

Lackebach Siegel, LLP *today!*

INTELLECTUAL PROPERTY ATTORNEYS SINCE 1923

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PATENT CORNER

Featuring patents recently issued to Lackebach Siegel clients

United States Patent Number:

7,948,007

POWER SEMICONDUCTOR MODULE WITH FLUSH TERMINAL ELEMENTS

A power semiconductor module includes a housing, terminal elements leading to the outside of the housing, an electrically insulated substrate arranged inside the housing, with the substrate being comprised of an insulating body and having on the first main face facing away from the base plate a plurality of connecting tracks electrically insulated from each other. The terminal and connecting elements are arranged on a connecting track in with contact faces contacting connecting tracks or power semiconductor components, with the individual contact faces having a plurality of partial contact faces. In one optional embodiment, each partial contact face has a maximum area of 20mm².

Continued on page 6

BULL MARKET... What Would You Buy for \$12 Billion?

By Robert B. Golden

In August, Google bid \$12.5 Billion to buy Motorola Mobility (as of this writing, the deal is pending Justice Department review and approval), primarily to obtain Motorola's significant patent portfolio. Though headline grabbing, the Google bid was not the first multi-billion dollar deal motivated by patents. In fact, Google seemed motivated by the patent acquisitions of its competitors. Just a month or so before the Motorola Mobility bid, a consortium comprising Apple, Microsoft, Research in Motion, Ericsson, Sony, and others bid and paid \$4.6 Billion to buy the patents of Nortel, beating the high bid of Google.

Almost immediately following the consortium's purchase of the Nortel patents, Google obtained over 1,000 patents from IBM, followed closely by the Motorola Mobility bid. Also in August, HTC announced that it has agreed to acquire Seattle-based cloud services company Dashwire – and its significant patents- for up to \$18.5 Million.

Shortly after the Nortel deal, Kodak began



exploring the possibility of a sale of some of its patents. Notwithstanding its difficulties keeping up with changing technologies and sagging sales, Kodak shares rose 25% on speculation that it had a suitor for a portion of its patent portfolio relating to digital imaging.

Alcatel-Lucent, another struggling former industry leader, recently saw its stock price rise (if only for a short time) amid speculation that it may sell off some of its patents. Some experts have estimated that the Alcatel-Lucent patent portfolio – more than 10,000 patent and 4,500 patent applications - could be worth between \$9 Billion and \$20 Billion, well in excess of its current market capitalization. Nokia recently got in on the action as well, agreeing to a deal with Mosaid Technologies, whereby Mosaid will acquire an interest in about 2000 Nokia patents and applications. Mosaid will assume the prosecution and enforcement costs in exchange for a portion of the patent licensing revenue.

Kodak's patent portfolio has been estimated to be worth \$3 Billion, approximately five times the value of the business itself.

Continued on Page 5

Attorney Profile

Position at Firm: Partner



Rosemarie Tofano

International Trademark Department

Rosemarie Tofano heads the firm's International Trademark Department. With over two decades of experience in the Intellectual Property field and a member of both the Connecticut and New York bars, Ms. Tofano counsels clients through all aspects of developing and maintaining their international trademark portfolios. Ms. Tofano not only advises clients on the searching and availability of international trademarks, but also on strategies for growing, leveraging and protecting their brands worldwide. She also oversees the

Attorney Profile: Continued on page 10

Lackebach Siegel *today* and Since 1923

FALSE PATENT MARKING – A Ray of Sunshine

By Howard N. Aronson

In prior Newsletters we discussed the false patent marking nightmare that has spawned over 700 lawsuits in less than two years, targeting companies selling a product with either an expired patent number marked on the product or a patent number that clearly does not pertain to the product. Bringing such suits has become sport, because of the windfall money damages available under a new enhanced fine interpretation of the law (up to \$500 per item, regardless of value).

Finally, rays of sunshine come from the likelihood that a patent reform act will be signed into law in a few weeks, which will eliminate false patent marking liability as it exists today, and an Ohio District Court that ruled the relevant statute was unconstitutional, because it did not provide the Department of Justice "sufficient control" of the litigation. As the Court explained:

The danger of the privatization of law enforcement is greatly exacerbated by the way the False Marking Statute fine is computed. The defendant pays a fine of \$500 per falsely marked item. This fine likely bears no relationship to the gain to the defendant or the harm to competition. If the false mark is on one million widgets that sell for \$10 per widget, the defendant faces a fine of 500 million dollars for 10 million dollars in sales that likely generated much less in profit. The [plaintiff] controls the settlement process and keeps half of the money.

The plaintiff argued that the Court incorrectly characterized the False Marking Statute as criminal rather than civil. The Court relied upon the Federal Circuit's description of the "false marking statute [as] criminal...", despite being punishable only with a civil fine" in defining the intent required to violate the statute.

On March 8, the U.S. Senate overwhelmingly passed legislation to overhaul the U.S. patent system. While the House Judiciary Committee has its own bill, significant change in patent legislation is inevitable - and welcome. But recent, domestic financial issues (including debt ceiling debates) in Congress have deflected attention from needed legislation to solutions for the immediate financial crisis.

Patent mis-marking heartaches start from civil litigations being filed without approval or notice to the federal government, but any damages won are split between the private litigant and the U.S. Treasury. The Ohio Court determined that the patent marking statute is actually "a wholesale delegation of criminal law enforcement power to private parties..." As such, the government must reasonably be involved more than just receiving money.



The Ohio District Court decision benefits over 25 different defendants sued in Ohio alone by the same plaintiff. The decision is not binding, however, on other states even though judges in other states are likely to seriously consider the reasoning. The constitutional issue may be authoritatively decided by a federal appellate court in the Federal Circuit soon, and any such decision would be binding throughout the United States.

The losing plaintiff in the Ohio case appealed the decision (holding the patent marking statute unconstitutional) to the U.S. Court of Appeals for the Federal Circuit, in March of this year. On July 1, 2011 the court granted the Intellectual Property Owners Association (IPO) leave to file a "friend of the court" brief in the case, "in support of neither party." The present briefing schedule calls for final papers by the end of September, so after oral argument, a decision should issue in early 2012.

What is manifestly clear is that the district courts throughout the United States are looking for reasons to eliminate non-commercial plaintiffs from jumping aboard the false patent marking statute, as purely a matter of sport and not based upon a commercial reality. Until either the new law becomes effective or the Federal Circuit opines on the constitutionality issue, uncertainty remains and the suits continue by blood thirsty plaintiffs. But we expect a long awaited patent law to bring clarity to the situation very soon.

Businesses are well advised to conduct patent audits, to be sure that their products marked with patent numbers are legally covered. Failing such, the ability to be sued by the U.S. government for \$500 per article or by a competitor for damages, continues under the new law.

To discuss the new law, please email Howard N. Aronson at: HAronson@Lackebach.com

U.S. Patent Statistics A Step Upwards

For 2010, U.S. patent application figures trended slightly upward. The total of 509,367 applications is up 4.7% from the 485,500 applications in 2009, and represents an all time high extending back to 1989. The shift toward a majority of foreign originating applications continued in 2010. Of the 219,614 total patents that issued in the United States last calendar year, 111,822 (or 50.9%) were issued to residents of foreign countries; an increase of 0.2% over the prior year. 107,792 patents, of all types, issued to U.S. residents (49.1%).

Japanese residents accounted for 44,814, or 40.1%, of the foreign resident patents. This number is 20.4% of the total U.S. patents which issued in 2010, up 0.5% from the previous year. As a percentage of the total patents, Japan was followed by: Germany (5.6%); South Korea (5.3%); Taiwan (3.8%); and Canada (2.2%). The top ten list was filled out by: France (2.0%); the United Kingdom (2.0%); China (1.2%); Israel (0.8%); and Italy (0.8%). High growth countries in 2010 (those with more than 500 patents granted) were: India, China, Denmark, Australia, France, Sweden, Austria, Singapore, Belgium and Germany.

Within the United States, California once again led all states with 27,337 patent grants, or 25.4% of all patents issued to residents of the U.S. (12.5% of all U.S. patents). The other major state contributors as a percentage of all U.S. patents were: Texas (3.4%); New York (3.2%); Washington (2.4%); Massachusetts (2.2%); and New Jersey (1.8%).

Patents issuing to U.S. Government agencies in 2010 were down for the fifth year in a row. A total of 914 patents were issued to all U.S. Government agencies, which was up 204 from the previous year and up 221 from 2008. The Navy continued to lead the way with the highest percentage of patents granted to government agencies at 32.8%, followed by the Army at 16.9%, the Department of Health and Human Services at 14.5%, and NASA at 10.8%.

Patent Cooperation Treaty (PCT) filings for 2010 saw an increase in total filings of 4.8% up to 162,900, with strong growth from China (56.2%), Korea (20.5%), and Japan (7.9%), offsetting a mixed performance in European countries and a continued decline in the United States (-1.7%). Despite the 1.7% fall in 2010, the United States remains the largest user of the PCT system with 44,855 international applications, followed by Japan with 32,156 filed applications. With the exception of Germany (17,171 filings, up 2.2%) and Spain (1,725 filings, up 10.3%), the EPC member states generally experienced a decline. China (12,337 filings) overtook Korea (9,686 filings) in 2010 as the fourth-ranked PCT filing country.

Patents, Trademarks, Copyrights

To gTLD, or not to gTLD... that IS the question!

By Renée L. Duff

Recognizing a continued interest in expanding the offerings of generic top-level domains (gTLDs) beyond the 22 currently available, and after years of policy development, the Internet Corporation for Assigned Names and Numbers (ICANN) announced in June that it is considering allowing new Internet gTLDs to include almost any word in any language. The right-most letters after the last "." in a domain name are referred to as the "top-level domain," e.g., .com, .net, .org, etc. The professed goal behind this new program is to allow entrepreneurs, businesses, governments and communities around the world to be able to apply to operate gTLDs of their choosing. There are many new and different applications for additional gTLDs, and there are already plans for gTLDs with special purposes, e.g. ".SECURE" is being developed to provide additional security for its domain users, which in turn will bring added comfort to anyone accessing such sites. In March of this year, ICANN approved ".XXX" for producers of adult content, hoping to help immediately identify such providers to the public.

While ICANN feels that it has provided a platform for the next generation of creativity and inspiration, suggests that such changes will "unleash the global human imagination." Many attorneys believe, however, that ICANN's decision will bring about a firestorm of legal issues and lawsuits.

Administering a Top-Level Domain is not merely a casual exercise in vanity for the owner, nor is it a simple task. The application for a new gTLD is hundreds of pages long, and is complex and cumbersome. Applicants for new gTLDs will pay a US\$185,000 application fee and undergo extensive evaluation for technical, financial, and administrative qualifications. If an application is ultimately approved, the new gTLD owner will be committing to a ten year contract with ICANN including annual dues of \$25,000 for the first 50,000 domain names registered, and any domains over 50,000 garnering a fee of an additional .25 cents per name. It is estimated that implementation and operation of a new gTLD will likely require a minimum investment of \$500K - \$1M for the first 18-24 months of operation.

Cyber squatters have created serious problems for companies and Internet users alike. While the theory that the significant expense of owning a gTLD will deter cyber squatters from snatching up brand names has merit on its face, there is also concern that both the cost and complexity of the application process will make it difficult, if not impossible, for companies that have a bona fide interest in owning a gTLD to comply and benefit.

The biggest worry for brand owners that cannot or choose not to own and operate their own gTLD is that the ability to register generic domains like .apparel, .shoes, .store, .resort and .candy, may actually increase cyber squatting by adding new places for counterfeiting and unauthorized uses of intellectual property to take place. For instance, while owning ".apparel" or some other generic word as a gTLD may be well beyond most cyber squatter's budget, the cost for owing a secondary domain (e.g., bogus.apparel) likely will not be.

Since it will be the owners of the gTLDs that sell the "secondary" domain names, which may contain a brand name, the New gTLD Guidebook makes provisions for the types of legal protections and processes that an operator of a new gTLD must have in place as it relates to third party intellectual property. New registry operators must specify, and comply with, a process and procedures for launch of the TLD and initial registration-related and ongoing protection of the legal rights of third parties. There will also be the creation of a "Trademark Clearinghouse," which will serve two primary functions: authentication and validation of the trademarks in the Clearinghouse; and serving as a database to provide information to the new gTLD registries to support a pre-launch sunrise or trademark claims services.

While it has been indicated that no more than 1000 new top level domains will be allowed to go live per year, (1000!) what is definitely clear is that there will be an exponentially increased need to police more places on the Internet as a result of this new program. Because of the anticipated increased burden in monitoring all of these new places, there has been recent opposition to the new gTLD offerings from the online advertising industry, arguing that it could seriously injure brand owners financially.

ICANN has indicated that it will review all new applications for trademark-related issues and that there will be an opposition process available for third-parties to voice their concerns. Once the application process actually begins, companies, regardless of whether they will be applying for a gTLD themselves, will have to monitor the filings to make sure that new applications for a gTLD do not conflict with their interests.

Amidst the tremendous opportunity that the addition of a potentially limitless number of gTLDs creates, such new development poses many more questions than there are answers.

To discuss your brand and future domain name strategy, please email Renée Duff at: RDuff@Lackebach.com

The New gTLD Applicant Guidebook, a daunting 352 page document, details the lengthy and multifarious application process.

June 20, 2011 – The ICANN Board Approved the New gTLD Program
June 20, 2011 – ICANN Global Communication Campaign began
January 12, 2012 - April 12, 2012 – New gTLD Application Window
November 2012 – Evaluation and Objection Resolution Complete
January 2013 – New gTLDs likely available for use

China – King of Counterfeit

More Bogus Shoes than Fake i-Pads

The most recent joint report from U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement ("Customs") interestingly reveals that footwear, apparel and accessories were among the top ten counterfeit items seized by U.S. officials during fiscal 2010. For the last half-decade footwear was the top commodity seized. This year such items account for nearly 25% of a total 19,959 seizures valued at \$188 million. Last year a total of \$262 million of items were seized, representing a 30% reduction in value this year, but the total number of counterfeit seizures rose 34% over last year. These statistics reflect a shift in counterfeiting towards a higher volume of lower cost items being produced.

The joint report lists \$45.7 million worth of bogus footwear seized compared to only \$33.6 million worth of consumer electronics. Apparel, the third most popular bogus item to be seized, accounted for only \$18.6 million in value. Next in line were fake handbags, wallets and backpacks totaling \$15.4 million. These statistics evidence the effectiveness and operational diligence of Customs coupled with the assistance of luxury goods manufacturers committing funds and manpower to assisting Customs with seizures. The assistance comes from shipment and manufacturing intelligence provided to Customs, which allows it to pinpoint ports and specific vessels for increased scrutiny.

China continued to be the primary source of counterfeit products seized, accounting for 66%, or \$124.6 million, of the total value of seizures. And, contrary to China's obviously disingenuous utterances to recognize the intellectual property rights of others, the number of seizures from China rose almost 20% last year to 12,200 seizures, more than 33 seizures every day. **Customs considered its efforts this year to be "a very successful year," and indicated that intellectual property is a top priority of Homeland Security.**

The value and importance of Customs seizures is that private companies are able to avoid lost sales and the damages of counterfeits and infringements without cost. The alternative, private civil litigation, is costly, so the increase in Customs seizures is a welcome trend. But to enjoy the benefits of the government seizing bogus goods, private companies must take the proactive steps of securing trademarks and trade dress rights for their goods, which provide the government with the legal predicate necessary to seize and often destroy counterfeit goods. Trademark registrations are the primary resource used by Customs to support a seizure. Any Principal Register trademark registration can be recorded with U.S. Customs, so call Lackebach Siegel today to protect your sales.



MEET the USPTO



U.S. Patent and Trademark Office at a Glance

Trademark Statistics (FY10)

Registrations Granted – 164,330
 Registration Classes Granted – 221,090
 Renewals – 46,734
 Section 8 Affidavits Filed – 61,499
 Applications Filed – 280,649
 Application Classes Filed – 368,939

TOTALS (as of FY10)

Pending Applications – 413,804
 Pending Application Classes – 575,720
 Active Certificates of Registration – 1,614,121

Patent Statistics (FY10)

Patents Allowed – 240,438
 Final Rejections – 258,436
 Interviews Increased – 37%
 Applications Filed – 509,367:
 Utility – 478,649
 Reissue – 1,144
 Plant – 1,015
 Design – 28,559
 Provisional – 140,551
 Patents Issued – 233,127:
 Utility – 207,915
 Reissue – 861
 Plant – 978
 Design – 23,373

TOTALS (as of FY10)

Pending Patent Applications – 1,245,574
 Pending Appeals (BPAI) – 17,851

There are 10,298 active patent agents and 31,141 active patent attorneys (totaling 41,439 professionals) registered to practice before the USPTO

Since 1790, the basic role of the United States intellectual property system has remained the same: to promote the progress of science and the useful arts by securing for limited times to inventors the exclusive right to their respective discoveries (Article 1, Section 8 of the United States Constitution). Today, the United States Patent and Trademark Office (USPTO) is a federal agency in the Department of Commerce, headquartered in Alexandria, Virginia. Through the issuance of patents, the USPTO encourages technological advancement by providing incentives to invent, invest in, and disclose new technology worldwide. Through the registration of trademarks, the agency assists businesses

in protecting their investments, promoting goods and services, and safeguarding consumers against confusion and deception in the marketplace. By disseminating both patent and trademark information, the USPTO promotes an understanding of intellectual property protection and facilitates the development and sharing of new technologies worldwide.

MISSION

Fostering innovation, competitiveness and economic growth, domestically and abroad by delivering high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide, with a highly skilled, diverse workforce.

PTO Productivity (FY10)

TRADEMARKS

Applications processed electronically – 68.1%
 First Action Pendency – 3.0 months
 Total Pendency – 10.5 months

PATENTS

Applications processed electronically – 89.5%
 First Action Pendency – 25.7 months
 Total Pendency – 35.3 months



PTO Facilities (FY10)

9,507 Federal Employees
 6,225 Patent Examiners
 378 Trademark Examiners
 Patent Images from 1790
 Trademark Images from 1870

PTO Financials (FY10)

Total Fees Collected
 \$2,101,700,000
Patent Fees Collected
 \$1,887,600,000
Trademark Fees Collected
 \$214,100,000
Profit
 \$94,700,000

A Century of Patent Milestones

- Patent No. 8,000,000 – August 16, 2011**
Visual Prosthesis Apparatus
- Patent No. 7,000,000 – February 14, 2006**
Strong Biodegradable Fibers
- Patent No. 6,000,000 – December 7, 1999**
Means to Synchronize Files Between Computers
- Patent No. 5,000,000 – March 19, 1991**
Use of E.coli Bacteria to Create Ethanol
- Patent No. 4,000,000 – December 28, 1976**
Process for Recycling Asphalt
- Patent No. 3,000,000 – September 12, 1961**
Automatic Reading System
- Patent No. 2,000,000 – April 30, 1935**
Vehicle Wheel Construction
- Patent No. 1,000,000 – August 8, 1911**
Improvements in Vehicle Tires

Patents: Up, Up & Away!

“Owning one patent on your core technology is better than owning none.”

BULL MARKET: *by Robert B. Golden continued*

Research In Motion (RIM), another struggling former industry leader, has been identified as a potential patent portfolio seller because the value of its patents may also exceed the value of the company itself. HP has announced that it intends to discontinue operations that sell mobile devices using its webOS operating system, prompting speculation that it would sell off its webOS related patents.

The large patent portfolios at the center of all this activity did not come cheaply. Decades of research and development, and hundreds of millions of dollars were required to invent the patented products and systems. Teams of lawyers prepared and prosecuted the thousands - and in some instances, tens of thousands - of patent applications.

Why spend so much to obtain these patent portfolios, either through your own research and development or through acquisition? The patents at the center of these lucrative deals, and patents generally, serve two purposes; both as a shield and as a sword. Patent litigation is extremely complex and expensive. Even “garden-variety” patent litigation can cost more than \$1 Million in attorney and expert fees. When the technology is more complicated and the stakes are higher, attorneys’ fees can easily reach \$5 Million or more.

As widely reported, Google was motivated to buy Motorola Mobility not for its hardware offerings or customer base, but for its patents. Most viewed the odd pairing of long-time rivals Apple and Microsoft to purchase the Nortel patents as a coordinated attack on Google’s entry in the smart phone field – the Android operating system. Indeed, by some counts there have been more than 37 Android-related patent suits filed since 2010, involving most of the companies discussed above, including Apple, Microsoft, HTC, Google, NTP, RIM, Alcatel-Lucent, Motorola, and others.

Acacia Research, the successor to the pioneering Palm patents, recently settled its patent infringement claims against Motorola, Nokia, and Rim, while still pursuing settlement with Apple, LG, and AT&T. Patent litigation as a whole was up more than 20% in a decade, from 2000 to 2010. Compared to others in the field, Google’s Android related patent portfolio was considered under-sized and insufficient. Competitors did not fear possible infringement countersuits by Google and thus, felt free to attack Google.

Aside from the fees, damage awards can be astronomical. Though later overturned on appeal, a jury awarded Johnson & Johnson subsidiary Centocor \$1.67 Billion in damages for Abbot

Laboratories alleged infringement of the patent covering the arthritis drug Remicade. i4i Ltd. was awarded more than \$290 Million in its suit against Microsoft relating to the ubiquitous Word program.

Research in Motion lost its high profile patent litigation against NTP, ultimately paying more than \$600 Million to settle the suit. To get a faster decision against a foreign entity, many are turning to proceedings before the International Trade Commission (ITC), which typically reaches a final decision more quickly than the federal courts. Though the ITC lacks the authority to award monetary damages, it can block imports of goods found to infringe.

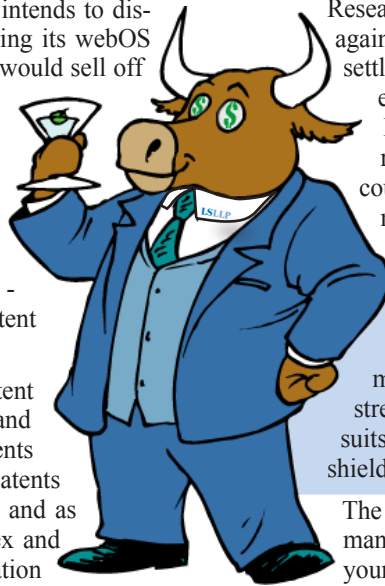
By strengthening its patent portfolio in the smart phone area through the Motorola, IBM and other acquisitions, Google competitors now have more to fear. Google hopes its new-found patent strength will reduce the number of patent infringement suits. Google is essentially using its patent portfolio as a shield to protect its Android products.

The trend for ever increasing patent damages have led many to rethink the use of their patents. By strengthening your portfolio through innovation and filings, or through acquisitions, you can put yourself in the position to use your patents as a sword. Historically, patent cases were tried without a jury. But with the realization that juries are often willing to make larger damage awards, jury trials are more common. The availability of larger damages awards makes even costly patent litigation more cost effective and in many instances, profitable.

The increased profitability has spawned the “NPE” or non-practicing entity, derogatively called “patent trolls.” NPE’s own patents, but do not practice the patented inventions; that is, they do not make or sell anything. Instead, they generate their revenue through licensing. But to be taken seriously in the licensing filed, it is often necessary to sue for infringement so that potential licensees appreciate the risk of not obtaining the license. Such was exactly the business model followed by NTP, which successfully sued RIM.

Google, Microsoft, and Apple are pursuing these strategies by paying Billions to acquire tens of thousands of patents. Owning one patent on your core technology is better than owning none. And ten patents are better than one. Whether used offensively or defensively for litigation purposes, or to make the company more valuable, more than ever patents are well-recognized, valuable assets. File early and file often, and keep a keen awareness of the value of patents.

To discuss the value of patents, please email RGolden@Lackebach.com



Patents, Trademarks, Copyrights

PATENT CORNER

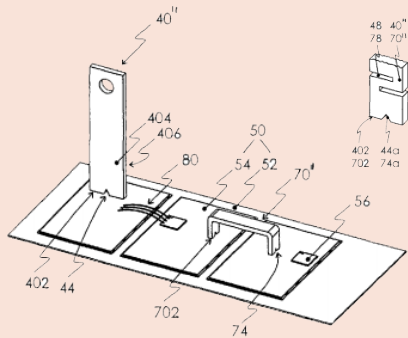
Continued from Page 1

POWER SEMICONDUCTOR MODULE WITH FLUSH TERMINAL ELEMENTS

United States Patent Number:
7,948,007
Date of Patent
May 24, 2011

Assignee:

Semikron Elektronik GmbH & Co. KG (Germany)

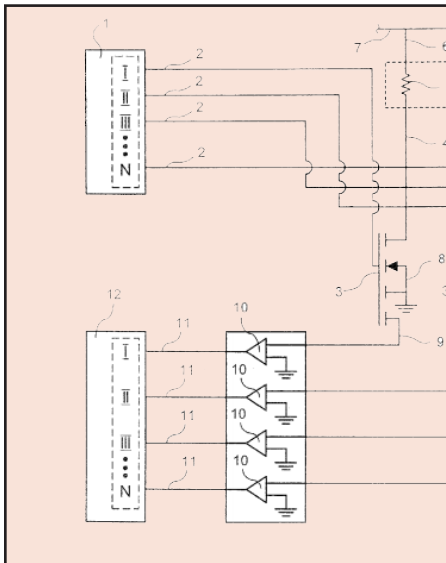


Notable, Recent LS Patents

PRINT CONTROL DEVICE FOR A THERMAL PRINTER

Patent No.: 7,940,288

Assignee: Custom Engineering @ Spa (Italy)



PORTABLE ASSEMBLY BED AND KIT THEREFOR

Patent No.: 7,921,483

Inventor: Richard Bonatz (USA)

WRITING INSTRUMENT CLIP

Patent No.: D642,621

Assignee: Poppin LLC (USA)

FIRE DETECTOR

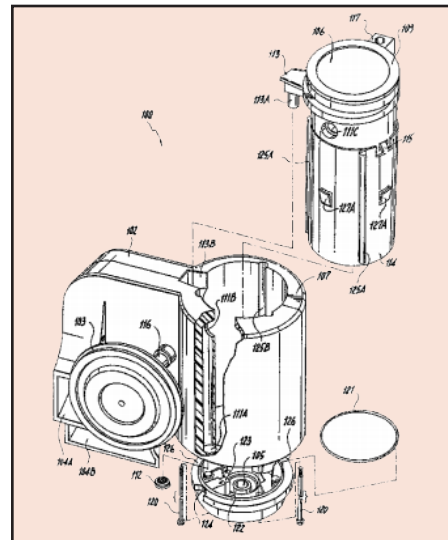
Patent No.: D641,645

Assignee: Hochiki Corporation (Japan)

ELECTROPNEUMATIC HORN WITH AIR VENTING CHANNELS

Patent No.: 7,938,078

Assignee: Wolo Mfg. Corp. (USA)



DISPENSING APPLICATION FOR FLUIDS

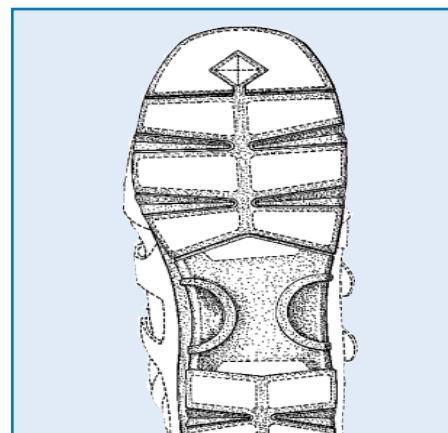
Patent No.: 7,946,779

Assignee: Biomed Packaging Systems Inc. (USA)

SHOE SOLE

Patent No.: D630,421

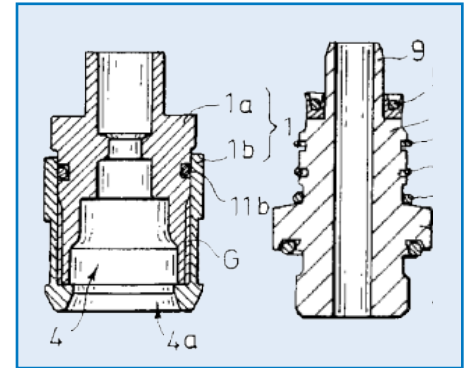
Assignee: Aerogroup International Holdings LLC (USA)



PLUG-IN COUPLING FOR FLUIDIC SYSTEMS

Patent No.: 7,841,629

Assignee: Voss Automotive GmbH (Germany)



CLOSING MEANS FOR PACKAGING

Patent No.: D625,605

Assignee: Obrist Closures Switzerland GmbH (Switzerland)

LABELING MACHINE

Patent No.: 7,900,674

Assignee: Open Data S.R.L. (Italy)

GROWTH OF NEURAL PRECURSOR CELLS USING UMBILICAL CORD BLOOD SERUM AND A PROCESS FOR THE PREPARATION FOR THERAPEUTIC PURPOSES

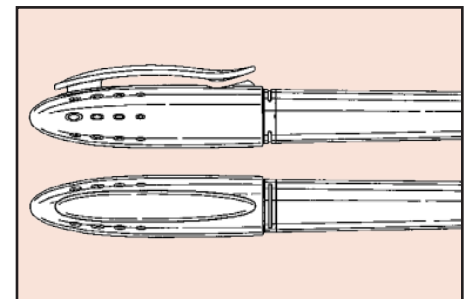
Patent No.: 7,897,388

Assignee: Reliance Life Sciences Pvt. Ltd. (India)

PEN

Patent No.: D641,404

Assignee: Mitsubishi Pencil Company, Ltd. (Japan)



TOY

Patent No.: D634,373

Assignee: Jazwares, Inc. (USA)

RECOMBINANT FUSION-ENZYME WITH REPAIR ACTIVITY ON DNA LESIONS PRODUCED BY UV RADIATION; ITS USAGE, PREPARATION AND PURIFICATION METHOD; A METHOD TO STABILIZE ENZYMES AND TREATMENT METHODS

Patent No.: 7,927,603

Assignee: Nestor Alberto Kerner, Guillermo Basilio & Mauricio Seigelchifer (Argentina)

Domains, Internet and Advertising Law

TRADEMARK CORNER

Notable, recent LS Trademarks

THE PERSUADER

Registrant: Wolo Manufacturing Corp (USA)

OXFORD BIOMEDICA

Registrant: Oxford BioMedica plc (United Kingdom)

KCF-100

Registrant: Kureha Corporation (Japan)

CREDEX SHOP HAPPY PAY SMART

Registrant: Emerging Payments Technologies, Inc. (USA)



POLYTUNE

Registrant: T.C. Electronic A/S (Denmark)

POWERCORE

Registrant: Everlast World's Boxing Headquarters Corp. (USA)

DEXSTEEL

Registrant: Dexter-Russell, Inc. (USA)

CULINARY DEPOT

Registrant: Chef's Depot Inc. d/b/a Culinary Depot (USA)

WIND DANCERS

Registrant: Reeves International, Inc. (USA)

TEOSYAL Redensity

Registrant: Teoxane SA (Switzerland)

SPYDERWASH & Design

Registrant: Setomatic Systems Inc. (USA)



FIDEURAM & Design

Registrant: Banca Fideuram S.p.A. (Italy)



SMOKE MASQUE

Registrant: AHI Acquisition, LLC (USA)

RADIOLAB

Registrant: New York Public Radio (USA)

BUNDLE OF JOY

Registrant: Orchard Yarn and Thread Company, Inc. d/b/a Lion Brand Yarn Company (USA)

CARLA AMORIM

Registrant: CK Amorim Comércio de Artefatos de Metais Ltda (Brazil)

SKiiPRACK

Registrant: Semikron International GmbH (Germany)

YAKOH

Registrant: JX Nippon Oil & Energy Corporation (Japan)

TESTONI

Registrant: A. Testoni S.P.A. (Italy)

H BY HALSTON

Registrant: The H Company IP, LLC (USA)



WATER MEADOW'S ORIGINAL

Registrant: W. Atlee Burpee Company (USA)

SACHMAN & Design

Registrant: Jobs S.p.A. (Italy)



TECHNO MARINE & Design

Registrant: Manufacturiers Technomarine Inc. / Technomarine Manufacturing Inc. (Canada)



SUMCO SILICON WAFER & Design

Registrant: Sumco Corporation (Japan)



DINNER OF THE TSARS

Registrant: Champagne Louis Roederer (CLR) (France)

RVT

Registrant: Hyde Tools, Inc. (USA)

GRIOTTINES

Registrant: Grandes Distilleries Peureux (France)

PNP PORTABLE NORTH POLE

Registrant: UgroupMedia inc. (Canada)

BAZARCHIC

Registrant: Bazarchic SA (France)

TUFI DUEK

Registrant: TF Industria e Comercio De Modas Ltda. (Brazil)

XR-700

Registrant: Toray Medical Company Limited (Japan)

THE IB LEARNER PROFILE

Registrant: International Baccalaureate Organization (IBO) (Switzerland)

AASTHA & Design

Registrant: Vedic Broadcasting Limited (India)

FRESH WATER CULTURED PEARLS BY HONORA

Registrant: Honora Industries, Inc. (USA)

Continued on Page 9

More Patents

PATENT CORNER

Continued from Page 6: Patent Corner

LAMP

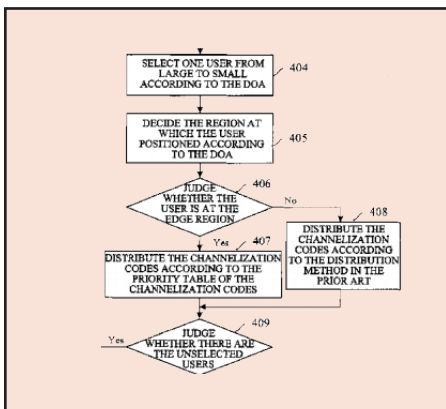
Patent No.: D628,734
Assignee: Herbert Waldmann GmbH & Co.KG (Germany)

SHOE PRESS BELT

Patent No.: 7,909,965
Assignee: Ichikawa Co., Ltd. (Japan)

DISTRIBUTION METHOD OF CHANNELIZATION CODE IN CODE DIVISION MULTIPLE ACCESS SYSTEM

Patent No.: 7,936,729
Assignee: China Academy of Telecommunications Technology (China)

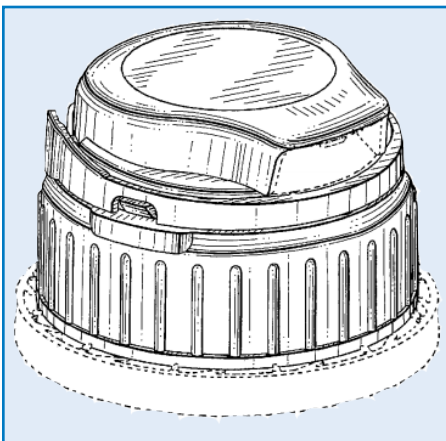


DOLLY

Patent No.: D629,580
Assignees: JJP Investments Holding Corp. (USA)

CLOSURE

Patent No.: D630,093
Assignee: Obrist Closures Switzerland GmbH (Switzerland)

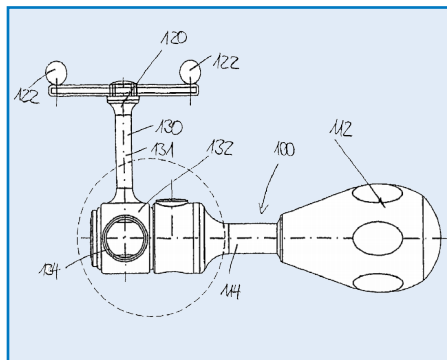


PAINT BRUSH

Patent No.: D625,523
Assignee: R.L.G. Harris & Co. Limited (Great Britain)

DEVICE FOR DETECTING SPATIAL POSITION

Patent No.: 7,877,890
Assignee: Weber Instrumente GmbH (Germany)



FLOOR LAMP

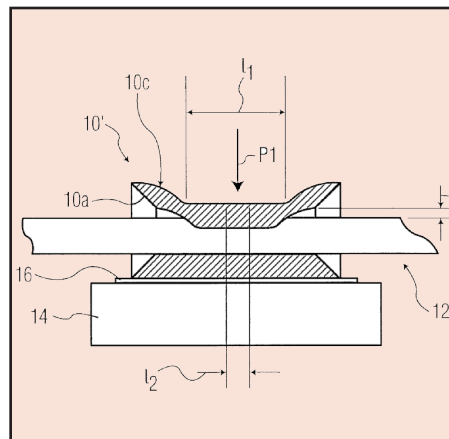
Patent No.: D643,144
Assignee: Herbert Waldmann GmbH & Co. KG (Germany)

THERAPEUTIC SHOE SOLE DESIGN

Patent No.: 7,805,859
Assignee: Kenneth Cole Productions (LIC), Inc. (Bahamas)

SURFACE MOUNT (SMT) CRIMP TERMINAL AND METHOD OF SECURING WIRE TO SAME

Patent No.: 7,955,147
Assignee: Zierick Manufacturing Corp. (USA)



COMBINATION HAND TOOL BAR

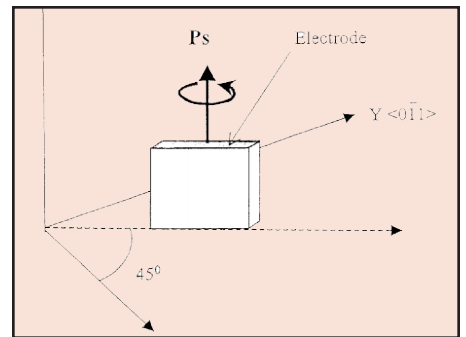
Patent No.: D627,617
Assignee: Vaughan & Bushnell Manufacturing Co. (USA)

LAPTOP SLEEVE

Patent No.: D625,519
Assignee: Built NY, Inc. (USA)

PROCESS FOR THE PREPARATION OF PIEZOELECTRIC CRYSTAL ELEMENTS

Patent No.: 7,908,722
Assignee: H.C. Materials Corporation (USA)



CLOSURE

Patent No.: D638,705
Assignee: Obrist Closures Switzerland GmbH (Switzerland)

UNIVERSAL COLLECTION AND SUPPORT COLUMN FOR DIVERSE ELECTRONIC CANDLE ARRAYS

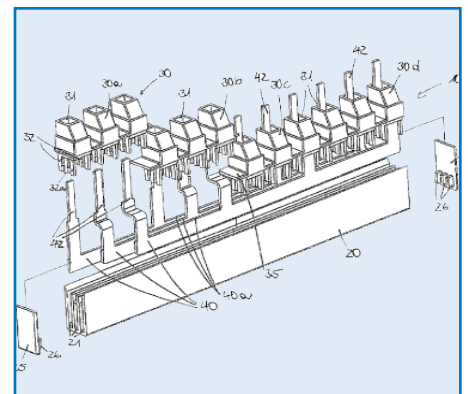
Patent No.: 7,850,065
Inventor: Gabor Lederer (USA)

COMFORTER BAG

Patent No.: D624,752
Assignee: Downright, Ltd. (USA)

BUS BAR

Patent No.: 7,967,622
Assignee: Friedbert Brutsch (Germany)



COSMETIC CASE

Patent No.: D639,063
Inventor: Monique Benoit (USA)

EMERGENCY TELEPHONE

Patent No.: D636,371
Inventor: Steven Spielvogel (USA)

COMBINATION HAND TOOL BAR

Patent No.: 7,967,277
Assignee: Vaughan & Bushnell Manufacturing Co. (USA)

More Trademarks

TRADEMARK CORNER

Continued from Page 7: Trademark Corner

OLIMP (stylized)

Registrant: Olimp Laboratories sp. z o.o. (Poland)



TP WHITE & Design

Registrant: Suzano Papel e Celulose S/A (Brazil)



ARTE

Registrant: Arte Corporation (Japan)

DIMENSION

Registrant: Hyundai Motor America (USA)

RICE FORCE

Registrant: IM Co., Ltd. (Japan)

KENNETH COLE SELECT

Registrant: Kenneth Cole Productions (LIC), LLC (USA)

NCT

Registrant: Denkenseiki Research Institute Co., Ltd. (Japan)

MR-10 WATCHING THE WORLD . DESIGNED BY MITSUI CHEMICALS & Design

Registrant: Mitsui Chemicals, Inc. (Japan)



THE PARK ROOM

Registrant: Park Lane Hotel, Inc. (USA)

MIURA-ORI

Registrant: Miura-ori Lab Corporation (Japan)

BINERO

Registrant: BINERO AB (Sweden)

ATOMIA

Registrant: Atomia AB (Sweden)

VILLA PONCIAGO

Registrant: Chateau de Poncie (France)

HM 1808 HENRIOT MAISON FONDÉE À REIMS FRANCE & Design

Registrant: Masai S.A. (Luxembourg)

IMS.Techline

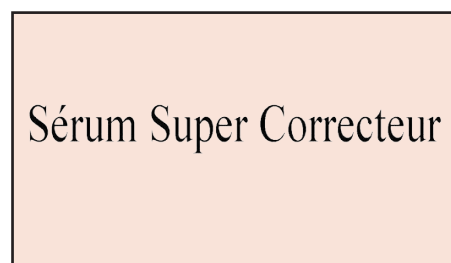
Registrant: IMS Gear GmbH (Germany)

LOQSKI

Registrant: Zencom Telecommunications Ltd. (United Kingdom)

SÉRUM SUPER CORRECTEUR

Registrant: Shiseido Company Limited (Japan)



Circle Design

Registrant: Universal Can Corporation (Japan)

KONDO & Design

Registrant: Audio Note Co., Ltd. (Japan)

UNIMETALS (Stylized)

Registrant: Kinsho Corporation (Japan)



TORAY NANOALLOY

Registrant: Toray Kabushiki Kaisha (Toray Industries, Inc.) (Japan)

D.A.P. & Design

Registrant: Pelliconi & C. S.p.A. (Italy)

CELETTE CAR LIFE SOLUTIONS & Design

Registrant: Celette S.A. (France)

RAUMFELD

Registrant: Raumfeld GmbH (Germany)

RICOSSA

Registrant: MGM Mondo Del Vino S.R.L. (Italy)

'TORAY' Innovation by Chemistry (Stylized)

Registrant: Toray Industries, Inc. (Japan)



BIANCHI (stylized)

Registrant: Grimaldi Industri AB (Sweden)



LE GLAZIK

Registrant: Transholding (France)

CHAMPAGNE PIPER-HEIDSIECK BRUT FLORENS LOUIS & Design

Registrant: Piper Heidsieck - Ancienne Maison Heidsieck Fondée En 1785, Compagnie (France)

SONHO DE VALSA & Design

Registrant: Kraft Foods Brasil S.A. (Brazil)

BLUE SLATE & Design

Registrant: Blue Slate, LLC (USA)



BALDININI (Stylized)

Registrant: Baldinini SRL (Italy)

SEIKAGAKU & Design

Registrant: Seikagaku Corporation (Japan)



HYDE INDUSTRIAL BLADE SOLUTIONS - SOLUTIONS THAT YOU CAN COUNT ON!

Registrant: Hyde Tools, Inc. (USA)

PPH Races Ahead!

Attorney Profile Continued from Page 1: Rosemarie Tofano

enforcement of international trademark rights for the firm's clients, through opposition and cancellation proceedings, as well as court actions in almost 200 trademark jurisdictions globally. As head of the International Trademark Department, Ms. Tofano also counsels clients on title and security interest issues, global customs matters and domain name registration strategies.

In addition to international trademarks, Ms. Tofano's practice areas include foreign Copyright matters, international domain name disputes and international customs surveillance and enforcement. With the recent increase in trademarks being used as collateral for business loans and corporate bonds, the creation, perfection and recordation of security interests has become a significant part of her practice, as well as major assignment programs attendant to corporate mergers, sales and machinations.

The trademark laws of the majority of foreign jurisdictions are vastly different than U.S. trademark law, especially in the areas of oppositions and use at filing and renewal. Ms. Tofano is fully versed in such variances and complexities and in view of her acknowledged foreign expertise she has presented many client seminars and lectures on foreign trademark acquisition and prosecution. She authored a New York Bar Journal article, How Not to Incorporate, and Global Colorblindness to Trademarks is Dying published in the National Law Journal.

Prior to embarking on a legal career, Ms. Tofano worked at ITT

Corporation for six years, while completing her undergraduate degree at Fordham University. Having worked for a corporate giant such as ITT gave Ms. Tofano first-hand exposure to and knowledge of the inner workings of the corporate world. This experience has proven to be invaluable to her practice, particularly with regard to liaising with many of the firm's corporate clients and managing their extensive international trademark portfolios.

After graduating from Fordham University with honors, Ms. Tofano continued to work full time while pursuing her Law degree at Pace University. It was during this time that she worked as an associate in a boutique law firm in White Plains, where she first practiced intellectual property law. Over twenty years later, she continues to counsel clients regarding the ever changing intellectual property laws throughout the world and the protection of trademark rights in a rapidly changing global market. Clients value her authoritative and pervasive knowledge of recent changes in foreign country trademark laws, as presented in the firm's Newsletters in "Ro's Observations" and "Notable Developments," in this edition on page 12.

Our clients have come to depend on Ms. Tofano's insightful and prompt guidance and legal advice, pleasant demeanor, and supportive staff, particularly when needing global trademark protection and brand management advice. Rely on Ro to help shrink and simplify the world in connection with global brand protection.

To discuss Foreign Trademarks, please email RTofano@Lackebach.com



Patent Prosecution Highway Expands! by Andrew F. Young

THE FAST TRACK CONTINUES: The Patent Prosecution Highway (PPH) has proven successful to expedite prosecution of patent claims to patentability. Filings via the PPH program are the fastest-growing type of application in the US Patent Office. There are PPH agreements with almost 20 patent offices globally. The 2010 adoption of a Patent Cooperation Treaty (PCT) application as a qualified application for PPH treatment has greatly advanced the expansion of the PPH program and its usefulness.

PROCEDURES: Procedures: Under the PPH program, claims in a newly filed application must be made to "sufficiently correspond" to the claims in an allowable foreign filed application, the rational being to present claims that were already the subject of a search and substantive examination. Patent Office communications that resulted in an "indication of allowability" must be provided to the second patent office. It is possible for a PPH-qualifying US continuing application to be filed based upon both a foreign application with an "indication of allowability" and a currently pending non-PPH US application.

DATA: PPH applications in the U.S. have risen from about 500 in 2008 to more than 6,657 through the end of June 2011. A new PPH pilot program was established that uses the PCT work product for a related national application. Pilots between the Trilateral Offices (i.e., the USPTO, the EPO, and the JPO) and the Korean IP Office (KIPO) began in 2010 and by the year end 45,701 PCT-PPH applications had been received in such offices. PPH practice, in the view of

some attorneys, eliminates one office action per patent office, for an estimated cost savings (per the AIPLA 2011 Economic Survey) of \$3,000-\$5,000 per application. When one or more Requests for Continued Examination are filed, the savings could approach \$10,000.

CHALLENGES: Under growing policy pressure, US Examiners have rejected many PPH applications because the claims do not meet the "sufficiently correspond" requirement. In many instances, a narrower claim does not automatically comply. PPH application status acceptance does not guarantee claim allowance, meaning a U.S. Examiner is not bound by the prior overseas indication of allowability.

WHERE: Other than pilot programs, there are currently 18 PPH countries, including the US that recognize PPH-Paris Convention-type applications and many that additionally recognize PPH-PCT-type applications: **Australia***, **Austria***, **Canada**, **Denmark**, **European Patent Office***, **Finland***, **Germany**, **Hungary**, **Israel**, **Japan***, **Korea***, **Mexico**, **Russia***, **Singapore**, **Spain***, **Sweden***, and the **United Kingdom** (*additionally recognize PCT-PPH applications).

Lackebach Siegel has extensive experience in international patent filing and prosecution techniques to help you minimize the costs associated with your international patent portfolio.

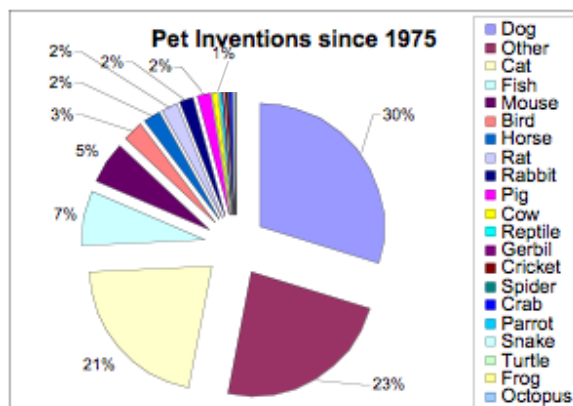
To discuss PPH-type filings, please email Andrew F. Young at: AYoung@Lackebach.com

More Kibble, Please!

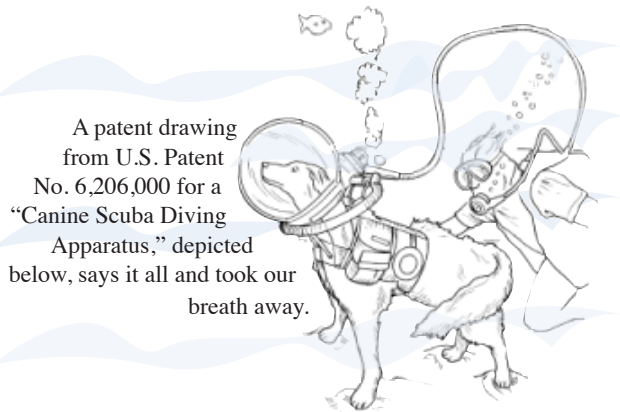
Who is Man's Best Friend? by Andrew Young

Americans really love pets - all kinds of pets. The pet industry is purring along even in the worst recession since the Great Depression. The American Pet Products Association (APPA) advises that the annual comprehensive spending for pet products and services (food, veterinary care, grooming, gadgets, etc.) grew by leaps and bounds at 5.4% annually from \$43.2 Billion in 2008 to over \$45.5 Billion in 2009. Now the APPA reports that pet spending continued to climb at 4.9% to \$47.8 Billion in 2010. Where does all this money go? Some will be howling to know that there are more than 66 million cat owners but only 58 million dog owners in the US.

We, as Intellectual Property counsel, relied upon U.S. Patent data to answer the age old question: "who is man's best friend?" Since 1975 there are 74,269 U.S. patents that mention "pet" and 3,505 patents that pertain to a pet invention. The type of pet to which the 3,505 patents relate break down as follows:



Clearly dog aficionados are more inventive by far than cat owners, by 28.5%. But the cat lovers were not caught napping either, with cat-related inventions exceeding all other types of pets, even fish. With the cricket and spider inventions neck and neck at eight patents each, there is room for competition. And as expected, turtles finish last at two patents only. Sadly, pet inventions for frogs and octopus never made it out of the aquarium, failing to achieve patented status.



INVENTIONS OF THE YEAR

The European Patent Office (EPO), one of Europe's most prestigious organizations for assessing inventions, honored innovation in several categories, identifying several individuals with its "European Inventor of the Year" award. Two US scientists, Ashok Gadgil and Vikas Garud, from the University of California's Lawrence Berkeley National Laboratory, were honored for their invention of a low cost water purification system. Dr. Per-Ingvar Brånemark was honored for lifetime achievement in the field of orthopedic surgery relating to implant technology.

The Russian Government awarded Dr. Valentine Gapontsev, of IPC Photonics, the Russian Federation National Award in Science and Technology for his contribution to the field of lasers and for creating optical quantum generators on a fundamentally new technology platform. IPG Photonics also received the 2011 Prism Award in the field of industrial lasers.

In the **United Kingdom**, as a team of inventors, John Jeans, Steve Hyde, Eric Alton, Emma Samms and Rory Bremmer were identified for contributing to the field of medical health, and received both the prestigious MRC Translational Research Award 2011 and the Best Therapeutic Innovation (Respiratory) award 2011. Their research was directed to the development of a novel Lentiviral Gene Transfer platform for cystic fibrosis lung disease.

Popular Science awarded Chris Goggin Inventor of the Year status. Mr. Goggin, known for his inventions in the field of high speed avionics jet transportation, extended his research in a different direction and invented an electronic bedbug detector. The device mimics a dog's olfactory system to acquire minute amounts of pheromones and chemicals.

Category	Patents
Dog	1040
Other	820
Cat	743
Fish	253
Mouse	188
Bird	99
Horse	75
Rat	74
Rabbit	68
Pig	55
Cow	33
Reptile	12
Gerbil	9
Cricket	8
Spider	8
Crab	7
Parrot	6
Snake	5
Turtle	2
Frog	0
Octopus	0

New and innovative products sell well to attentive and loving pet owners. Aside from the levity, patenting pet products, whether by utility or design patents, is smart, lucrative and successful endeavor - to protect serious products in a large, competitive and burgeoning industry.

To discuss pet product patents, please email Andrew F. Young at: AYoung@Lackenbach.com

Acknowledgement Zone

Cathy E. Shore-Sirotnin

on behalf of Kenneth Cole Productions, protecting its LE TIGRE trademark, as used on clothing, before the Trademark Trial and Appeals Board successfully opposed LE TIGRE for small leather goods and pens. Cathy convincingly argued that consumer expectations would create a likelihood of confusion and the TTAB granted its decision fully in her favor.

Upon appeal before the U.S. Court of Appeals for the Federal Circuit, after oral argument, Cathy was granted a decision upholding all facets of the TTAB decision, despite her client never selling such branded goods.

- and -

Andrew F. Young

secured 55 Patents for his clients in the last year, more than one a week, a notable achievement and record.

Foreign Trademark Department

RO'S OBSERVATIONS

By Rosemarie B. Tofano

European Union – Motion; XXX; Use Issues –

Motion marks are now being registered in the EU. Changing graphics, such as colored dots morphing into a four squares logo (the “Windows logo”) is an example of a motion mark. To be recordable, a graphic representation must be presented that is clear and self-contained. Successful applicants have used a “flipbook” of 20 images where “flicking” through the pages in rapid succession depicts the motion, as well as a clear written description. ~~ The “.xxx” domain extension for adult content became available in September 2011 on a first to request basis. A mark holder will have to sue to stop the same mark being used as an XXX domain name. ~~ Use in only one of the EU member countries was always considered sufficient to maintain rights in a CTM. In a recent opposition proceeding in Benelux, however, it was decided that the EU law did not intend such. The final determination will now be made by the European Court of Justice.

South Korea – Unfair Competition Recognized –

A District Court recently held Korea’s unfair competition laws violated by the sale of identical goods and awarded damages for the “dead copy” of shoes. The defendant copied not only the overall shape, design and color, but also details, i.e., stitching, ventilation openings and sole contours. The defendant used its own, different trademark on the product, but this did not avoid the violation and award of damages. Interestingly, the damages included not only the usual economic loss but for emotional distress or mental harm. The award has been appealed to the Seoul High Court, so we cannot rely on such enhanced damages yet.

China – Expanding and Changing –

There were over 1 million trademark applications filed during 2010, making it the largest filing jurisdiction in the world. Additionally, there are now 4,600,000 registered trademarks in China, again, the largest globally, and it is reported that China has over 150,000 Madrid extensions. China has examined almost 1,500,000 applications during 2010 eliminating a long backlog. New examinations

are now completed within one year. Despite the massive influx of foreign interest in protecting trademarks in China, in May China published a list of 396 well-known marks of which only 11 were foreign marks. ~~ A criminal action against a national was finally instituted by China for selling counterfeit goods, resulting in an 18-month jail sentence and a small monetary fine.

Canada – Use Definition Changed –

In March 2011 the Trademark Office, in a SPORTS AUTHORITY cancellation action, broadened the definition of “use” for retail services. Such retailer was providing only information services to Canadians through its website (not sales), but such activities were enough to avoid a “non-use” cancellation action. SPORTS AUTHORITY has no brick-and-mortar stores in Canada. An appellate court held that “use” occurs in Canada for retail store services as long as some members of the public in Canada receive a benefit from the site. Canadians were able to find stores on the site to ship goods into Canada. This development in Canada is not aligned with present corresponding U.S. law requiring the ability to purchase goods on a site, for it to be trademark use.

NOTABLE DEVELOPMENTS

By Rosemarie B. Tofano

Venezuela – Trademark registrations are now issued electronically, despite applicable law requiring that “each certificate must be signed by the Registrar.” The Trademark Office, accordingly, is advising registrants to print the certificates and bring them to the Trademark Office to be signed, a function that can be handled by the local law firm.

Uganda – Service marks may now be registered in Uganda. Service marks are defined as a sign capable of distinguishing services of one undertaking from those of another.

Zimbabwe – Registration of famous or well-known marks, as of September 2010, is now recognized, as well as providing owners of registered marks import (Customs) protection for goods with a similar mark.

India – The Indian Parliament gave final approval to join the Madrid Protocol. Examination duration times will be expected to comply with the 18-month examination required by the Protocol, by hiring new examiners for applications, oppositions and assignments. Membership, which is a long time in coming, is expected to be announced this year.

Bulgaria – An opposition system was recently instituted that provides for solely Trademark Office review of absolute grounds of refusal, and leaves it to private

litigants to oppose based on earlier rights. Prior to the change, parties objecting to an allowed application could file objections, but were not party to the proceeding.

Montenegro – In December 2010, a new law was enacted requiring all Serbian registrations to be re-validated within one year in Montenegro. Any trademark that was renewed or otherwise handled by the Register of Montenegro after May 28, 2008 will be exempt from the re-validation requirement.

Puerto Rico – A new right of incontestability came into effect during July 2011, similar to the U.S., based upon five years of continuous use. Also, a new, shorter, three year term for proving use in intent-to-use applications has been put into effect.

Italy – There is now an opposition procedure based upon a prior right or a prior trademark registration. The procedure can be lodged against all or a portion of the goods or services in an application being opposed. Allowed applications are published monthly as of July 2011.

Brazil – A new decision allows well-known marks, based upon worldwide fame and reputation, to be registered despite a prior similar registered mark for the same class of goods. ~~ A new administrative committee has been created to handle disputes related to “.br” domain

names, in an effort to avoid cyber-squatting and misuse.

Netherlands Antilles – This trademark jurisdiction ceased to exist late in 2010. Such jurisdiction comprised the territories of Curaçao, Saint Maarten, Bonaire, Saba and Saint Eustatius. Each territory will now handle trademarks either independently or through association with an established bureau for another country.

For more information about Foreign Trademarks, please email: Rosemarie B. Tofano, Rtofano@Lackebach.com

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