

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:

7,673,328

NETWORK AUTHENTICATION SYSTEM USING INDIVIDUAL SERVICES PROVIDERS AND AN AUTHENTICATION SERVER

A network system includes a plurality of individual Internet service providers each having access points, and a parallel Internet service provider connected to the plurality of individual Internet service providers, the individual Internet service providers and the parallel Internet service provider each include an authentication server. When the access point of a provider receives a connection request from a user who contracts with the parallel service provider, the provider transfers a connection ID and a password to an authentication server of the parallel Internet service provider to perform user authentication. When a result of the authentication is good, the user terminal is connected to the user terminal through the access point.

Continued on page 6

FASHIONABLY LATE... Is Design Protection Finally Here?

By Robert B. Golden

On August 5, 2010, Senator Charles Schumer of New York, together with ten co-sponsors, introduced the Innovative Design Protection and Piracy Protection Act (IDPPPA). While designers have attempted to bootstrap protection using design patents and trade dress theories, the IDPPPA is a series of amendments to the Copyright Act that, for the very first time under U.S. law, would extend explicit legal protection for fashion designs. Though still in the early stages of the legislative process, there is unprecedented optimism that the bill will pass.

Unlike Europe and Japan, the U.S. lacks specific protection for fashion designs. Previous attempts to pass laws to protect fashion design had all succumbed to competing business interests and the political stalemate resulting from each side's substantial lobbying efforts. The IDPPPA, however, strikes a balance between the historically competing interests of fashion designers and apparel manufacturers, and has support from both sides of the political aisle. Both the Council of Fashion Designers

Key Provisions of the IDPPPA Are Explained on Page 2

of America (CFDA), the trade association representing the leading American fashion and accessories designers – the historical proponents of design protection – and the American Apparel & Footwear Association (AAFA), the national trade association representing apparel and footwear manufacturers – the historical opponents of design protection – support the bill. The bill also has support from leading Democrats like Senator Schumer and leading Republicans such as co-sponsors Orrin Hatch and Lindsey Graham.

The AAFA had opposed the previous proposed design protection legislation (the Design Piracy Prohibition Act (DPPA)), arguing that the standards for obtaining protection were too vague and that the proposed legislation would result in increased litigation and thus, costs. The AAFA additionally argued that the Copyright Office, which would have been charged with reviewing the applications for design protection under the DPPA, was ill-equipped to handle the likely deluge of applications. The IDPPPA addresses these concerns, while retaining those elements of the DPPA which were generally acceptable.

Continued on Page 5

Attorney Profile

Position at Firm: Partner



Robert B. Golden

Litigation and Licensing Departments

Rob Golden heads the firm's Litigation and Licensing practice groups. On the litigation front, Mr. Golden has handled trademark, trade secret, patent, copyright, domain name and related cases, all across the country, for a diverse client base. His experience includes trying both jury and non-jury cases in Federal District Courts, arbitrations and mediations, and appeals to a number of Federal Courts of Appeals. He also represents clients in Opposition and Cancellation Proceedings before the Trademark Trial and Appeal Board of the U.S. Patent and Trademark Office, and in domain name disputes under the Uniform Domain Name Dispute Resolution Policy before

Attorney Profile: Continued on page 10

Lackenbach Siegel *today* and Since 1923

Key Provisions of the Innovative Design Protection and Piracy Prevention Act

By Robert B. Golden

A "fashion design"-

(A) is the appearance as a whole of an article of apparel, including its ornamentation; and

(B) includes original elements of the article of apparel or the original arrangement or placement of original or non-original elements as incorporated in the overall appearance of the article of apparel that--

(i) are the result of a designer's own creative endeavor; and

(ii) provide a unique, distinguishable, non-trivial and non-utilitarian variation over prior designs for similar types of articles.

The term "apparel" means-

(A) an article of men's, women's, or children's clothing, including undergarments, outerwear, gloves, footwear, and headgear;

(B) handbags, purses, wallets, duffel bags, suitcases, tote bags, and belts; and

(C) eyeglass frames.

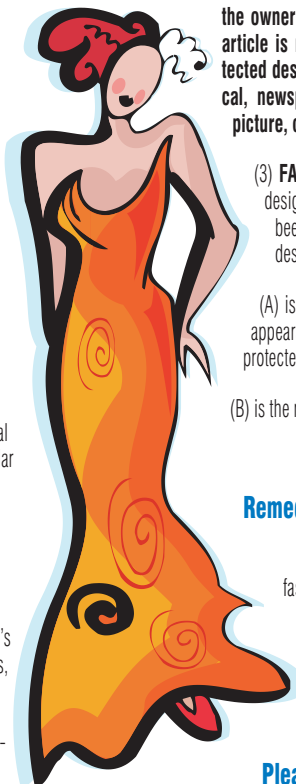
In the case of a fashion design, the term "substantially identical" means an article of apparel which is so similar in appearance as to be likely to be mistaken for the protected design, and contains only those differences in construction or design which are merely trivial.

In the case of a fashion design under this chapter, those differences or variations which are considered non-trivial for the purposes of establishing that a design is subject to protection . . . shall be considered non-trivial for the purposes of establishing that a defendant's design is not substantially identical . . .

The presence or absence of a particular color or colors or of a pictorial or graphic work imprinted on fabric shall not be considered in determining the protection of a fashion design . . . or in determining infringement . . .

Infringing Article Defined-

(1) IN GENERAL- As used in this section, an "infringing article" is any article the design of which has been copied from a design..., or from an image thereof, without the consent of



the owner of the protected design. An infringing article is not an illustration or picture of a protected design in an advertisement, book, periodical, newspaper, photograph, broadcast, motion picture, or similar medium.

(3) FASHION DESIGN- In the case of a fashion design, a design shall not be deemed to have been copied from a protected design if that design -

(A) is not substantially identical in overall visual appearance to and as to the original elements of a protected design; or

(B) is the result of independent creation.

Remedy for Infringement-

FASHION DESIGN- In the case of a fashion design, the owner of a design is entitled to institute an action for any infringement of the design after the design is made public . . .

Pleading Requirements for Fashion Designs-

(1) IN GENERAL- In the case of a fashion design, a claimant in an action for infringement shall plead with particularity facts establishing that -

(A) the design of the claimant is protected under this chapter;

(B) the design of the defendant infringes upon the protected design . . .; and

(C) the protected design or an image thereof was available in such location or locations, in such a manner, and for such duration that it can be reasonably inferred from the totality of the surrounding facts and circumstances that the defendant saw or otherwise had knowledge of the protected design.

(2) CONSIDERATIONS- In considering whether a claim for infringement has been adequately pleaded, the court shall consider the totality of the circumstances.

(Amendments to the Copyright Act, 17 USC § 101 et seq.)

To discuss IDPPPA, please contact: Robert B. Golden:
RGolden@Lackenbach.com

U.S. Patent Statistics A Step Backwards

For 2009, U.S. patent application figures trended slightly downwardly. The preliminary total of 485,500 applications is down from the all time high of 496,886 set in 2008, but still represents a solid second place extending back to 1989. The shift toward a majority of foreign originating applications continued in 2009. Of the 190,121 total patents that issued in the United States last year, 96,395 (or 50.7%) were issued to residents of foreign countries; an increase of 0.4% over the prior year. 93,726 patents, of all types, issued to U.S. residents (49.3%). This continues a steady trend over the past five years.

Japanese residents accounted for 37,879, or 39.3% of the foreign resident applications. This number is 19.9% of the total U.S. patents which issued in 2009, up 0.1% from the previous year. As a percentage of the total applications, Japan was followed by: Germany (5.4%); South Korea (4.9%); Taiwan (4.2%); and Canada (2.3%). The top ten list was filled out by: the United Kingdom; France; China; Italy; and the Netherlands.

High growth countries in 2009 (those with more than 500 patents granted) were: China (30.4%); Austria (27.4%); Australia (15.6%); Belgium (12.4%); Korea (11.8%); Finland (8.9%); Israel (7.9%); Canada (7.6%); Taiwan (7.2%); and Switzerland (6.6%). On the other hand, Hong Kong saw a decline from 738 to 576 total grants (-22.0%), as did Denmark (-10.6%); Italy (-2.5%); and the Netherlands (-2.2%);

Within the United States, California once again led all states with 22,973 patent grants, or 24.5% of all patents issued to residents of the U.S. The number equates to 12.1% of all U.S. patents granted and represents an increase over 2008. The other major state contributors as a percentage of all U.S. patents were: Texas (3.4%); New York (3.3%); Washington (2.4%); Massachusetts (2.0%); Illinois (1.9%); Michigan (1.9%); New Jersey (1.7%); Pennsylvania (1.6%); and Ohio (1.6%).

Patents issuing to U.S. Government agencies in 2009 were down for the fourth year in a row. A total of 685 patents were issued to all U.S. Government agencies, which was down 5 from the previous year and down 40 from 2007. The Navy continued to lead the way with the highest percentage of patents granted to government agencies at 33.6%, followed by the Army at 17.4%, and HEW/HHS at 15.3%.

Patent Cooperation Treaty (PCT) filings for 2009 saw a decrease in total filings of 4.5% down to 155,900 applications. The overall decline was spurred by a decrease in applications coming from the United States (down 5,594 applications, or -10.8%). Generally, the EPC member states experienced an overall decline (-5.7%) with the exception of France and the Netherlands, while China and Korea showed growth of 29.1% and 1.9% respectively.

The patent statistics for 2009 underscore the effects of the worldwide economic downturn.

Patents, Trademarks, Copyrights

False Patent Marking Nightmare Continues

By Howard N. Aronson

In late 2009 the U.S. Court of Appeals for the Federal Circuit, the court that hears all patent appeals, held that false patent marking will bring a fine of as much as \$500 per article that is falsely marked. That decision, **Forest Group, Inc. v. Bon Tool Co.**, significantly changed previous interpretations of the U.S. law. For a more complete review and explanation see **Lackenbach Siegel Client Alert**, May 2010, "False Patent Marking: Innocent Mistake - or Patent Lie?" Because of the windfall money available under new enhanced fines, a plethora of lawsuits were filed following the *Forest* bombshell.

One such suit, *Stauffer v. Brooks Brothers, Inc.* at first looked like a setback for predatory plaintiffs, most of which were not commercial competitors of the businesses being targeted. The United States District Court for the Southern District of New York in *Stauffer* dismissed plaintiff's claim based upon a lack of standing (which is the legal equivalent of the Court saying that the individual suing does not have the right to make the legal claim or seek judicial enforcement under the specific statute, in this instance, because of the lack of a commercial interest or potential damage). As such, the District Court decision would prevent individual attorneys, their spouses and ordinary consumers (which are all plaintiffs of pending mis-marking suits) from finding mis-marked products in the marketplace and instituting suits against high profile companies with millions of dollars to lose.

The unique nature of the patent marking statute ("qui tam," or "who as well for the king sues") provides that the damages from patent mis-marking be split evenly between the actual plaintiff and the U.S. government, because mis-marking of patents ultimately damages the purchasing public. Stauffer appealed the District Court decision to the Federal Circuit, which issued an opinion (Aug. 31, 2010) holding that that District Court erred in dismissing Stauffer's suit for lack of standing. The Federal Circuit made clear that patent mis-marking "inherently constitutes an injury to the United States" and that Mr. Stauffer was the government's assignee to enforce its rights under the law.

As of September, 2010, an individual can take

advantage of the patent mis-marking statute regardless of whether he suffered direct personal injury or is involved in similar commerce. The Appellate Court also made clear that the U.S. government may intervene in the action, as it has an interest in enforcing its laws and collecting its share of the penalties.

Mr. Stauffer has not won his underlying case at present, as he still has to prove that Brooks Brothers intended to deceive the public. He must show that it falsely marked bow ties with expired patent numbers, and intended to deceive the public by such mis-marking. Considering the hundreds of false patent marking law suits that have been filed since the *Forest Group* decision, the skirmishes and legal wrangling are far from over.

In *Forest Group*, the owner of a patent for stilts used in construction, falsely marked the stilts with intent to deceive the public. The court found that the false marking was intentional because the patent owner had been on notice after a 2007 decision by a different court that held the stilts were not covered by *Forest Group's* patent. Yet *Forest Group* had placed a new order for the stilts after the 2007 decision - with the patent marking that it knew to be false. The appeals court held that the public suffers harm each time a product is falsely marked. The court explained that false marking hurts competition by deterring competitors from entering the market and inventors from conducting research.

In the case of expired patent numbers on products, as opposed to other types of mis-marking, courts will presume intent to deceive if the patent owner had reason to know or actually knew that the patent marking was false (expired). Patent counsel played a large role in one earlier litigation where the defendant overcame the presumption to deceive the public by showing it had relied in good faith on the advice of its patent counsel (to remove the false marking "if possible") and change its molds bearing the markings as they wore out to save costs.

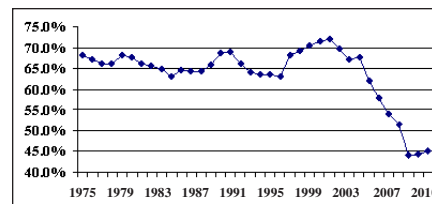
The benefits of providing patent marking on product must now

be weighed against the possible fines that could be assessed if care is not taken in carefully monitoring molds, packaging, and labeling near the end of the life of such patents. The advice of patent counsel that a patent reasonably covers the product on which it is marked is essential. Interpreting and making decisions about applicability of patent claims is considered solely the domain of qualified patent counsel, and good faith business decisions, no matter how well intentioned, may not serve well in a court environment if a product is marked with a patent number that is in fact not legally covered by the claims of the patent. In view of the new rash of blood-thirsty litigants, seeking unearned windfall damages pursuant to the new court decisions, it is more important than ever to set up intellectual property audits with patent counsel.

To learn more about False Patent Marking, please contact:
Howard N. Aronson, HAronson@Lackenbach.com

Patent Allowance Rate

PTO Continues to Put the "NO" in InNOvation



U.S. Patent Application Allowance Rate
From 1975 — 2010 by Percentage

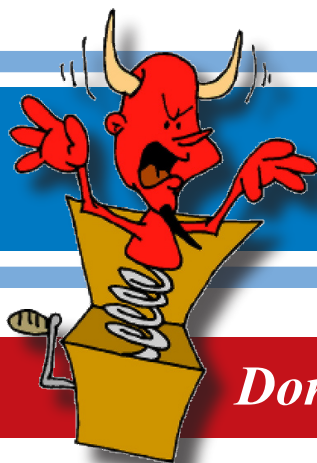
Changes are slow in coming to the US Patent Office. From 1975 through 2004 the US Patent application allowance rate vacillated around 65%, with a high of 72% in 2000. Then, following a long sharp decline, the allowance rate dropped to 44% in 2008. Since then, in 2009/2010, the allowance rate has hovered around 45%.

In a June 2010 interview PTO Director David Kappos stated that the "allowance rate is up about 3% over last year" and noted that the backlog of utility applications has "been reduced about 4% from 750,000 to 728,000 since last August." The Director has championed the new Patent Prosecution Highway (PPH) as one reason for the "increase" in allowance rate. The PPH program allows (but does not require) a US Examiner to speed the review of a US application where there is an indication of allowability in a first foreign or PCT application. Kappos also championed changes in the Examiner "count" performance system.

But the true message is mixed. The minor increase in allowance and decrease in backlog sounds like good news, but facing increasing public pressure the USPTO proposed changes to the way they measure pendency and allowance rates with regard to requests for continued examination (RCE's). **The PTO proposed treating an RCE as "part" of the same pending application, which would increase the 2010 allowance rate to 60%! Traditionally, filing an RCE was treated as a independent new filing resulting in the 45% allowance rate in 2010. Clearly, the USPTO is seeking relief from public pressure.**

A significant number of applications are mired in the appeal process. More than 18,000 'ex parte' fully briefed appeals are pending before the Board of Patent Appeals and Interferences that have an average decision delay of 29 months. If all appeal filings are counted (pre-briefing), the number of appeal matters rises to 24,000.

In sum, little change has occurred over the past year and securing a U.S. patent remains significantly more difficult since 2000.



Why the Deceit?

Domain Name Ploy by Howard Aronson

A large number of companies, as well as this law firm, have received emails ostensibly from Asian domain name Registrars related to third party domain name registration requests the same as their house mark or company name. The variations on this theme are endless, but the vast majority appear very similar in content and tactic to an actual communication shown to the right. The most common variation is an email ostensibly from a trademark attorney with "advice" about a third party seeking to register the recipient's name or mark in specific listed top-level domain registries.

Such emails direct owners to contact a Registrar (or attorney) to prevent an apparent highjacking of their company name or mark on several domain registries – most notably Asian registries. It is a shallow attempt to use paranoia to induce companies to "preemptively" register their own company name or mark on various Asian registries. Such communications are pervasively considered a scam and most companies are counseled to ignore, and not reply to the email solicitation.

Once you show an interest, the domains are either registered (Oooops!), and then there is correspondence requesting money to assign such or register the various domains in your name at your cost to "block" the fictitious interloper. The quest is to secure a response – to verify an interest in given names or marks - and then to weave a tale that causes money to be spent to avoid fantasy interlopers from owning your valuable name on a foreign domain registry.

Common sense dictates that no public domain name Registrar (or related organization) would effect independent research for free on each domain name application to see if an applied for name conflicts with some trademark or company name in one of hundreds of countries worldwide that register trademarks. And if you needed or wanted your domain registered as a top level domain in Hong King or China, then we suspect you have already taken those steps. If you have not, and are indeed interested in domain name registrations in Hong Kong or China, then you are well advised to use a reputable Registrar.

And the exercise begs the issue of protecting common typographical errors and close variations in a valuable trademark or name. Ignoring the foreign country aspect of the scam, companies are well advised to concentrate on the top-level domains that are presently key to their businesses, and register domain names that surround and seek to shield third parties from owning domain names that are common typographical errors of the

Beware of Unsolicited Emails about Foreign Domain Name Registration Like the Following:

From: [REDACTED]
Sent: [REDACTED]
To: [REDACTED]
Subject: RE:Lackebach - Intellectual property rights (To Principal)
Importance: High

Dear CEO,

We are a domain name registration and dispute organization in HongKong, which is the Internet Registration Center (CNIRC) in Asia. Currently, we have a pretty important issue needing to confirm with your company.

On the June 19, 2009, we received an application formally. One company named "Zhong Ao Investment Co. Ltd" applying to register through our body, the following domain names:

Lackebach.asia
Lackebach.com.hk
Lackebach.hk
Lackebach.net.cn
Lackebach.org.cn
Lackebach.tw

During our auditing procedure we find out that the alleged "Zhong Ao Investment Co. Ltd" has no trade mark, Intellectual property, nor patent even similar to that word. we found that the keyword and domain names applied for registration are as same as your company's name and trademark. one point need you to confirm: whether this alleged "Zhong Ao Investment Co. Ltd" is your business partner or distributor in ASIA. if so we will complete their registration. These days we are dealing with it.

If you are not in charge of this please transfer this email to appropriate dept. in order to deal with this issue better, please let someone who is responsible for trademark or domain name contact me as soon as possible.

Best Regards,
Raul

Direct [REDACTED]

core name, or from creative punctuation attempts.

For illustrative purposes, consider the company: Goodsight Eyeglass, Inc owning GOODSIGHT.com. As ".com" is a primary top-level registry, funds are well spent registering GOODSITE.com (as a common typo) and then GOOD-SIGHT.com, GOOD*SIGHT.com, GOOD_SIGHT.com, GOOD+SIGNHT.com, and the like. To add further protection, typo protection could be added to the punctuation extrapolations, e.g., GOOD-SITE.com, GOOD*SITE.com, etc.

With all said, most legal counsel believe that no action should be taken responding to such unsolicited emails. If you want to block all top-level domains worldwide with your house mark or company name, to avoid third parties from owning a domain with your valuable mark or name (and not even try to block the obvious typographical alternatives) you have an endless quest ahead.

To learn more about domain names, please contact Howard Aronson at:
HAronson@Lackebach.com

Is Emulation Flattery or Illegal?

“The secret to creativity is knowing how to hide your sources.”

FASHIONABLY LATE: by Robert B. Golden continued

If ultimately passed, the IDPPPA would amend the Copyright Act to specifically provide for fashion design protection, notwithstanding the general prohibition against protection for “useful articles of manufacture” which was traditionally cited as the bar to protection for fashion design. More particularly, the IDPPPA would:

» Define “fashion design” as “the appearance as a whole of an article of apparel, including its ornamentation,” and including the “original elements of the article of apparel or the original arrangement or placement of original or non-original elements as incorporated in the overall appearance of the article of apparel”;

» Apply to men’s, women’s, and children’s clothing, including undergarments, outerwear, gloves, footwear, headgear, handbags, purses, wallets, duffel bags, suitcases, tote bags, belts, and eyeglass frames;

» Provide protection only for truly unique designs, or in the exact language of the bill, those designs that are a “unique, distinguishable, non-trivial and non-utilitarian variation over prior designs for similar types of articles”;

» Limit protection to a period of three years measured from the date the design is made public;

» Eliminate the requirement, and indeed the option, for registration by the Copyright Office;

» Set a high standard for infringement, requiring a plaintiff to prove that the allegedly infringing design is “substantially identical” to the asserted design and further defining “substantially identical” as “so similar in appearance as to be likely to be mistaken for the protected design, and contain[ing] only those differences in construction or design which are merely trivial”;

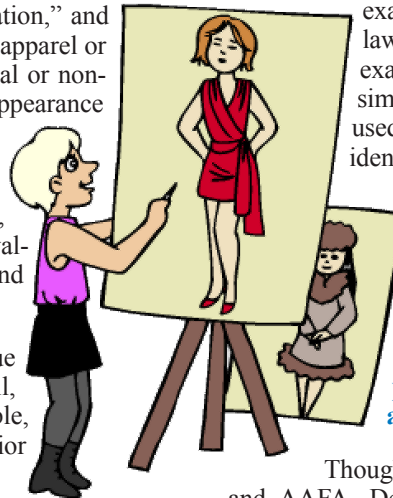
» Attempt to discourage and limit litigation (and thereby satisfy some remaining opponents of the bill) by including heightened pleading standards that would require the plaintiff to plead “with particularity facts establishing” that, among other things, “the protected design or an image thereof was available in such location or locations, in such a manner, and for such duration that it can be reasonably inferred from the totality of the surrounding facts and circumstances that the defendant saw or otherwise had knowledge of the protected design”;

» Include defenses to charges of infringement based on independent creation or copying from public domain sources; and

» Free innocent resellers and customers from liability for inadvertently buying or selling illegal copies.

While the drafters of the IDPPPA have included significant details in an effort to satisfy the prior concerns of the AAFA, exactly how the law (assuming the bill passes into law) will be interpreted remains to be seen. For example, though the infringement standard seems similar to the “likelihood of confusion” standard used in trademark cases, the language is certainly not identical and thus, open to judicial interpretation.

The test for protection, which at least one person involved in the drafting of the bill has described as an “originality plus novelty” standard, remains open to interpretation. Will the courts demand novelty and non-obviousness in the patent sense? Or will protection be granted for minor creative steps as under the Copyright Act?



Though the IDPPPA enjoys the support of the CFDA and AAFA, Democrats and Republicans, there are remaining detractors. The CFDA represents only approximately 350 of the “leading U.S. designers”. Many up and coming designers and smaller labels fear any new design protection as a means for the larger, better funded design houses to stifle competition through litigation or the threat of litigation. Though the IDPPPA does contain “heightened” pleading standards, the standards are not so high that they likely can prevent an otherwise determined plaintiff. And in this age of the Internet, numerous academics and consumer groups oppose all efforts to expand intellectual property protection.

Whether or not the IDPPPA will become law remains to be seen. More than 50 years ago, Albert Einstein said, “The secret to creativity is knowing how to hide your sources.” If the IDPPPA does become law, you can add fashion design to the list of Einstein’s many areas of expertise. And if Einstein is unavailable to answer your design questions, you can always call on us at Lackenbach Siegel.

To learn more about Fashion Design Protection, please contact Robert B. Golden at: RGolden@Lackenbach.com

Patents, Trademarks, Copyrights

PATENT CORNER

Continued from Page 1

NETWORK AUTHENTICATION SYSTEM USING INDIVIDUAL SERVICES PROVIDERS AND AN AUTHENTICATION SERVER

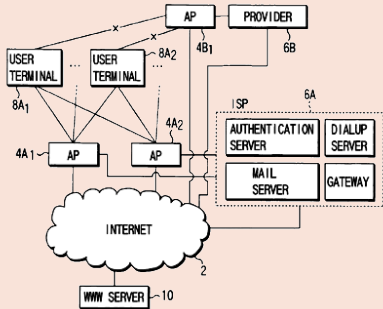
United States Patent Number:

7,673,328

Date of Patent
March 2, 2010

Assignee:

Kojima Co., Ltd., Tochigi (Japan)

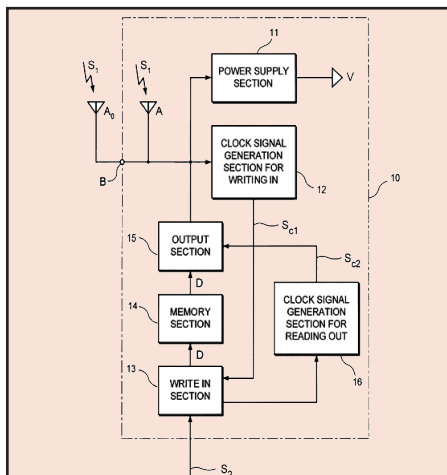


Notable, Recent LS Patents

IC CHIP FOR IDENTIFICATION, METHOD FOR READING OUT DATA THEREFROM, AND METHOD FOR WRITING DATA THEREINTO

Patent No.: 7,598,864

Assignee: FEC Co., Ltd., Utsugi-machi, Kanazawa-shi, Ishikawa-ken (Japan); The Government of Malaysia, Putrajaya (Malaysia)



MEASURING DEVICE FOR THE SHORTWAVELENGTH X RAY DIFFRACTION AND A METHOD THEREOF

Patent No.: 7,583,788

Assignee: South West Technology & Engineering Institute of China, Chongqing (China)

DRIVE PROTECTION DEVICE

Patent No.: 7,600,282

Inventor: Niclas Grunewald, Hamburg (Germany)

AIRCRAFT TAIL

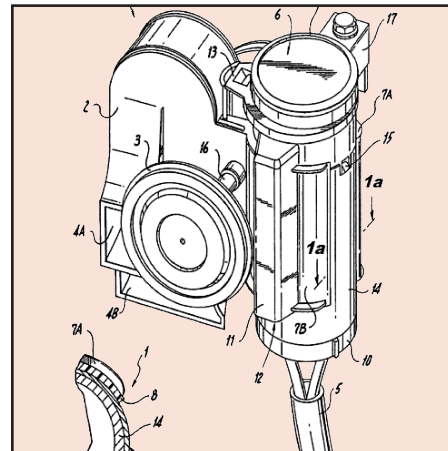
Patent No.: D622,205

Assignees: Airbus Operations S.A.S., Toulouse Cedex (France)

ELECTROPNEUMATIC HORN WITH AIR VENTING CHANNELS

Patent No.: 7,712,430

Assignee: Wolo Manufacturing Corp., Deer Park, NY (USA)



SYSTEM AND METHOD OF FACILITATING THE DISSEMINATION OF INFORMATION BY MEANS OF ACTIVE ADVERTISEMENTS IN PORTABLE INFORMATION TRANSCEIVERS

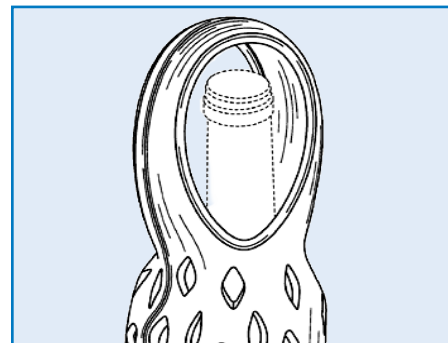
Patent No.: 7,596,602

Inventor: Louis Ellman, Bayside, NY (USA)

WEBBED SINGLE BOTTLE TOTE BAG

Patent No.: D604,042

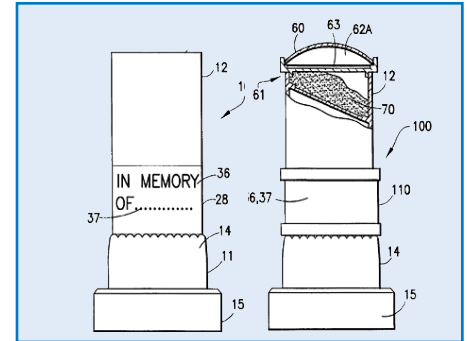
Assignee: Built NY, Inc., New York, NY (USA)



CUSTOMIZED ELECTRONIC CANDLE

Patent No.: 7,695,171

Inventor: Gabor Lederer, Clifton, NJ (USA)



ALLERGY VACCINE COMPOSITION, PRODUCTION METHOD THEREOF AND USE OF SAME IN ALLERGY TREATMENT

Patent No.: 7,648,709

Inventors: Miriam de San Juan Bosco Lastre González; Oliver Germán Perez Martín; Alexis Labrada Rosado; Igor Bidot Martínez; Gustavo Rafael Bracho Granado; Judith Mónica Del Campo Alonso; Dainerys Aleida Pérez Lastre; Elisa Facenda Ramos; Caridad Zayas Vignier; Claudio Rodríguez Martínez; Victoriano Gustavo Sierra González; Jorge Ernesto Pérez Lastre (Cuba)

VIBRIO CHOLERAЕ WITH IMPROVED BIOLOGICAL SAFETY FEATURES IN FREEZE DRIED FORM

Patent No.: 7,592,171

Assignee: Centro Nacional de Investigaciones Científicas (CNIC), (Cuba)

ENHANCED COMFORT HEADLESS TAMBOURINE

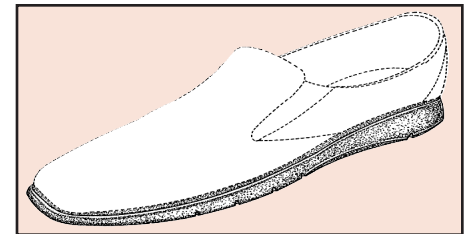
Patent No.: 7,714,219

Assignee: Rhythm Tech. Inc., New Rochelle, NY (USA)

DEEP GROOVE SHOE SOLE

Patent No.: D611,692

Assignee: Aerogroup International Holdings LLC, Edison, NJ (USA)



UTILITY BELT SYSTEM

Patent No.: 7,699,197

Inventors: Michael Panosian; Paolo Kang; Joshua M. Keeler; James Kendall Stobar (USA)

INSERT DEVICE FOR CULTURING CELLS

Patent No.: 7,588,932 Assignee: Reliance Life Sciences Pvt. Ltd., Maharashtra (India)

Domains, Internet and Advertising Law

TRADEMARK CORNER

Notable, recent LS Trademarks

WOLO-LIGHTNING

Registrant: Wolo Manufacturing Corp. (USA)

STARKLE

Registrant: Mitsui Chemicals, Inc. (Japan)

DIAMOND CHEF & Design

Registrant: Victory Foodservice Distributors Corp. (USA)

SCNB SUFFOLK COUNTY NATIONAL BANK & Design

Registrant: Suffolk County National Bank (USA)



MINISKIN

Registrant: Semikron International GMBH (Germany)

SITSCREEN NETWORK

Registrant: Ad Pepper Media International N.V. (Netherlands)

TERRA (Stylized)

Registrant: Merchant Ambassador (Holdings) Ltd. (Hong Kong)

LE PARFAIT SUPER

Registrant: O-I Sales and Distribution (France)

CAPCELL PAK

Registrant: Shiseido Company, Ltd. (Japan)

FAULHABER GROUP

Registrant: Dr. Fritz Faulhaber GMBH & Co. KG (Germany)

Design of Footprint

Registrant: American Brand Holdings, LLC (USA)



Design of Dogs' Heads and Oval Badge

Registrant: Maison Bouchard Pere Et Fils (France)



GAZZOTTI

Registrant: Gazzotti Spa (Italy)

TAYLOR BIOMASS ENERGY

Registrant: Taylor Biomass Energy LLC (USA)

HUMITEST

Registrant: Demosystem France Societe Par Actions Simplife (France)

EVENTOCLICK & Design

Registrant: Bodaclick, S.L. (Spain)

MOBILITY & Design

Registrant: Nina Footwear Corp. (USA)

TIBAC

Registrant: Industrie De Nora S.P.A. (Italy)

GTS GLOBAL TRADING SYSTEMS & Design

Registrant: Global Trading Systems, LLC (USA)

LE VERGER SHOP & Design

Registrant: Le Verger Shop (France)



ECHONET

Registrant: Central Melco Corporation (Japan)

Design of Swoosh w/ Globe

Registrant: TCB Enterprises, LLC (USA)



F FUJIKURA

Registrant: Fujikura Ltd. (Japan)



DUOGLIDE & Design

Registrant: Dexter-Russell Inc. (USA)



STICKBALL

Registrant: Rhythm Tech Incorporated (USA)

MR-7 WATCHING THE WORLD. DESIGNED BY MITSUI CHEMICALS & Design

Registrant: Mitsui Chemicals, Inc. (Japan)

AMAZING

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

ROOBIE PEACE

Registrant: GBS Enterprises Corp. (USA)

ROBINSON CRUSOE

Registrant: Empresa Pesquera Robinson Crusoe S.A. (Chile)

FASST GEAR

Registrant: Shaanxi Fast Gear Co., Ltd. (China)

NUVIS

Registrant: Hyundai Motor America (USA)

WORLD'S BIGGEST SLEEP SHIRT

Registrant: Frederick's of Hollywood Group Inc. (USA)

MYSENS

Registrant: Micronas GmbH (Germany)

THE WEALTHY WARRIOR

Registrant: Peak Potentials Training, Inc. (Canada)

Continued on Page 9

More Patents

PATENT CORNER

Continued from Page 6: Patent Corner

METHOD OF PRIORITIZING TRANSMISSION OF SPECTRAL COMPONENTS OF AUDIO SIGNALS

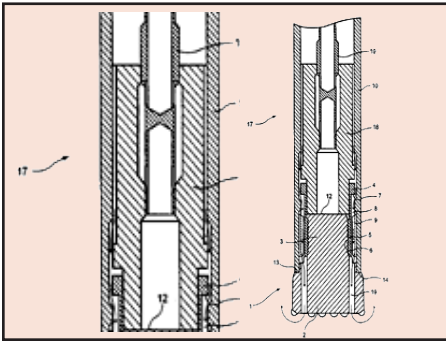
Patent No.: 7,603,270
Assignee: T-Mobile Deutschland GmbH, Bonn (Germany)

FABRIC ARTICLES DRY CLEANING MACHINE BY SOLVENT NEBULIZATION

Patent No.: 7,610,780
Assignee: I.L. S.A. SpA, Bologna (Italy)

PERCUSSIVE DRILL BIT PROVIDED WITH AN IMPROVED CHUCK ASSEMBLY

Patent No.: 7,712,554
Inventor: BBernard Lionel Glen, Gauteng Province (South Africa)

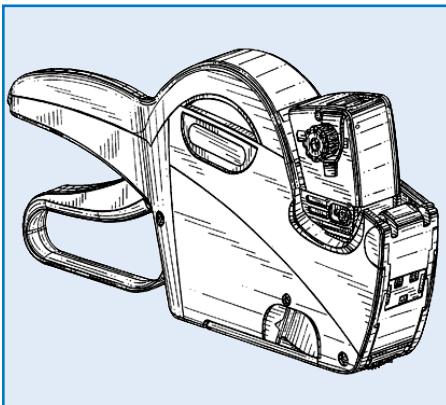


NIOTRONS CARRYING A POSITIVE CHARGE AND USABLE IN TRAPPING FREE RADICALS, ESPECIALLY THE SUPEROXIDE RADICAL

Patent No.: 7,589,210
Assignees: Universite de Provence (France); Centre National de la Recherche Scientifique (CNRS) (France)

PRICE -AFFIXING MACHINE

Patent No.: D607,491
Assignee: Open Data S.R.L., Anagni (Italy)

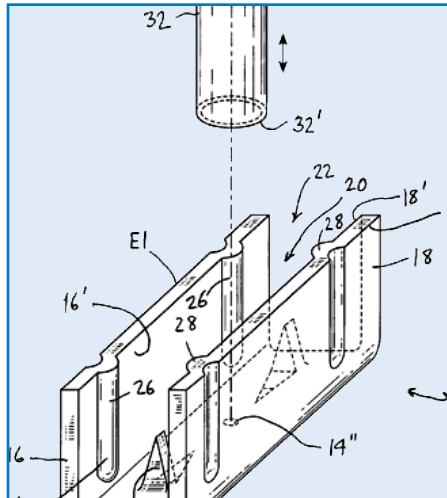


TAMBOURINE CASE

Patent No.: D585,639
Assignee: Rhythm Tech, Inc., New Rochelle, NY (USA)

SURFACE MOUNT CRIMP TERMINAL AND METHOD OF CRIMPING AN INSULATED CONDUCTOR THEREIN

Patent No.: 7,591,666
Assignee: Zierick Manufacturing Corporation, Mount Kisco, NY (USA)

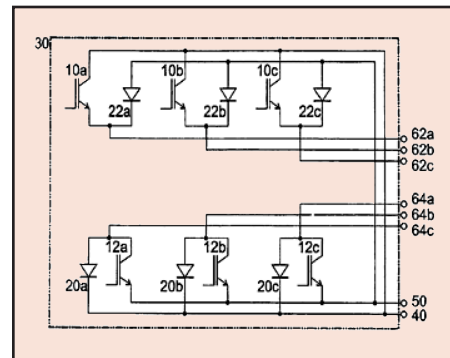


ELECTROPNEUMATIC HORN

Patent No.: D611,864
Assignee: Wolo Manufacturing Corp., Deer Park, NY (USA)

POWER SEMICONDUCTOR MODULE WITH REDUCED PARASITIC INDUCTANCE

Patent No.: 7,751,207
Assignee: Semikron Elektronik GmbH & Co. KG, Nurnberg (Germany)



POCKET INSERT

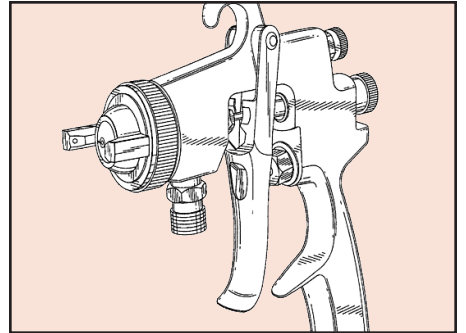
Patent No.: D602,080
Assignee: Mark's Inc., Tokyo (Japan)

SPOTLIGHT

Patent No.: D604,880
Assignee: Yamagiwa Corporation, Tokyo (Japan)

PAINT SPRAY GUN

Patent No.: D604,394
Inventor: Hsing-Tzu Wang, Taichung City (Taiwan)



AIR BRAKE SLACK CHECK TOOL

Patent No.: 7,743,686
Assignee: Channellock, Inc., Meadville, PE (USA)

CONTAINER CAP

Patent No.: D606,862
Inventors: Carlos Mora-Hernandez; Carlos Mora-Casillas, (Mexico)

JIGSAW PUZZLE DISPLAY FRAME

Patent No.: 7,584,565
Assignee: Jazwares, Inc., Sunrise, FL (USA)

VEHICLE WHEEL

Patent No.: D606,921
Assignee: BBS International GmbH, Schillach (Germany)



TRAILER ALIGNMENT APPARATUS

Patent No.: 7,726,679
Inventor: Walter Bernard Albert Leuermann, Rochedale, Queensland (Australia)

AUTO-LOAD UTILITY KNIFE

Patent No.: D600,993
Assignee: JPJ Investment Holding Co., Carson City, NV (USA)

MULTIPHASE FLOW METER FOR HIGH GAS VOLUME FRACTION SYSTEMS

Patent No.: 7,591,191
Assignee: Imperial College Innovations, Ltd., London (Great Britain)

More Trademarks

TRADEMARK CORNER

Continued from Page 7: Trademark Corner

CREDEX FAST SAFE EASY CREDIT WHEN YOU WANT IT

Registrant: Emerging Payments Technologies, Inc. (USA)



LE REN TANG & Design

Registrant: Larentang Pharmaceutical Co., Ltd. (China)



BPM SELECT

Registrant: Contractors Register, Inc. (USA)

MAPLE TREE PRESS & Design

Registrant: Owlkids Books Inc. (Canada)

BYO

Registrant: Built NY, Inc. (USA)

LAKA (Stylized)

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



SYNACTIF

Registrant: Shiseido Company, Ltd. (Japan)

ARTWORK & Design

Registrant: Suzano Papel E Celulose S.A. (Brazil)

MEGA CAPS & Design

Registrant: Olimp Laboratories SP Z.O.O. (Poland)

PUR SANG

Registrant: Parfums Jean Jacques Vivier (France)

SANTA GLORIA

Registrant: Vina Santa Alicia S.A. (Chile)

NATURADERM

Registrant: Rhythm & Blue Inc. Limited (United Kingdom)

URALCHEM & Design

Registrant: United Chemical Company Uralchem (Russia)

BLUE DRIVE

Registrant: Hyundai Motor America (USA)

UHP & Design

Registrant: United Health Program of America, Inc. (USA)



OORAIN BRANDS VICTORIA & Design

Registrant: Olivier Orain (France)

JNMC

Registrant: Jinchuan Group Ltd. (China)

MOTION FOCUS TECHNOLOGY & Design

Registrant: Panasonic Corporation (Japan)



ALOKA ILLUMINATE THE CHANGE

Registrant: Aloka Co., Ltd. (Japan)

COOL BLUE

Registrant: Dexter-Russell, Inc. (USA)

GOS

Registrant: GSG International S.p.A. (Italy)

RVT RAPID VALVE TRANSFER TECHNOLOGY

Registrant: Hyde Tools, Inc. (USA)

UMAN

Registrant: NL&F S.A. (Luxembourg)

RA (Stylized)

Registrant: Rev' Agé LLC (USA)



E EVERLAST (Stylized)

Registrant: Everlast World's Boxing Headquarters Corporation (USA)



PARTNERCW

Registrant: Cable & Wireless U.K. (United Kingdom)

AVCCAM

Registrant: Panasonic Corporation (Japan)

EMBEX

Registrant: embeX GmbH (Germany)

AVC INTRA & Design

Registrant: Panasonic Corporation (Japan)



PULVERTAFT

Registrant: Derby Hospitals NHS Foundation Trust (UK)

Design of Tiger

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



INSTAWEIGHT

Registrant: 9199-3162 Quebec Inc. (Canada)

PPH Speeds the Way

Attorney Profile Continued from Page 1: Robert B. Golden

the World Intellectual Property Law Organization. He has succeeded in obtaining multi-million dollar jury verdicts for clients as plaintiffs, and defending against \$100 Million claims against clients in the position of defendant. In one recent case, a claim against Mr. Golden's client for \$186 Million in patent damages resulted in \$0 liability.

He has a particular expertise in trademark damages issues, having litigated the issue through the appeals process on numerous occasions. His extensive knowledge in this area often permits him to "cut to the chase" and bring cases to a quick conclusion, either through settlement or motion practice. In his 15 years of litigating, Mr. Golden has personally handled virtually every aspect of Intellectual Property cases, from *ex parte* requests for temporary restraining orders in trademark counterfeiting cases, to cutting-edge technology issues in the field of Electronically Stored Information discovery in trade secret cases and from making closing arguments before a jury, to arguing in front of panels of judges in Courts of Appeals. The knowledge Mr. Golden has gained from litigating various infringement cases helps him counsel his clients in protecting against infringements, thereby often avoiding the costs of litigation.

In the licensing arena, Mr. Golden counsels clients in a wide array of industries, including fashion and footwear, automotive, hardware, energy, toy, sporting goods, and music. His substantial litigation background helps him identify problem areas early on so that he can take steps during the negotiation and drafting process to avoid potential pitfalls. He has overseen large-scale licensing programs that have helped clients grow from relatively unknown, single-product sellers to "lifestyle brands" with products across numerous categories. Working with the firm's brand management and

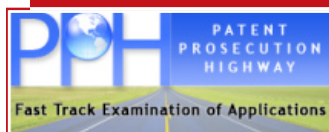
other clients, Mr. Golden has been involved with numerous mergers and acquisitions wherein license royalty streams are pledged as collateral, including "Bowie Bond" style deals. He frequently negotiates and drafts merchandising licenses in connection with movies, television shows, books, and celebrities, including *Hildago*, *Flicka*, *Bonanza*, *Secretariat*, Roy Rogers, and Muhammad Ali.

Drawing from his litigation and licensing knowledge, Mr. Golden routinely writes and lectures, particularly on the subjects of trade dress protection and the protection of fashion, footwear, and accessory designs. These activities include teaching Continuing Legal Education classes on the subject of trade dress law for the Law Education Institute's National CLE Conference, as well as seminars for individual clients aimed at educating designers and engineers at avoiding infringement.

Mr. Golden is a graduate of the George Washington University and Brooklyn Law School, where he was a Dean's Merit Scholar, and a member of the Moot Court Honor Society. He also clerked for Magistrate Judge Joan Azrack of the United States District Court for the Eastern District of New York.

Mr. Golden is watching closely the progress of the pending Innovative Design Protection and Piracy Protection Act, aimed at bringing protection to fashion, footwear, and accessory designs for the very first time under U.S. law. If passed, the bill will significantly alter the legal landscape and create many new and challenging legal issues. Mr. Golden and Lackenbach Siegel will be prepared to guide firm clients through these challenges.

To discuss Litigation and Licensing matters, please email: RGolden@Lackenbach.com



Patent Prosecutions Get Fast Track Action! by Andrew F. Young

SUPER HIGHWAY: Patent offices around the world are developing ways to simplify the patent process for those who file corresponding patent applications in a number of countries. The Patent Prosecution Highway (PPH) is an initiative between more than 14 intellectual property offices including the European Patent Office. The general idea is that if a patent claim is allowable in one country, accelerated examination can be requested in a PPH-partner office. The agreement relies upon the already-performed search and examination for the same invention resulting in an **'indication of allowability.'**

FAST TRACK: Generally, under the PPH initiative, an applicant receiving a ruling from the patent office of first filing, that at least one claim in its application is allowable, may then request that a second or subsequent patent office "fast track" the examination of corresponding claims in applications filed in such subsequent patent offices. Applicants benefit because many PPH fees have been reduced or eliminated, it is possible to get patents issued more quickly, and some who might not otherwise consider foreign filing find this expedited process attractive. The PPH offices aspire to reduce costs by eliminating duplication and costs by sharing results.

CHALLENGES: While many patent offices are becoming party to PPH agreements, there has been broad criticism of the PPH complexities and the additional burdens placed on the applicants. Applicants must keep in mind that PPH does not guarantee full faith and credit, meaning that a second and subsequent patent offices are not required to allow an application simply because it was allowed by a prior examiner.

BEST OF ALL: The PPH program has grown from applications cross-filed between members of the Paris Convention to now allowing PPH offices to draw upon an **indication of allowability** result from PCT International Searching Authority offices. Some reports indicate that allowances in second and subsequent patent offices have occurred less than thirty days from filing. Overall, PPH filed applications have a higher average allowance rate.

WHERE: PPH partners of the United States Patent Office include: Australia, Canada, Europe, Japan, Russia, Korea, Finland, Denmark, Germany, Hungary, United Kingdom, and Singapore. There will surely be more jurisdictions in the future.

To discuss Patents, please contact: Andrew F. Young: AYoung@Lackenbach.com

Intellectual Property Top Filers

Selling Generic Escalators and Aspirin? by Howard Aronson

“A trademark is a kind of property, but a very delicate property right it is. Great care must be taken in the nature of its use, and in the manner in which it is assigned or licensed, lest the significance of the mark be lost. As Mr. Justice Holmes put it “(A trademark) deals with a delicate matter that may be of great value but that is easily destroyed, and therefore should be protected with corresponding care” (U.S. Supreme Court, 1923).

Proper trademark usage is not a mere formality. Incorrect usage can lead to a valuable trademark becoming generic, and therefore, all trademark rights going abandoned. ASPIRIN, a registered trademark in most of the world, is the generic word in the United States for a certain pain reliever. ESCALATOR might still be a trademark if the company's own usage promoted and used that word as discussed below, promoting the product as “moving stairs.” The list of important trademarks that have been lost due to misuse by the trademark owner is long. TRAMPOLINE; LANOLIN; NYLON; YO-YO; CORN FLAKES join the likes of ASPIRIN and ESCALATOR, which could have been avoided had there been proper trademark usage by the company.

As a matter of grammar, a trademark is a proper adjective. This is why a trademark is always capitalized or otherwise set off from the rest of a sentence, and best followed by the generic name of the product in question (a noun). For example: ESCALATOR moving stairs. The basic rules of trademark usage are:

Some companies are vigilant enough to advertise correct usage of their marks, as Johnson & Johnson does on a regular basis:

Nobody makes “band-aids.”
(Not even Johnson & Johnson.)



Lots of people make adhesive bandages. So, everyone puts a brand name on his product. BAND-AID® is the brand name for the adhesive bandages Johnson & Johnson makes. That's why, when you mean our bandages, please say BAND-AID Adhesive Bandages. Because nobody makes "band-aids," not even Johnson & Johnson.

1. Seek to juxtapose the trademark with the generic, descriptive or common name of the product.
2. Never use a trademark as a noun – and never use a trademark in the plural form.
3. As a proper adjective, a trademark is best highlighted or set off from the adjoining text or the descriptive name of the product.
4. Properly mark the trademark (“tm”; “sm”; or “®” if registered) to advise the public of its special nature.
5. Maintain uniformity of presentation. Never pluralize or otherwise modify its grammatical status as an adjective.

The International Trademark Association has advised its members that “Trademarks are loners. They must be distinguished in print from other words and must appear in a distinctive manner.” The advice went on to include never using a mark in the possessive form (e.g., PAMPERS' fine quality) or in the plural form (e.g., The doctor prescribed MILTOWNS),

and to never use a trademark as a common descriptive adjective, as opposed to a proper adjective or a verb (e.g., XEROX the report, or SIMONIZ your car). Most importantly, be clear and consistent with the name of the product (a noun) always associated with the trademark. The JEEP trademark is for vehicles; VASELINE is for petroleum jelly; and, of course, BAND-AID brand adhesive bandages.

Why then might you see misuse of a famous trademark, for example by General Motors presenting the word CHEVY or CHEVROLET? There are a precious few trademarks that are so strong, well-known and arbitrary that even when the products to which they relate, (the noun), does not follow the trademark presentation as advised herein, the trademark may not be susceptible to becoming generic. What happens is that the consuming public subconsciously inserts the product/noun (“automobiles”) after the CHEVY trademark, because the trademark is so strong and arbitrary. But laissez-faire usage or the intentional omission of proper trademark usage will likely become the demise of most trademarks. Trademarks are your babies—treat them carefully, as they are delicate, but they will grow and become valuable.

Portions of this article by Howard Aronson were also published in *The Toy Book*, May/June 2010 issue. To learn more about proper trademark usage, contact: HAronson@Lackebach.com

INVENTIONS OF THE YEAR

The Intellectual Property Owners Education Foundation honored inventors at Dupont for their discovery of Rynaxypyr®, an insecticide that is utilized in crop protection, having a high efficacy combined with a low usage rate and a low environmental impact profile.

The European Patent Office for its “European Inventor of the Year” award honored Dr. Wolfgang Krätschmer (Germany) of the Max-Planck Institute for lifetime achievement in the field of physics. In the non-European countries category, Sanjai Kohli and Steven Chen (USA) were awarded for their development of GPS systems, while Ben Wiens and Danny Epps (Canada) were honored for their development of electrochemical fuel cells.

The Johns Hopkins University Applied Physics Laboratory selected a method for determining, through mass spectrometry, whether potentially harmful microbes have built up a resistancy to certain applied drugs as its invention of the year.

The University of Virginia Patent Foundation named Kevin R. Lynch and Timothy L. McDonald as their Inventors of the Year for their work in modulating the activity of two of the body's naturally occurring signal molecules that are helpful in treating a variety of diseases.

Brookhaven National Laboratory honored Paul Kalb as its Inventor of the Year for his significant work in the development and application of techniques for managing hazardous and radioactive waste.

University of New South Wales in Sydney, Australia named Dr. Thorsten Trupke as its Inventor of the Year for his innovations in the development of solar cell and wafer inspection systems that provide high-speed, high resolution imaging.

Acknowledgement Zone

Andrew Young

on behalf of Built NY and other notable product design clients, secured over 35 U.S. Design Patents in the first nine months of 2010, exemplifying his product design protection prowess.

— and —

Howard N. Aronson

was ranked 9th of all trademark attorneys nationwide by the *Trademark Insider, Annual Report 2009* based upon applications filed.

Lackebach Siegel continued, yet again, its longstanding tradition of being positioned among the top filers in the nation.

Foreign Trademark Department

RO'S OBSERVATIONS

By Rosemarie B. Tofano

France – Internet Not Serious Use –

Website sales of a global retailer, accessible in France, were found to be insufficient to prevent cancellation of a trademark for lack of serious use in France. ABERCROMBIE & FITCH successfully sued a French company for infringement, but upon appeal, its trademark was cancelled due to five continuous years of non-use. While Abercrombie & Fitch exhibited its website sales allowing French customers to shop for products, the appellate court did not find sufficient proof of actual French sales. The numerous invoices to French customers were devoid of a reference to the specific trademark. Printed advertising in French publications was held not to establish actual sales. While Internet sales are valid sales to prove serious use in France, such sales must include documentation that mentions the trademark and specific item. The lack of details in the invoices in connection with Internet sales was the key factor leading to the unfortunate holding of non-use.

Korea – Extended Protection –

The previously existing law in Korea held that infringing

goods must be an independent subject of trade and have value of their own. Thus, a gift with purchase or free promotional distribution (a free T-shirt bearing the trademark of a beer) would not infringe the same trademark owned and registered for clothing by a third party. The courts previously held T-shirts given as part of a promotion an advertising tool – not subject of trade. Recently, however, Korea recognized gifts with purchase a potential infringement. A telephone company distributed handbags with a famous trademark free to new customers. The bags were not authentic (not a product of the famous brand owner) and the Central District Court in Seoul held such to be a trademark infringement. Monetary damages were assessed as the court now believes the use of the mark was a source identifier, and realized that such trademark use could be relied upon for quality purposes and would damage the legitimate brand owner.

Australia – Opposition Procedure Changes –

A new opposition procedure for national trademark applications became effective July 1, 2010 and applies to applications published after such date. Previously, only cancellation actions were available to assert prior paramount rights. As cancellation actions traditionally involved extensive costs and proofs, the amended law is a welcome change. The intention of the new opposition procedure is to provide a fast-track solution for a prior

rights holder. And it will not eliminate the availability of a subsequent cancellation action. A prior registration or application, provided it subsequently registers, provides the bases to oppose. A five year old registration may have to be proven to be used, or a suitable reason for non-use provided. Each party is responsible for its own legal fees and costs, regardless of success. The new amendment to the Trademark Protection Act brings Australia into line with a majority of common law countries that provide opposition procedure relief.

Korea – Improved Trademark Protection –

In a notable decision, currently under appeal, the Seoul Central District Court did not enforce the rights of a party that was able to register the famous marks owned globally by the other party. A local Korean company was first to register "TOM & JERRY" for certain goods and wrote a cease and desist letter to Warner Bros. and its licensees. The Court, in an unusual move considering that Korea is a first to file country, determined that the actions of the local company deviated from the purpose and proper function of the trademark system. It was decided that the actions of the local Korean company in registering the "TOM & JERRY" mark ran afoul of fair competition and good public order. The High Court found an abuse of rights related to the registered mark, despite being the first-filed mark for the subject goods.

NOTABLE DEVELOPMENTS

By Rosemarie B. Tofano

Germany – In late 2009, material amendments to the German Trademark Act were effected. Such were necessary to conform to the Community Trademark System and to speed appeal proceedings. Now, opposition proceedings can be brought, whereas in the past, cancellation before a civil court was necessary. An opposition can be based upon not only trademark registrations but also business names and domain names. And after a rejection during trademark application prosecution, one may now file for reconsideration in the Trademark Office or seek an appeal with the Federal Patent Court. Germany now has procedures in line with its neighboring Community countries.

European Union – Three-dimensional marks incorporating product shapes are readily registrable in the U.S. and theoretically, EU law allows for similar protection. But in reality such non-verbal marks are difficult if not impossible to secure or enforce in the EU at this time. While Lindt secured registration of its famous chocolate Easter bunny with a bell around its neck, it is being attacked under "bad faith" principals due to the pervasiveness of prior chocolate bunnies and manufacturing limitations. Many other well known product shapes have failed in the EU to achieve registration: Proctor & Gamble's convex sided soap bar as well as its two-color dishwasher tablet; Lindt's chocolate cigar; BIC's cigarette lighter; and Wethers' light-brown concave candy. This is contrasted with the successful registration of the appear-

ance of the Rubik's Cube. The difference being the extent of distinctive features and colors and the uniqueness of the product shape.

UAE – While fashion items, (e.g., watches and perfumes), get the majority of attention when counterfeits are seized, the UAE was receptive in the early part of 2010 to enforcing trademark rights for Stanley Works. Over 14,000 fake tools were confiscated and then ordered destroyed. The warehouses of a local distributor were invaded to seize the illegal goods, and fines as well as possible imprisonment are faced by the executives of the business.

Madrid Protocol – Egypt and Israel have both become members of the Madrid Protocol, and now join 75 other member states that have ratified the Madrid Protocol. The distinction between the Madrid Protocol and the Madrid Agreement must be noted as the member countries are not co-extensive. The United States joined the Madrid Protocol whereas it has not ratified the Madrid Agreement. Such distinction is significant, as assignment of a Protocol right cannot be made to an entity that is a member of only the Agreement – but not the Protocol. While some countries have joined both conventions, many – like the U.S. – have not.

Israel – Change to the existing law took effect September 2010 and includes the ability to file multi-

class applications. When one or more classes of a multi-class application prove problematic, such application may be divided. And in line with such change, partial assignments are now allowed. To speed issuance, examination of an application will conclude within two years of the date of the first official Action. And significantly, renewal of issued registration now lasts for 10 years for trademarks filed after September 1, 2010.

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

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