

Inventors

DIGEST

THINK MARKETING

INDUSTRY TITAN SHOWS THE WAY

Details, Details

FINE POINTS RULE IN
PATENT APPLICATIONS

Blue Jeans' Genes

CO-INVENTOR IS
OFTEN OVERLOOKED

BILL SEIDEL

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Celebrating a half century of honoring inventors and invention

The United States Patent and Trademark Office is honored to celebrate the 2023 class of Inductees and 50 years of partnership with the National Inventors Hall of Fame.

The Inductees have changed the world with their innovations. Enshrining their achievement in the National Inventors Hall of Fame—the National Monument to Innovation®—will make sure their

stories will inspire a new generation of inventors, innovators, and entrepreneurs for another 50 years to come.

Congratulations to the new Inductees, and thank you for your contributions.

Learn more about the 2023 Class of Inductees: www.invent.org/inductees/new-inductees

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ON THE COVER
William Seidel, owner of America Invents; photo by Kate Nagle Photography

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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.

**SAVE THE
AMERICAN
INVENTOR**

SaveTheInventor.com

DIRECTOR'S BLOG

Tackling Global Climate Change

Meeting with leaders of world's 5 largest IP offices focused on sustainable innovation, net-zero greenhouse gas emissions BY KATHI VIDAL

Recently, I had the privilege of hosting leaders of the largest intellectual property offices in the world: the European Patent Office; Japan Patent Office; Korean Intellectual Property Office; China National Intellectual Property Administration, and the World Intellectual Property Organization (WIPO), for the annual meeting of the IP5, which took place in Hawaii.

I then led the USPTO delegation to the 64th Assemblies of the Member States of WIPO, an annual meeting with over 190 international IP offices from around the world in Geneva.

The IP5 launched in 2007 as a forum for the world's five largest patent offices to exchange views and identify opportunities for cooperation with regard to common challenges, including patent examination workloads, backlogs, patent quality, and inefficiencies in the international patent system.

At this year's IP5, one topic of international concern was how to work together to support sustainable innovation and as we look to solve global climate change. There is a pressing need for more innovation in the green tech space, and we need new technologies there.

IP5 leaders shared information on initiatives that encourage patent filings in climate technologies in their countries, streamline examination, and encourage eco-friendly efforts, such as paperless filing and energy efficiency.

We brought together innovators, accelerators, and funders, as well as our sister agency, the National Oceanic and Atmospheric Adminis-

tration, to determine how we can be a catalyst to bring climate change technologies from research to the marketplace.

In my remarks at the General Assemblies, I also underscored the need for greater international collaboration to advance green technology. The USPTO delegation and I participated in a number of valuable bilateral meetings—including with the European Union Intellectual Property Office, United Kingdom Intellectual Property Office, German Patent and Trade Mark Office, Canadian Intellectual Property Office, Intellectual Property India, Turkish Patent Office, and more.

Our work ties directly into the U.S. administration's priority to reach net-zero greenhouse gas emissions. For example, we are expanding and deepening our work with Canada to benefit all U.S. and Canadian citizens and businesses.

At the USPTO, in the last year alone, we have established new programs to address climate change. We announced a new Trademarks for Humanity Awards Program, Patents for Humanity Green Energy category, and partnership with the World Intellectual Property Organization's WIPO GREEN Program. And we recently announced the extension and expansion of our Climate Change Mitigation Pilot Program, which accelerates the examination of patent applications for innovations that mitigate climate change.

For the entire story and relevant links, see uspto.gov/blog/director/entry/working-globally-to-address-climate.

PHOTO BY MICHAEL CLEVELAND/USPTO

The USPTO hosted the leaders of the five largest intellectual property offices of the world, as well as the World Intellectual Property Organization. This year's IP5 meeting focused on sustainability.



JOURNEYS OF INNOVATION

True Grit, in White

Single mother and secretary Bette Nesmith Graham conquered fear to create a revolutionary office invention BY WHITNEY PANDIL-EATON

She stood outside the Texas Bank and Trust high-rise building in downtown Dallas one mild southern winter day, watching brush stroke after brush stroke as the artists slowly transformed the bank's exterior windows into a painted festive scene for the upcoming Christmas holidays.

Then, it clicked.

Her lifelong passion for the arts—combined with a healthy dose of perseverance—saved her career.

Perseverance had served Bette Clair McMurray well. She used it to pursue her GED after dropping out of school at age 17 to attend secretarial school and marry her high school sweetheart, Warren Nesmith. It was perseverance's cousin, grit, that helped her raise their infant son, Michael, while Nesmith served overseas as a soldier in World War II. Now, creative determination would save her job.

The clack, clack, clack sound of typewriters was ubiquitous in offices during the 1950s.

During this time, many offices transitioned from manual typewriters to electric typewriters. While electric typewriters helped to automate many processes increasing efficiency, the messy carbon-film ribbons and sensitive key triggers resulted in more typos. An eraser could be used to fix the mistake, but the carbon ink would smear, necessitating the remaking of the document for a single error.

In her more than 10 years as a secretary, Bette Nesmith Graham had propelled herself to a high professional level, serving as the executive secretary for the chairman of the Texas Bank and Trust. Although highly skilled overall, her typing proficiency was subpar, a fact made worse by the transition from manual to electric typewriters.

As a single mother—Bette and Warren divorced in 1946—she couldn't afford to lose the primary means of support for herself and her son.

"I didn't have a fellow at the time, so I had to do it by myself," Nesmith Graham said in an

interview later in life. "I had to appreciate that as a woman I was strong, complete, adequate."

Recalling her observation of the bank window painters, one day Nesmith Graham brought a small jar of white, water-based tempura paint into the office and began using it to cover up typos with a watercolor brush. It worked so well, it is said, her employers seldom noticed.

Nesmith Graham quietly used her liquid creation for a time until other secretaries in the office took notice and flooded her with requests for their own bottles of the wonder fluid.

Encouraged by the positive response, Nesmith Graham took a second job, working nights at her north Dallas home filling orders for other secretaries in the area. During that time, she worked alongside her son's chemistry teacher and an industrial polymer chemist to perfect the formula for what would initially be called "Mistake Out."

Despite the increasing demand for her correcting fluid, her secretarial salary of \$300 per month meant Nesmith Graham was unable to afford the \$400 patent application fee in 1956.

Her son, Michael—who later gained fame in the pop group the Monkees—recalled in an interview that his mother would frequently "burst into tears of panic."

"I was struggling against mediocrity," Nesmith Graham said. "I felt that I was special, that I had something special to give. But I didn't know what that was going to be."

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



Bette Nesmith Graham was inspired by her love of painting and the arts.



REGIONAL HOMES

Midwest Office: The Real McCoy

The stately portrait of Elijah J. McCoy—a Canadian-American engineer of African-American descent who invented lubrication systems for steam engines—stands proudly at the first regional office in the history of the United States Patent and Trademark Office.

The Elijah J. McCoy Midwest Regional Office in Detroit was officially opened in July 2012 at the Stroh Building at 300 River Place. Four other regional USPTO offices have opened since, all with the goal of adding convenience and service for inventors, would-be inventors, and anyone involved in the exploding ecosystem of intellectual property. A Southeast Regional Office is in the works.

The Midwest Regional Office, exuding a Detroit flavor with its logos of Motown and professional sports teams, serves Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

Among its features is a PTAB hearing room. Collaboration spaces intended for public use include rooms that may be configured to suit events of all sizes and are equipped with whiteboards, easels, telephones, and A/V equipment.

The office's public search room has two workstations with the same search tools that USPTO employees use when examining patent and trademark applications. Their access requirements and print capabilities are the same as those in the Public Search Facility at USPTO headquarters. The search room is open from 9 a.m. to 4 p.m. ET, Monday through Friday, except federal holidays.

For a listing of October events at the Midwest Regional Office, go to uspto.gov/about-us/uspto-locations/detroit-mi/midwest-regional-office-events.

NEWS FLASH

RENAMING HONORS CROAK: In support of its initiatives to expand inclusive innovation and entrepreneurship to grow jobs and improve lives, the USPTO announced the renaming of its Edison Visiting Scholars Program after Dr. Marian Rogers Croak. She is a pioneer in Voice over Internet Protocol (VoIP) technologies, inventor of the text-to-donate system, and a 2022 inductee into the National Inventors Hall of Fame.

"Dr. Croak's contributions to global society are unparalleled, with her VoIP technology serving as the basis for today's Zoom, Microsoft Teams, and other telecommunications programs that enable virtual connectivity," said Kathi Vidal, under secretary of commerce for intellectual property and director of the USPTO. "This technology helped so many of us remain connected with our loved ones during the pandemic and has transformed the modern workplace."

Dr. Croak responded: "I am truly humbled to receive this honor from the USPTO. This program is essential to improving the quality of our intellectual property system and expanding access to our nation's innovation and entrepreneurship ecosystem."



WHAT'S NEXT

PROTECT YOUR IP: Leaders in the intellectual property and small business community will share stories and tips on how to protect your IP via patents and trademarks at the next Patent Pro Bono Program: Pathways to Inclusive Innovation event on October 11, from 12:30 to 5:30 p.m. ET. You can attend virtually or in person at USPTO headquarters in Alexandria, Virginia.

Registration for this free event is required for in-person and online attendees. Seats for in-person attendance are limited, so register now at uspto.gov/about-us/events/patent-pro-bono-program-pathways-inclusive-innovation-0 to secure your spot. Immediately following the USPTO's portion of the event, the Pro Bono Advisory Council will hold a follow-on program, also open to the public at no charge.

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

TRADING CARD

NO. 27 Rory Cooper

Rory Cooper has devoted his life to accomplishing big things for a small segment of the American population.

"Who's more important to serve than someone who is perfectly healthy, [who] puts their life on the line?" Cooper said in an interview with the Partnership for Public Service. "In America, we talk about the 1 percent (with the greatest wealth), but the 1 percent that's really important is the 1 percent serving in uniform."

It would be understandable if Cooper—inducted into the National Inventors Hall of Fame this year—equated the military with a tragedy he would rather forget, and moved on to other things.

The California native enlisted in the Army at 17. Three years later, while stationed in Germany in 1980, he was bicycling when a bus sideswiped him and sent him flying into a truck, paralyzing him from the waist down. He has responded by overseeing innovation that has improved and changed the lives of others with disabilities.

Cooper is a distinguished professor of rehabilitation engineering at the University of Pittsburgh and a senior career scientist for the U.S. Department of Veterans Affairs. His team has developed more than 100 inventions and received 25 patents related to technologies that include wheelchairs, robots, and wearable instruments.

In fact, Cooper typically wheels around in his creation, the Mobility Enhancement Robotic Wheelchair (MeBot). It maneuvers up and on curbs, on challenging terrains, and even climbs stairs. Other inventions include PneuChair, a wheelchair powered entirely by compressed air; and Virtual Seating Coach, a smartphone app for controlling power seating wheelchair systems.

He says his most important accomplishment is his work as the director of the Human

Research Engineering Laboratories at Pittsburgh (HERL). HERL's SMARTWheel revolutionized wheelchair biomechanics and ergonomics, dramatically reducing shoulder and wrist injuries for its users.

A rugged athlete who won the bronze medal in the 4-by-400-meter wheelchair relay at the 1988 Paralympic Games, Cooper overcame tragedy again in 2019. While competing in the Marine Corps Marathon in Washington, D.C., he lost control of his handcycle on a steep downhill. After hitting a curb, he was launched from his cycle and suffered two broken feet and legs among other injuries.

Because no one was around at the time, he finished the remaining 23.2 miles and sought help at the finish line. He passed out from shock and hypothermia, was in an intensive care unit for 10 days and in a coma for nearly four days. A year later, he was back competing at the Pittsburgh Marathon and completed it on his handcycle.

Cooper's multitude of prestigious awards include the Samuel E. Heyman Service to America Service Medal and the Secretary of Defense Meritorious Civilian Service Medal. But he has often said that his greatest honor is "being part of something that is bigger than yourself."

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



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How Much Do We Agree on IP Essentials?



From the garage tinkerer inventor to the college athlete to the media superstar, it has never been more important to understand the importance of intellectual property—how to leverage it, how to protect your creative rights, and more.

Now the Center for Intellectual Property Understanding wants to ensure that our understanding of IP grows, by asking creators “what they believe are IP essentials, basic principles and behavior that everyone needs to know, and how to best convey them.”

CIPU seeks the help of the IP community by completing a short, anonymous survey (it took me less than 10 minutes). That community includes IP owners, investors, engineers, lawyers, lawmakers, educators, entrepreneurs, inventors and content creators.

You can find the link on inventorsdigest.com.

Investopedia says IP is “a broad categorical description for the set of intangible assets owned and legally protected by a company or individual from outside use or implementation without consent. An intangible asset is a non-physical asset that a company or person owns.

“The concept of intellectual property relates to the fact that certain products of human intellect should be afforded the same protective rights that apply to physical property, which are called tangible assets. Most developed economies have legal measures in place to protect both forms of property.”

But that is merely a definition of IP. Its most important elements and protections are subject to considerable debate—which is where the survey comes in. CIPU retained an independent research firm, Response:AI, to conduct the survey. Results will be published soon.

“Help us take the pulse of the IP community and better understand where there is consensus on key topics, and where there is wide disagreement,” wrote Bruce Berman, chairman and cofounder of CIPU. “Some of the responses may surprise us.”

Inventors aren’t afraid to be surprised; it is the essence of what they do. We hope you join in.

—Reid
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Inventors

DIGEST

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Everybody's Talking

CORRESPONDENCE

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

I feel like I’m coming close to my renewal and want to make sure I can keep the greatest magazine in history coming.

Will there be a notification of when I need to renew? Will it be automatic?

If you can let me know, that would be great, for *Inventors Digest* is the greatest magazine in the universe (and that includes Hugh Everett’s many-worlds universes). —JOHN G. WARREN

John, when a subscription is about to expire at the end of the month, we send emails to people and ask if they would like to renew. So you will always have advance notice.

We, on the other hand, had no way to prepare for a reader referencing a physicist who interpreted quantum mechanics. Thanks for the kind words, and for making a little Inventors Digest history. —Editor

Just went through the September issue, and each one keeps getting better.

Keep up the great work. America and its millions of creative people, of all ages, need and benefit from it. —LARRY UDELL

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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.

CORRECTION An Inventor Update story in the September 2023 issue mistakenly listed Monica Marrero as a co-writer. The co-writer was Kristi Marquez.

MICROSOFT TO PROTECT CUSTOMERS IN AI SUITS

Artificial intelligence and copyright infringement lawsuits seem to go together like Halloween and orange (see Page 44). But Microsoft recently made a substantial pledge that shows its commitment to AI.

The company announced in early September its alliterative Copilot Copyright Commitment, in which it will pay legal damages on behalf of customers using its AI products if they are sued for copyright infringement for the output generated by such systems. The offer was to become effective October 1.

Microsoft said it will assume such responsibility so long as its customers use the “content filters and other safety systems” built into its products.

The company added that “the customer must not attempt to generate infringing materials, including not providing input to a Copilot service that the customer does not have appropriate rights to use.” (Will being able to legally prove a customer’s willful intent to use Microsoft products to infringe become a complication of this commitment?)

A very important—and possibly confusing—provision said the commitment covers “third-party IP claims based on copyright, patent, trademark, trade secrets, or right of publicity, but not claims based on trademark use in trade or commerce, defamation, false light, or other



causes of action that are not related to IP rights.”

Generative AI is a major player in Microsoft’s future. The company is building on its investment in ChatGPT-maker OpenAI and using the technology in many of its products. —Reid Creager

BRIGHT IDEAS

PetSnowy

SELF-CLEANING LITTER BOX
petsnowy.com

PetSnowy's deluxe, self-sealing SNOW+ claims to decompress bacteria and viruses by using a 24-hour ultraviolet light and remove more than 90 percent of ammonia.

SNOW+ has supersize capacity ideal for large or multiple cats. The store-and-seal drawer holds up to 2.6 gallons of waste for up to 2 weeks.

The PetSnowy app allows you to customize and manage litter box cleaning even when you're out. The app also lets you track litter box usage, waste drawer fullness and more.

Other features include weight sensors and a curved walkway mat that minimizes litter tracking. The box's peak noise level is just 53 decibels for a second or two. It retails for \$749.



DUOBO

COFFEE MACHINE THAT
EXTRACTS 2 CAPSULES
official-duobo.com

Billed as the first capsule coffee machine to extract two coffee capsules at the same time, DUOBO allows infinite flavor possibilities.

The pump draws water from the water tank and sends it to the boiler. The heated water passes through a three-way valve, heading toward the two chambers. Depending on the user's settings, the coffee in each chamber is sequentially extracted at the customized temperatures and extraction volumes to be cross-mixed in layers and blended.

On advanced models, a display placed on the surface of the plate plays visual contents while extracting the capsules. The basic version will retail for \$399, with shipping for crowdfunding backers in December.



ELO Vagabond

GAMING CONSOLE
FOR YOUR SMARTPHONE
eloesports.com

A mobile gaming controller available for mobile phones, Vagabond has precision-crafted grip and adaptability to any phone size (as long as the screen is smaller than 7.2 inches), quiet commands and drift-free control. The firmware is the same for IOS and Android.

Features include Hall Effect Sensor full-sized joysticks; offset controller layout with hybrid grip design; USB-C lightning adapter port; Hall Effect Sensor full-sized analog triggers, and USB-C input cable passthrough.

Play on all consoles and platforms with the unleashed companion app.

With a future retail price of about \$200, ELO Vagabond is scheduled for shipping to crowdfunding backers in January.



**"The difference between
genius and stupidity is,
genius has its limits."**

—ALBERT EINSTEIN

QOOLA Pro

REVAMPED WEARABLE
AIR CONDITIONER
hycier.com

Featuring its new Free-MT mounting system, QOOLA Pro guarantees secure mounting on your body at almost any position to unleash cool air when it's hot outside. The device has undergone testing at the waist, chest, back and forehead with positive results.

In its second iteration, QOOLA Pro delivers a sub-zero chilling sensation within 30 seconds. Adjust the temperature that suits you within the range of 54 to 70 degrees Fahrenheit (12 to 21 Celsius).

The device is also an option for pain relief and bruises. At the maximum option, QOOLA Pro is said to be able to match the cooling performance of ice packs over its average cooling cycle.

QOOLA Pro, which will retail for \$129, will be shipped to crowdfunding backers in November.



Forever in Blue Jeans

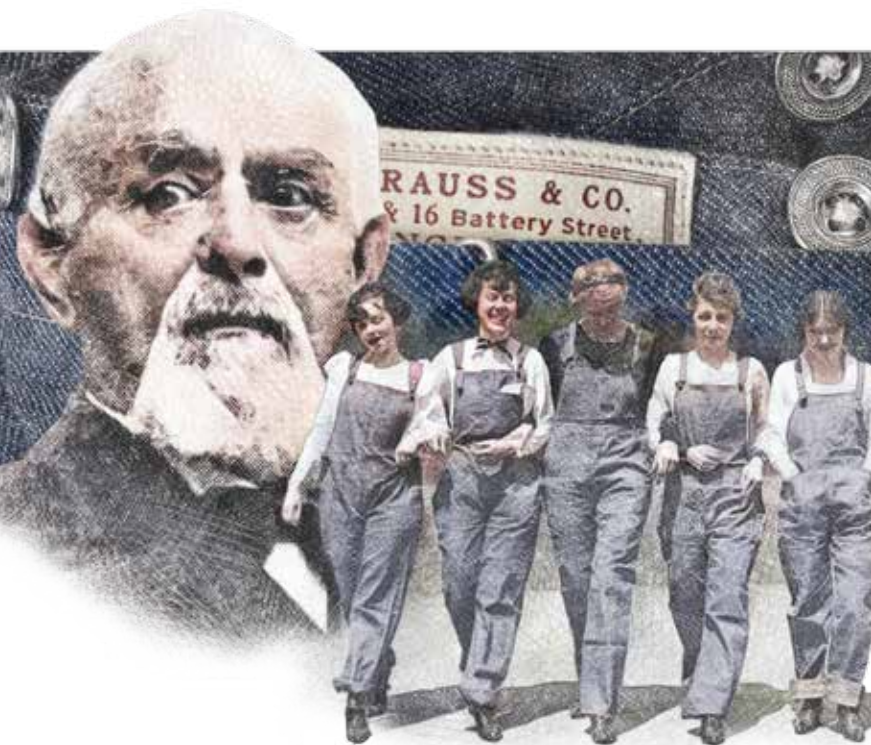
RIVETED IN AMERICAN SOCIETY AND POP CULTURE, CLASSIC WORK PANTS HAVE AN UNHERALDED INVENTOR

BY REID CREAGER

IT'S ONE of many brilliantly human and awkward slices of life in reruns of the early 2000s sitcom "The King of Queens": Doug Heffernan (Kevin James) is driving his wife Carrie Heffernan (Leah Remini) back from church when he refers to one of Neil Diamond's hits as "Reverend Blue Jeans."

Carrie laughs and tells him that the song is "Forever in Blue Jeans." After Doug claims she is wrong, viewers can see the light go on as he sounds it out in his head. Eventually he says, "How did I miss that?"

Jacob W. Davis has been called "The True Inventor of Blue Jeans."



And how did we miss Jacob Davis?

Although he is listed with Levi Strauss & Co. on the May 20, 1873, U.S. Patent No. 139,121 for the first riveted work pants (now known as blue jeans), Davis deserves a skosh more room in invention history. (The phrase "With a skosh more room," once a signature phrase in Levi's advertising, was actually trademarked in 1983 but since canceled.)

Much has been said and written about the company namesake, a popular San Francisco businessman and supporter of the Jewish community. But Strauss's place in garment history might not be as good of a fit had he not gotten a letter from Davis in 1872.

In fact, the website America Comes Alive! calls Davis "The True Inventor of Blue Jeans," with substantiated details that solidly back that claim.

A partnership of need

Davis—a tailor in Reno, Nevada, who was born in Latvia—wrote to Strauss, his fabric supplier, about Davis's method of making work pants with metal rivets on the stress points at the corners of the pockets and the base of the button fly to make them stronger.

According to America Comes Alive!, a woman had come into Davis's shop and asked if he could make a pair of sturdy work pants for her husband. After completing the project, Davis decided to use copper rivets he used to attach straps to horse blankets as a way to reinforce the pockets and the bottom of the button fly.

The pants were an immediate hit. But rival companies quickly noticed and began with knock-offs. Davis applied for a patent but was rejected, possibly because of his poor English.

So Davis wrote to Strauss, suggesting they go in on a patent together. America Comes Alive! says Davis did so because he was worried about the time it would take to apply for another patent; History.com says Davis was worried about the expense of the paperwork.

A more important discrepancy involves Davis's intentions.

History.com writes merely that Strauss was enthusiastic about Davis's proposal—while the other site says of the letter: "Davis wrote a letter in the best English he could. While the spelling is unconventional, his intent is clear: Jacob Davis wanted to be the sole patent holder."

Regardless, the two ultimately agreed to be partners. They first used seamstresses working out of their homes, but demand became so great so quickly that Strauss opened his own factory by the mid-1880s. The famous 501 brand jean was the anchor.

By the 1920s, Levi's denim waist overalls were the best-selling men's work pants in the United States.

Complex social standing

As the decades passed, blue jeans evolved from clothing with a specific function to a 20th-century pop culture mainstay that seems destined to forever be riveted in American life. (The Smithsonian reported in 2011 that blue jeans were a \$91 billion-per-year industry, so it's safe to estimate that figure is even closer to \$100 billion now.)

They were long seen as an anti-fashion statement, rebellion against convention. But much like tattoos, blue jeans are now very much a fashion statement and so ubiquitous they are often worn by people who follow trends—not those who set them.

Author Beverly Gordon summarized the pop culture influence of denim pants in her essay "American Denim: Blue Jeans and Their Multiple Layers of Meaning," published in Cunningham and Voso Lab's *Dress & Popular Culture* (2006).

"Blue jeans (...) have embodied many different messages, and functioned in different

PATENT PATHWAY



U.S. Patent No. 139,121: In the 1873 patent, note that Davis takes full credit for the invention, per this text in the description:

"Be it known that I, Jacob W. Davis, of Reno, county of Washoe and State of Nevada, have invented an Improvement in Fastening Scams; and I do hereby declare the following description and accompanying drawing are sufficient [sic] to enable any person skilled in the art or science to which it most nearly appertains to make and use my said invention or improvement without further invention or experiment ..."



ways—as symbols of rebellion; outlets for personal creativity; emblems of up-to-date, fashionable awareness; and evidence of generational longing and insecurity.

"Changes in jeans styling, embellishment, and marketing are closely tied to changes in the society as a whole, and these changes serve as a subtle but accurate barometer of trends in contemporary popular culture."

One of those trends included acid-washed jeans in the 1980s and '90s. Doug Heffernan once donned an old pair of his to celebrate losing a lot of weight. When his TV wife saw them, once did not become twice. ☺

INVENTOR ARCHIVES: OCTOBER

October 2, 1963: Dr. Martin Luther King Jr.'s iconic "I Have A Dream" speech was copyright registered 60 years ago this month.

Dr. King had delivered the speech from the Lincoln Memorial that August 28 during the March on Washington for jobs and freedom. About 250,000 people attended.

Registering speeches was not common in a time when little emphasis was placed on intellectual property. If the speech is used for commercial purposes, its use is assumed to require payment of a licensing fee to the King Center.

The copyright on the speech is valid until the end of 2058.



The Reward is in the Details

WHEN WRITING YOUR OWN PATENT APPLICATION, THE SMALLEST DISTINCTIONS MAKE A BIG DIFFERENCE

BY JACK LANDER

LAST MONTH, I introduced the notion of writing your own patent application by discussing the first steps and providing some form examples. Now we'll delve deeper into the mechanics when describing and depicting my dinner plate accessory for people with impaired vision.

Note that in the detailed description section, I used the word "comprises." This word is preferred rather than "consisting of," which will be assumed to mean all of the components.

An apple *consisting of* a stem and body leaves out the core and its seeds; it implies that an apple consists only of a stem and a body. An apple *comprising* a stem and a body allows for the core and seeds to come later, and does not imply that the stem and body are the only parts.

The word "comprising," in patent language, is a synonym for the word "including." Such details are essential in patent writing.

Providing your drawings

Last month, I omitted the drawings but I gave descriptions of them. Now I have completed the preliminary drawings and revised their descriptions:

DESCRIPTION OF DRAWINGS

Fig. 01 is a partial cross-section of a typical dinner plate with a first version of the present invention affixed to the dinner plate or bowl rim.

Fig. 02 is a side view of a first version of the invention.

Fig. 03 is a front view of the first version of the invention.

Fig. 04 is a side view of a second version of the invention showing the clamping feature as an integral part of the main feature.

Fig. 05 is a front view of the second version of the invention.

Note that last month, I used the words "The non-clamping version" at the beginning of the DETAILED DESCRIPTION, and now have switched to "a first version." I did this to illustrate that this switch would be one point of rejection by the patent examiner. Be consistent with your terminology!

The use of "first version" and "second version" are neutral with respect to any implication of which is the preferred or most favorable version of the invention. This is a small point, but one of several that an infringer might use as an argument against the validity of your patent.

Claims writing

Now it is time to work on claims, which are the most difficult of any other part of your application to compose.

David Pressman and Richard Stim give several excellent examples of claims writing in their book, "Nolo's Patents for Beginners," which I hope you have obtained if you are serious about writing your own patent application. The following are my claims for the invention covered above.

CLAIMS

1. An accessory for a dinner plate or bowl comprising a single piece of metal, plastic, bamboo or composite having a straight section followed by a curved section.
2. The accessory for a dinner plate or bowl of Claim 1 in which said straight section may be permanently attached to said dinner plate or bowl using cement, glue, resin, or the like whereby a person with special needs can scoop food onto an eating utensil.
3. The accessory for a dinner plate or bowl of Claim 1 in which said straight section may be removably attached to said dinner plate or bowl using an adhesive, an adhesive pad, double-stick tape or the like whereby a person with special needs can scoop food onto an eating utensil.
4. An accessory for a dinner plate or bowl comprising
 - (a) a piece of sheet metal, plastic, bamboo or composite material having a straight section followed by a curved section
 - (b) a leaf spring of metal or plastic biased so that said accessory can be clamped onto said dinner plate or bowl; and
 - (c) a friction means disposed between said straight section of said accessory and said dinner plate or bowl in order to securely clamp said accessory to said dinner plate or bowl, whereby a person with special needs can scoop food onto an eating utensil.

Your English teacher would probably grade you C minus or D on that long paragraph. She or he would tell you it's a run-on sentence. But that's the "lawyer's art" of patent writing.

The word "comprising," in patent language, is a synonym for the word "including." Such details are essential in patent writing.

Read the above claims and score them using the claims section of "Patents for Beginners." I have read them and revised them several times. See if you can do better than I have.

Major steps still ahead

In next month's column, I may show revisions. This almost always happens when we believe we have written the perfect claims, and then have set them aside for a few days.

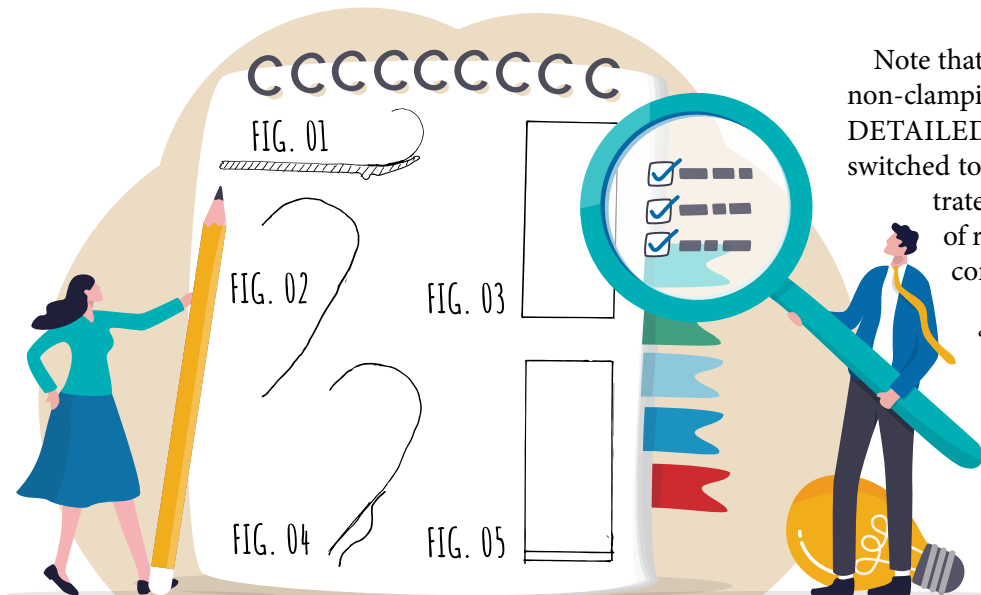
I'm still hoping to be able to file the patent for my latest invention before the next issue, so that you will read what I believe to be acceptable by the United States Patent and Trademark Office. There's nothing like the final draft—which costs money to file—to teach us this art.

I might still be able to patent my version of the invention I have used herein to illustrate the writing of a patent application. But, considering the competition already in place, I'm not sure my price times volume sold would create enough cash flow to justify my patent costs and the costs of tooling to manufacture it. And for that same reason, it would be difficult to interest a licensee.

I'm going to try to file electronically, although I am more inclined to file by mail—which I have done previously either myself or through a lawyer. (Pressman and Stim advise against filing by mail.) Also, I can save \$200 by filing electronically.

So, it's time for me to stop fearing imagined difficulties. I'll let you know how it works out in the next issue. Meanwhile, practice claims writing, and keep studying "Patents for Beginners."

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 OF 2

Are You Listening?

SOCIAL MEDIA LISTENING TOOLS, STRATEGIES AND PRACTICES CAN HELP YOU MAXIMIZE REACH AND RESULTS **BY ELIZABETH BREEDLOVE**

IN THE DIGITAL AGE, in which every post and comment can influence public perception and brand loyalty, entrepreneurs and inventors must harness the power of social media listening to stay ahead.

Customer feedback on social media provides real-time insights into market trends, consumer sentiments and potential areas for product improvement.

What does effective social media listening look like?

Don't limit your listening efforts to one or two social media platforms where you have a presence. Cast a wide net to capture all relevant conversations.

This month, we'll explore the social media tools, strategies and practices that can empower innovators to better understand their audience and more efficiently respond to their needs.

Social listening is indispensable for entrepreneurs and inventors. Existing and potential customers turn to platforms such as Facebook, X (formerly known as Twitter), Instagram and LinkedIn to share experiences, ask questions and voice concerns.

Here's why inventors should pay close attention to what's happening online.

- **Real-time feedback.** Social media provides an avenue for immediate, unfiltered feedback. Whether it's a glowing product review or a complaint, customers are quick to share their experiences. This is invaluable for innovators, helping them identify issues and opportunities as they arise.
- **Customer sentiment analysis.** Through social media listening, entrepreneurs can gain a deeper understanding of customer sentiment. Are their customers happy with their products? What pains are they experiencing? Is there an unmet need in the market? Analyzing sentiment can guide product development and marketing strategies.
- **Competitor research and analysis.** Monitoring what social media users have to say about your competitors may not be the first thing you think of when you consider a social listening strategy, but it can provide valuable insights. Are customers switching from a competitor's product to your invention? What are the strengths and weaknesses of other companies' product offerings? This information can inform your market positioning and your product development as you invent and expand your product line.
- **Trend identification.** Social media is a hotbed for identifying the latest viral trends. Staying

attuned to what's trending can help inventors identify opportunities for innovation. It also allows them to adapt their strategies to align with evolving consumer needs and preferences. Social media is a great place to find inspiration for your next invention.

- **Crisis management.** Negative comments and PR crises arise on social media from time to time. Effective listening and engagement allow entrepreneurs to address issues promptly, demonstrating a commitment to customer satisfaction and mitigating potential damage to their brand's reputation. It also provides an opportunity to further refine existing products and ideas.

Getting to work

Having identified the ways in which social media listening is important, let's consider strategies for you to use it.

- **Define your objectives.** What are you hoping to achieve? Why are you adding social listening to your social media strategy? Are you primarily interested in improving customer satisfaction, identifying product improvement opportunities, or tracking market trends?
- **Identify relevant keywords and hashtags.** These will serve as the search queries for your listening tools. Be as specific as possible to filter out irrelevant noise. Don't forget to include your brand name and product names, as well as your competitors and their products.
- **Choose the right tools.** Popular options include Hootsuite, Sprout Social, Mention and Meltwater. However, these tools are often quite expensive and may not be an option with the average inventor's budget. Rest assured, social listening can be done without these specific tools. Pay close attention to comments, messages and tags on your social platforms, and record any trends you notice. Once a week or so, take some time to search relevant keywords and hashtags on each social platform.
- **Monitor multiple platforms.** Don't limit your listening efforts to one or two social media platforms where you have a presence. Your audience may be active on various platforms, and you should cast a wide net to capture all

relevant conversations. Monitor Facebook, X, Instagram, LinkedIn, YouTube, TikTok, Reddit and any other platforms where your audience congregates.

- **Analyze and act on data.** Collecting data is just the beginning. To derive value from social media listening, you must analyze the data and take action. Note what you find and consider how you can apply it to your social media strategy and your ongoing product development. Look for patterns, trends and recurring issues. Use these insights to inform your decision-making processes.

Possible pitfalls

Avoid information overload! The sheer volume of data on social media can be overwhelming. Social listening tools can help you filter and prioritize information effectively. If you opt to manage your social listening manually, be careful not to get too caught up in reading each thing you find—especially if there is a large volume posted online about your company, product or competitors. Rather, seek to identify trends you see over and over.

Misinterpreting customer feedback can affect your analysis and, in some cases, lead to misguided actions that don't help further your brand's success. This is another area where identifying trends you see repeatedly can be helpful. If you see a certain sentiment often, it's likely you are interpreting it correctly.

Don't neglect other feedback channels. Social media is just one channel for feedback. Don't neglect other market research sources, such as surveys, customer support channels and in-person interactions.

However, listening is just the first step; responding to customer feedback and turning insights into action are equally essential. Join me next month for Part 2, where I'll go in depth about how to listen to and respond to specific types of feedback found on social media. ☞

Elizabeth Breedlove is a freelance marketing consultant and copywriter. She has helped start-ups and small businesses launch new products and inventions via social media, blogging, email marketing and more.



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Their Business is Climbing

COUPLE'S MODULAR PLANT SUPPORT SYSTEM WENT FROM WEEKEND PROJECT TO SUCCESSFUL PRODUCT IN A SNAP

BY JEREMY LOSAW

IF PETS are the new kids, plants are the new pets.

The world of houseplants has exploded in the past few years. A potent tonic of Millennials and Gen Z-ers with disposable income and having kids later in life, combined with a pandemic during which hobbies of all types were embraced, caused interest and prices for houseplants to skyrocket.

At the height of the frenzy, single-leaf cuttings of variegated monstera were selling for hundreds of dollars. However, to grow vining plants well, they need to be supported so they can climb and develop in the way they do in nature.

This requires a trellis or other support to keep them in place, but traditional staking methods can be challenging. Inventor duo Lauren and Pat Brady developed Super Trellis to help tropical house plants grow properly supported and thrive.

Super Trellis is a modular plant support system primarily used for vining houseplants. It uses triangular bases that are staked into the soil of the planter. A series of hollow hexagons snap and lock together to form a rigid structure on which the plant can grow.

The structure can be made into a totem, angled wall or flat trellis, depending on the shape and needs of the plant. It is infinitely

customizable and expandable, and comes in a multitude of colors and color themes.

Prior art, right? Surprise!

Super Trellis started as a weekend maker project.

Lauren Brady needed a way to stake a plant and asked Pat for help. “[She] asked if I could bring her home some scraps of wood from my

shop so that she could trellis a plant,” he said. “I had just bought a couple of 3D printers and was looking for something for them to do.”

So he got to work penning the first one. After a few sketch concepts, he landed on a hexagon design and printed them. Although it was not modular like the final product would be, Lauren loved it, the plant was happy, and Pat was a hero for being able to help. He assumed that would be the end of the project.

But once the first one was made, they started to take it more seriously. Pat assumed something like this had to exist but did some searching just in case.

“I figured because I didn’t have any exposure to the houseplant market, this was already something that probably existed in one form or another. I looked into it and I was like, ‘There really isn’t anything like this.’”

Pat updated the design and made a few for Lauren to give to her friends.



PHOTOS COURTESY OF SUPER TRELLIS

“I figured because I didn’t have any exposure to the houseplant market, this was already something that probably existed in one form or another.”

—PAT BRADY

Then they did some product photography, set up a Shopify site and contacted a few plant blogs to get the word out.

They launched right before Black Friday. The product was a hit.

Pivotal patent protection

Smart Trellis is patent pending, which is important for Pat and Lauren. The final product is 3D-printed, which is great for making custom colors and kits. It also means they don’t have to finance tooling or inventory.

However, additive manufactured parts can be perceived as de facto open source, and tend to invite knock-offs. Being patent pending helps give them legitimacy in the marketplace and helps when they find counterfeit products online.

All Super Trellis units are 3D-printed in a warehouse in Buffalo, near where Pat and Lauren live. Ironically, when the products started to ramp up, Pat already had warehouse space from his other business.

He had struck gold when he bought the old AstroTurf playing surface from the Buffalo Bills’ football stadium and cut it into sections to sell as unique sports memorabilia. As turf pieces started to run out, the space was freed up to expand the Smart Trellis manufacturing line.

From the first printer, he has expanded to 55 printers in total, 24 of which are fully automated. All the printers are of the FDM extruder style, and while he has considered other additive manufacturing technologies such as resin-based machines, extruder printers fit the job perfectly. They require no post processing and come in



an infinite color palette—a major selling point.

In addition, Pat has invested in the equipment to make his own filament and even sells extra spools that he makes in his warehouse. They also have a greenhouse full of tropical plants to support the enterprise to test the product and use for photoshoots.

Growing a new strategy

With the product’s direct-to-consumer model a big success, Pat is looking to grow the business beyond that.

It can be time consuming to fulfill each order from ecommerce, so he is pushing to do wholesale to brick-and-mortar retailers to scale up the business. This requires a lot of work to get the package right and to build inventory, but it will open new opportunities to get the product in front of more casual house plant growers. 🌿

Details: supertrellis.com

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



Super Trellis’ roots can be traced to a weekend maker project by Lauren and Pat Brady.

Food From **Thought**

SOUTH FLORIDA WOMAN'S SUBSCRIPTION BAKING SERVICE
LEVERAGES HER COOKING TALENTS **BY EDITH G. TOLCHIN**

I LOVE TO COOK, and unfortunately, I love to eat. But I usually leave the baking to the hubby because my skills are lacking there.

I was happy to learn about Crumble Crate—a subscription baking service invented by Paula Cheremeteff of south Florida—with packages containing recipes, dry ingredients, fun surprises and all you'll need to create culinary masterpieces at the frequency you desire. You can also purchase one-time baking kits with such goodies as Lavender Macarons with Lemon Curd or Coconut Citrus Bars.

Hungry yet?

Edith G. Tolchin (EGT): What is your background? Have you any culinary training?

Paula Cheremeteff (PC): I came up with the concept of Crumble Crate based on the encouragement of my husband, Nick Cheremeteff. I consider both of us to have “invented” Crumble Crate.

I have had a passion for baking since I was a child. One of my great loves is to roll up my sleeves, spend time in the kitchen and experiment with various recipes, techniques and ingredients.

As I moved through my corporate professional career, the kitchen became my sanctuary for decompressing and de-stressing.

Family and friends have benefited from my baking experiments, including my husband.

As an entrepreneur, he saw firsthand my passion for baking and the quality

of the desserts I was creating. He encouraged me to start a baking business, but I did not want to open a brick-and-mortar storefront. I wanted to share my recipes and baking techniques with others, so they could create masterpieces in their home kitchen.

In short, I wanted to create a baking community. From that basic concept, Crumble Crate was born!

EGT: When did you begin?

PC: We started developing the concept of Crumble Crate in late 2021. We spent about five months refining the concept, products, website and infrastructure before officially launching in early 2022.

Since we were starting with a thought that had to manifest into an actual baking kit, there were a lot of critical details that had to be discussed, vetted and finalized. I would say that the biggest obstacle was exactly that—actually producing a tangible product from a concept.

EGT: Are there special government laws for regulating an online food business? Any testing required such as for cleanliness, compliance with Food and Drug Administration (FDA)?

PC: This is not a final “food” product. We leave that to the home bakers!

We have non-perishable ingredients for each recipe that are pre-packaged and sent to the customers. We take every precaution to ensure that the ingredients are packaged correctly—including

weight, quality and sealing. We do have the appropriate liability insurance for our business.

EGT: Where are you selling?

PC: We sell on our website, on Crate Joy, and are in the process of becoming available on Amazon.

EGT: What methods do you use to retain product freshness and stability?

PC: The contents of the baking kits come from various suppliers. We assemble the entire kit in Florida. For quality control purposes, we do not outsource the assembly of the baking kits.

EGT: How many different plans do you feature, and how do they work?

PC: We offer individual baking kits, as well as a subscription series. In the subscription series, a customer has the option of selecting month-to-month, three-, six- or 12-month commitments.

Each baking kit features a unique recipe and relevant non-perishable ingredients, baking tools, tips and techniques, and a video tutorial. There are seasonal offerings, such as the Cranberry Ginger Tea Bread, Coconut Citrus Bars, and Anise Sugar Cookies. A new recipe is featured every month, relevant to the season or time of year.

EGT: Do you have any competitors?

PC: There is a limited amount of baking kits on the market. We separate ourselves with our elevated recipes, inclusion of baking tools, video tutorial and personal touch.

EGT: Any obstacles you've had to overcome?

PC: As with any new business, we have encountered some production challenges along the way. We have dealt with packaging issues, damages during shipping, supplies not arriving as scheduled—the list goes on.

We view each challenge as an opportunity to improve. The key is to remain nimble and open minded, focusing on a solution to every problem.

EGT: What are your long-term goals?

PC: We are excited about the upcoming year. Aside from our new recipe every month, we expect to refill your box options, baking kits focused on special events such as weddings, birthdays, and baby showers, and kits focused on budding bakers, and baking with your children.

EGT: What advice would you offer newbie inventors of food subscription plans?

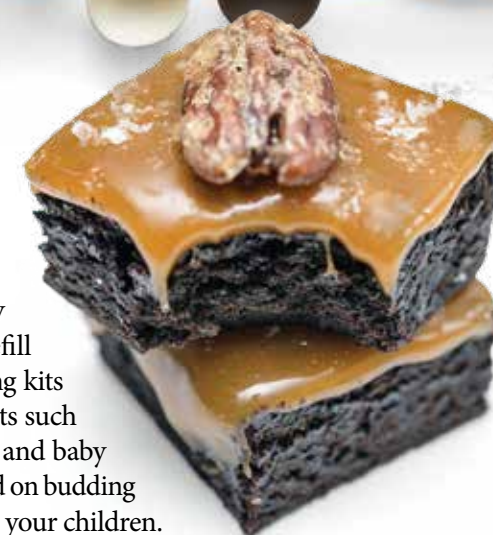
PC: My biggest advice is to focus on the details. They matter!

Also, stay true to yourself and your creative process. When dealing with something like baking, it is not just a business, it is also a personal expression of yourself.

Finally, try to take time to focus on your health and your family. A baking business can be all consuming. Finding time to exhale will assist in keeping your ideas flowing and your stress level low. ☺

Details: crumblecrate.com

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



Paula Cheremeteff started Crumble Crate with the encouragement of her husband.



“I wanted to share my recipes and baking techniques with others, so they could create masterpieces in their home kitchen.”

—PAULA CHEREMETEFF

PHOTOS COURTESY OF CRUMBLE CRATE



Class is in Session

VETERAN MARKETER WITH STAR-STUDED TRACK RECORD SHARES HIS BACKGROUND AND PATH TO SUCCESS

BY WILLIAM SEIDEL

IT IS an honor to write a monthly column for *Inventors Digest*.

I am an author, entrepreneur and innovator—but above all, I’m an educator. I wrote and taught the Entrepreneurship & Innovation class at UC Berkeley as well as the Certificate Program in Direct Marketing. I am currently a mentor at UC Davis for marketing innovation.

For over 40 years, I have been providing marketing information to “wantrepreneurs” and inventors, as well as attorneys and professionals, through universities, the USPTO, the Licensing Executive Society, and leading conferences. It will be my pleasure to provide the same and more to you here.

Identifying opportunity

Like most inventors, I started out stumbling my way through prototyping, developing and trying to make and sell my ideas. I got kicked around the block, but I learned a lot. I wanted to create better products, so I studied design, did post-graduate work in architecture, and got a master’s degree in product development.

As I got into the business of products, I learned that it didn’t matter how good the products were; it only mattered how good the marketing is.

Great marketing for a poor product can succeed, while no marketing for a great product can fail. Additionally, most products are low-risk, evolutionary improvements to successful product lines while innovative products are high risk.

So, I did an about-face and moved into marketing. I was fortunate to work with some of the leading product, marketing and licensing companies, as well as some of the top entrepreneurs, innovators and best-selling authors while keeping my design and development business.

Baby monitor. Boom!

As a novice, I invented the Unball—a soft, safe leather ball that doesn’t bounce, bruise, or roll away. I developed it when coaching a woman’s D-League softball team because they were afraid to catch the ball. I stitched together some oval leather patterns, stuffed it with shredded scrap leather, and 400 prototypes later I had a product.

I raised the money, sold it to Target and Toy’s “R” Us, then licensed it to a company with big promises. It was a lot of work and money for me or anyone to run a company, and licensing appeared an easy alternative.

But this company fired our reps, didn’t have the distribution, and with no marketing they fumbled the Unball.

Because of the Unball, I was hired by a leading toy company to design the Petster robotic cat, which went on to make \$50 million. They hired me as director of marketing, working with engineering to develop and license a wide variety of products and concepts, both in and outside the toy business. Our biggest hit was the first baby monitor, which sold more than \$350 million and changed home monitoring.

Then I was hired by a sales company as director of marketing. It had a \$300 appliance no one needed and only sold when demonstrated.

Then we televised that device, called the FoodSaver, and sales went through the roof. We demonstrated how to save money, not leftovers.

We needed new and differentiated products, but the board refused to fund it. So, I prototyped the FoodSaver II and sold \$5 million before we made it. This set a precedent for the company and created a line of 16 FoodSaver products—and many new products.

Building teams and money

Sometimes, simplest is best.

My wife and I created Grabbin’ Grasshoppers, a children’s action game. I had the contacts and showed it to three companies and licensed it to Tyco Toys in 1991.

It had a sizable TV budget and sold 1.2 million units internationally. This funded our business for developing, licensing and marketing products.

I established the marketing department for best-selling author Michael Gerber (E-Myth Series) and appointed longtime associate Jay Levinson to two boards. I also created a variety of campaigns, created a joint venture with QVC, and revolutionized the Las Vegas soil industry with microbial inoculants.

I bought America Invents in 2002. We scout for early-stage products and concepts that fill market gaps.

From toys and games to environmental breakthroughs and revolutionary innovations, I have executed hundreds of license agreements, developed hundred-million-dollar products, and fostered the success of billions of dollars in product sales.

I learned that it didn’t matter how good the products were; it only mattered how good the marketing is.

My goal: Busting myths

The invention process usually stalls at marketing because it’s not easy, it’s expensive, and it never ends. Marketing is product specific and complex—with more than 200 different types—and weaves many talents together for a successful campaign.

The reason for this column is that most ideas don’t work. This is because people often base critical marketing decisions on opinions rather than customer acceptance.

Marketers see things differently. People don’t buy products; they trade their money for the benefits the product offers. Harley-Davidson doesn’t market motorcycles; it markets “Find Freedom.”

Product development isn’t about developing products. It’s about obsoleting competition, like the laundry detergent Tide Pods.

Another myth is that companies want products. They don’t want products, they don’t want patents, and they certainly don’t want ideas!

Companies want profits. To get more profits, they need viable business opportunities.

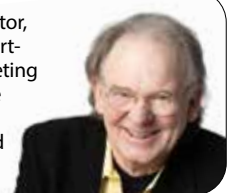
Inventors see the product, while marketers see the opportunity. Marketers plan the strategy to commercialization by selecting the best media to reach the targeted customers with the right message.

Marketing’s job is to prove the product. When there is customer acceptance, there are reorders, the product is proven, and it can be scaled for greater revenue.

“Think Marketing” will explode the myths about development, licensing and marketing from a marketer’s perspective. And it will explain how to master what works to create value.

Who knows? Maybe after a few articles, you may begin to think like a marketer. ☺

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



MASTER OF THE MESSAGE

FOR OVER 4 DECADES, BILL SEIDEL HAS BEEN A WALKING CLASSROOM ON MARKETING INNOVATION—AND HOW NOT TO DO IT **BY REID CREAGER**

THE PLAINTIFF'S COUNSEL WAS FURIOUS. While suing a U.S. city for \$2.5 million, he asked court-approved defense witness Bill Seidel: "Is it your intention to testify that my client intentionally deceived his investors?"

Seidel did not hesitate. "Absolutely!"

"What possible evidence do you have to prove that?"

The attorney obviously did not know the credentials of the man sitting in front of him.

Resplendent resumé

An expert on the marketing of innovation who has overseen projects earning billions of dollars spanning four decades, Seidel doesn't market himself. He doesn't have to.

"I'm not big on self-promotion," said the owner of product innovation company America Invents, and a new columnist for *Inventors Digest*. "I don't even promote my books.

"I do have an agent for expert witness work. The speaking events I do for the USPTO, the Licensing Executive Society, universities and others are for educational purposes.

"I don't want a lot of projects or a big company. I want a few great product concepts with a high chance of success."

No one can object to the results:

- Oversaw marketing for the first baby monitor, which sold more than \$350 million and changed home monitoring.
- Designed the Petster robotic cat, which made \$50 million.
- Revolutionized the Las Vegas soil industry with microbial inoculants.
- Managed a solar contracting company that—in 1979—designed and installed the first Revere Copper and Brass Solar Roof. The company designed and installed 300 hybrid solar systems long before they were common.

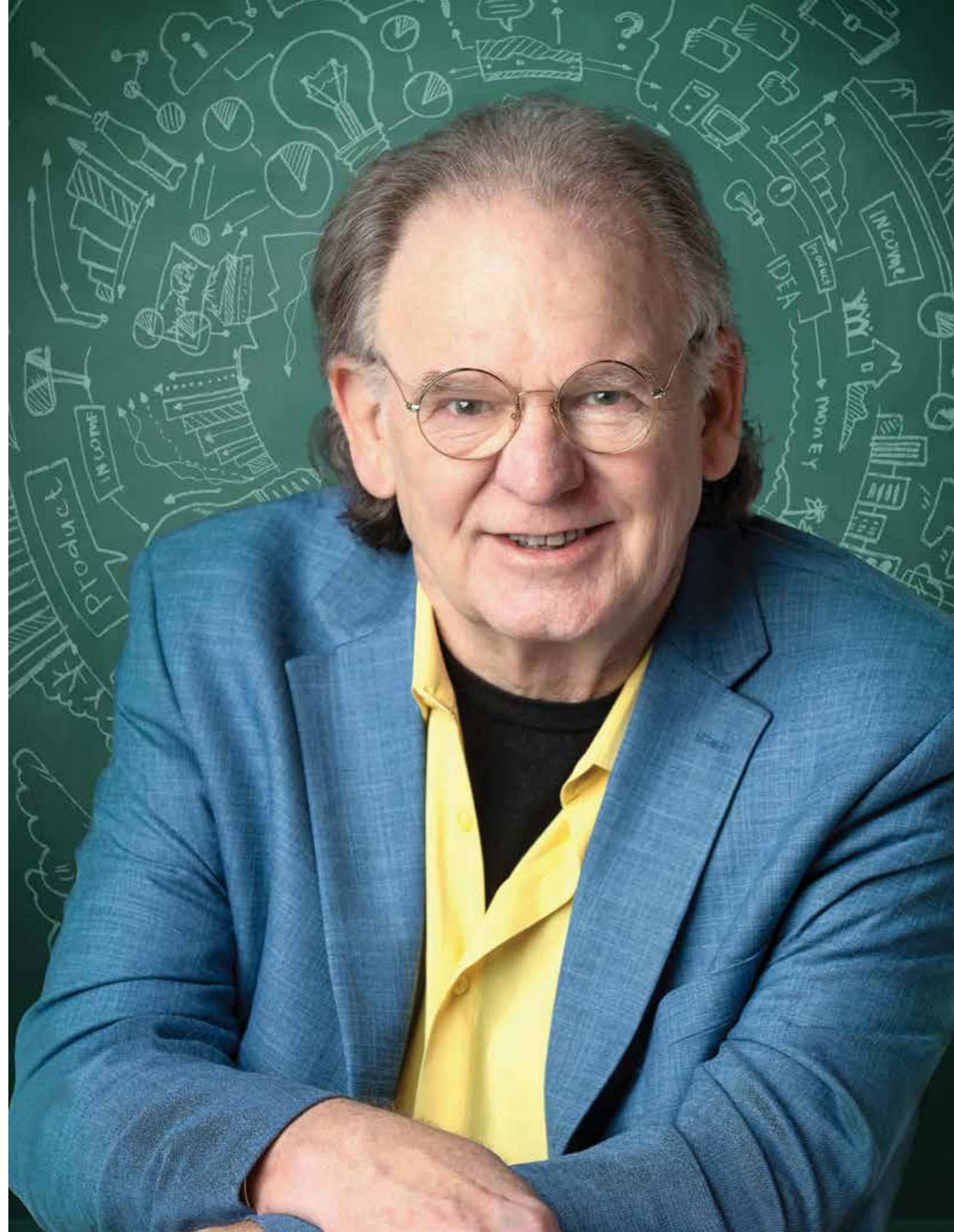
Despite its name, America Invents is about improving products, not inventing. Not even patents.

"We may deserve to be named on the new patents, but that's not our style," Seidel said. "If our clients created it, they own it. We may make it better for them, making it easier to license and market for us."

New *Inventors Digest* columnist Bill Seidel, owner of America Invents, has overseen projects earning billions of dollars.

He speaks at conferences and in classrooms throughout the United States.

© KATE NAGLE PHOTOGRAPHY



He notes that Steve Jobs is named on 1,103 patents but “didn’t really invent anything. He’s an innovator and entrepreneur. He tweaked other inventions and knew how to commercialize them.

“With a sound footing in product development, when I bought America Invents in 2002 I added the marketing and commercialization ingredients. We have purchased patents. I’m named on several applications and have a variety of trademarks and copyrights, but no patents.”

His company offers great diversity of services—among them product development, licensing and marketing—for similarly diverse clients.

“We have two clients who are Nobel Laurates, renowned authorities who simply don’t have the bandwidth to market or license their IP, university scientists and novice inventors who desperately need help. We assist where we can to keep inventors on the right track with the right information even when they are not clients.”

For product development, “It depends on the status of the development. If the plan is to manufacture, package and market the product,

you must develop the complete product and fund it. If the plan is to license it to a company to develop and commercialize it, then a prototype is usually needed and the additional costs are the responsibility of the licensee.”

For product licensing, “We assemble a ‘hit list’ of the best companies to approach first, second and third. The best companies are not the biggest, richest or best known. The best companies are honorable, license from outside, and pay royalties.”

Product marketing “depends on an enormous number of factors: industry, size, competition, channels of distribution, costs, the message, the media, and many more. We plan the go-to-market strategy. Even for licensing, it is a marketing effort to get a license agreement. We define the branding message, the appropriate media and coordinate sales and distribution.”

2 major inventor mistakes

Despite his central role in a product innovation company, Seidel considers himself a teacher above all else.

“Brilliant marketing can persuade Americans to buy a rock. And people want to know how that happens.”

“I identify as an educator of entrepreneurship, innovation and marketing because I wrote the classes and they needed to be taught,” he said. After earning a Master’s at San Francisco State, he taught part-time in the Design and Industry Department, principally product design and graduate seminars.

He also taught a popular business elective that is still available: “How to Develop, Market and Patent Your Idea,” which “provides a business education for design students and an understanding of early-stage development tasks for business students.”

This was the impetus for Seidel to write the “Entrepreneurship & Innovation” seminar in 1983 and teach it throughout Western universities. In 1986, the University of California at Berkeley asked him to write the curriculum, institute a business elective, and teach it several times a year. He called that “the opportunity of a lifetime”; he still speaks at leading universities and is a keynote speaker at national conferences.

Although these occasions often call for him to tailor his talks to specific audiences, some general premises and themes apply to everyone.

“The fact is that 97 million Americans want to quit their job, start a business or license their ideas,” he said. “My topics are entrepreneurship, innovation and marketing—and this is a giant audience that is eager to learn. These topics are of interest to everyone with a product idea.

“Brilliant marketing can persuade Americans to buy a rock. And people want to know how that happens.”

The author of “Licensing Myths and Mastery: Why Most Ideas Don’t Work and What to Do About it” said much of what he speaks and writes about is what not to do. For inventors, a common mistake is a failure to be objective.

“Novice and independent inventors often fall in love with their idea. They are driven by the promise of the idea, neglect the customer and discount constructive criticism.

“To the inventor, the idea is everything. To the marketer, the customer is everything.

“It is a common belief that everything starts with an idea. However, for the marketer, it starts

with the customer’s need, the size of the market and whether is worth the costs and efforts. It is the marketer’s job to plan the commercialization to strategically position products in the market gaps of the existing competition.

“This is usually beyond the scope of the inventor—as invention is beyond the scope of the marketer.”

Another error inventors make is letting the wrong opinions matter. He sees this often in product design.

“I define product design as a subset of product development, which is a subset of business development, which is a subset of marketing, and all are part of commercialization. And corporate product managers handle the entire process.

A PERSONAL PET ROCK STORY

The brief but lucrative 1970s Pet Rock craze—about 2 million sold in 6 months—may be the ultimate example of marketing having more importance than a product. Gary Dahl, the Pet Rock’s creator, often spoke in Bill Seidel’s classes at San Francisco State and UC Berkeley.

“The inside story is that Gary was a career advertising executive and professional copywriter. His coffee table book was turned down by every publisher: ‘The Care and Feeding of Your Pet Rock.’

“Over drinks with friends discussing his rejection, the idea came up to reduce the book to a small instruction booklet, package a rock in a pet container and sell it as a gift. Gary knew how to communicate and launched one of the greatest PR campaigns, promoting the phenomenon of Americans rushing to buy a rock.”

Seidel says he constantly hears the myth, “If they can sell a rock, Americans will buy anything.”

But “It wasn’t about buying or selling a rock. Americans didn’t buy a rock. They bought a gift with a clever instruction book to make people laugh. I call it ‘Romancing the rock.’ The marketing convinced people to buy a novelty gift priced as an impulse purchase.”

Seidel ticked off a couple other gag gifts that were monster marketing mashes: Billy Bob’s Hillbilly Teeth, by Jonah White (22 million units sold worldwide), and the Chia Pet, by Joe Pedott (over \$300 million in 40 years).





“My purpose as an expert is to explain and teach the court and jury the problems and costs of early-stage products and concepts, startups, and the problems of marketing innovation.”

“Steve Jobs said, ‘Most people make the mistake of thinking design is what it looks like.’

“Designers who design what they like or what their clients like without regard to the end-user is the biggest mistake. Decisions are based on Product-Market Fit, which means customer acceptance.

“If you choose the package your designer thinks the customer will like, you are making a critical marketing decision the customer should make. This requires the inventor to know the market, what the customer wants, the costs the customer will pay, and how they will use it. The best information is to test what the customer will buy.

He said the one common denominator of failure is bad decisions.

“Bad decisions come from bad information, and bad information comes from unknowledgeable opinions, false assumptions and free advice, with no knowledge of the product, the business or the customer.”

How many marketing types?

Seidel as teacher surprised panelists and the audience on a July podcast, “Preliminary Marketing & Advertising,” when he said there are more than 200 different forms of marketing. The event was part of the Successful Inventor Series by the

USPTO and the Licensing Executives Society-Silicon Valley Chapter.

He said the large number should not be surprising, given the subject’s complexity: “Marketing can be simple: Find a need and fill it. Marketing is also enormously complex to define the need, find the customer, know how to reach them, know the perfect message to win the potential customer—and it must be profitable.

“For every product, there is a specific type of marketing that will outperform the others, but it is different for every product. Most companies use a combination called the Media Mix to generate leads, acquire new customers and retain existing customers.”

He said it’s just as important to know what marketing isn’t as knowing what it is.

“Marketing is not just advertising, research or brochures. It is not an event, it is not cheap, and it is not for the lazy.

“Many believe marketing is something you do when you need sales. Marketing is not sales, and it is not an afterthought. Marketing is all of them and much more. Marketing is for *value* and marketing *IS* the business.”

Time and practical considerations precluded his identifying all the 200-plus forms of marketing, but he listed some of the prominent ones: traditional,

brand, social media, outbound, inbound, guerilla, influencer, e-mail, content, event.

“Even within the same brand, there will be submarkets where the marketing changes to improve performance. For example, the KFC national campaign changes for submarkets like changing the background music from pop to country for Texas.” He will discuss other such modifications in his *Inventors Digest* column.

As with so many great teachers, Seidel was taught by the best—in his case, “some of the greatest entrepreneurs and innovators of our time.

“Consummate innovator and entrepreneur Nolan Bushnell, founder of Atari and father of the video game industry, gave me the opportunity to work with the industry elite. Infomercial pioneer and QVC superstar Bob Warden showed me scale and the finesse of the conversion.

“Wednesday night poker pal Jay Levinson, author of the world’s best-selling Guerrilla Marketing series, showed me the guerrilla side of everything. Larry Udell has been a partner, co-author and friend for over 30 years, advancing innovation and supporting the inventor. And I served as vice president of marketing for Michael Gerber companies, author of the E-Myth Series, who made it forever clear that ‘It’s not about business, it’s about life.’

“These influences gave me greater insight beyond the business and made me a better person.”

Court as his classroom

Showing no signs of slowing down in the fifth decade of a memorably productive and influential career, Seidel said his proudest achievement is “my next one.

“We have a remarkable electronic technology that recovers the small amount of power remaining in batteries and boosts it to a usable output. It has shown power extensions of 15 percent to 45 percent in alkaline batteries.

“We are working with a DOD incubator to determine the exact amount of energy the tech can recover from the batteries in the field equipment. We are also working with a Canadian power company and a Korean battery company for power applications in different fields.”



BILL SEIDEL

OCCUPATION: Owner of product development, licensing and marketing company America Invents

HOME: Sebastopol, California

EDUCATION: BA, University of Pittsburgh; Post-Graduate Solar Architecture, Arizona State University; Masters, Product Development, San Francisco State University

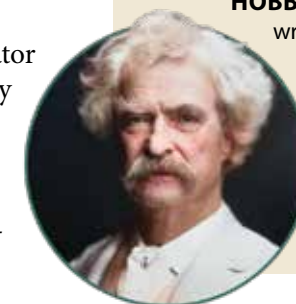
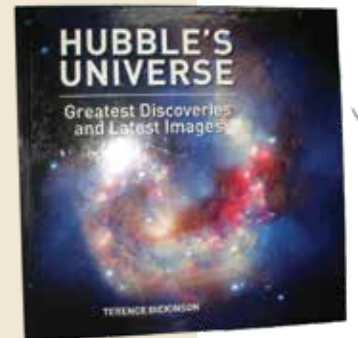
PERSONAL: Wife Karen Seidel, two daughters, four grandchildren

FAVORITE BOOK: “Hubble’s Universe” by Terence Dickinson

FAVORITE MOVIE: Any movie with Denzel Washington, George C. Scott or National Geographic

HOBBIES: Playing music, writing, working

FAVORITE QUOTE: “If you don’t read the newspaper, you are uninformed. If you do read the newspaper, you are misinformed.”— Mark Twain



Another project could have world health implications.

"We are also working with a university technology for a universally effective disinfectant that kills 99.9999 percent of bacterial and fungal pathogens on contact, including antibiotic resistant pathogens. The revolutionary innovation is that it is totally safe, biodegradable and long lasting.

"The first medical license we executed to an ear, nose and throat pharmaceutical company for infections has been approved as safe for inhalation in the European Union. We also formed a joint venture to commercialize this truly revolutionary technology."

Teaching will remain central to Bill Seidel's mission—whether in a classroom, conference or courtroom. In the latter instance, "My purpose as an expert is to explain and teach the court and jury the problems and costs of early-stage products and concepts, startups, and the problems of marketing innovation."

Sometimes, lawyers become unwitting students. In the aforementioned case when he questioned the plaintiff's actions, he had a characteristically well-researched response to his interrogator.

"A patent and trademark search shows your client, as president, abandoned the company's patents, applications and trademarks, which were paid for by the investors. Then, 12 months later, your client applied for the trademarks, copyrights and improved patents in his personal name at his home address. The only assets the company had were the intellectual property—which your client stole from the investors."

"Marketing is not just advertising, research or brochures. It is not an event, it is not cheap, and it is not for the lazy."

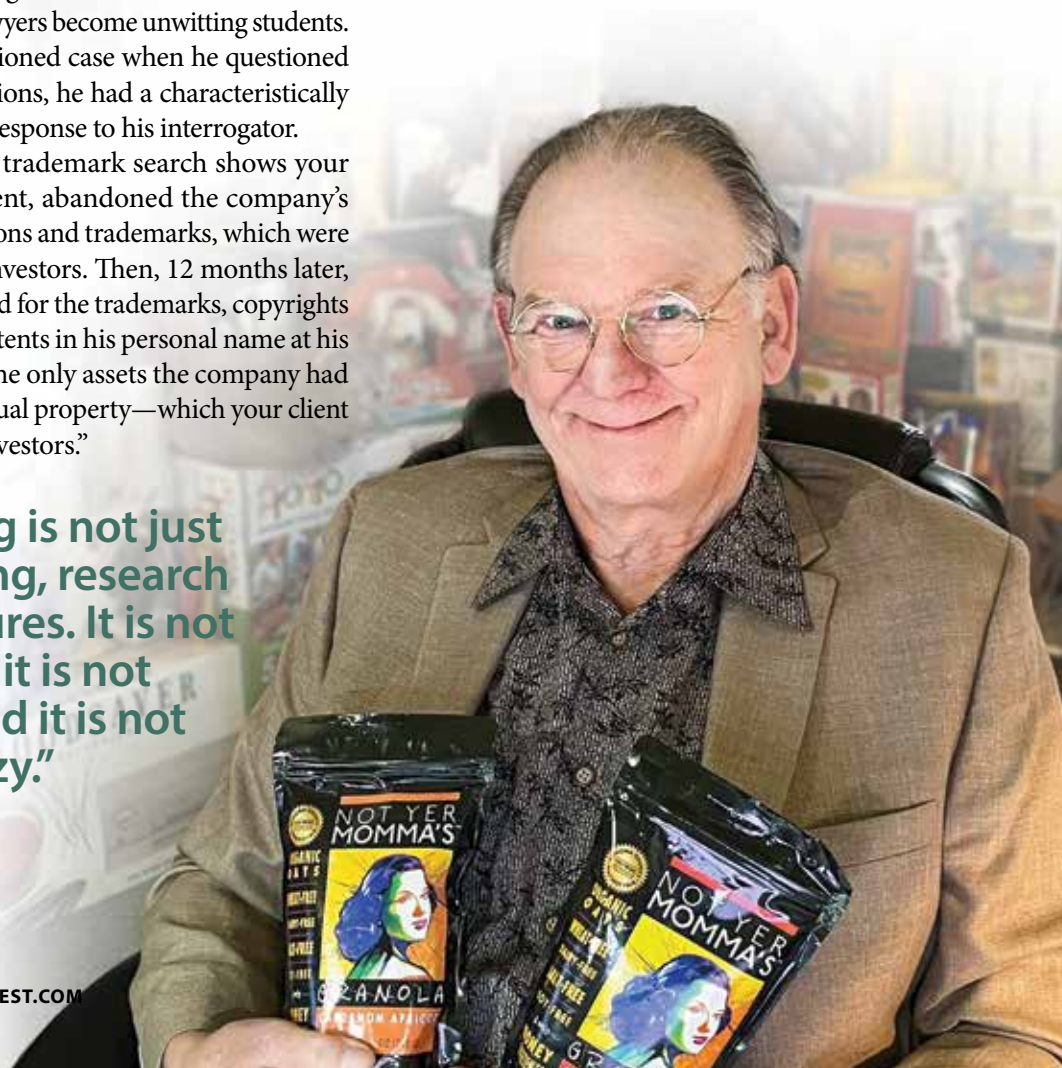
Seidel said the plaintiff's attorneys did not know this, nor did they conduct a patent or trademark search. "I knew he did not have this information from the questions he asked and also knew I would provoke him by my 'Absolutely' response."

He suggested the district attorney submit a low-ball settlement offer, which was met with skepticism because it would not even cover the attorney fees. But the DA went ahead with it. "Three days after my deposition, they accepted the low-ball offer."

Seidel reminds everyone in invention-related disciplines of the value—actually, the necessity—of not fearing confrontation, and finding new ways to think.

As with the general public, "Attorneys, judges and juries have limited knowledge of marketing, and no understanding of marketing innovation.

"Innovation throws chaos on conformity. It breaks the rules. It calls for new thinking." 📌



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2023 USA JAMES DYSON AWARD

NEW YORK INDUSTRIAL DESIGNER WINS FOR
CUSTOM-FIT PORT TO HELP REGULATE WASTE FLOW



The Gutsy port was inspired when Charlotte Böhning (above) had a conversation with close friend Grace Matelich, who had life-saving surgery at 26 and has been living as an ostomate for roughly six years.

Charlotte Böhning, who says she is “equal parts left- and right-brained,” is the center of attention for an invention that will improve quality of life for millions of people.

The New York native combined her love for design and passion for helping others to create the Gutsy port, which won the 2023 USA James Dyson Award and £5,000 (about \$6,200). The secure device can be worn over the stoma, providing ostomates with the ability to regulate waste flow for extended periods.

An ostomate is a person who has undergone an ostomy, a surgical operation to create an opening in the body for the discharge of body wastes into a prosthetic known as a pouch or ostomy bag on the outside of the body. About 1 million Americans are ostomates.

Gutsy is designed to:

- Enable ostomates autonomy and control.
- Provide a greater sense of continence.
- Serve as an artificial sphincter.
- Allow bag-free moments.

Böhning was inspired after a conversation with close friend Grace Matelich, who received a life-saving surgery at 26 and has been living as an ostomate for roughly six years. She learned some of ostomates’ daily challenges.

“The Gutsy port solves some of the problems that ostomates face while being more of a prosthetic-like device,” she said. “It’s a port that you can wear directly over your stoma, and it bypasses the need for the bag for periods of time throughout the day.”

The process of creating the device took two years and included more than 65 prototypes and extensive interviews with ostomates around the world, from Wales to Scotland to Alaska. Böhning also conducted ethnographic research, ephemera collection, immersive bodystorming and interactive prototyping.

She also consulted with Dr. Alessio Pigazzi, the chief of colorectal surgery at New York-Presbyterian and Weill Cornell Medical Center, to help improve her designs.

PHOTOS COURTESY OF DYSON

Böhning discovered the challenges with the existing ostomy bag by wearing one herself. It was ill-fitting, single use, and prone to odor.

Her partnership with Dr. Pigazzi enabled her to think of ostomy products as personalized prosthetics rather than accessories. Böhning shifted her thinking by analyzing precedents like diabetes ports, tracheostomy devices, and cochlear implants to create the first prototype of the Gutsy port.

The device is made of a durable and washable material. Users can choose a color preference, from skin tones to bright colors.

The Gutsy port can be opened and emptied into the toilet using built-in foldable bumpers that streamline waste. If needed, users can use an auxiliary flushable funnel to prevent spills.

Böhning plans to use her award winnings to take steps to make the Gutsy port a tangible reality.

She has a provisional patent application and intends to acquire a permanent one, as well as continue her partnership and collaboration with Dr. Pigazzi. Ultimately,

Böhning wants to get Gutsy into the hands of the 14 million ostomates around the world.

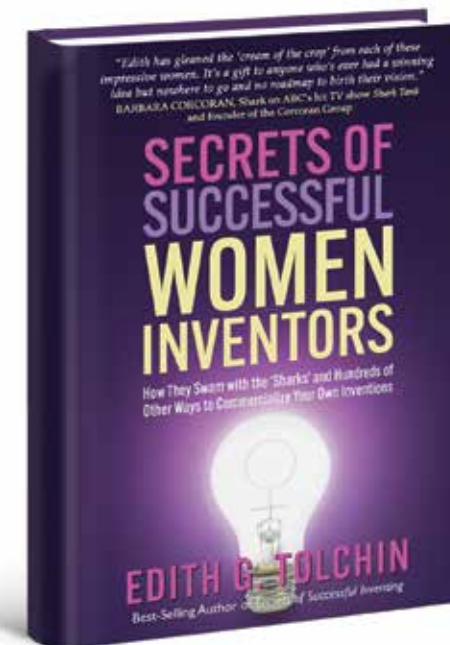
Böhning is a design strategist at Perkins Eastman and hopes to continue to foster her passion for design. “My mission as a designer is to improve the lives of people and to help the planet in the process,” she said. 🌱

The James Dyson Award is an annual international design award with a U.S. component that celebrates, encourages and inspires the next generation of design engineers. The competition has supported over 300 inventions with prize money and is run by the James Dyson Foundation, an engineering education charity funded by Dyson profits.

RUNNERS-UP: David Edquilang, an award-winning industrial designer and recent graduate of the University of Houston, created Lunet—a low-cost, fully 3D printable, modular finger prosthesis designed to provide millions of finger amputees with an accessible prosthesis solution.

Aradhita Parasrampur, Stefan Colton and J. Sebastian Garcia Medina invented Cellsense. It utilizes algae and regenerated cellulose to develop interactive embellishments that create new possibilities for designers while eliminating microplastics and unethical labor practices.

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Edith G. Tolchin knows inventors!

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

Edith G. Tolchin
(photo by Amy Goldstein Photography)

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EXHIBITOR LISTS:

A Gold Mine

TRADE SHOW WEBSITES PROVIDE INVENTORS A WEALTH OF INFORMATION AND POTENTIAL CONTACTS **BY APRIL MITCHELL**

MOST INDUSTRIES have trade shows, and those shows have event websites. These sites often list past exhibitors, or the list of companies planning on attending the upcoming show.

This is a huge resource for inventors wanting to license their product!

For example, on the Toy Fair New York website, you can click on the Exhibitor List, Featured Exhibitors, Categories (the exhibitors broken down into their categories) and Floor Plan—where you can see where each exhibitor's booth will be at the show.

With just a few clicks, an inventor can see a list of thousands of toy or game companies that are attending the upcoming show.

But it doesn't stop there. When you click on a company name, the basic information about the company—address, phone number, website, etc.—appears. The website link takes you directly to the company website where you can explore the company's products and more about it.

Looking for a match

If attending a show, you will want to know which companies are exhibiting so you can try to set up meetings. By looking at the exhibitor list and going to the company's website to do research, you will quickly learn whether the company is a fit for your product.

You will see if it makes products out of the same material from which your product should be made. You will quickly see who its audience or customer is, and the price range of its products.

Once you find out these things, you can look further online to see where its products are being sold. Is it selling at mass retail?

This research will help you learn if its products are sold solely online or at brick-and-mortar retailers, as well as which ones.

Once you have identified whether a company is a good fit for your product, you can learn the best ways to contact it and find out if it is interested in the kind of outside innovation you provide.

You will see if the company makes products out of the same material from which your product should be made. You will see who its audience or customer is, and the price range of its products.

Sometimes, websites share information on people in key roles at the company. You can request to connect with people from the company on LinkedIn and write them a quick message. You may also consider calling the corporate phone number and asking for the person in marketing, sales or product development that was indicated on the website.

Companies may indicate if they accept submissions from inventors or designers—and if so, how to go about submitting them. If there are instructions on how to do so, follow them and connect with people from the company online.

It is always a good idea to connect with people from the company, even if they direct you to submit through a portal or email a specific email. You want to have someone you can follow up with down the road.

The exhibitor list is very valuable and useful even if you do not plan on attending a show. Either way, exhibitor lists help you learn whether a company could be a fit for your product.

If you see that potential, you can set up a Zoom meeting or email your submissions if the company prefers the latter.

Whenever possible, I like to meet companies in person or via Zoom. It's a great way to establish or grow a relationship. But I don't like to push it.

Preparing the exhibitor list

I like to print the exhibitor list alphabetically, so I can have the full list. I then underline the companies with which I want to meet.

I email companies a calendar link that allows them to select a date and time to meet at the show. If I don't have their email address, I send them a note on LinkedIn asking to meet with me. If I am not connected online, I may even call them.

If I don't get ahold of anyone, I will add it to my schedule to stop by to meet them. My goal then is to establish a relationship and set up a meeting to present new concepts to them after the show. ☑

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

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When to Forgo IoT

4 INSTANCES IN PRODUCT MAKING WHEN YOU'RE BETTER OFF WITHOUT DEVICES OR APPS **BY JEREMY LOSAW**

I LOVE the Internet of Things and the power it gives us.

IoT devices and apps practically run our world. It's great technology that allows us to harness the power of data and leverage it to do good.

However, like garlic and soy sauce, too much of a good thing can spoil the pot. There are plenty of times when adding IoT capability or an app to a physical product is overkill.

Here are four times when you can skip IoT or the app—and what to do if you cannot.

Just one page of apps on my phone that I barely use. Please don't make me do more.



1 When it's purely physical. This may seem obvious, but when a product is not already electrified, it is usually a good idea to skip the app.

This falls under the “Keep it Simple” principle. If a device is free of electronics and doing its job well, there is no need to complicate it with an app or adding Bluetooth. It takes time, costs money, and risks alienating users.

For example, if a product is upfitted with Bluetooth, there may be some interesting upside and data that can be gathered. However, if the implementation or app are not done well, it can lead to frustration by users. Leave well enough alone.

2 When data don't matter. A great reason to add IoT capabilities and sensors is to capture data. We have seen the value of data in the market

and in our lives evolve in the last few decades. Collecting data is often more valuable than the device harvesting the information.

However, not all data are interesting, meaningful or valuable.

We see this acutely in the way our bodies process data from our senses. We have peripheral vision, which purposely obscures data from our eyes, and our brain is constantly filtering out data and events that are not remarkable for the job of survival.

Going on a walk through the woods, we will not remember every leaf on the tree but will certainly remember where we saw the snake cross the path. Similarly, we must be discerning about our need to capture data.

On some devices, data are just not useful—and not worth capturing. Understanding what you are going to do with the data, who the audience or customer for the data is, and the reason it is being collected will guide you as to whether you should add IoT capabilities.

3 When it is too expensive. Adding IoT capability and an app is expensive. It adds to the cost of goods of the product to add the circuitry for the sensors. It costs development time and money to create the firmware (software that runs on the circuit), and it takes resources to collect and store the data for you and your customers.

Therefore, you need a meaningful business case to bother collecting data or hosting the app, or risk that the costs will drown out all your profits once the product is in the market. If you have a product where consumers are not willing to pay the extra cost for the value or novelty of the data, it is best to not bother with IoT or an app.

The only way to tell if the data you plan to collect is valuable is by doing your due diligence



© JEREMY LOSAW

on the real costs and asking your customers if they will pay for it.

Understand how much extra it will cost to have an app or IoT in your device. It can be difficult to pin down the cost as it will vary with scale, but it may cost \$2-5 per month per device to keep a WiFi or cellular device connected.

It will be much less for a strictly Bluetooth device because the data are likely being transferred by a phone to the cloud. A developer can help map out the real costs, but in either case, if the business model does not support the added development costs and ongoing app and cloud service fees, it is best to skip the IoT.

4 App fatigue. In our digitized world, some smartphone users and consumers are experiencing app fatigue and digital burnout.

It seems every product has an app associated with it as a matter of course. You have to download it, open it—and register an account with a password you are often sure to forget as soon as you type it in. This makes the experience heavy and often adds nothing to the joy of using the product.

If your product idea does not need an app, do consumers a favor and give us some precious minutes of our life back and leave it out. It will allow you to focus on the real value of what you are bringing to the market without getting caught by the app trap.

If a device is free of electronics and doing its job well, there is no need to complicate it with an app or adding Bluetooth. It takes time, costs money, and risks alienating users.

If your product needs IoT ...

So, you determined your device really needs connectivity and an app to do its job. It can be a difficult job to pull it all together, but fortunately, there has never been an easier time to develop connected devices and apps.

There is great hardware and development boards out there with sample code that make it easy to get prototypes connected to the web.

One of my favorites is the Particle system. It has devices in the Feather format in both cellular and WiFi flavors, using Arduino-style code and libraries that are easy to get going. Platforms Blynk and Panda Suite make it easy to make apps; they can also connect to hardware and can be used to scale.

Of course, there is always the option to do a full, custom deployment. In this case, it helps to have a team of expert developers like we have at Enventys Partners who can help add IoT capability with the right technology stack to fit your budget and get your device in the market quickly. ☺

Above left: This model greenhouse has IoT capabilities to transmit conditions and faults to a farmer to keep crops healthy. This is a good example of the potential value of IoT-enabled devices.

Above right: Surely there is some interesting data to be gleaned from adding IoT to this drill, but is it needed?

Climb the Charts

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The Path to Easy Sales

HOW TO DETERMINE YOUR CHANCES OF GETTING EASY CUSTOMERS, AND MAKING IT HAPPEN **BY DON DEBELAK**

AS ANYONE who has studied inventions knows, success isn't always a case of having the best product or the best strategy. Often, the difference is choosing a market where customers are easy to get.

Before investing too much money in an invention, it pays to consider how easy it will be to sell. Let's look at this from two major themes—priorities for customers, and your ability to get and retain them through entry points.

Great blender, but ...

How important your product is to potential customers is the first consideration in easy sales.

Many people might rate your product as much better than your competitors', but unless your product is a priority to consumers, your sales will be low.

You might make the best blender, but most consumers don't place a high priority on this. Conversely, many people put a high priority on owning clothes with certain brand names, which aren't necessarily of a higher quality than other clothing brands.

Most people only have a few priorities and spend their money accordingly. If you want easy sales, you must tap into these priorities.

The second point related to priority to customers is your competitive advantage. What will make people choose your product over others? Your product needs a significant advantage.

Some possible categories where your product could have a competitive advantage: support of customers' self-image; performance; completeness of solution; best perceived value; first with newest technology; best visual appeal; highest quality; best-known brand name, lowest pricing.

A third point regarding your product's importance to potential customers is the price/value relationship.

Some people think buying a new car is a waste of money due to the immediate depreciation;

others disagree. Your desired customer group must think your product is well worth the price.

Getting them in the door

The second consideration in your quest for easy sales is getting and retaining customers, built around how many entry points you have for this purpose.

Entry points are different ways for customers to start buying your products. These include buying online, in a retail store, in catalogs, renting or even leasing.

The more entry points your product has, the easier sales will be because customers will have an easier time finding you.

The best way to create more entry points is to enter your customer's world. Where does he or she shop or eat? What does he or she do in his or her free time?

Find ways to collaborate on promotions with other businesses your customers frequent. For instance, if you sell motorcycle gear in your town, find all the restaurants, pool halls, movie theaters, etc., motorcyclists are most likely to patronize. Then offer a free T-shirt coupon or baseball cap coupon to them as a promotion through that other business.

Also, host seminars, hold contests and be active in associations. These efforts can bring customers into contact with you, creating more entry points. Another tactic often used by people who have their own retail or internet store is to carry other people's products. That way, someone looking for pool chemicals might come to your website and see your patented pool filtration system. ☑



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 dondebelak@gmail.com.



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The Specter of Shrinkage

IP ADVISORY MARKET CONSOLIDATIONS ON THE RISE AMID BUDGET CONSTRAINTS FROM CONSUMERS **BY LOUIS CARBONNEAU**

THIS COLUMN is now read by over 20,000 faithful subscribers worldwide on the TangibleIP website, something that took a decade of writing to reach. We are extremely grateful to our readers who regularly tell me they enjoy this column.

The IP market is abuzz. We'll share a few updates related to industry consolidation, dead-beat clients, European Unitary Patent Court updates and the possible return of injunctive relief for patent cases in some jurisdictions.

Recently, we have seen a few announcements that point to some consolidation of IP advisory services that arrive on the heels of budget constraints from large consumers of IP analytics. It started with large insurer and IP player AON letting go of about one-third of the personnel in its IP solutions group that offers litigation insurance and IP-backed lending, among other things.

At least two services cited poor economic conditions as a cause.

A couple of weeks later, KPMG announced that some in its IP consulting group were laid off as well. Both cited poor economic conditions as a cause.

Finally, J.S. Held, a global consulting firm, announced that it had acquired TechPats, a Philadelphia-based, full-service intellectual property consulting firm with reportedly over 200 employees.

J.S. Held indicated that it will roll TechPats into the newly created IP specialty services group under the Ocean Tomo brand, which it acquired last year. Ocean Tomo, a Chicago-headquartered IP consultancy, had 80+ employees at the time of its acquisition.

In 2021, J.S. Held acquired IPFC, a Houston-based forensic and economic services consultancy with expertise in IP infringement, and is poised to be a large provider in the general IP services sector.

The same consolidation paradigm may already be happening on the licensing side with the announcement this year regarding the merger of Via Licensing and MPEG LA, which will now

operate under the new banner VIA Licensing Alliance LLC (Via LA).

It was recently reported that this is actually a \$160 million acquisition by Via Licensing's parent (Dolby Labs) of the former video codec patent pool consortium.

UPC heats up

We reported in a recent column that there had been no stampede toward the European Unitary Patent Court, especially by large players who were happy to sit on the sidelines and observe the evolution. Only a month later, this initial observation has shifted as Huawei took the lead in that direction when it sued U.S.-based competitor Netgear before the UPC—asserting that the latter violated its Standard Essential Patents around Wi-Fi 6.

And in mid-September, Panasonic filed a series of new lawsuits against Oppo and Xiaomi before the new UPC. It would appear the logjam has been broken.

Since mid-August, many more large companies—especially Asian patent owners—have taken advantage of this new Unitary Court to bring lawsuits against alleged infringers.

'Wholesale' licensors doing well

I often refer to what I call "wholesale IP licensing" (think Ericsson

and Nokia) as distinct from smaller patent owners trying to get compensated for being infringed upon by large implementers. Well, two recent news stories show that wholesale licensors are able to flex their large muscles when needed in jurisdictions that still care about patent rights (i.e., not in the United States).

This summer, Nokia won its UK trial against Chinese handset maker Oppo after winning a previous case in Germany. Oppo has now been enjoined from selling its phones in both markets—not a small feat, and one that demonstrates the exclusionary nature of patents at work.

Its Swedish cousin Ericsson also had success, but outside of the courts in its case, after entering into a companywide patent cross license agreement with Huawei. The latter also holds a quite sizable portfolio.

While the financials of the deal were not publicly reported and Ericsson gains access to Huawei's large 5G portfolio, Ericsson's latest filings suggest that it will still be a net positive of potentially up to \$53 million in U.S. dollars. 📌

Louis Carbonneau is the founder and CEO of TangibleIP, 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.



BLACK(EYED)-BERRY AGAIN?

By now, everyone who reads this column knows I have not been too kind to Blackberry in the way it has (mis)handled the sale of its large patent portfolio.

The Canada-based tech company bungled the announcement of a first deal, only to see it unravel months after, then closed another that it announced as much larger than it really was; and finally was sued by the first buyer regarding its termination of the transaction.

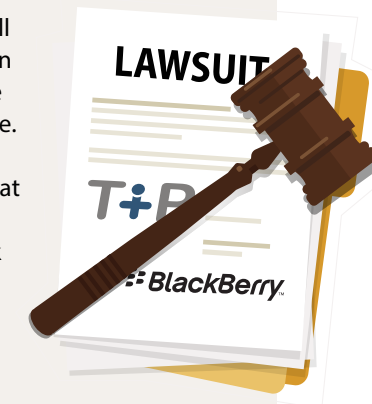
During this most recent saga, I took comfort in thinking that my fellow brokers at Tech+IP (Elvir Causevic and Ed Fish) had been duly compensated for putting not one, but arguably two deals together until one truly closed and money changed hands.

Not so fast, apparently. Tech+IP filed a lawsuit this summer in the Southern District of New York for repayment of \$1.2 million in advisory fees that Blackberry is apparently refusing to pay them.

I read the entire complaint and am really curious as to what

Blackberry's lawyers will come up with to explain why they won't pay the broker commission here.

Needless to say, it is hard enough doing what we do for a living, and compensation for work completed when we do close a transaction should be the least of our worries.





Open Season on OpenAI

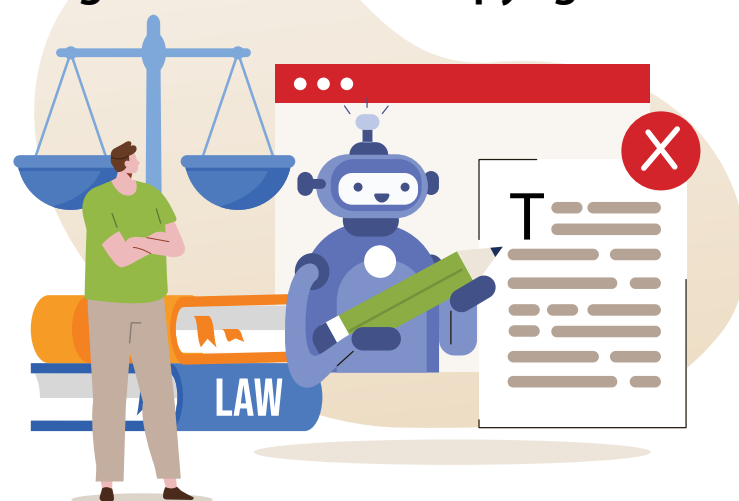
OWNER OF CHATGPT FACES MORE LAWSUITS BY HIGHLY
AWARDED AUTHORS AND WRITERS **BY EILEEN MCDERMOTT**

All Eye on Washington stories originally appeared at IPWatchdog.com.

A PULITZER Prize-winning author and Tony, Grammy and Peabody award winners are the latest to sue OpenAI for copyright infringement based on the way it trains its popular chatbot, ChatGPT.

As earlier mentioned in *Inventors Digest*, comedian Sarah Silverman and authors Christopher Golden and Richard Kadrey brought a similar suit against OpenAI in July.

The most recent suit lists six causes of action, including direct copyright infringement; vicarious copyright infringement, and removal of copyright management information in violation of the Digital Millennium Copyright Act.



As have Silverman and others, the latest suit—this one a class action filed in the U.S. District Court for the Northern District of California by Michael Chabon, David Henry Hwang, Matthew Klam, Rachel Louise Snyder and Ayelet Waldman—in part alleges that the datasets used by OpenAI to train ChatGPT are infringing.

Those datasets include “BookCorpus,” which is a collection of “over 7,000 unpublished books that were compiled and copied into a dataset by AI researchers without offering the authors of copyrighted materials compensation; “Common Crawl,” which is “a massive dataset of web pages containing billions of words,” according to the complaint; and “two internet-based book corpora,” known only as “Books1” and “Books2,” which both the Silverman and Chabon lawsuits claim likely contain over 350,000 books, according to OpenAI’s estimates of the number of books contained in each dataset.

Many examples cited

The Chabon lawsuit cites several examples of prompts involving the plaintiffs’ works to demonstrate the alleged infringement.

For example, when prompted to “identify examples of trauma” in “The Amazing Adventures of Kavalier & Clay,” for which Chabon won the Pulitzer Prize for Fiction in 2001, ChatGPT identified six very specific examples, and also accurately summarized the book and imitated Chabon’s writing style.

Prompts involving the other plaintiffs’ works were similarly accurate. Such results could only be obtained if OpenAI relied on “harvesting mass quantities of content from the public

internet, including Plaintiffs’ and the Class’s books, which are available in digital formats,” claims the lawsuit.

The complaint charges that OpenAI’s GPT models cannot function without the infringing works, and so OpenAI’s Generative Pre-trained Transformer (GPT) models and ChatGPT “are themselves infringing derivative works without Plaintiffs’ and Class members’ permission and in violation of their exclusive rights under the Copyright Act.”

The suit lists six causes of action: direct copyright infringement; vicarious copyright infringement; removal of copyright management information in violation of the Digital Millennium Copyright Act; violations under the California Unfair Competition Law; negligence, and unjust enrichment.

Mixed signals from OpenAI

In a May 2023 House IP Subcommittee hearing, U.S. Rep. Deborah Ross (D-North Carolina) said Sam Altman, the CEO of OpenAI, indicated that new versions of OpenAI are contemplating ways to compensate copyright owners for content and style. “When we’re working on new models, if an AI system is using your content or style, you get paid for that,” Altman said, according to Ross.

But in an attempt to dismiss the Silverman suit in August, OpenAI said the authors’ lawsuits “misconceive the scope of copyright, failing to take into account the limitations and exceptions (including fair use) that properly leave room for innovations like the large language models now at the forefront of artificial intelligence.”

Chabon and Silverman are also suing Meta over its use of training data for Llama-2. 🐼

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



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

www.Inventor-mentor.com

Best wishes, Jack Lander

IoT Corner

IoT blogger and podcaster **Stacey Higgenbotham** is calling it quits.



Her blog, “Stacey on IoT,” with a podcast of the same name, was a trusted source for IoT news and how-to articles for developers and the curious. She was a senior editor at *Fortune* magazine before starting her own media company focused on connected technology in 2016. The blog had massive reach, and the podcast ran for 437 episodes. Archives of the blog are still available on staceyoniot.com; the podcast is available on the app Podcatcher.

She is now working with Consumer Reports Innovation Lab and doing freelance work. —*Jeremy Losaw*

Wunderkinds

Two thousand middle school students participated in KID Museum’s Invent the Future during the 2022-23 school year. The course curriculum entails at least 55 hours of hands-on STEM learning per student, including four visits to KID Museum to learn maker skills and work on team projects. Winning inventions included a powerful solar oven, an ocean cooler and more. Go to kid-museum.org/blog/the-age-of-invention/.



What IS That?

They’re not just **doggie socks**; they can be socks with your doggie on them, found on Amazon. Just send along your high-resolution photo. Old, dog-eared pictures won’t do.

Get Busy!

The 15th annual **Maker Faire Bay Area 2023**, in Mare Island, California, is October 13-15 and 20-22. The first weekend will feature eFashion, cosplay, wearables and a runway show. The second weekend is all about robots.

WHAT DO YOU KNOW?

1 Which well-known company has a 2015 U.S. patent for a device that projects a witch’s face at night that moves around with the shadows?

- A) Walmart
- B) Hallmark Cards
- C) Hasbro
- D) American Girl

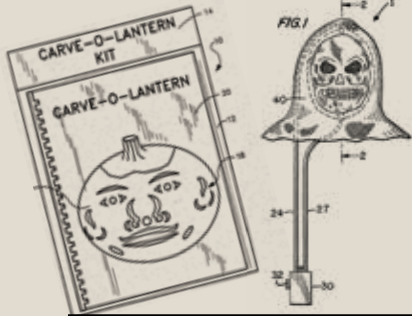
2 What was patented first—pumpkin carving kits, or bleeding costumes?

3 **True or false:** In Detroit in 1984, more than 800 fires were set across the city in a three-night arson spree to “celebrate” Devils’ Night (October 30).

4 According to a survey last year by coupon company RetailMeNot, Reese’s cups were the most popular Halloween candy. What was No. 2?

- A) Candy corn
- B) Hershey’s
- C) Snickers
- D) Kit Kat

5 **True or false:** Thomas Edison’s final, uncompleted project was building a “Spirit Phone” to talk to ghosts.



1. B. (U.S. Patent No. 9,759,413.) 2. The pumpkin carving kit, 1989 (U.S. Patent No. 4,828,114); bleeding costumes, 2000 (U.S. Patent No. 6,093,475). 3. True. The city got it under control and now calls it Angels’ Night. 4. D. Reese’s got 22 percent of the vote, Kit Kat 15 percent. 5. True. **See the October 2016 *Inventors Digest* cover feature for some incredible Halloween inventions.**

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Whether you just came up with a great idea or are trying to get your invention to market, ***Inventors Digest*** is for you. Each month we cover the topics that take the mystery out of the invention process. From ideation to prototyping, and patent claims to product licensing, you’ll find articles that pertain to your situation. Plus, ***Inventors Digest*** features inventor pros and novices, covering their stories of success and disappointment. Fill out the subscription form below to join the inventor community.



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