entrepreneurs who have made a positive difference in the world. The USPTO features innovators of diverse ages, backgrounds, and fields of expertise.

These stories, which often share an inventor's or entrepreneur's journey from their own perspective, seek to inspire the next generation of innovators.

Read this month's story and past editions at www.uspto.gov.



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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

The Search for Lost X-patents

Learn how you can help recover records of early American innovation



Patents from the National Archives show, from left, James Johnson's "Fire Ladder" (No. 6490-X) and Eli Whitney's Cotton Gin (No. 72-X).

IN DECEMBER 1836, a catastrophic fire at the United States Patent Office destroyed records of American innovation kept since the earliest days of the Republic. We call patents from this era (1790-1836) "X-patents" —not because they're shrouded in mystery (although they are), but because they predate the numbering system now in use.

Adam Bisno, the USPTO's official historian, writes that the X-patents had been registered according to the name of the inventor and date of issue. Only after the 1836 fire, as the Patent Office was reconstructing its collection, did examiners begin numbering the early grants retroactively.

To distinguish them from contemporary patents, numbered from 1 (issued in July 1836) to 11 million (issued in May 2021) and counting, the letter X was affixed.

Eli Whitney's patent for the cotton gin, for example, issued in 1794, became 72X. This was distinct from U.S. Patent No. 72, issued in October 1836 to Silas Lamson for an improvement in the construction of scythes. We now refer to all patents from before U.S. Patent No. 1 (issued July 13, 1836) as X-patents.

The fire of 1836 destroyed the specifications and scale models for nearly 10,000 X-patents. The only remaining records were kept by the inventors themselves, in the form of "letters

patent," handwritten precursors to today's typed and digitized patent grants.

Standing amid the ashes, Commissioner of Patents Henry L. Ellsworth faced an impossible situation. With the transition to a rigorous examination system, enacted just five months prior to the fire, the Patent Office now relied on the records of past inventions to determine the patentability of future inventions.

To keep functioning—to survive—the Patent Office needed those records, and fast.

The solution became the Patent Office's first attempt at crowdsourcing its own history. Within a few months, Congress and Commissioner Ellsworth put out a call to patentees for information about their inventions. Based on the mailed-in responses, some 2,800 patents could be reconstructed. But the rest—more than 7,000—were never recovered.

Chronically overtasked, patent examiners of the later 19th century had little time to look for the Patent Office's missing documents.

In the 20th century, the fire of 1836 and the lost records became a dim, distant memory to all but a few patent history enthusiasts. These volunteers—archivists, librarians, historians, patent examiners, and interested members of the public—have found hundreds of X-patents, and the USPTO has been adding the scans to its Patent Full-Text and Image Database (PatFT) for several years. The work continues to this day, with X-patents now available on the USPTO's Patent Public Search site, too.

Surviving X-patents are scattered far and wide. Some are at grand repositories like the National Archives and the Smithsonian Institution. Others are at state and local archives, buried amid the papers of inventors, their businesses, or their families.

If you happen upon one that isn't already in the USPTO's Patent Public Search, please notify the USPTO Historian (historian@uspto.gov), and we'll add it to the database.

TRADING CARD

NO. 16 Juliette Gordon Low

THE YEAR WAS 1912. There was urgency in the caller's voice.

The sinking of the RMS Titanic was only 33 days ahead when Juliette Gordon Low called her cousin, Nina Pape, with a historic proclamation of her own.

"Come right over. I've got something for the girls of Savannah, and all America, and all the world, and we're going to start it tonight."

Low had just returned from a vacation to Great Britain, where she met Boy Scouts founder Lord Robert Baden-Powell. She decided she was going to form the first Girl Scouts organization.

It wasn't an uncharacteristic statement for the irrepressible Savannah, Georgia, native, affectionally called "Crazy Daisy" by her brother. She saw possibilities that others could not.

Born on Oct. 31, 1860, to a wealthy family, she was kind-hearted, ambitious and sometimes innocently chaotic. She attended a series of boarding schools that were ill-suited for her more adventurous preferences, including exploring, woodworking and metalworking, and riding her horse named Fire.

She moved to New York City as a young adult to study painting and eventually married wealthy cotton merchant William Mackay Low at 26. During the ceremony—true to her penchant for improbable outcomes—a grain of rice thrown by a well-wisher became lodged in Low's ear. She was partially deaf the rest of her life.

Low would not be stopped. She was devoted to charity work and helping others, especially females. She foresaw a time when women would be voting and pursuing professions and activities previously reserved for men: carpentry, science, engineering, sports, politics, and more.

Establishing the Girl Scouts was a big part of this. She was actively involved with the Girl Guides before setting up the Girl Scouts national headquarters in Washington, D.C., in 1913. Not surprisingly, the first troop of 18 girls she formed in Savannah was ethnically and culturally diverse.

She got a design patent for the organization's trefoil badge in 1914—a three-leaved clover design adapted from the Boy Scouts' similar badge to symbolize equality. The symbol was later registered as a federal trademark and has been a symbol used by Girl Scouts USA to identify its members for over 110 years.

Low's outgoing personality, contacts and persistence lent themselves to great marketing and branding outreach. There were more than 90,000 active Girl Scouts in the United States by 1925. She stepped down as national president of the Girl Scouts in 1920 to devote more time to promoting Guiding and Scouting internationally.

She died of breast cancer at age 66 in 1927 and was buried in her Girl Scout uniform in Savannah with this note in her pocket: "You are not only the first Girl Scout, but the best Girl Scout of them all."

The United States issued a postage stamp honoring Low in 1948. In 1965, the Juliette Gordon Low Birthplace became Savannah's first Registered National Historic Landmark. She posthumously received the U.S Medal of Freedom in 2012.

Today, the Juliette Low World Friendship Fund facilitates international projects for Girl Scouts and Girl Guides around the world.

For more on Low's life, see the story "A patent for girls' empowerment" at bit.ly/GordonLow.

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



Winning With the PTAB

A 5-point strategy for arguments to protect your invention

SOME OF the best advice for a lawyer when presenting a case during oral arguments is to keep it simple: Make it easy for the judges to decide in your favor.

Judges at the USPTO's Patent Trial and Appeal Board (PTAB) sit in three-judge panels and decide every case based on the applicable law and specific facts in the record. They need to explain their reasoning in a written decision, stating why the prevailing party won the case.

Help judges decide in your favor by giving them all the information they need to fully support and prepare their written decision. A hearing is your opportunity to address crucial issues and effectively explain your position to the PTAB judges on the panel.

By following these tips for making effective arguments before the PTAB, you will set yourself up for the greatest chance of winning your case.

Know your audience. PTAB judges are experienced patent lawyers with a minimum of a Bachelor's degree in science or engineering. They know the law, understand the technology, and are prepared.

In addition, the panel knows the arguments from reading the briefs submitted. Rather than

spending time on a long summary of the invention to start your hearing, focus immediately on your arguments, including the specific reasons your client should prevail.

Use a roadmap. You should begin your oral argument with a roadmap that outlines the dispositive issues and highlights the strongest arguments you will address. A roadmap helps orientate the panel and structure how you will use your oral argument time.

Focus on facts. Focus on applying the law to the facts in the record during your oral argument, rather than reiterating legal standards or addressing the procedural history.

Nearly all patentability issues are resolved based on the facts of your case; very few require an extension or new interpretation of the law. You are limited to the facts in the record, however, and the judges will not entertain arguments or evidence presented for the first time during the hearing.

Use demonstratives. Consider using demonstratives, which often are slide presentations, to help in making your oral argument. These are useful tools to highlight the evidence and clarify misunderstandings. Be careful to not make demonstratives too elaborate, which may impede more than help during a hearing.

Answer judges' questions. You should anticipate questions from the panel. The hearing is an opportunity for the judges to clarify issues they find crucial to their decision.

Accordingly, you should be familiar with the entire record and address questions raised by the panel directly. After answering a question directly, explain why an issue favors, or at least is not harmful to, your client's position.



For additional information, please see the PTAB Hearings Guide at [uspto.gov/sites/default/files/documents/PTAB_hearings_guide_101520.pdf](https://www.uspto.gov/sites/default/files/documents/PTAB_hearings_guide_101520.pdf) for more detailed information about hearings—including courtroom decorum, use of demonstratives, hearing facilities, and the current hearings schedule.

NEWS FLASH

EQUIP HQ IS HERE: Equip HQ is a new, web-based portal with free educational resources designed for K-12 educators and learners that expand student learning, creativity and innovation through STEM-based lesson plans. The portal features teacher- and student-tested lessons, interactive and fun activities, and videos of young inventors designed to inspire and reveal the inventor within every student. Students are introduced to the world of patents, trademarks, copyrights and trade secrets and learn how intellectual property plays a vital role in turning ideas into real-world solutions. Sign up for free at equiphq.org.

SEEKING PUBLIC INPUT: The USPTO is taking a multi-pronged approach to imparting more clarity and certainty into patent eligibility. Existing USPTO patent subject matter eligibility guidance, enacted in 2019, has contributed to more consistent examination. But more work is to be done.

Given the overwhelming interest in the guidance, the USPTO has published a Federal Register Notice updating the means by which the public can provide feedback. The USPTO will now accept feedback via the Federal eRulemaking Portal until October 15, 2022. Any previous feedback provided through the uspto.gov mailbox (which is no longer active) will be given equal consideration.

NEW DEIA ADVISOR: Caren Ulrich Stacy was appointed the lead advisor of the USPTO's focused efforts toward diversity, equity, inclusion, and accessibility (DEIA) throughout the agency. Ms. Ulrich Stacy is a talent expert with 30 years' experience whose most recent accomplishments include founding Diversity Lab—an incubator for innovative, science-driven solutions that increase inclusivity and equal access to opportunities in law and beyond.

The appointment was announced by Under Secretary of Commerce for Intellectual Property and USPTO Director Kathi Vidal.



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WHAT'S NEXT

HISPANIC INNOVATION AND ENTREPRENEURSHIP PROGRAM:

Learn about free, valuable resources available to inventors and entrepreneurs. Also hear stories from successful innovators at this virtual event, October 12, 1-4 p.m. ET.

For more information, visit uspto.gov/HispanicInnovation.

Learn about intellectual property, innovation, and resources available to independent inventors, small businesses, entrepreneurs, and underrepresented or underserved populations at the USPTO "Innovator events for everyone" webpage: uspto.gov/innovationforall.



LEARN THE FUNDAMENTALS OF THE PATENT APPLICATION PROCESS:

If you are a first-time patent application filer or new to the Patent Center and are unsure where to start, attend this free, virtual, three-day workshop. Dates are October 12-14, 9 a.m.-4 p.m. ET. The Stakeholder Application Readiness Training (StART) is for independent inventors, entrepreneurs, and anyone working for or with a small business who want to file patent applications without the help of a registered patent agent or attorney.

Register at uspto.gov/events. For more information, email setd@uspto.gov.

BLOCKCHAIN & IP: USC 101 PATENT ELIGIBILITY IN BLOCKCHAIN:

Join USPTO professionals as they discuss the nuances of this topic and highlight examples that best reflect the ongoing discussion of patent eligibility within the blockchain inventive space. The virtual event will be October 18, 4-5 p.m. ET.

U.S. Patent Code Section 101 has been clarified in the past few years regarding patent eligibility as inventions in the digital space because they do not always produce tangible results.

Register at uspto.gov/events. For more information, email EasternRegionalOutreachOffice@uspto.gov.

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

Perfect: Stones Are No. 1, and Nike Isn't



When I met with *Inventors Digest* publisher Louis Foreman and shared my excitement about this month's cover story—John Pasche's iconic "tongue logo" design—he responded like the successful businessman he is.

"How much was he paid for it?"

When I told him £50, he told me that the designer of the Nike swoosh, Carolyn Davidson, was paid \$35 for her creation in 1971.

The Hot Lips and swoosh logos are a study in comparison and contrast. As our story reveals, a 2018 OnePoll survey reported that the Rolling Stones logo was voted the most iconic T-shirt design of all time. The Nike logo/Just Do It was fourth.

Hot Lips and swoosh reveal contrasting approaches in the psychology of branding. Nike, for example, sells T-shirts with slogans such as IS THAT ALL YOU GOT? and MORE MONEY.

This is brash and edgy, in the same way as the Stones' defiant logo. But it's certainly not as nuanced.

The Hot Lips logo is never accompanied by any words unless it's the announcement of a tour. Meanwhile, the trash talking on the Nike shirts, it can be argued, either 1) exudes attitude that relates well to its primary age 18-40 demographic; or 2) is tacky, promotes a negative message, and tries too hard.

I vote 2).

I felt the same way about this kind of marketing when I was 20.

The Stones' branding is classic in its simplicity. There is implicit security in the notion that its logo needs no words.

Nike's message is the equivalent of the football player who sacks the quarterback when his team is trailing by 20 points but still gyrates and shakes his fingers in the QB's face before he gets up.

The Stones' message is the equivalent of Barry Sanders scoring a touchdown and then handing the ball to the referee, true to his confident belief that "You should act like you've been there before."

There is no right way to brand or market, of course. So many factors come into play, including the targeted demographic and the business philosophy of the people who run the company.

The most successful inventors are also great marketers. Savvy inventors know that maximizing their success entails much more than a valuable product or service.

They know that at some point, they are going to have to show the public who they are.

—Reid
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Inventors

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CORRESPONDENCE

Just went through the September issue. Between the stories, advertisers and valuable info it, the magazine has truly achieved success. It is in the same class as *Forbes*, *Fortune* and *INC*.

Maybe you can get a corporate sponsor to pay for an issue every month going to all the libraries in America, or federal labs and universities.

Keep up the great work!

—LAWRENCE J. UDELL



Lawrence J. Udell, CLP
Founder/chair-emeritus
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Via inventorsdigest.com, comment below the Leave a Reply notation at the bottom of stories. Or, send emails or other inquiries to info@inventorsdigest.com.

Thanks, Larry! We are humbled by the recent additions of high-profile organizations that are partnering with us. Anyone interested can contact us at info@inventorsdigest.com. —Editor

REMEMBERING THE 'SCRUNCHIE' INVENTOR



She was newly divorced in 1986. Didn't have a job. Her longtime career as a singer in New York City nightclubs wasn't going anywhere. She remembered being so stressed that her hair was thinning, and she wanted an easy way to tie it back.

Then, **Rommy Hunt Revson** found her answer—on her pajama pants.

The eventual result was the Scrunchie, the now-ubiquitous ruffled hair tie that made the former wife of Revlon cosmetics heir John Revson

rich all over again. Her story was retold all over the world after she died on September 7 at 78.

Ms. Revson figured the fabric and elastic waistband from pajama pants would be a good model for a hair accessory. So she covered a rubber band in fabric and used it to hold her hair in either a bun or ponytail without damaging her hair.

The *Washington Post* reported that she used a \$50 sewing machine to make the first prototype: an "ugly" black and gold scrunchie with navy blue thread. But the functionality was unmistakable, so she filed to patent her design.

Despite numerous media reports that Ms. Revson got her first design patent in 1987, *Inventors Digest* found that her first application—for "Hair or foot band"—was on Dec. 9, 1988. U.S. Design Patent No. 315,226 was granted on March 5, 1991.

She filed for and was granted seven U.S. patents related to hair/fashion accessories, four of which were

design patents. She had 18 trademark applications.

She originally called her product Scunci, named after her pet poodle. By any name, the product was an instant hit; it proved so popular that her licensee could not manage all the orders and went out of business.

Before long, copycat manufacturers flooded the market as the product name evolved into "Scrunchie." According to the *New York Times*, major retailers that were making bootleg Scrunchies eventually agreed to become licensees and abide by her patent, with one licensee saying he paid her \$1 million annually from 1989 to 2001.

Some reports say that a man named Philips Meyers came up with a similar product in 1963, but it did not catch on.



BRIGHT IDEAS

LapLok

POCKET-SIZED LAPTOP
ANTI-THEFT DEVICE

laplok.com

Weighing slightly less than 1 lb. and about the size of a smartphone, LapLok works with all laptops. It also fits all tables and work-stations.

Secure the lock's arm plate on the base of your device, set your PIN, and lock LapLok into place. Materials include hardened steel and aircraft-grade aluminum.

If someone attempts to steal your laptop, LapLok emits a 100-decibel alarm. You can adjust the volume.

Employees of remote companies can request reimbursement on their LapLok device from their management. It retails for \$80. An optional anti-theft bag strap is available.



Everless Smart Bag

SELF-FOLDING, REUSABLE BAG

go.everless.com

A sustainable alternative to single-use bags, the Everless Smart Bag—the size of a credit card—holds up to 50 lbs. It's made in recyclable memory fabric, is water repellant and durable.

Many reusable bags are hard to fold and carry. This bag has inverting handles with silicone reinforcement that fold upward automatically when the bag is folded.

Durability features include anti-fraying finishing. Stylish colors are lava red, carbon grey and white sakura. The fabric, thinner than paper, is suitable for cold wash only.

The Everless Smart Bag will retail for \$35.

Millo Air

MOTORLESS MAGNETIC BLENDER

getmillo.com

Cordless and powerful enough to crush ice, the Millo Air blender is also said to be very quiet.

There is no motor in the blender base; the blender uses a powerful magnetic field generator. The spinning magnetic disk inside of the blending lid is hermetically sealed, so you can barely hear it.

The power range of most wireless blenders is up to 10W. Millo Air has 450W peak power. It runs on Li-ion batteries, meaning the blender can make up to 10 blends before it needs recharging. It's slim and lightweight at 26 oz. (750 grams).

Millo Air is expected to retail for \$299. It is scheduled to be delivered to crowdfunding backers in December 2023.



“Learn with both your head and hands.” —THOMAS EDISON



The Pod

ERGONOMICALLY DESIGNED FOOD CONTAINER

omiliving.com

The Pod is designed to take the hassle out of food preparation. Its makers say it is the only ergonomically designed food container that holds up to 1,500 ml of food—while being smaller than an iPad.

Its newest feature is a multipurpose design that's stackable, vacuum insulated and leak proof.

The Pod gives the flexibility to prep hot and cold food items together with its Russian-doll configuration. You can also match silicone color options. It's safe for use almost everywhere, including ovens, microwaves, freezers and dishwashers.

The Pod will retail for \$121, with shipping to crowdfunding backers set for December.

It's No. 1!

THE FOAM FINGER IS A POP CULTURE MAINSTAY—
WITH AN INSPIRATIONAL HISTORY **BY REID CREAGER**



Steve Chmelar hoists his homemade finger at an Ottumwa (Iowa) high school basketball game in 1971. It was constructed out of hardware cloth and papier-mâché, shown above signed by members of the Ottumwa High School Class of 1971.

WHETHER you're thumbs-up or thumbs-down on it, they keep giving us the finger. The giant Foam Finger is ubiquitous and arguably obnoxious in modern culture—most notably at sporting events, where its wearers wave support for their No. 1 team while blocking the view of anyone behind them who isn't 8 feet tall. It's soft, durable and inexpensive (albeit unwieldy). It can be fashioned in any number of ways, as evidenced by a national AT&T commercial that aired last year.

The fingers also show up at political rallies. Companies make and sell them as ways to promote other companies. The GEICO gecko once pulled a green one (of course) from a briefcase.

So, who is the inventor of this finger fad? And should said inventor be famed, or shamed?

First finger

Although the media often does not make this distinction, there are two “braintrusts” behind the finger: the person who originated the idea of the giant hand and “No. 1” finger to use at an event, and the innovator who came up with the idea to make the hand out of foam.

In 1971, Ottumwa (Iowa) High School student Steve Chmelar built a giant hand out of hardware cloth, papier-mâché, spray paint and a red marker for the boys' state basketball finals. Proof of his creation exists via an Associated Press photo, as well as one in the *Des Moines Tribune* and his high school yearbook. The finger/hand appeared only twice and was retired.

Wikipedia generously refers to that project as the first prototype foam finger. But there is no evidence that Chmelar—who later earned two patents for a concrete forming system called Riser Solutions, used for constructing tiered concrete—intended to convert the finger and hand he made into foam.

In an interview with FOX Sports seven years ago, Chmelar said he never received any royalties from his idea before or after it was repurposed via foam. “But it's just a matter of satisfaction. It was fun to do it and create it, and it's certainly rewarding to see what it's become and the variations of it.”

First Foam Finger

Geral Fauss, on the other hand, made a lot in royalties. Millions.

Like Chmelar, his first effort was not made of foam.

An industrial arts teacher at Cy-Fair High School in Cypress, Texas, in 1978, he saw students in the stands at sporting events shouting

“We’re number 1” and holding up their index fingers. He told web magazine *Designboom* that in a school-spirit gesture and to raise funds for the industrial arts club, he created a one-dimensional, oversized layout of a hand making the “number one” sign. Students used the design to create wooden cutouts painted with the #1 symbol in Cy-Fair’s colors.

They sold out quickly. Fauss saw a bigger opportunity when the University of Texas played Notre Dame in the 1978 Cotton Bowl.

What followed is a Hollywood-style tale of entrepreneurial grit and luck.

Introbiz.tv reported that in three weeks before the game, Fauss jigsawed 400 finger signs out of Masonite in his garage—200 with the No. 1 finger and 200 in the Longhorns’ famous “hook ‘em” symbol.

Then, per *Designboom*, he got a friend to go with him to the game. “They hung out all night in the parking lot in a cold camper van, nearly setting it on fire when one of their pillows got too close to the portable heater, and the next morning Fauss talked a concessions manager into letting him sell the hands through the concession stand at a 60-40 split. He sold out before the game started.”

Fauss quit his job. He took an old building that had been the site of his father’s sheet metal business and converted it into a factory. He and his father experimented with better designs—Masonite was too hard to be in big crowds—eventually settling on the polyurethane foam design with the opening in the bottom in 1979. He registered copyrights for the “#1 hand.”

Spirit Hands Co. was born and was incorporated in Montgomery, Texas, as Spirit Industries in 1980. Public records show that as of Sept. 15 this year, Fauss was still president of the company, which licenses production of the Foam Finger to other companies.

Lightweight legacy

Hands down, the legacy of the Foam Finger is controversial. But it is part of Americana and even the Pro Football Hall of Fame; you can pick up a Hall of Fame Wooden Finger Coaster for \$9.99.

The entrepreneurial and inventive spirit of Geral Fauss is not in dispute. And at least he didn’t invent the air horn. 📢

The Foam Finger is a fairy-tale fable of frenzy and fortune.



INVENTOR ARCHIVES: OCTOBER

October 12, 1923: Jean Nidetch, who invented Weight Watchers, was born in Brooklyn, New York.

In 1961, feeling guilty because she frequently gorged on cookies in private in her bathroom, she gathered six overweight friends at her house who talked about their weight problems. She became an emotional leader for Weight Watchers, which now holds tens of thousands of weekly weight-loss meetings modeled on those that Nidetch shared. She died in 2015 at 91.



How Valuable Will Your Patent Be?

THE FIRST STEP IS TO CONSIDER THE REASONS APPLICATIONS CAN BE REJECTED **BY JACK LANDER**

WHETHER YOU have already filed for your patent or are just thinking about it, there are factors that will affect whether your patent will become a source of income or a waste of time and money.

I'm assuming your application will result in an issued patent, which is not always the case. Actually, I decided to use the United States Patent and Trademark Office's official data to determine what percent of applications mature into issued patents.

First, it takes an average of 22 months, or about two years, for an application to result in a granted patent. I averaged the years 2018, 2019, and 2020, which is 1,014,369 issues, and divided by the average number of applications for the years about two years earlier (2016, 2017, and 2018), which is 1,809,668. The answer is .56.

In other words, only about 56 percent of utility patent applications resulted in issued patents during that period. This may come as a shock, but the more you know about the patenting process, the better able you will be to significantly improve your chances of having your application result in a valuable issued patent.

The following are reasons that applications don't always result in issuance:

- The search of prior art on which the application was based was inadequate.
- The opinion on the search was biased in favor of applying.
- The patentability opinion based on the search was not of professional quality.
- The patent examiner has better prior art files than the searcher.
- The application was withdrawn or abandoned.

The first thing you want to know about a searcher is his or her motive. A patent attorney or patent agent is bound by professional ethics to provide an objective opinion as to whether or not he or she will succeed in patenting your invention based on the search at hand. And patent practitioners (patent agents and patent attorneys) will work with searchers they know and whose search quality they trust.

Beware advertisers of patent services that may not be operated by licensed patent practitioners. Their searches may be self-serving, recommending filing with their attorney partners without much concern for the quality of your patent, if it even issues.

If you do your own search and don't find any conflicting prior art, I suggest you discuss this with your patent practitioner. Ask if it would be wise to have him or her arrange for a more comprehensive search.

For example, if your search fails to find identical prior art to your main invention feature(s), your application may be shot down based on a combination of the elements of that feature that are found in two or more existing patents on similar products.

A quality search may be expensive, but patents are very expensive. Don't file unless you have reasonable assurance from your agent or attorney that the patent will issue.

No patent practitioner should guarantee that your patent will issue, nor should you want a guarantee. After all, trivial claims may qualify for patenting—but if such claims do not provide advantages over existing products, your patent will not attract a licensee.

You are trying to patent the *essential* features of your invention that will appeal to a potential licensee. Such features should produce a competitive product that is a functional improvement, one that makes the product easier to use, gives better results, is less expensive to make, has lower maintenance, and so on.

How to increase your odds

If your invention's essential features result in a product that is merely another means (not superior) of accomplishing what is already on the market, you should reconsider your intention to file your application. Potential licensees are looking for ways to beat their competition, not ways to show how clever they are in designing their product.

So, how should an inventor proceed with a search and application in order to avoid the problems mentioned above, and increase the odds that his or her patent will issue and be attractive to potential licensees?

- Join an inventor group. Or, if none is available locally, consider starting one. Then, interview local patent practitioners and select one with whom to work.
- Contact two or three patent practitioners and arrange "get acquainted" interviews. They shouldn't charge you for these.
- Ask how they accomplish the prior art search, and if they provide a written patentability opinion. Do they offer a fixed price for this service? My experience is that most prefer to give only a brief oral opinion.
- Ask for the patent agent or attorney for the patent numbers of a few of their recent issues. Look them up on google.com/patents and review them.
- Present your invention for a patent search in writing and sketches. Hand-written notes and crude sketches are better than an oral description. Especially important is your emphasis on the crucial feature you believe to be novel, and how that feature is an improvement on what you believe is now being marketed.



Beware advertisers of patent services that may not be operated by licensed patent practitioners.

Before your first meeting with a patent agent or patent attorney, study "Nolo's Patents for Beginners." This may save you thousands of dollars and years of heartbreak by avoiding ineffective patenting efforts. After receiving your first patent, you may be ready for "Patent It Yourself."

"The law is an ass," according to Charles Dickens, author of "Oliver Twist." Many inventors who have struggled with patent laws would agree.

But with patience and experience, you'll avoid being one of the 44 percent whose patent didn't issue. 📦

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.



PART 1

Taking Measure

HOW TO KEEP TABS ON YOUR SOCIAL MEDIA MARKETING EFFORTS, PLATFORM BY PLATFORM **BY ELIZABETH BREEDLOVE**

IMPLEMENTING a social media strategy is one thing, but determining whether it's effective is entirely different—and at times, confusing. With so many different metrics on each platform, not to mention how much the different networks vary, tracking what is performing well can get quite confusing.

It's important to routinely evaluate your strategy so you know what is working and what needs to change. If you don't know which efforts are making a difference and which are falling flat, you are likely wasting precious time on social media tactics that don't contribute toward profitability or success.

Fortunately, all major social media platforms have some sort of native analytics dashboard that allows you to keep tabs on the most important key performance indicators (KPIs). If you want to break it down further, there are many social media analytics dashboards available for a monthly subscription at a variety of prices. These types of software allow you to take a deeper look at this data and use it to make important decisions about your social media strategy.

For the next few months, I'll break down some metrics to monitor on each platform. Pay attention to whether these numbers are going up or down, and which types of content perform best on each platform.

Facebook

Reach refers to how many unique users see a piece of content you post. It's important because it gives you insights into your audience size, but also because it provides context for other metrics. If you have a piece of content with a high reach but minimal likes, you can assume

the content isn't resonating with your audience.

Likes are exactly what they sound like: how many users like or react to your post. (Note: Reactions are another way for users to react to your post with an emotion that is a bit more specific than just a like.)

Reactions and likes matter for several reasons. Perhaps most important, the Facebook algorithm uses likes to help determine your content's value, meaning that if your content gets a large number of likes and reactions, the algorithm will typically show it to more people. However, likes and reactions can also give insight into the overall user sentiment of your audience.

Comments and Shares can also tell you more about user sentiment, similar to likes. Additionally, they appear to be favored by the Facebook algorithm even more than likes because they require more effort than a like.

Facebook has also made it very clear that video views matter to the algorithm. In fact, Facebook (and Instagram, also owned by Meta), seems to have built the algorithm to favor video content.

When considering video views, pay attention to the post's overall reach, the number of views, how many users viewed it for 30 seconds, and where in the video people began to lose interest and drop off.

You'll also need to pay attention to link clicks, which is exactly what it sounds like: the number of users who click a link you post. This matters because a major goal when using social media is to get people to a website where they can purchase an item, learn more about your company, or get in touch with you for another reason.

If you find that a post has good reach but no one is clicking your links, you can assume



All major social media platforms have some sort of native analytics dashboard that allows you to keep tabs on the most important key performance indicators (KPIs).

that either your content isn't enticing so users scroll past it, or the links you post don't provide enough value to your audience.

LinkedIn

On LinkedIn, you'll find that you need to keep a pulse on similar KPIs.

Impressions on LinkedIn are similar to reach on Facebook, although impressions refer to the total number of times a piece of content is shown to a user. To see how many *users* have seen your content, pay attention to the number of unique impressions. Together, these two metrics provide a great picture of your audience's size—plus, they can be used to contextualize your other LinkedIn KPIs.

Engagements refers to how often a user engages with your content through viewing a video, reacting to a post, commenting on a post, clicking a link, or following you. When you look at these metrics, LinkedIn will show them for individual updates you post, and it will also show you each metric's trend over time.

These numbers matter because they show you whether your audience is connecting with your content, and they help you uncover which types of content your audience likes and dislikes so that you can work toward only posting content they'll appreciate.

In some ways, your engagement rate may be an even more important metric than your engagement metrics, because the engagement rate provides a snapshot of whether you have an engaged audience or not. The engagement rate is calculated by adding up the number of interactions, clicks and follows, then dividing that by the number of impressions. Consider a high engagement rate to be an indicator of a high-performing, successful post.

Although video doesn't seem to be quite as important to LinkedIn's algorithm as it is to Facebook's, video metrics still matter. LinkedIn allows you to see metrics such as the number of views, the number of viewers, and how long people watched a given video. You can watch these KPIs to judge if your audience likes your videos, along with which types of videos they watch most often.

Tune in next month to learn more about the most important metrics to monitor on YouTube, Instagram and TikTok! 📺

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.



Easier Electronics? **Shocking!**

WOMAN'S COMPANY AND DIY LINE DEMYSTIFY THE E-INVENTION PROCESS FOR KIDS AND ADULTS **BY JEREMY LOSAW**

A **BRAIN INJURY** suffered in high school changed Jessica Cobb's life in ways that are benefiting her and others.

She survived the accident, which made it hard to finish school because of the side effects. However, this led her to develop an interest in the brain and how it works. Eventually, she ended up spending a lot of time at DePaul University studying mindfulness and the brain.

The physiology of it was a bit much for her, so she pivoted: "I decided I wasn't willing to cut up rat brains and be with sick people, so I said, 'I'm going to go make some machines,'" she said.

She started working at the DePaul sculpture lab helping people fabricate things. Eventually, she found out about Arduinos and the world of microcontrollers, which opened her mind to the world of digital fabrication.

Five years ago she founded Mission Control Lab, which makes a line of easy-to-use circuits that help children and adults learn how to intuitively create and invent with electronics.

Simplifying with MakeON

Learning and prototyping electronics can be difficult, because electrons are invisible. You cannot see them moving through a circuit, which makes it unintuitive to troubleshoot.

Electronics also requires special equipment like soldering irons, jumper wires and other tools to do it right. It becomes even more complex if you add microcontrollers, meaning you have to hook them up in a specific manner and add code.

Cobb understood the challenges of electrical prototyping.

Her team created a line of DIY electronics called MakeON, inspired by space exploration. Among the company's many different kits and

component sets is its top-tier kit that is aptly named Expedition—which includes a robust set of components to create circuits to explore light, movement and sound.

The key to the design of the MakeON kits is that they require no tools to assemble. Components all have large pads so that connections can easily be made by conductive tape with no soldering. The kits include instruction "maps" to help guide users through the assembly process and are purposefully language-free to allow for maximum comprehension and inclusion.

Tech access for all

Cobb's road to Mission Control Lab and MakeON was fueled by her experience at DePaul, which launched her on an eclectic career path centered around invention and fabrication.

She helped build lower limb prosthetics, worked on customized menstrual cups, and got a full ride to graduate school in the process. Eventually she started working for Fire Tech technology camps in London and moved to Europe, which allowed her to work with refugees and underprivileged people and teach them tech skills.

Throughout these experiences were two recurring themes.

One was that great opportunities were manifesting themselves because she was willing to show up and do the work. The other was that tech education should be for everyone.

"I don't think technology and developing technology is for privileged people. I think that is ridiculous," she said.

This led her to create an easy-to-learn, language-free way to build electronics, which became the DNA of the MakeON system.



“We made our products so that you are able to activate these pieces of tech in minutes ... instead of hours.”

—JESSICA COBB

Development of the products started slowly. Cobb began by designing and soldering up prototypes herself. Eventually, she started using people from Fiverr and gig services to help with design and making prototypes. She brought her products to maker’s fairs and won a blue-ribbon award for social impact at an event in France.

While traveling and showing the product, she met other people who shared her excitement about it. They helped her design the products so they could be made easier and less expensive.

A community product

The MakeON products are not protected by patents. Intellectual property protection is not part of the product strategy.

Cobb’s mission is to be in the open-source space and help as many people learn technology as possible, so she has positioned the system as a community product. She has focused on creating a robust ecosystem and developing her language-free instructions that allow the product to be used in infinite ways—like LEGOs are for mechanical building.

“We made our products so that you are able to activate these pieces of tech in minutes ... instead of hours,” she said. “The way we do that is by stripping back all of the different linear ways to build a product or system and make it so that you can come in from all different angles.”

The kits are manufactured partially in the United States, partially overseas. Cobb tends to use U.S.-based resources for the prototypes and initial quantities; she uses overseas factories when she is ready to scale the production.

Spreading the word

Cobb was selected by the Dutch government to exhibit at the Holland booth at this year’s Consumer Electronics Show. Her team will attend Dutch Design Week this year as well.

She has also worked diligently to get her products with retailers such as Amazon, RS Components and Adafruit—all with the goal of getting the product in as many hands as possible to teach people how to build tech products. 📦

Details: makeon.xyz

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



Jessica Cobb’s team created a line of DIY electronics called MakeON, inspired by space exploration. Maps are an important part of the package. Mission Maps deliver activities and directions with visual diagrams and schematics, which allows students more autonomy with higher success rates than written directions. Language-free instruction maps help guide users through the process.

The Shape of Things to Come?

MAN'S ICE SCRAPER ENABLES USERS TO CHIP AND CLEAR AT THE SAME TIME **BY EDITH G. TOLCHIN**

I**T NEVER HURTS** to be prepared for ice and snowstorms. Here's the Better Ice Scraper, invented by Hal Greenberger of Natick, Massachusetts.

He owns the innovative business Better Stuff®, and as a seasoned product developer provides sage advice here for budding inventors.

Edith G. Tolchin (EGT): When did you invent the Better Ice Scraper?

Hal Greenberger (HG): Many years ago, I identified the problem that car windows were curved but frost edges on traditional ice scrapers were straight. However, I didn't really start developing The Better Ice Scraper until about five years ago, after I was fortunate enough to receive an early retirement buyout from my employer at the time. Once formal work started, it took about two years to get first samples off tool.

EGT: How did the idea come about?

HG: I was using some random ice scraper as I had to scrape off some heavy frost on a cold morning in Chicago. The scraper had this extra wide blade and I thought: "Great! This will make quick work of the frost!"

Then, I started scraping. The frost only came off in small strips, substantially narrower than the width of the blade. This made no sense to me.

That's when it hit me that the frost edge needed to deform so its shape could match the varying curvature of car windows. It wasn't until I started working diligently on product development that the overall design came together. I have notebooks filled with various approaches I considered before finalizing what you see today.

EGT: Why is this better than other ice scrapers?

HG: As mentioned earlier, the frost edge deforms when the scraper is pressed against the windshield to conform to the glass shape, regardless

of its curvature. This increases efficiency and makes scraping frost faster.

The Better Ice Scraper places the frost edge and the ice chipping teeth against the glass at the same time. First, you can chip ice and clear it away in the same motion, making chipping and clearing ice much faster. Traditional ice scrapers force you to flip the scraper over to use the ice teeth, then flip it over again to clear the chipped ice away with the frost edge.

The unusual shape, in addition to contributing to the patented "Shape Shifting" behavior described above, also provides incredible stability that leads to further benefits.

With greater stability, users can apply substantially greater power to chip ice without fear of slipping. You can really lean into The Better Ice Scraper to get through thicker ice faster. The design also always orients the edges at the correct angle for scraping.

Placing two edges against the glass simultaneously also significantly improves ergonomics.

To use a traditional ice scraper, you must apply a torque to press an edge against the glass. You must grip the scraper tightly in one hand, and pull up on the handle with one part of your hand while pressing down on the handle with another.

With The Better Ice Scraper, you simply need to press down. No torque required. This substantially reduces hand and wrist strain and the need to grip the scraper tightly. The Better Ice Scraper is even usable by individuals with reduced grip strength due to conditions such as arthritis or carpal tunnel.

EGT: Have you invented anything before?

HG: Yes. I've been an engineer for over 35 years. I have invented numerous technical solutions to engineering problems, as well as a number of complete products.

Earlier in my career, while working as a product development consultant, during periods of down time I would work on my own technologies and products. During that time, I invented and patented an active noise cancelling stethoscope and methods to improve passive noise reduction in stethoscopes. I also developed and patented a spatial audio technology which was acquired by a future employer.

EGT: Have you received a patent?

HG: Yes, I am a named inventor on somewhere over 25 patent families. Some of these families I control, and others are assigned to former employers and consulting clients.

I am quite familiar with the patent process. In my last corporate role, I was manager of IP and technology strategy for a major consumer electronics company—where, among other responsibilities, I managed their research IP portfolio. I am a registered patent agent and have worked on hundreds of patents and patent applications over my career.

EGT: Please share your experience with Joy Mangano's "America's Big Deal" TV show.

HG: I can't say enough great things about being part of "America's Big Deal." It was a fantastic experience to be part of. Everyone I met was extremely professional and great to work with.

I had a blast doing the show! I also think it's great to make opportunities like this available

for entrepreneurs like me. Getting noticed is probably the hardest thing to do, starting up a small product company, and specifically getting noticed by big box retail. The exposure to great major retailers like Lowe's, Macy's and HSN/QVC was priceless to me.

EGT: Are you manufacturing overseas or in the United States? If overseas, have you had any glitches with production, shipping, logistics?

HG: I work with a U.S.-based company with an overseas factory that produces goods solely for them under their control.

This year, logistics were very challenging. This season's shipment was delayed on the water for an extended period. Ultimately, I received my goods before selling through existing inventory (but I was getting nervous).

The shipping delay caused a scheduling problem with "America's Big Deal," though, as I couldn't guarantee when I could supply goods to the show. Of course, shipping costs this year were also through the roof.

The long lead times with overseas supply causes difficulties for a seasonal product like mine. It's not practical to re-buy in season, as any in-season order would not arrive until after the selling season has ended.

EGT: Where are you selling?

HG: Currently I only sell through Amazon. However, since I was

With The Better Ice Scraper, the frost edge deforms when the scraper is pressed against the windshield to conform to the glass shape, regardless of its curvature. This increases efficiency and makes scraping frost faster.

"Don't fall in love with an idea just because it's yours." —HAL GREENBERGER



INVENTOR SPOTLIGHT



The Better Ice Scraper won Episode 9 of "America's Big Deal" on the USA Network.

fortunate enough to win my episode of "America's Big Deal," I received an offer from Lowe's that I am very excited about. I am also putting my own e-commerce capability in place and am working to further expand distribution.

EGT: Have you tried crowdfunding?

HG: No, I funded development of The Better Ice Scraper myself.

There is a cost to crowdfunding (in actual expenses and time). When comparing the funds I thought I could raise with the cost of the campaign, it didn't make sense for The Better Ice Scraper.

EGT: Are you planning any new products?

HG: I have a few different products in development. I can't say too much about them other than that some will help build out a Better Stuff winter weather product line, while others will be more useful during the warmer months.

EGT: Can you offer guidance for inventors?

HG: Don't fall in love with an idea just because it's yours.

Get opinions from others but evaluate them carefully. Many more people will tell you why you shouldn't do something than will tell you why you should. Try to figure out when to listen to them and when to discount them.

Don't just focus on the product. Figure out a plan for getting into distribution and acquiring customers before committing large resources.

Don't underestimate how much margin you need to be able to pay for the marketing to get noticed. It can cost more and take longer than you think. ☎

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



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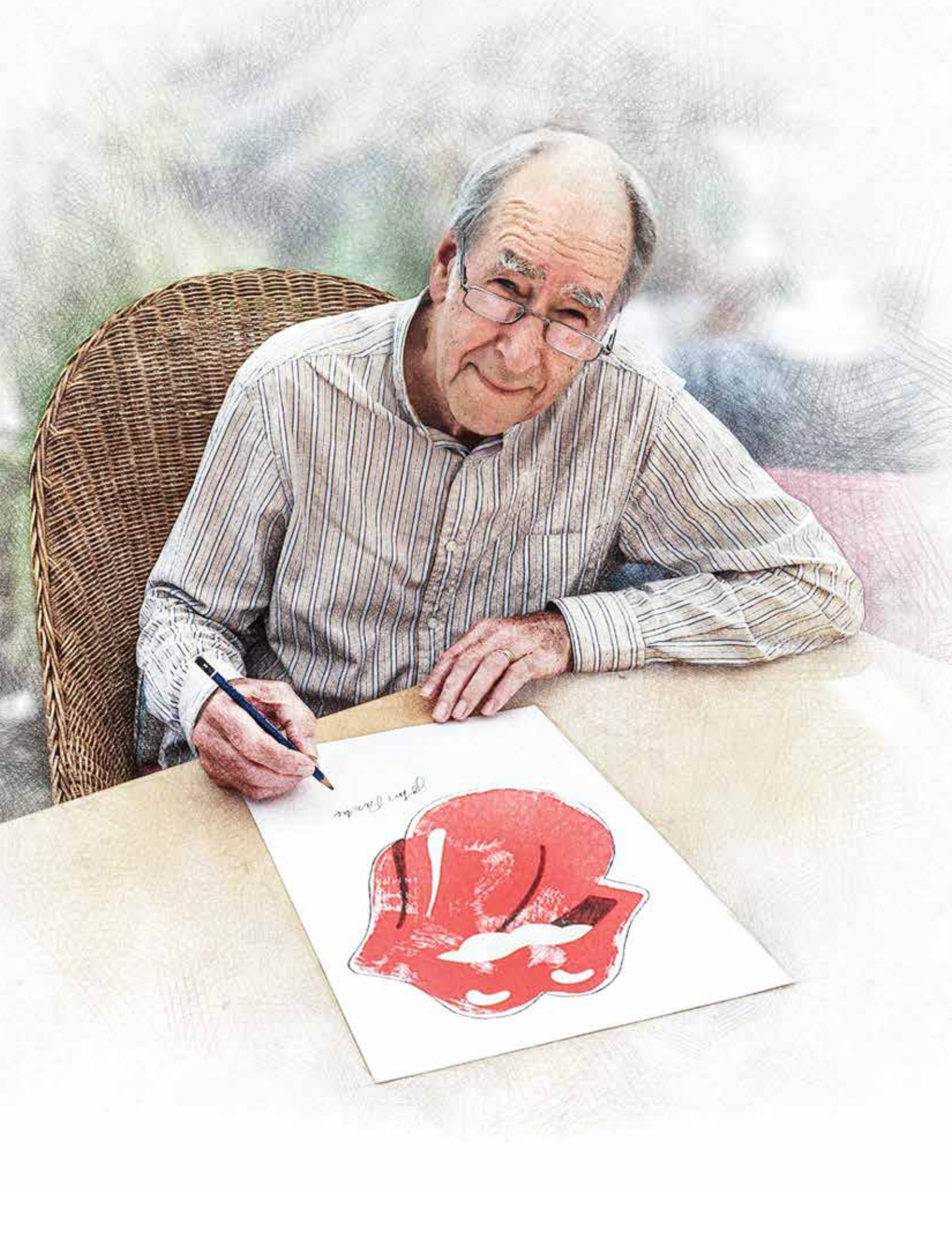


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DESIGNING HISTORY

52 YEARS AGO, LONDONER JOHN PASCHE TOOK MICK JAGGER'S CHALLENGE AND SPUN IT INTO IP GOLD **BY REID CREAGER**



JOHN PASCHE has always wanted to believe in the kindness of strangers. Little did he imagine that stranger would be Mick Jagger.

In 1970, the legendary Rolling Stones frontman showed patience with the then-25-year-old Royal College of Art student in London who was working on a design for the group's 1970 European Tour poster. The successful result begat another collaboration that produced arguably the most recognizable and popular logo in pop culture history.

The story of the Rolling Stones' Hot Lips logo is much more involved than an artist who drew a dramatic exaggeration of Mick Jagger's famously infamous mouth. It involves the group's acrimonious exit from their longtime label. It involves a London art tutor who believed in Pasche's prodigious talents. It involves seven simple but life-changing words Jagger said to Pasche during one of their meetings at the Stones' office on Maddox Street. It involves a Eureka moment during a routine stop at a gas station. It involves a world-famous rock 'n' roll band that found itself with no money as it neared its

commercial and artistic zenith. It involves Jagger's incredible business acumen and foresight. It involves some fortuitous timing. It even involves an ancient Hindu deity.

A recent *Inventors Digest* interview with the 77-year-old Pasche—during this 60th anniversary for the world's greatest rock 'n' roll band—verified that the tongue and lips logo is a story of talent, marketing genius and the powerful, universal impact of intellectual property.

Meeting Mick

Jagger thought Decca Records just didn't get it. Why would it? The company had auditioned the Beatles on New Year's Day 1962 and turned them down.

The Rolling Stones, who first signed with the label in 1963 after a recommendation from some guy named George Harrison (yeah, yeah, yeah), had tired of this association by the end of the 1960s. When they had to fill a contractual obligation with a final single in 1970, they

John Pasche's Hot Lips logo was inspired by Mick Jagger's fascination with the Hindu goddess Kali. It was first seen by the mass public on the inner sleeve of the 1971 Rolling Stones album "Sticky Fingers," which featured a cover designed by Andy Warhol. Pasche—who sold the rights to the logo in 1982 and bought a house with the proceeds—sells sketches and posters associated with the logo online.

metaphorically stuck out their tongues by releasing the horrid “Schoolboy Blues,” alternately known by an obscene title, in hopes the label wouldn’t bother releasing it.

So it wasn’t surprising that Decca—with its subsidiary label, London Records, in the United States—didn’t impress Jagger with its design efforts in connection with the group’s upcoming 1970 European Tour.

He contacted the Royal College of Art. A tutor there recommended Pasche, who was in pursuit of his Master of Arts degree and showed promise with pop art that featured bright colors.

“I think I was chosen to go along and meet Mick regarding the design of their 1970 European Tour poster because my favorite graphic format was the poster,” Pasche told *Inventors Digest*. “I had previously designed some at the college which were much liked.”

His first meeting with Jagger on Maddox Street, near the corner of hope and anxiety, took a turn toward the latter.

“Mick was very friendly in our meetings but was very black and white in what he liked and didn’t like,” Pasche said of that early 1970 meeting. “He always needed to go back to the band for final, joint approval on the various designs.”

Jagger was not satisfied with the artist’s effort; decades later, Pasche recalled it might have been

something about the composition and/or colors. But just when he figured he was “Out of Time,” he was rejuvenated with a glimmer of hope when Jagger told him: “I’m sure you can do better, John.”

The second version—now a monument of rock history—was a vibrant amalgamation of past and present eras with its 1930s/’40s-style car, ocean liner and Concorde turbojet.

Jagger was all in. Pasche, in his final year of college, had an “in” with the world’s greatest touring band.

A branding behemoth

The letter was dated April 29, 1970.

Addressed to Pasche 19 days after the official breakup of the Beatles and mailed by the Rolling Stones’ personal assistant, Jo Bergman, it asked him “to create a logo or symbol which may be used on note paper, as a programme cover and as a cover for the press book.”

As Pasche absorbed this seemingly routine request, he was unaware that Jagger was hatching a plan to brand the band. This stroke of intellectual property genius was also invention born of necessity.

The Rolling Stones, now the clear No. 1 rock group in the world, were broke.

In the documentary “My Life as a Rolling Stone,” which recently appeared on EPIX, Jagger said the group’s taxes hadn’t been paid in years.

“There was no one actively managing the Rolling Stones’ money,” he said. “The Rolling Stones had no money in the bank.”

The first move was to get more control of the product. Jagger, who had spent a year as an undergraduate at the London School of Economics, arranged a deal with Atlantic Records for the group to warehouse its own label in 1970, after its Decca/London Records contract expired.

Unique identification was also part of the plan.

Marshall Chess, former CEO of Rolling Stones Records, recalled stopping at a Shell gas station with “that big picture of a yellow shell. No letters.

“Wow! Everyone knows it’s Shell. We need a logo that stands by itself.”

In the documentary, Pasche said: “There were brandings for companies and so on, but not so much in the rock ’n roll world.” Even the most

JOHN PASCHE

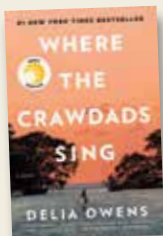
Born: Harpenden, UK

Lives: Near Leatherhead, UK

Family: Wife, Fiona; sons Oliver and Matthew

Education: Eastbourne Grammar School; Eastbourne Art School; Brighton College of Art; Royal College of Art, London

Favorite book: “Where the Crawdads Sing” by Delia Owens



Favorite Rolling Stones song: “Paint It, Black”

Favorite song: “Peace Train” by Cat Stevens

Favorite quote: From British actor/comedian Spike Milligan’s gravestone—“I told you I was ill”



distinctive logos, such as the Beatles with the long “T” and those of KISS and Bon Jovi, use the group’s name.

Of Kali and timing

If you look up art renderings of the Hindu goddess Kali, your first impression isn’t the symbol of motherly love. Yet that’s what she is purported to be—as well as the goddess of time, doomsday and death.

She is also associated with sexuality and violence. And with Indian culture quite *de rigueur* in Britain at the time, Jagger was enamored of her.

“At a meeting with Mick at his home in late 1970, he showed me an illustration of Kali,” Pasche told *Inventors Digest*. “Her pointed tongue sticking out of her mouth was an instant spark for the idea of the logo, as it symbolized rebellion and anti-establishment—which I thought was perfect for the band.”

It didn’t hurt that the protruding lips reminded many people of Jagger. Pasche left the meeting and quickly went to work.

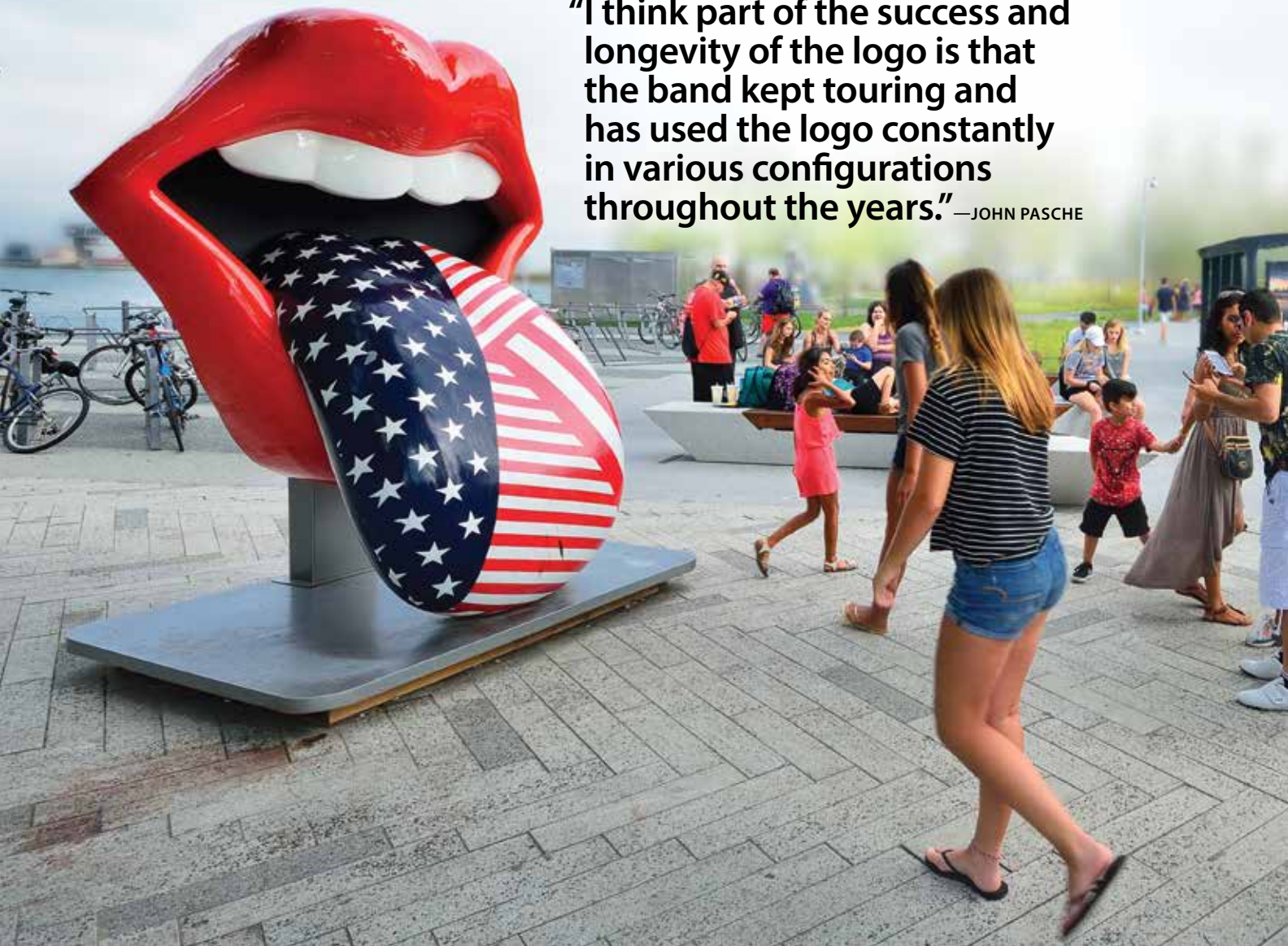
“After a week or so, I returned to Mick’s house with three alternative angles of the illustration,” he said. “We both decided on the version that you see today.”

The logo first appeared on VIP passes for the Rolling Stones’ concert at London’s Marquee club on March 26, 1971. The worldwide public saw it for the first time on the inner sleeve of the album “Sticky Fingers,” released on April 23, 1971.

“I don’t know why I thought (the album) should have a logo,” Jagger recalled on the EPIX documentary. But he knew he loved Pasche’s final design: “It related to the band. It had a connection, color, (expletive) you, funkiness, originality.”

Timing is everything in so many aspects of life. The logo’s mainstream debut was no different.

“I think part of the success and longevity of the logo is that the band kept touring and has used the logo constantly in various configurations throughout the years.” —JOHN PASCHE



Pasche designed four tour posters for the Rolling Stones. The first in 1970, after an initial rejection by Mick Jagger, led to Pasche being selected to design a logo for the band.

The group's first album on its own label featured another innovative touch, and on the cover: an actual working zipper, conceived by Andy Warhol, on a pair of tight jeans. (The concept was expensive to produce and later replaced with just an outer photograph of the zipper and jeans.)

Musically, the album is generally regarded as one of the Rolling Stones' best—with mainstays such as "Brown Sugar," "Wild Horses" and "Dead Flowers."

This combination of marketing flash and product quality ushered in a new era for what was already a superstar group. The tongue and lips were going to laugh all the way to the bank—to an extent that few, if any, could have foreseen.

A different IP world

Pasche's immediate post-logo life was productive, albeit hardly lucrative.

"Leaving college in 1970, I was broke and started work as a junior art director at an advertis-

ing agency, and was designing the Stones tour posters in the evenings and weekends," he said. "The tour posters and logo were a great start to my commercial portfolio and helped me get other commissions within the music business."

Designing the historic logo hadn't made him rich; he was paid £50 (about \$1,000 today), with a £200 bonus from the group a couple years later.



This was a time when intellectual property was a largely ignored/unknown concept, outside of major corporations. It wasn't until 1976 that he began receiving royalties for his work for the band, when an official contract was drawn up between him and the Rolling Stones' law firm Musidor B.V.

In a 2020 *New York Times* interview, Pasche recalled his share as 10 percent of net income on sales of merchandising displaying the logo. He said he made "a few thousand pounds" in total royalties until 1982, when he sold his copyright to Musidor for £26,000.

Pasche used the proceeds to buy a cozy home in London's Muswell Hill district. He told the *Times* "I'd probably be living in a castle now" if he had kept the copyright but appears to have no regrets—especially because he made what seemed to be a sound decision based on a fuzzy area in copyright law.

At that time, the possibility existed that if a company had been using something for a number of years and it was recognized as part of the company (i.e, the tongue logo), it could try to assume copyright. Pasche's lawyer told him he could lose in court, so they negotiated a fee.

Today, given the logo's staying power and commercial presence on everything from T-shirts to massive stage sets—as well as hundreds of design variations themed to specific events and locales—the value of United States Patent and Trademark Office Trademark With Serial No. 73,089,572 may be impossible to quantify.

Pasche doesn't have a guess; neither did a couple of intellectual property experts we contacted. (The Nike swoosh logo has a reported value of \$26 billion.)

The logo's impact extends beyond rock 'n' roll. No less an authority than Tommy Hilfiger was quoted as saying, "I think that tongue is as important as any fashion logo in the world."

The lesson for inventors and entrepreneurs about the importance of intellectual property is obvious.

"Like the first few bars of 'Start Me Up' are so recognizable to the ear, the tongue logo is every bit as recognizable," said IPWatchdog founder Gene Quinn. "Whenever I see the tongue logo, the first thing that pops into my mind is Mick

Tommy Hilfiger has said: "I think that tongue is as important as any fashion logo in the world."

Jagger and the Rolling Stones ... that is precisely what a good logo is supposed to do.

"This powerful association should be a huge lesson for all creators. Creation can be valuable, but you can only extract that value if you have some form of IP protection. As we continue to transition into a new media environment no longer dominated by legacy content producers, creating and protecting these types of assets is essential.

"You never know what the next iconic logo will be, so treating everything like it may be valuable makes all the sense in the world for creators."

Added Bruce Berman, founder of the Center for Intellectual Property Understanding:

"An independent creator is not typically in the position to negotiate. However, he or she would be surprised at what rights a buyer is willing to allow them to retain if they just ask in the right way. Retaining some rights, even if they do not seem very meaningful today, can pay surprising returns."

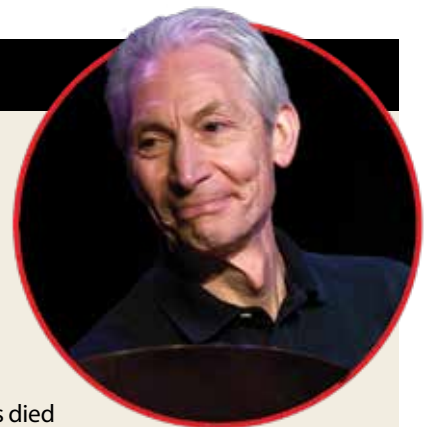
Humbled and happy

A key component of the logo's ever-climbing value is the fact that 52 years after its creation, it remains in the public eye at live venues thanks to a band that has relentless commitment to

PAINT IT, BLACK

The logo is associated with marketing genius, in part because of its versatility. It has been modified and adorned with everything from the American flag to baseballs in connection with themed events.

After drummer Charlie Watts died last year, the group announced during its "No Filter Tour" that it was changing its logo design from red to black in tribute to the "heartbeat of the group."





“Mick was very friendly in our meetings but was very black and white in what he liked and didn’t like.” —JOHN PASCHE

Mick Jagger, in a recent EPIX documentary about the Rolling Stones, said Pasche’s logo won approval from the group because it “related to the band. It had a connection, color, (expletive) you, funkiness, originality.”

what it does and the seeming desire to die as active performers.

Who could have foreseen such energetic, historic longevity?

“I think part of the success and longevity of the logo is that the band kept touring and has used the logo

constantly in various configurations throughout the years,” Pasche said.

He doesn’t dwell on the what-if financial aspects of the logo. His creation has helped him enjoy a comfortable life, a way to express himself creatively in many disciplines, and some fame as well.

He noted that “I retained the copyright to the four Rolling Stones tour poster designs I did, which have provided me with an income over the years. A couple of years ago, I asked permission to create and sell sketches of the logo, which was granted—and, in fact, the Rolling Stones’ London Store on Carnaby Street bought several to sell in the shop.”

And In 2008, the Victoria and Albert Museum in England acquired his original artwork for the tongue and lips logo for \$92,500.

Pasche’s phenomenally successful life of creative projects and treasured personal and professional associations does not have a price tag.

His Rolling Stones projects led him to other commissions within the music business. He has worked with artists ranging from Paul McCartney to The Who to the Stranglers to Dr. Feelgood, winning numerous awards.

He was the art director for Chrysalis Records for 10 years. He was creative director at The South Bank Centre, working on art exhibitions, classical music and ballet productions. He now works from his studio at home as a freelance graphic designer (with sketches and posters available at rollingstoneslogo.com and rollingstonesposters.co.uk, respectively).

If he will always be best known as the man who created the tongue-and-lips logo, that’s fine with him.

“I have always believed, from the day I designed it, that it just felt right as a symbol for the band. I am just happy that people seem to like it, too.”

©DENIS MAKARENKO/SHUTTERSTOCK

ALL THE RAGE

A 2018 OnePoll survey reported that the Rolling Stones logo is the most iconic T-shirt design of all time. The top 10:

1. Rolling Stones “tongue and lip”
2. Che Guevara
3. Hard Rock Café
4. Nike swoosh/Just Do It
5. Superman
6. Adidas (with stripes on the sleeves)
7. Frankie Say Relax
8. Mickey Mouse
9. I “heart” NY
10. Coca Cola



Climb the Charts

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2022 IPOEF INVENTOR OF THE YEAR

SUSTAINABILITY LEADERS HAVERHALS,
AMSTUTZ TO BE HONORED; ALSO MEHROTRA,
MICHELSON, CARRINGTON

Furthering the ideal that sustainability will always be sustainable, Natural Fiber Welding leaders **Luke Haverhals** and **Aaron Amstutz** will be recipients of the 2022 IPO Education Foundation Inventor of the Year award.

The award will be presented at the 2022 IPO Education Foundation Awards Celebration on December 9 at the National Building Museum in Washington, D.C.

The IPOEF will also honor Micron's **Sanjay Mehrotra** as Executive of the Year; **Dr. Gary Michelson** of the Michelson Institute for Intellectual Property as IP Champion; and **Terrica Carrington** (U.S. Copyright Alliance) as winner of the first Inspiration Award.

Haverhals and Amstutz, both chemists, have led innovation in eliminating global pollution by creating materials free of plastics and petrochemicals with leather alternative MIRUM® and synthetic fiber replacement CLARUS®.

Amstutz is chief technology officer at Natural Fiber Welding, leading a team developing and improving renewable materials. Haverhals, company chief executive officer, spent his childhood on a farm in Iowa,

which spurred his desire to found NFW and impact sustainability.

"People who grow up on a family farm, they live on the land," he said. "They drink the water. You're very aware that where you're living and what you're doing in the environment can affect you."

Amstutz said: "I tell new hires at NFW that I hope in 10-15 years, NFW is like the DuPont of natural materials. When people think who is doing the best work developing new materials in a natural space, they think of the name NFW."

Robert DeBeradine, IPOEF president, said Amstutz's and Haverhals' contributions will extend well into the future.

"IPOEF is proud to celebrate pioneering innovation each year. This year's Inventors of the Year have created reusable fiber materials from natural resources for the fashion industry and proven the impact potential of their sustainable materials for consumers and the global economy as a whole.

"We believe the benefits of their IP in this space will be lasting and far reaching."



Sanjay Mehrotra
EXECUTIVE OF THE YEAR



Dr. Gary Michelson
IP CHAMPION



Terrica Carrington
INSPIRATION AWARD



Haverhals and Amstutz join a small and exclusive class of Inventor of the Year award recipients, including CRISPR-CAS9 inventors and developers of the mRNA technology used in COVID-19 vaccines.

Mehrotra will be honored for the creation, promotion, and protection of intellectual property. He is the Indian-American CEO of Micron Technology, which on September 12 broke ground on a leading-edge memory chip factory in Boise, Idaho. He was a co-founder of SanDisk, where he was president and CEO until its acquisition by Western Digital in 2016.

Dr. Michelson is a board-certified orthopedic spinal surgeon, inventor, and founder of a network of foundations. A holder of more than 950 patents, he has long championed a strong

patent system and the value of IP protections. In 2016, he established the Michelson Institute for Intellectual Property (Michelson IP) at his education nonprofit the Michelson 20MM Foundation, providing free intellectual property educational resources for inventors and entrepreneurs, with a strong focus on underrepresented communities.

Carrington won the IPO Education Foundation's first Inspiration for her work promoting and championing IP rights for or on behalf of members of underrepresented communities. She is vice-president, legal policy and copyright counsel at the Copyright Alliance. Since joining the Copyright Alliance in 2016, she has advocated before Congress, the U.S. Copyright Office, and other federal agencies on a number of legal and policy issues. 📌

Natural Fiber Welding leaders Luke Haverhals (left) and Aaron Amstutz (right) will be recipients of the 2022 IPOEF Inventor of the Year award.

For tickets and information about the awards ceremony, visit IPOEF.org.

Intellectual Property Owners Education Foundation is a nonprofit organization devoted to educational and charitable activities designed to teach about the value of intellectual property rights and encourage innovation. The foundation is committed to promoting an understanding and respect of intellectual property rights and their value for society.



Make That Pitch **Sizzle!**

HERE'S HOW TO MAX OUT THOSE SHORT, FAST-PACED PROMOTIONAL VIDEOS FOR YOUR INVENTION OR PRODUCT

BY APRIL MITCHELL

THIS SUMMER, my team did a video shoot on the beach for a new outdoor/yard game. I wanted to create a sizzle video to present to companies in hopes of licensing my game.

A sizzle video is short, fast-paced and compilation style, showcasing the benefits of your product or business. Usually 2-3 minutes long, it often features mixed media that includes live-action, b-roll footage, short video clips, testimonials, reviews, etc.

When you're pitching new products to companies, these videos can be very helpful to showcase your product—and can give more detail than a sell sheet.

I find videos to be of extra importance in the toy and game industry. This is because “showing” the fun is a lot easier in a video.

Making these videos for new products has become a norm in our house. The first sizzle video I made by myself was for my product, the Right Height Adjustable over-the-door hook.

There was a learning curve. I watched a lot of YouTube videos to learn how to use an editing program, but I got it done and it helped me land a licensing deal. Although it was not a fancy video, it got the point across by showing the problem as well as the solution my product provided.

Now I like to add extra fun to the videos when I can! See the YouTube link at the end of this column to view my 57-second sizzle video.

Sizzle videos can make the difference in landing that licensing deal you are so badly seeking. I am convinced that I landed my licensing deals due to my sizzle videos.

Sizzle videos can make the difference in landing that licensing deal you are so badly seeking.



I'd like to share some information and tips about these videos here in hopes that you will consider making and presenting a sizzle video the next time you want to submit or pitch a new product to a company.

Storyboard it up

First, decide what it is that you want to tell and show about your product. No matter what your product is, it is important to lay out what views of photos or videos you want to show and their order, along with the voiceover script that aligns with what your video will say.

Thinking about these things and laying them out beforehand will help you focus on the video shots to make your video. Once you have the planned shots aligned with what will be said in the video, type up the voiceover script separate and record it—or hire a professional to read it in the tone of voice you would like.

Note: During the video shoot, do not have someone say or read the voiceover. That is to be done separately.

Getting the shots

If your product solves a problem, be sure to start with the problem—and then showcase your product and how it is the solution to that problem.

If you are presenting a toy or game, showcase how to play with it and how fun it is. The video should be exciting and high energy.

Whatever the product may be, get different views or angles. Think about the uses of the product, too. Take short videos of the shots you need, then combine them to make your sizzle video. You can't record a 30-minute video of your game being played and expect people to watch it!

Location

Shoot videos of the product where the consumer actually would use it once it is bought from the store. If it is a kitchen product, shoot the video there; if it is an outdoors product, same thing.

If you need to go somewhere out of your home, I suggest going early in the morning before the

area gets too busy. In my recent case of shooting at the beach, we went early so there weren't too many people so we had a lot of space and not a lot of eyes watching what we were doing.

I have also shot a video at a local bar. Match the video with the product you are presenting.

Video editors

Choose a video editor site that will work best for YOU; do not pick something so complicated it will take months to figure out.

I recently made the switch from iMovie to Movavi and am so happy I did. There are a lot of great “extra” features I'm learning how to use now.

iMovie was a great introduction video editor for me, and now I am needing and wanting a bit more. There are a lot of great video editors—including inShot and CyberLink PowerDirector 365. Look and find one that looks user friendly to you and can fit your budget.

Actors

Choosing actors or play testers to video using your product seems like a no-brainer, but it makes a huge difference who you choose to be in your video.

Yes, I usually have my family or friends help, but be sure to ask or pick people who are going to smile and look like they are enjoying the new product. You may even want to choose people who can “act” a little or get into things easily and have fun with great expressions on their faces.

Remember to enjoy the journey! It may take time getting the hang of making sizzle videos, but I think it's worth it and shows you are willing to go the extra mile for the product. 🍷

Right Height video link: <https://youtu.be/uFTvoObTOPk>

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*.



On Full Display

THESE TECHNOLOGIES LIGHT THE WAY FOR SHOWING WHAT IS GOING ON INSIDE THE ELECTRONICS OF A MACHINE

BY JEREMY LOSAW

AS A PARENT, I hate it when my kids are constantly on their phones. I look for reasons to cut their screen time.

However, as a developer and prototyper, I like to maximize my screen time. Digital displays on a prototype are massively helpful to give insight into what is going on inside the electronics of a machine.

Of course, you cannot see electrons or the read-out of a sensor value, so we rely on displays to provide the HMI (human machine interface) to bridge the gap between human and machine.

Many different types of displays use different technologies to show numbers, characters or animations in black and white or full color.

When the nature of the data of the machine's state is too complicated for simple lights (usually LEDs), you need a display.

For example, if you need to see the value of the data from a sensor, such as the actual temperature of a refrigerator or frequency setting of an FM radio, a display is required.

However, if the data being shown to the user are simple, like whether a machine is on or off or charging, this can be done with one or a few LEDs.

Here are some common types of displays and how they work so you can choose the best one for your next prototype.

LED displays

Although singular LEDs can show just a handful of states, when combined into an array they can show characters or even pictures and animations.

A simple and common way to use LEDs for a display is the 7-segment display—where the LEDs are arranged into seven regions that, when lit in different patterns, can show numbers and limited letters. These are common in beverage machines where the price of an item is shown, or they can be used to show live data like a temperature.

There are many different 7-segment displays (they are actually eight if they include a decimal point) that are compatible with Arduinos and other controllers, but they can use a lot of control pins. Fortunately, there are modules that have chips to control the displays and reduce the amount of pins you need on the control board to just a few.

LEDs can also be combined into an array or a matrix to extend their capabilities. For example, Amazon Echo devices that run Alexa have an LED ring that changes colors and has effects to show whether it is listening, responding, offline, or if there is a notification.

LED matrices can be driven by Raspberry Pis. They can be used to scroll data on a marquis or show other relevant data.

LCD

The LCD, short for liquid crystal display, is a relatively old but great technology for displays. Those of a certain age likely experienced LCDs for the first time while using a solar-powered calculator in the 1980s.

The technology behind LCDs is a bit magical. They use a series of polarized lenses that sandwich the liquid crystal goo. Applying electricity changes the state of the liquid crystals to either block the light (so it looks black in that region) or allow light to pass and show the base color of the background.

LCDs do not emit light on their own, so they are often combined with a backlight to enhance the contrast of the characters. LCDs are relatively inexpensive and mature technology. They are easy to control with prototype microcontrollers.

TFT

This is short for thin-film transistor—a more modern variant of the LCD.

A TFT display has an individual transistor for every pixel, giving more precise control for



Although singular LEDs can show just a handful of states, when combined into an array they can show characters or even pictures and animations.

better overall display quality and resolution. It has a backlight and color mask so it can be used to make full color displays.

TFTs can have a narrow viewing angle, which is a limitation, but this is helpful for applications where screen privacy is a concern. TFTs for prototyping and production can often be found as a touchscreen, which is helpful when the screen also needs to be used as an input device.

OLED

An OLED (organic light-emitting diode) is a high-quality, inexpensive, common display for consumer tech.

Organic LED technology has a layer of organic material sandwiched between electronic layers that light up when given current. They are capable of being made very small. When red, green and blue are combined in an array, they can make beautiful, full-color displays. The current generation of iPhones even uses OLED displays.

For prototyping, the most common are of a single color—usually white or blue displays that are about the size of a thumb. They are easy to implement with just four wires and simple code that can make characters and animations. For more in-depth projects, there are full color OLED displays that are about 10 times the normal cost.

E Ink

This brand is a unique display type that came to prominence in the Amazon Kindle.

These typically black-and-white displays do not emit light. They have a soft, almost matte appearance, similar to an Etch-A-Sketch, and a decent approximation for the page of a book.

E Ink's tiny pixels have small spheres of pigment that can be rotated when given current. Once they are in position, they require no additional power and can show the displayed text or image ad infinitum with no additional power.

A rapidly evolving technology, E Ink has some drawbacks. The refresh rate is slow compared to other display technologies and sometimes requires a full reset of the screen back to blank before re-rendering, which can be jarring to a viewer.

Although multi-color E Ink is starting to become more prevalent, the quality is still low and has a washed-out look. However, because it requires no power after a refresh, it is the most energy-efficient way to have a screen. 📖

Above: Losaw's daughter, Harper, solders up a PCB with a 7-segment LED display.

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





Gathering Clouds

RECENT EVENTS FAVORING THE ANTI-PATENT MOVEMENT
SHOULD WORRY INDEPENDENT INVENTORS **BY LOUIS CARBONNEAU**

THERE ARE early signs of a certain “movement” favoring those dedicated (for at least the past decade) to weakening the U.S. patent system. Clouds are gathering over what has been a somewhat positive marketplace in the recent past, judging from our own transactions and daily discussions we have with buyers, litigators and other key stakeholders.

So, this is a good time to reflect on the IP marketplace and take stock of both how and where things are going. In particular, a couple recent events indicate momentum slowly shifting away from patent owners.

Reversal a backward step

When new USPTO Director Kathi Vidal was nominated for her position, Tangible IP adopted a cautious tone given her past representation of many large tech companies notorious for pushing an agenda that aims to weaken the U.S. patent system.

My prediction after she was confirmed was that she would take her time before doing anything that would be perceived as undermining the work done by her predecessor, Andrei Iancu. Last January, I wrote:

“An ancillary prediction: Mrs. Vidal will tread lightly in the initial few months of her tenure, so as to not give fodder to those who opposed her. I do not expect her to rock the boat too early nor change current policies or practices at the Patent Trial and Appeal Board this year. But watch out in 2023!”

Looks like the gloves might be off a few months ahead of schedule. In late July, under Director Vidal’s instruction, the USPTO reversed the “NHK-Fintiv rule”—which allowed the PTAB to use its discretion to decline instituting *inter partes* reviews (a procedure that challenges the validity of a patent) when there is already a parallel court case it believes can adjudicate on the same issue faster. The stated goal is to avoid duplicative—and possibly contradictory—rulings.

Though this sounds like an arcane administrative rule that only the initiated understand, it will breathe a second wind into IPRs. These have been the most effective tool of the past decade to invalidate issued patents, with a “kill” rate hovering around 70 percent.

Ultimately, patentees may never have their rightful day in court.

Justice reduced

Since his appointment to the bench in 2018 for the Western District of Texas, Judge Alan Albright, an experienced patent litigator, set out to make his district a venue of choice for patent cases. In so doing, he created rules of practice

Judge Alan Albright, who earned a reputation for swift and efficient patent cases in the Western District of Texas, will now see only 8 percent of the patent cases he used to oversee.



that allowed for a swift and efficient docket and for parties to have their day in court—sometimes within a year—reminiscent of what the old “rocket docket” of the neighboring Eastern District of Texas once was in the early 2000s.

As a result, the district attracted a lot of new cases. Given that the district englobes the city of Austin where many large companies maintain a presence, it became hard for those to transfer the case to another venue.

Naturally, several defendants complained about what they said was too “patent friendly” of an environment, conflating a rapid and efficient docket devoid of unnecessary motions (which is true) with an alleged bias by the court (which is not).

The continuous lobbying from big tech reached the federal circuit—which took pleasure in overruling Judge Albright on venue transfer motions and sending cases to other districts where the defendants were located. This was all to the great delight of Apple and the like. But Albright still had a disproportionate

number of cases filed in his district by patent owners looking for a quick and less expensive process than in other districts.

This is when the infringement lobby turned its efforts to the U.S. Senate. Soon thereafter, Sens. Thom Tillis (R-N.C.) and Patrick Leahy (D-Vermont) sent a rather uncommon letter to Chief Justice of the Supreme Court John Roberts complaining that Judge Albright was overseeing too many patent cases, as if this was a crime.

Chief Justice Roberts said he would look into this; it seems that he did indeed. In late July, out of the blue, Chief Judge Orlando Luis Garcia for the Western District of Texas issued a one-page order whereby all patent cases filed in Waco will now have to be distributed randomly (and equally) between the 12 judges in the district. This means, essentially, that Judge Albright will now see only 8 percent of the patent cases he used to oversee.

Most other judges in the district have little to no patent experience and many even resent

Hit your target

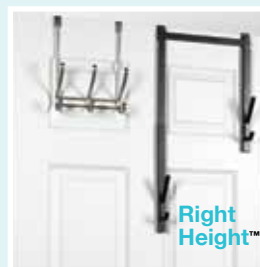


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patent cases, as these are complex and technical. As a result, litigants will now need to find new strategies and allocate larger budgets to assert patent cases.

This is truly a regrettable decision for those who believe cases should be heard by competent judges who don't fall trap to the numerous motions filed by defendants who have no intent to see a case go to trial. There was a method to the madness of filing patent cases in Western District of Texas; it produces an environment that ensured a swift and less expensive decision from the court, something all other courts should want to emulate and exactly the same reasons—at

least officially—behind the creation of the PTAB.

The exact opposite has now happened due to this extraordinary turn of events. One can easily follow the breadcrumbs of lobbying money to politicians and ultimately to a judiciary that appears to have become anything but independent.

Bill offers hope

A couple months ago, the same two U.S. senators—maybe to atone for the above—introduced two separate bills that may affect the patent marketplace.

The one worthy of mention, the Patent Eligibility Restoration Act of 2022, aims to “restore patent eligibility to important inventions across many fields, while also resolving legitimate concerns over the patenting of mere ideas, the mere discovery of what already exists in nature, and social and cultural content that everyone agrees is beyond the scope of the patent system. This bill affirms the basic principle that the patent system is central to promoting technology-based innovation.”

All this sounds good in principle. It is good to see Congress trying to fix the patent eligibility mess that SCOTUS created with its 2014 Alice ruling, which this new bill aims to overturn legislatively.

Most experts who have been vocal on this issue publicly support the bill. (*Editor's note:* This includes the Innovation Alliance, which issued a statement that appeared in the September *Inventors Digest*.)

However, because not a single patent-related bill introduced in the past decade has made it into legislation (and there have been many), we doubt this one will be any different. Meanwhile, the status quo holds on this point—and this possible ray of sunshine will remain hidden behind gathering clouds until Congress can pass bipartisan bills more routinely. ☞

PATENT BROKERS IN VOGUE

I will admit to being “that guy”—the one who cuts the middleman from every operation.

When I do construction projects, I act as the general contractor. And if I could sell my house without a realtor, I would do it in a heartbeat.

Yet, here I am, a patent broker. Is this a case of “Do what I say, not what I do?”

To be honest, no. I do not believe you can sell a patent nowadays without a professional intermediary to facilitate the process, despite numerous attempts over the last decades to automate the process.

The IP marketplace remains very illiquid. Patent brokers cultivate the contacts and relationships to successfully matchmake. They know who is looking for what and how much they are willing to pay for it, how a transaction can be structured and how to avoid common pitfalls. These all increase the likelihood of closing a deal.

Numerous Fortune 500 companies have in-house teams dedicated to selling patents, primarily to avoid the broker fee, and many times they ultimately knock at our door for assistance.

In other words, representing one's own patents is akin to defending oneself in court: You have a fool as a client.

Given our soapbox on the value of a broker, I personally felt some validation (and a little vindication) when I saw a recent Richard Oliver Insights (ROI) report and this quote:

“One of the major shifts we're seeing is buyers' attitude towards brokers. In our 2020 survey, 70 percent of buyers listed direct outreach as the best source of deals. Only about 30 percent of buyers listed brokers as the best source.

“However, in just two years, the picture has changed dramatically. Less than 30 percent of buyers now think that the best deals comes from direct outreach. In fact, over 60 percent—twice as many as in 2020—listed brokers as the best source.”

So, hug your broker the next time you see him or her.



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.



Some Manufacturers Need Inventors

IF THEIR OVERHEAD ABSORPTION COSTS ARE HIGH, YOU MIGHT BE IN FOR A GOOD DEAL **BY DON DEBELAK**



INVENTORS should understand a little about manufacturing accounting to see the potential of striking a deal with the right manufacturer.

Manufacturers use the term “overhead absorption” to cover their costs—which include equipment and plant depreciation, rent, equipment costs, maintenance and all other items considered overhead. They take those costs and typically divide it by manufacturing hours to get an overhead absorption rate. This can account for 40 percent to 50 percent of a product’s cost.

Manufacturers operating at below 60 percent capacity have an enormous need to get more products, because those new products cut down the absorption not only for their new products but all their existing ones.

Often this means a manufacturer at 60 percent capacity might just be breaking even. But if that same manufacturer is at 80 percent capacity, he or she will be at a 20 percent profit margin. The profit swing is dramatic as plant utilization rates increase.

So, finding manufacturers who are closer to that 60 percent capacity utilization provides inventors with tremendous leverage. Often, manufacturers will pick up much of your startup costs if you can show your product will sell, typically by having sales agreements in place.

Manufacturers too far below a 60 percent utilization rate often don’t have any money, and manufacturers too far above the 60 percent utilization rate don’t benefit nearly as much from your business.

You can also inquire about the company’s product line; what products it makes under its own brand; when its products were introduced, and what products it makes for others.

Manufacturers with an older product line often have falling sales. If their sales are still fairly strong but shrinking, they will be your best candidate for a manufacturer to pick up much of your manufacturing costs.

The key to getting a manufacturer to pick up your costs is to have proof the product will sell.

The best way is to have a sales or distribution agreement with an established company in the market, via:

- **Marketing agreement.** This is where a company agrees to buy the product from the inventor and sell it under the inventor’s brand name, usually marking up the inventor’s price 35 percent to 50 percent. The inventor is responsible for producing the product.
- **Private label agreement.** A private label agreement with another manufacturer or distributor is where a company agrees to sell the product under its name. Companies usually mark the inventor’s price up 50 percent. The inventor is still responsible for production.
- **Exclusive or non-Exclusive sales agreements.** You can have an agreement with large retailers and distributors. In many cases, inventors will have agreements with many regional companies, which are easier to sell to than a national chain. These agreements provide inventors with their best opportunity for larger profits, as marketing and private-label agreements require you offer substantial discounts to the other party.
- **Agreements with large manufacturer’s sales reps.** Most manufacturing sales rep groups are regional, but many have 10-20 reps. These rep groups can generate great sales. The manufacturer won’t invest if you have small, two- or three-person rep groups. ☎

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





Hope for Clarity

USPTO TEXAS REGIONAL DIRECTOR SAYS OFFICE IS WORKING TO END CONFUSION OVER PATENT ELIGIBILITY **BY EILEEN MCDERMOTT**

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

THE UNITED STATES Patent and Trademark Office's Texas Regional Director Hope Shimabuku told attendees at IPWatchdog LIVE 2022 that the office is actively working, both internally and with Congress, to fix confusion around U.S. patent eligibility law following the Supreme Court's denial of certiorari (review) in *American Axle & Manufacturing v. Neapco*.

Shimabuku said the USPTO was very disappointed when the court declined to review *American Axle*. The office revived its Section 101 Working Group to consider options.

She also said she thinks Sen. Thom Tillis' (R-N.C.) recent Patent Eligibility Restoration Act has a good chance of getting through Congress.

"There's keen interest," Shimabuku said on September 11, Day 1 of the IPWatchdog event.

(Editor's note: The language of the bill, introduced on August 2, says its goal is "restoring patent eligibility to important inventions across many fields, while also resolving legitimate concerns over patenting of mere ideas, the mere discovery of what already exists in nature, and social and cultural content that everyone agrees is beyond the scope of the patent system, which is a system aimed at promoting technology-based innovation.")

Hope Shimabuku said the USPTO was very disappointed when the Supreme Court declined to review *American Axle*.

Fighting counterfeiting

IPWatchdog founder and CEO Gene Quinn also asked Shimabuku for an update on what the office is doing to combat counterfeiting, particularly with respect to bad behavior from Chinese actors.

Shimabuku said the topic is a priority for USPTO Director Kathi Vidal but that "it's a really difficult situation."

Although the USPTO has IP attaches based in China to help IP owners navigate the system, it has become increasingly problematic for companies to let the Chinese government know that they're being advised by anyone.

Since Vidal took over, Shimabuku said she has had weekly meetings with the director. Asked whether claims and continuations practice is one of the office's priorities, Shimabuku said yes, as it is one of five initiatives under the rubric of "robust and reliable patents"—i.e. patent quality, which is a key focus for Vidal.



PHOTO BY JAY PREMAK/USPTO

In June, a number of senators asked Vidal to address concerns regarding the anti-competitive impacts of so-called “patent thickets,” especially in the drug industry, primarily focusing on the role of continuation patents. They asked that Vidal issue a notice of proposed rulemaking on the subject, or a request for comments, by Sept. 1, 2022; however, the office had not published any such notice as of September 11.

Shimabuku also noted that the Texas Regional Office has been slowly coming back online following its closure to the public during the pandemic, and that there is “a good group” of examiners coming into work rather than working remotely.

The office has also started holding in-person hearings again, and at least one person has come in every week to ask for help with patent filings since reopening. 📍

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

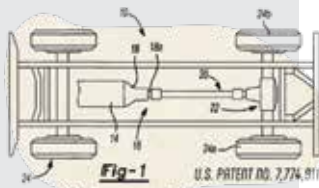


THE DRIVESHAFT SHAFT?

On June 30, the U.S. Supreme Court declined a writ petition filed by American Axle and Manufacturing in an effort to revive its patented technology for quieting driveshaft noise.

In 2015, AAM sued Neapco for infringement of a patent relating to a method for attenuating driveline vibrations. Chief Judge Stark of the District of Delaware found the asserted claims of U.S. Patent No. 7,774,911 ineligible for patent protection under Section 101 of the Patent Act.

AAM appealed this decision. But in October 2019, the U.S. Court of Appeals for the Federal Circuit affirmed the U.S. District Court of Delaware’s finding. AAM demanded a rehearing, but that was rejected.



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Best wishes, Jack Lander

IoT Corner

Google announced that it will shut down its IoT platform in August 2023.

Google's managed IoT service, called **IoT Core**, allows devices to be controlled through its cloud platform. Originally launched in beta in 2017, the service has been widely adopted, with bespoke development kits developed to help innovators build on the platform.

It is suspected that large financial losses from the business of running IoT Core prompted the decision. The announcement came with a sense of déjà vu: In December 2020, Google abruptly announced it would close Android Things, an Android version for IoT. It was shut down completely in January 2022. —*Jeremy Losaw*

Wunderkinds

Maryam Muzamir, 12, of Kuantan, Malaysia, won the Double Gold award for International Innovation of the year (industrial) and Young Ambassador of Innovation—Chairman's Special Recognition Award at the prestigious British Invention Show in London in June. Her Yam 2.0 is a sustainable animal feed made from shrimp shells and seashells that is processed into fine powder. It can be used to feed chicken, goats and fish, among others. She was also the youngest winner last year at the International Invention Competition in Canada.



What IS that?

Slipper Genie's Evriholder Microfiber Women's Slippers

purportedly catch hair, dust and dirt with their microfiber fingers to aid in household cleaning. The slippers got many positive reviews on Amazon, although one buyer contributed this no-duh caveat: "Don't wear them to walk from a dirty hard surface onto carpet. The fibers in the carpet will pull the dust, gunk and hair out of the chenille and deposit it onto your carpet."

1968

The year Major League Baseball first registered its name and logo as a trademark. It's safe to say the world of intellectual property has changed a lot since.

WHAT DO YOU KNOW?

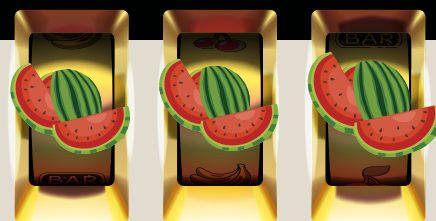
1 True or false: Although the NBA holds all the trademarks for the league and its teams, the WNBA does not.

2 Which Rolling Stones member had a trademark application filed for his name?

- A) Mick Jagger B) Keith Richards
C) Ron Wood D) Charlie Watts

3 What was invented first—shipap, or stainless steel refrigerators?

4 True or false: On his proposed electronic slot machine, comedian Gallagher suggested one possible animation be a watermelon getting smashed.



5 Which city applied for the trademark "The Halloween Capital of the World" last year?

- A) Detroit, Michigan B) Anoka, Minnesota
C) Vista, California D) Montpelier, Vermont

ANSWERS: 1. False. It's the opposite: The WNBA holds all the trademarks for its league and teams; the NBA does not. This makes the WNBA more valuable than it otherwise would be, but individual teams' slogans, mascots and the like are not protected. 2. A. 3. The stainless steel refrigerator design began appearing in the 1990s. Although shipap became popular on HGTV about 10 years ago, its origins date to the time of the Vikings—at least 1,700 years ago. 4. Of course! 5. B.

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