The University of Southern Mississippi Intellectual Property Primer

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Intellectual Property Defined

- IP is a broad term for various legal rights or entitlements that attach to certain types of information, ideas, products, and intangibles in their expressed form.

- IP refers to those legal rights that authors, inventors, and other IP holders or owners may exercise, not to the intellectual work itself.

- IP reflects the idea that the subject matter is the product of the creativeness of the human mind or intellect.
Intellectual Property Defined

- IP rights may be protected at law similar to other forms of property.

- IP owners can exercise various exclusive rights and exclude or include others from use.

- IP generally includes patents, trademarks, copyrights, and trade secrets.
IP Exclusive Rights

- Grant the holder the ability to exclude others or 3rd parties from infringing on the holder’s monopoly.
  - Ex: Registered trademark owner can use a mark related to products or services and can exclude others from trademark use related to those products or services.

- Can be transferred, sold, licensed, or mortgaged to others or 3rd parties.
  - Ex: Copyright rights prevent copying the material form of the expression of an idea, but NOT from expressing the same idea in a different form and NOT from using the same form of expression without knowledge of the original held by someone else.
IP Exclusive Rights

- Ex: Patent rights can be used to exclude others from making, using, offering for sale, or selling the same property for a predetermined time even if they had not seen or heard about the property.
IP Valuation

- IP has value to its holder or owner.

- Current value can be positively affected by:
  1. Sales
  2. Licensing
  3. Marketing

- Current value can be negatively affected by:
  1. Becoming obsolete
  2. Competition
  3. Unauthorized copying
  4. Infringement or invalidation
IP Valuation

- The value of IP is determined by the future income associated with its ownership.

- The value of IP may be dependent on its cost:
  - Ex: Creation of a musical composition or valuable software may have little cost, but may generate high income.
  - Ex: Creation of a complex machine or motion picture may have high cost, but may generate little income.

- As a result, profit margins from IP may be much higher than profit margins from manufactured goods.
IP Valuation

Future income values from IP are determined by considering:

1. The amount sold.
2. The net income per unit after deducting sales costs.
IP Protection

- IP infringement generally carries civil penalties in the form of monetary damages.

- IP theft generally carries possible state and federal civil and/or criminal liability for violations of:
  - Trade secret misappropriation
  - Trademark infringement
  - Copyright infringement
  - Patent infringement
  - Ex: In July 2006, 3 individuals were charged with theft and sale of confidential information and trade secrets concerning drink recipes from the Coca-Cola Co.
Three people were charged by federal prosecutors on Wednesday with stealing confidential information, including a sample of a new drink, from The Coca-Cola Co. and trying to sell it to rival PepsiCo Inc. The suspects include a Coke executive's administrative assistant, Joya Williams, who is accused of rifling through corporate files and stuffing documents and a new Coca-Cola product into a personal bag. Williams, 41, of Norcross, Ga., and 30-year-old Ibrahim Dimson of New York and 43-year-old Edmund Duhaney of Decatur, Ga., were arrested on charges of wire fraud and unlawfully stealing and selling Coke trade secrets, federal prosecutors said.

They are expected to appear before a federal magistrate judge on Thursday in Atlanta, where Coca-Cola is based. Pepsi spokesman Dave DeCecco said his company did what any responsible company would do in cooperating with Coke and the investigation.

"Competition can sometimes be fierce, but also must be fair and legal," DeCecco said. "We're pleased the authorities and the FBI have identified the people responsible for this."

Coke's chief executive, Neville Isdell, said in a memo to employees Wednesday that the company is cooperating with federal authorities. "Sadly, today's arrests include an individual within our company," Isdell wrote. "While this breach of trust is difficult for all of us to accept, it underscores the responsibility we each have to be vigilant in protecting our trade secrets. Information is the lifeblood of the company." He said Coke will review its information protection policies, procedures and practices to make sure it safeguards intellectual property.

According to prosecutors, on May 19, Purchase, N.Y.-based PepsiCo provided Coke with a copy of a letter mailed to PepsiCo in an official Coca-Cola business envelope.
The letter, postmarked from the Bronx in New York, was from an individual identifying himself as "Dirk," who claimed to be employed at a high level with Coca-Cola and offered "very detailed and confidential information." "Dirk" was later identified as Dimson, the FBI says. Coca-Cola immediately contacted the FBI and an undercover FBI investigation began.

Prosecutors say Williams was the source of the information Dimson offered to provided Pepsi. They say that "Dirk" provided an FBI undercover agent 14 pages of Coca-Cola documents marked classified and confidential. The company confirmed that the documents were valid and highly confidential and were considered trade secrets. Williams works for a senior Coke manager, though the company would not say Wednesday which one. The company also would not say if she has been fired. Prosecutors say "Dirk" requested $10,000 for the documents. Later "Dirk" produced other documents that Coca-Cola confirmed were valid trade secrets of Coca-Cola and highly confidential. He also agreed to be paid $75,000 for the purchase of a highly confidential product sample from a new Coca Cola project, prosecutors said. Then on June 27, an undercover FBI agent offered to buy other trade secret items for $1.5 million from "Dirk." The same day a bank account was opened under the names of Duhaney and Dimson, and the address used on the account was that of Duhaney's Decatur residence, prosecutors said. Video surveillance showed Williams at her desk at Coke headquarters going through multiple files looking for documents and stuffing them into bags. She also was observed holding a liquid container with a white label, which resembled the description of new Coca-Cola product sample before placing it into her personal bag, prosecutors say, adding that Coca-Cola later verified the sample was genuine and is in fact a product being developed by the company. Dimson, Williams and Duhaney were arrested in Atlanta on Wednesday, the day the $1.5 million deal was to take place, prosecutors say.
Common Types of Intellectual Property

- Patents
- Trademarks (Service Marks)
- Certification Marks; Collective Marks
- Copyrights
- Trade Secrets (Confidential Information)
- Trade Dress
- Domain Names
- Semiconductor Mask Works
3 Types of Patents

- Design
- Plant
- Utility
  - Provisional
Design Patents

- May be granted for the invention or discovery of any new, original, and ornamental non-functional appearance or design of an article of manufacture.

- Protects looks or appearance, but not structural, utilitarian, or functional features.

- May relate to configuration or shape.

- May relate to surface ornamentation.
Design Patents

- Conceptually distinguished from utility patents that protect how an invention works or is used.
- Only 1 claim is allowed.
- Term of 14 years from grant (issue date).
- No maintenance fees required.
**United States Design Patent**

**Wang**

**REPTILE BREEDING TANK**

**Applicant:** Eiko Electric Products Corp., Taipei (TW)

**Inventor:** Yu-Chin Wang, Taipei (TW)

**Assignee:** Eiko Electric Products Corp., Taipei (TW)

**Term:** 14 Years

**Appl. No.:** 29/447,594

**Filed:** Mar. 5, 2013

**LOE (10) Cl.**

30-02

**U.S. Cl.**

**USPC**

D30/108

**Field of Classification Search**


See application file for complete search history.

**References Cited**

**U.S. PATENT DOCUMENTS**

- D3158,074 S * 4/1995 Hollick-Smiths .............. D30/101
- D353,030 S * 11/1994 Fernandez .............. D30/130
- D357,556 S * 4/1995 Hashimoto .............. D30/101
- 3,608,955 A * 4/1995 Tsuchiya .............. 119/266
- D361,165 S * 8/1995 Ichikawa .............. D30/101
- D368,735 S * 1/1996 Ichikawa .............. D30/101
- D448,124 S * 9/2003 Wang .............. D30/101
- D566,147 S * 4/2008 Chan .............. D30/108
- D596,808 S * 7/2009 Beiler .............. D30/101
- D612,999 S * 3/2010 Mita .............. D30/108
- D683,080 S * 5/2013 Snow .............. D30/108

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Primary Examiner — Cathy A. MacCormac

Attorney, Agent, or Firm — Cuike Patents PLLC

The ornamental design for a reptile breeding tank, as shown and described.

**DESCRIPTION**

FIG. 1 is a perspective view of a reptile breeding tank showing my new design.

FIG. 2 is a front elevation view thereof.

FIG. 3 is a rear elevation view thereof.

FIG. 4 is a left side elevation view thereof.

FIG. 5 is a right side elevation view thereof.

FIG. 6 is a top view thereof; and,

FIG. 7 is a bottom view thereof.

1 Claim, 7 Drawing Sheets
United States Design Patent
Rampolla et al.

Ceiling Light

Applicant: Emme Pi Light-Masiello S.R.L., Casale sul Sile (IT)

Inventors: Gianpaolo Rampolla, Palermo (IT);
Andrea Liguori, Palermo (IT)

Assignee: Emme Pi Light—Masiello S.R.L.,
Casale sul Sile (IT)

Term: 14 Years

Appl. No.: 29/456,885

Filed: Jun. 4, 2013

LOC (10) Cl. ........................................... 26-03

U.S. Cl. ........................................... D26/99; D26/88

Field of Classification Search
USPC .................. D26/99, 80–84, 88–91, 118; 362/147, 362/404–408

See application file for complete search history.

References Cited

U.S. PATENT DOCUMENTS

D18,223 S = 4/1888 Barr .................................. D7/565
D46,750 S = 1/1910 Penning ................................ D26/137
D45,539 S = 3/1914 Meyers ................................ D26/90
D441,895 S = 5/2001 Ortego ................................ D26/85

Date of Patent: Feb. 4, 2014

See application file for complete search history.

Orchard AC181 Eternity 33 Light Circular LED Foyer Pendant

这一专利是10-181的吊灯设计，使用LED照明。

CLAIM

The ornamental design for a ceiling light, as shown.

DESCRIPTION

FIG. 1 is a first perspective view of a ceiling light showing our new design;
FIG. 2 is a second perspective view thereof;
FIG. 3 is a front elevational view thereof;
FIG. 4 is a top plan view thereof; and,
FIG. 5 is a bottom plan view thereof.

1 Claim, 5 Drawing Sheets
(12) United States Design Patent

Bollerod

(54) SHOWER HEAD

(71) Applicant: Jens Bollerod, Eccles (GB)

(72) Inventor: Jens Bollerod, Eccles (GB)

(10) Patent No.: US D698,895 S
(45) Date of Patent: Feb. 4, 2014

(52) U.S. Cl.
LOC (10) Cl. 23-01

(51) Field of Classification Search
USPC D23/213; D21/710

(56) References Cited

U.S. PATENT DOCUMENTS
D216,883 S 3/1970 Katzman
D330,246 S 10/1992 Yarunicz et al.
D374,897 S 10/1996 Hiscox
D382,329 S 8/1997 Jun
D375,434 S 8/2008 Nunes
D379,593 S 11/2008 Fairchild et al.

See application file for complete search history.

(57) CLAIM

The ornamental design for a shower head, as shown and described.

DESCRIPTION

FIG. 1 is a front view of a shower head embodying the design of the present invention.

FIG. 2 is a side perspective view of the shower head illustrated in FIG. 1, and.

FIG. 3 is a bottom view of the shower head illustrated in FIG. 1.

1 Claim, 3 Drawing Sheets
**United States Design Patent**

**Donaghue**

**GOLF CLUB HEAD**

**Applicant:** Point-a-Putt Pty. Ltd., Deakin (AU)

**Inventor:** Paul Joseph Donaghue, Deakin (AU)

**Assignee:** Point-a-Putt Pty. Ltd., Deakin, ACT (AU)

**Term:** 14 Years

**Applied No.:** 29/443,278

**Filed:** Jan. 15, 2013

**Foreign Application Priority Data**

Jul. 16, 2012 (AU) 13362/2012
Jul. 16, 2012 (AU) 13363/2012

**LOC (10) CL:** 21-62

**U.S. CL:** D21/7-47

**Field of Classification Search**

USPC: D21/747-751, 759; 473/324-331, 350

See application file for complete search history.

**References Cited**

**U.S. PATENT DOCUMENTS**

D444,487 S * 8/1993 Taylor, Jr. D21/751
D109,884 A * 2/1994 Taylor, Jr. 473/328
3,830,503 A * 8/1974 Consoli 473/328
D524,889 S * 7/2006 Yu et al. D21/747

**Patent No.:** US D698,880 S

**Date of Patent:** Feb. 4, 2014

**Primary Examiner:** Mitchell Siegel

**Attorney, Agent, or Firm:** Fish & Richardson P.C.

**CLAIM**

The ornamental design for a golf club head, substantially as shown and described.

**DESCRIPTION**

FIG. 1 is a front face view of the new ornamental design.

FIG. 2 is a top view of the design.

FIG. 3 is an inverted rear view of the design.

FIG. 4 is a bottom view of the design.

FIG. 5 is a left side view of the design.

FIG. 6 is a right side view of the design.

FIG. 7 is a first perspective view of the design.

FIG. 8 is a second perspective view of the design.

FIG. 9 is a front face view of an alternate embodiment of the new ornamental design.

FIG. 10 is a top view thereof.

FIG. 11 is an inverted rear view thereof.

FIG. 12 is a bottom view thereof.

FIG. 13 is a left side view thereof.

FIG. 14 is a right side view thereof.

FIG. 15 is a first perspective view thereof.

FIG. 16 is a second perspective view thereof.

Those features shown in broken lines represent environmental structure and form no part of the claimed design.

1 Claim, 16 Drawing Sheets
United States Design Patent

Overlie

(54) RUBBER BAND GUN

(71) Applicant: Lowman Log Works Inc., Lowman, ID (US)

(72) Inventor: Wade D. Overlie, Lowman, ID (US)

(73) Assignee: Lowman Log Works Inc., Lowman, ID (US)

(56) References Cited

U.S. PATENT DOCUMENTS

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2,573,142 A * 10/1951 Herrig ................. 124/19
2,741,238 A * 4/1956 Arnold ................. 124/19
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3,437,084 A * 4/1969 Huyer ................. 124/19
D225,547 S * 12/1972 Griffin ................. D21/575
D247,986 S * 5/1978 Clyde ................. D21/574
4,308,830 A * 1/1982 Hunter ................. 124/19
D274,922 S * 7/1984 Smith ................. D21/574
D305,252 S * 12/1989 Nielson et al. ........ D21/574
5,170,770 A * 12/1992 Vosloh ................. 124/10

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Primary Examiner — Cynthia M Chin

(74) Attorney, Agent, or Firm — Jeffrey Parry Intellectual Property Law Group PLLC; Jeffrey C. Parry

CLAIM

1 claim the ornamental design for a rubber band gun, as shown and described.

DESCRIPTION

FIG. 1 is a side view of a rubber band gun embodiment of the disclosure;
FIG. 2 is a front perspective view of a rubber band gun;
FIG. 3 is a rear perspective view of a rubber band gun;
FIG. 4 is a top perspective view of a rubber band gun;
FIG. 5 is a top-rear perspective view of a rubber band gun; and,
FIG. 6 is a top view of a rubber band gun.

The broken lines shown are included for the purpose of illustrating the unclaimed portions of the article and form no part of the claimed design.

1 Claim, 3 Drawing Sheets
SOLAR-POWERED TOY CAR

Applicant: Wen-Hsien Lee, New Taipei (TW)

Inventor: Wen-Hsien Lee, New Taipei (TW)

Term: 14 Years

Filed: Mar. 5, 2013

LOC (10) CL: 21-01

U.S. Cl: D21/551

Field of Classification Search

See application file for complete search history.

References Cited

U.S. PATENT DOCUMENTS

D246,676 S * 12/1977 Nakao D21/550
D260,665 S * 9/1981 Yamashina D21/551
D262,564 S * 1/1982 Yamashina D21/549
D314,998 S * 2/1991 Bergreen D21/548
D315,911 S * 4/1991 Bergreen D21/551
D317,484 S * 6/1991 Bergreen D21/551
D329,475 S * 9/1992 Reveil D21/551

D384,377 S * 9/1997 Luna D21/551
D402,712 S * 12/1998 Luna D21/533
D410,260 S * 3/1999 Luna D21/548
D433,867 S * 11/2000 Tsi D21/552
D455,990 S * 8/2002 Yamazaki D21/551
D462,097 S * 8/2002 Jacquard D21/533

* cited by examiner

Primary Examiner — Cynthia M Chin
Attorney, Agent, or Firm — patenttm.us

CLAIM

The ornamental design for a solar-powered toy car, as shown and described.

DESCRIPTION

FIG. 1 is a perspective view of a solar-powered toy car showing my new design;
FIG. 2 is a front view thereof;
FIG. 3 is a rear view thereof;
FIG. 4 is a left side view thereof;
FIG. 5 is a right side view thereof;
FIG. 6 is a top view thereof;
FIG. 7 is a bottom view thereof; and,
FIG. 8 is another perspective view thereof.
The broken lines shown are included for the purpose of illustrating the unclaimed portions of the article and form no part of the claimed design.

1 Claim, 8 Drawing Sheets
Plant Patents

- Plant Patent
  - May be granted for the invention or discovery and asexual reproduction of any distinct and new variety of plant.
  - Asexual reproduction is reproduction by means other than from seeds.
    - Ex: Rooting of cuttings, layering, budding, grafting.
  - Only 1 claim is allowed.
  - Term is 20 years from filing date.
  - Protects inventor’s right to exclude others from asexually reproducing, selling, or using the plant reproduced.
United States Plant Patent
Barritt

APPLE TREE NAMED ‘WA 38’

Latin Name: Malus domestica
Varietal Denomination: WA 38

Inventor: Bruce H. Barritt, Okanogan Centre (CA)

Assignee: Washington State University Research Foundation, Pullman, WA (US)

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 93 days.

Appl. No.: 13/385,545
Filed: Feb. 28, 2012

Prior Publication Data
US 2013/027750 P1 Aug. 29, 2013

Int. Cl. A01H 5/00 (2006.01)


Varietal denomination: ‘WA 38’.

BACKGROUND OF THE INVENTION

The invention relates to a new plant variety of apple tree (Malus domestica) named ‘WA 38’. This new variety is distinguished by its intense and nearly full color, internal indices that are different than its parents, and its long common storage life.

‘WA 38’ originated as a single seedling from a cross of the patented varieties Enterprise (U.S. Plant Pat. No. 9,193) and ‘Honeyscrip’ (U.S. Plant Pat. No. 7,197) in Year 1. The germinated seedling was grown in a greenhouse at Wenatchee, Wash. In September of Year 2, ‘WA 38’ was chip budded onto M9 rootstock and the resulting tree was planted in the evaluation orchard at Douglas County, Wash. in the spring of Year 5. Fruit from this originally budded tree was observed in Year 7 and Year 8 and due to the unique fruit quality traits, ‘WA 38’ was selected and second generation trees were made by chip budding onto M9 rootstock in the fall of Year 8. Second generation trees were planted at three locations in Washington State near Chelan, Douglas County, Wash.; near East Wenatchee, Douglas County, Wash.; and near Basin City, Franklin County, Wash. A comparison of second generation trees against the originally budded tree, including trunk, branches, leaves, flowers, and fruit, showed them to be essentially the same and stable over the years checked (Year 12, 13, 14, and 15).

SUMMARY OF THE INVENTION

The ‘WA 38’ apple tree variety exhibits exceptionally long storage life in common storage. ‘WA 38’ loses little of its

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earness, sugar, and acid following five months of storage, whereas that of its parents declines considerably. The appearance of ‘WA 38’ fruit is nearly full color and has an intensity that is unique among other apple varieties of the same season. Like both its parents (i.e., ‘Enterprise’ and ‘Honeyscrip’), ‘WA 38’ is heterozygous for the ASCl gene and homozygous for the ACOL gene, both of which are involved in ethylene production. These genes confer low ethylene production, which in turn affects storage life. The ACS1 and ACOL genotypes were determined using the method described in Zhu and Barritt (2008). The harvest maturity of ‘WA 38’ is approximately three weeks later than that of the parental variety ‘Honeyscrip’, and approximately three weeks earlier than that of the parental variety ‘Enterprise’. Additionally, the combination of fruit appearance and internal eating qualities of the fruit of ‘WA 38’ is distinctly different than that of the parental varieties ‘Honeyscrip’ and ‘Enterprise’.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1. View of the dormant stage of ‘WA 38’ originally budded tree.

FIG. 2. View of blossoms from the originally budded tree of ‘WA 38’.

FIG. 3. View of typical ‘WA 38’ originally budded tree fruit at harvest maturity.

FIG. 4. View comparing harvest mature fruit of ‘WA 38’ (top row), and its parents ‘Enterprise’ (center row), and ‘Honeyscrip’ (bottom row).

DETAILED BOTANICAL DESCRIPTION

The following detailed description, except for description of fruit, is from the ‘WA 38’ originally budded tree grown at Orondo, Douglas County, Wash. The ‘WA 38’ tree was 11 years old when measurements were taken. The USDA hardi-
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Latin name of genus and species of the plant claimed: 'Perpetua' is a new blueberry plant that is a genus Vaccinium sp. L. hybrid.

Variety designation: The new blueberry plant claimed is of the cultivar denomination 'Perpetua' containing mostly Vaccinium section Cyanococcus germplasm.

BACKGROUND OF THE INVENTION

The present invention relates to a new and distinct blueberry cultivar botanically known as Vaccinium sp. L. and herein referred to as 'Perpetua', as herein described and illustrated.

This new blueberry cultivar was discovered in Corvallis, Oreg., and originated from open pollinated seed of CVAC 45 (PI 296412) in the USDA-ARS National Clonal Germplasm Repository collection in Corvallis, Oreg. CVAC 45 was collected from the wild in 1963 in Monmouth, Me., and is listed as Vaccinium corymbosum L. (highbush blueberry) by the USDA-ARS, National Clonal Germplasm Program, Germplasm Resources Information Network (GRIN) [Online Database]. When CVAC 45 was evaluated in the collection, it was noted for its small fruit size and autumn fruiting. The plant's characteristics for fruit size, leaf shape, and leaf size are intermediate to those of V. corymbosum and V. angustifolium Ation (lowbush blueberry). Since both species are found in the region where the accession was collected, CVAC 45 is presumed to be a hybrid between these two species. Perpetua's overwintering buds break in the spring, flower and produce a crop like most blueberry plants. Perpetua is unique in that the new growth produces flower buds that proceed to break bud without winter dormancy and then flower and ripen a late summer into fall crop. While many blueberries will produce a few fruit in the fall on 1-2 weeks at the tip of the new growth, 'Perpetua' will flower on up to 12-16 nodes on the new growth. The plant also has very dark green and glossy leaves that are very attractive during the growing season and turn deep red in the fall. The combination of flowers, edible fruit, and dark green foliage in the late summer and fall makes this plant a particularly attractive edible ornamental. The new cultivar has been sexually multiplied annually since 2005 by the use of stem cuttings. The present invention has been found to be stable and reproduce true to type through successive asexual propagations.

SUMMARY OF THE INVENTION

The following are the most outstanding and distinguishing characteristics of this new cultivar when grown under normal horticultural practices in Oregon: 1. Ability to flower on new growth without any chilling; 2. Attractive combination of flowers and fruit in late summer and fall; 3. Dark green, glossy, attractive leaves; 4. Edible fruit; and 5. Vigorous and compact plant habit.

BRIEF DESCRIPTION OF THE PHOTOGRAPHS

The accompanying color photographs show typical specimens of the flower cluster in bloom and the dark green glossy leaves (FIG. 1), the fruit (FIG. 2), the range of ripening stages of the fruit from green through full ripe (FIG. 3), and a five year old plant with a ripening crop in September (FIG. 4).
**United States Plant Patent**

**Philley et al.**

**ST. AUGUSTINEGRASS PLANT NAMED ‘MSA-31’**

**Latin Name:** *Stenotaphrum secundatum*

**Varietal Denomination:** MSA-31

**Inventors:** H. Wayne Philley, Mathiston, MS (US); Jeffrey V. Krans, Manitowish, WI (US); Clarence E. Watson, Stillwater, OK (US)

**Assignee:** Mississippi State University, Mississippi State, MS (US)

**Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 176 days.

**Appl. No.:** 12/154,431

**Filed:** May 22, 2008

**Prior Publication Data**


**Patent No.:** US PP21,603 P3

**Date of Patent:** Dec. 28, 2010

**ABSTRACT**

St. Augustinegrass plant ‘MSA-31’ is a new and distinct variety of perennial St. Augustinegrass cultivar, characterized by its short and narrow leaf blades, fine leaf texture, short internode length and diameter, and superior turf quality and particularly turf density when grown under shade or dense shade. ‘MSA-31’ is also distinguished by its genetic color and fall and winter color characteristics.

9 Drawing Sheets

**BACKGROUND OF THE INVENTION**

This invention relates to a new and distinct perennial variety of St. Augustinegrass that is well-suited for turfgrass applications. It is a high-quality, high-density cultivar well-adapted for warm weather climates similar to that found in southern climates where high quality St. Augustinegrass cultivar varieties have previously not been available. The Latin name of the genus and species of the new cultivar disclosed herein is *Stenotaphrum secundatum*. This novel hybrid genotype has been given the varietal denotation ‘MSA-31’ and is a perennial, aesthetically propagated genotype of St. Augustinegrass, which typically grows vigorously well in warm weather climates and spreads through creeping stolons that root at the nodes contacting soil with adequate moisture. Commonly known varieties of this genus and species include ‘Sapphire’ or ‘Sapphire’ (US Patent No. 6,512,147 and marketed under the trade name ‘Sapphire’), and SS-100 (US Plant Pat. No. 9,395 and marketed under the trade name ‘Palmetto’). This high quality novel and distinct variety of St. Augustinegrass was first vegetatively propagated at Starkville, Miss., using stolon cuttings and sexually propagated from the time forward to maintain a single genotype.

**SUMMARY OF THE INVENTION**

The cultivar ‘MSA-31’ is a new and distinctive variety of St. Augustinegrass characterized by its unique pedigree and very good shade tolerance and high turf quality. The traits of the invention are continually maintained when propagated sexually. This new variety provides an appealing uniform, dense, dark green turf at locations where other St. Augustinegrasses are weakened by excessive shade and disease injury. ‘MSA-31’ exhibits other excellent qualities and characteristics such as turf density, fine leaf texture, fall and winter color, fast spring growth, and excellent low seedhead ratings compared to other St. Augustinegrass cultivars which allow it to be further distinguished from other cultivars.

**BRIEF DESCRIPTION OF THE DRAWINGS**

FIG. 1 is a flow chart diagram and graphical illustration of the unique pedigree of ‘MSA-31’ showing the crossing of St. Augustinegrass genotypes resulting in the distinctive new cultivar.

FIG. 2 is a color photograph taken on Apr. 24, 2006 at greenhouses in Starkville, Miss. of stolon segments of four (4) St. Augustinegrass cultivars that compares and illustrates the distinct morphological characteristics of each such segment. From left to right, ‘Floratam’ with its long leaves and purple internodes is shown on the far left. Next in line to the right is ‘Raleigh’ with its long leaves and green/yellow internodes. Next in line to the right is ‘MSA-3’ with its small leaves and green internodes. Finally on the far right, ‘MSA-31’ is shown with its small leaves and dark green internodes.

FIG. 3 is a color photograph taken on Apr. 24, 2006 at greenhouses in Starkville, Miss. of four (4) whole non-mow St. Augustinegrass cultivar plants in growing pots showing, from left to right, ‘Floratam’ with its longer leaves, tall stature, and purple/red internodes; ‘Raleigh’ with its longer leaves, tall stature, and green/yellow internodes; ‘MSA-3’ with its smaller leaves, shorter stature, and more green internodes; and ‘MSA-31’ with its small leaves, shorter stature, and darker green internodes.

FIG. 4 is a color photograph taken on Oct. 26, 2004 at Starkville, Miss. during the 2002 NTEP test showing the turf density of the ‘MSA-31’ St. Augustinegrass cultivar.

FIG. 5 is a color photograph taken on Oct. 26, 2004 at Starkville, Miss. during the 2002 NTEP test showing field plots of six (6) cultivars (1 full replication), specifically depicting ‘Raleigh’ in the left foreground, ‘MSA-31’ St.
STATEMENT OF GOVERNMENT SUPPORT

This invention was made with government support under 58-6404-0-014 awarded by the U.S. Department of Agriculture. The government may have certain rights in the invention.

Botanical classification: Lagerstroemia indica L.

Varietal denomination: Crapemyrtle 'Chocolate Mocha'.

BACKGROUND OF THE INVENTION

The present invention relates to a new and very distinct variety or cultivar of the ornamental flowering shrub and landscape plant of the genus Lagerstroemia, commonly known as crapemyrtle, of the family Lythraceae, and is referred to hereinafter by its varietal denomination 'Chocolate Mocha'. This novel plant is an asexually propagated hybrid of crapemyrtle that was selected in 2003 from approximately 3600 identified crosses. The female seed parent is Lagerstroemia indica 'Whit IV' ("Red Rocket"), U.S. Pat. No. 11,1342. The male pollen parent is Lagerstroemia indica var. fauriei 'Sarah's Favorite' (unpatented). 'Chocolate Mocha' was selected for its unusual and brilliant bubble gum pink flower color and other distinctive features. The designation 'Chocolate Mocha' was evaluated under the experimental name 'CREC 2003-01'. This high quality novel and distinct variety of crapemyrtle plant was vegetatively propagated at the Mississippi State University Coastal Research and Extension Center, South Mississippi Branch Experiment Station, in Poplarville, Miss. Each of several generations of cuttings has produced stable plants identical to the original seedling plant.

SUMMARY OF THE INVENTION

The cultivar 'Chocolate Mocha' is a distinctive, new variety of crapemyrtle plant characterized by its brilliant bubble gum pink flower color and unique dark brown/red-purple leaf color. The traits of the invention are continually maintained when propagated asexually. This new variety may vary slightly with changes in location, temperature, light, and other environmental conditions, but the genotype will not be affected. 'Chocolate Mocha' also exhibits the quality and characteristic of adaptability to all areas of hardiness zones 7-10. Compared to its parent, its female parent 'Red Rocket' generally has light green leaves that fade through the growing season and red flower color. Red Rocket's new growth red leaf color is lighter than that of 'Chocolate Mocha'. The new plant's male parent 'Sarah's Favorite' generally has medium green leaves and white flower color. The combination of 'Chocolate Mocha's' dark brown/red-purple leaf color and brilliant pink flower color distinguishes it from these and all other crapemyrtle cultivars.

BRIEF DESCRIPTION OF THE DRAWINGS

The photographs illustrate the unique characteristics of leaf and flower color of the new variety. The photographs show the colors as true as is reasonably possible to obtain with current photographic techniques. Colors in the photographs may differ from the actual colors and values in the description of the new crapemyrtle plant due to light conditions and other factors.

FIG. 1 is a color photograph of the new crapemyrtle 'Chocolate Mocha' taken at the Coastal Research and Extension Center, South Mississippi Branch Experiment Station, that shows the flower color against a background of the leaf color of the new cultivar.

FIG. 2 is a color photograph of the new crapemyrtle 'Chocolate Mocha' taken at the Coastal Research and Extension Center South Mississippi Branch Experiment Station, that shows the leaf color and the twig color of the new cultivar.

FIG. 3 is a color photograph of the new crapemyrtle 'Chocolate Mocha' taken at the Coastal Research and Extension Center South Mississippi Branch Experiment Station, that shows new growth of the new cultivar with older growth in the background.
Plant Variety Protection

- Plant Variety Protection Office of the USDA administers the Plant Variety Protection Act of 1970 by issuing Certificates of Protection.

- Act provides legal intellectual property rights protection to breeders of new varieties of plants that are sexually reproduced (by seed) or tuber-propagated.

- Term of protection generally is 20 years from date of issue of certificate.
  - Term of protection for trees or vines is 25 years from date of issue of certificate.
Provisional Patent Applications

- USPTO has offered this option since June, 1995.
- Simple, lower cost first patent filing for small and micro entities.
- Provides one year to assess commercial potential before filing more expensive and detailed utility (non-provisional) application.
- No claims are required.
- No oath or declaration is required.
- Provides an early effective filing date.
Provisional Patent Applications

- Permits an inventor or owner to use “Patent Pending” in connection with the invention.

- Allows inventor or owner to commercially promote the invention with some additional security against theft.

- Preserves application in confidence – is not published.

- Not available for design inventions.

- Regular utility (non-provisional) application must be filed within 12 months of the provisional filing date in order to maintain and benefit from the provisional filing date.
Provisional Patent Applications

- The subject matter in the later-filed utility is then entitled to the benefit of the effective filing date of the provisional if it has full support in the written description of the provisional application.

- Not examined on the merits like a utility application.

- Inventors must be aware that the “in use” or “on-sale” statutory bar conditions apply so that:
  - Patent rights may be affected if conditions exist and 1 year provisional application period expires without filing a utility application.
Utility Patents

- Utility Patent protects functionality
  - May be granted for the invention or discovery of any new, useful, and non-obvious:
    - Process
    - Machine
    - Article of manufacture
    - Composition of matter
    - New and useful uses or improvements of the 4 above.
  - Personal property that may be sold, mortgaged, assigned or licensed.
    - May be jointly-owned.
Utility Patents

Invention must be **new** (novel):

- Not exactly the same as prior products and processes.

Invention is not patentable if:

- Known to the public before it was invented;
- Described in a publication more than 1 year prior to filing date; or
- Disclosed, used publicly, sold, or offered for sale to the public more than 1 year prior to filing date.
Utility Patents

- Invention must be **useful:**
  - Must have a useful purpose and be operative for the intended purpose.

- Invention must be **non-obvious:**
  - Usually the most difficult hurdle to cross.
  - Must be non-obvious or a non-obvious improvement over the prior art to one of ordinary skill in the art or technology of the invention at the time of the invention.
  - Examiner can combine prior art references to reject application claims as obvious in view of those references.
  - Objections and/or rejections must be overcome in order to proceed with patent prosecution.
United States Patent
Thames et al.

(54) GLYCEROL ESTER-FREE FUNCTIONALIZED VEGETABLE OIL DERIVATIVES AND THEIR LATEX COMPOUNDS

(75) Inventors: Shelby F. Thames, Hattiesburg, MS (US); James W. Rawlinson, Petal, MS (US); Sharathkumar K. Mendon, Hattiesburg, MS (US); David Delatte, Hattiesburg, MS (US)

(73) Assignee: The University of Southern Mississippi, Hattiesburg, MS (US)

(65) Prior Publication Data

Related U.S. Application Data
Division of application No. 11/699,693, filed on Jan. 30, 2007, now abandoned.

(51) Int. Cl.
C08F 2/22 (2006.01)

(52) U.S. Cl.
USPC ............. 524/812; 524/801; 524/804; 526/238.3

(58) Field of Classification Search
USPC .......................... 524/801, 804, 812; 526/238.3
See application file for complete search history.

References Cited
U.S. PATENT DOCUMENTS

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6,254,223 B1 9/2003 Thames
6,397,257 B2 5/2003 Thames
2006/020062 A1 1/2006 Bloom

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JP 49-082670 A 8/1974

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Primary Examiner — Liam Heinmeier
Assistant Examiner — Michael A Salvitti
(74) Attorney, Agent, or Firm — Lawrence Arthur Schenmel

(57) ABSTRACT

The present invention is directed to a fatty amide (meth)acrylate monomer, methods of making the monomer, and latex polymers comprising the fatty amide (meth)acrylate monomer. The monomers are derived by reacting unsaturated vegetable oils with ethanoldime or substituted ethanoalmine. The vegetable oil derivative is then reacted with either (meth)acryloyl chloride or (meth)acryloyl acid to form a fatty amide (meth)acylate monomer or the product of the reaction of hydroxyethyl (meth)acrylate reacted with isophorone diisocyanate to form a urethane fatty amide (meth)acylate monomer. The increased hydrophilicity of the fatty amide (meth)acrylate monomer facilitates the diffusion through the aqueous phase. The monomer synthesis is designed to be glycerol ester-free to increase long term stability for monomers and polymers.

16 Claims, No Drawings
(12) United States Patent
Droeg et al.

(54) ARTICLE OF FOOTWEAR FOR SOCCER

(75) Inventors: John Droeg, Portland, OR (US); Paul Hooper, Vancouver, WA (US); Tetsuya T. Mima, Portland, OR (US); Morgan Stueffer, Portland, OR (US)

(73) Assignee: NIKE, Inc., Beaverton, OR (US)

(7) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 744 days.

(21) Appl. No.: 12/133,156
(22) Filed: Jun. 4, 2008

(65) Prior Publication Data

(51) Int. Cl.
A43B 13/00
A43B 13/14
A43B 13/38
A43B 25/00
A43B 1/02

(52) U.S. Cl.
USPC: 36/102; 36/30 R; 36/128; 36/102

(58) Field of Classification Search
See application file for complete search history.

(56) References Cited
U.S. PATENT DOCUMENTS
3,703,775 A 11/1972 Gatti

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WO 93/05673 4/1993

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(Continued)

(57) ABSTRACT
An article of footwear with flexing portions disposed in an arch portion of a sole system is disclosed. The flexing portions in the sole system increase the curling toe flexibility of the article of footwear. In addition, the sole system includes trapping portions that enhance the ability of a wearer to stop and capture a ball. Furthermore, the article of footwear includes an asymmetric fastening system biased toward a medial side of the article.

30 Claims, 27 Drawing Sheets
MODULATION OF HEPATITIS B VIRUS (HBV) EXPRESSION

Inventors: Eric E. Swayze, Encinitas, CA (US); Susan M. Fevrier, San Diego, CA (US); Michael L. McCalh, La Jolla, CA (US); Hong Zhang, Fremont, CA (US)

Assignee: Isis Pharmaceuticals, Inc., Carlsbad, CA (US)

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

Appl. No.: 13/452,703
Filed: Apr. 20, 2012

Prior Publication Data

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6,621,005 B2 12/2003 Stein et al.
6,984,729 B1 1/2006 Frank et al.

FOREIGN PATENT DOCUMENTS
CN 101603042 A1 * 12/2008

OTHER PUBLICATIONS

Primary Examiner — Tracy Vivalmore
(74) Attorney, Agent, or Firm — Isis Pharmaceuticals, Inc.
Patent Dept.

ABSTRACT
Disclosed herein are antisense compounds and methods for decreasing HBV mRNA, DNA, and protein expression. Such methods, compounds, and compositions are useful to treat, prevent, or ameliorate HBV-related diseases, disorders or conditions.

37 Claims, No Drawings
Utility Patents

- Must include a written specification (description and at least 1 claim).

- Must include an oath or declaration (lists the inventors and declares they are the inventors).

- Must include a drawing, if necessary to understand the subject matter.

- Must include filing fee, search fee, examination fee, and additional claim fees, if applicable.
Utility Patents

Claims define the scope of the protection provided by the patent and are the heart of an application:

- Independent claims stand by themselves.
- Dependent claims refer back to and limit another claim or claims.
- Are analogous to the metes and bounds system of describing land (real property) boundaries.
Utility Patents

Cost depends on multiple factors:

- Filing fee for regular, small, or micro entity status
- No. of independent claims
- No. and types of dependent claims
- Search fee
- Issue fee
- Publication fee
- Examination fee
- Other factors (non-English, surcharges)
- Invention Complexity
- Prior Art Searching Costs
- Periodic Maintenance Fees
Utility Patents

- Prior art search should generally be conducted prior to application and an Information Disclosure Statement (IDS) filed.

- Examination may be expedited in certain cases.

- Examination may take 18 months or longer for first Office Action.

- Application pendency was an average of 33.7 months (FY 2011, USPTO data) and 32.4 months (2012).

- Application is published approx. 18 months from the earliest priority date unless requested otherwise.
Utility Patents

- Applicant must respond to possible multiple Office Actions:
  - Objections / Rejections

- If granted, patent is valid for 20 years from the date of filing of the application in the U.S.
  - Patents in force on June 8, 1995 and those issued after on applications filed prior to June 8, 1995 have a term that is the greater of 20 years from filing or 17 years from grant.

- Maintenance fees are due 3.5, 7.5, and 11.5 years after the date of patent grant.

- Patent terms may be extended for certain patents, when certain periods of delay are beyond the applicant’s control, for example if a drug patent required FDA approval that was not granted until after the patent was granted.
Utility Patents

They got a patent on that??
UNITED STATES PATENT
McMullin et al.

43

(54) BEERBRELLA

(70) Inventors: Mason Schott McMullin, #7 Ridgelop St., St. Louis, MO (US) 63117; Robert Platt Bell, 8033 Washington Rd., Alexandria, VA (US) 22308; Mark Andrew See, 8033 Washington Rd., Alexandria, VA (US) 22308

(51) Int. Cl.7 ......................... A45B 11/00; A45B 13/00; A45B 23/00

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U.S. PATENT DOCUMENTS
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D394,589 S * 2/1998 King ............................. 07/717

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Primary Examiner—Robert Canfield
(74) Attorney, Agent, or Firm—Robert Platt Bell

(73) ABSTRACT

The present invention provides a small umbrella ("Beerbrella") which may be removably attached to a beverage container in order to shade the beverage container from the direct rays of the sun. The apparatus comprises a small umbrella approximately five to seven inches in diameter, although other appropriate sizes may be used within the spirit and scope of the present invention. Suitable advertising and/or logos may be applied to the umbrella surface for promotional purposes. The umbrella may be attached to the beverage container by any one of a number of means, including clip, strap, cup, foam insulator, or as a coaster or the like. The umbrella shaft may be provided with a pivot to allow the umbrella to be suitably angled to shield the sun or for aesthetic purposes. In one embodiment, a pivot joint and counterweight may be provided to allow the umbrella to pivot out of the way when the user drinks from the container.

10 Claims, 5 Drawing Sheets

Primary Examiner—Robert Canfield
(74) Attorney, Agent, or Firm—Robert Platt Bell

(73) ABSTRACT

The present invention provides a small umbrella ("Beerbrella") which may be removably attached to a beverage container in order to shade the beverage container from the direct rays of the sun. The apparatus comprises a small umbrella approximately five to seven inches in diameter, although other appropriate sizes may be used within the spirit and scope of the present invention. Suitable advertising and/or logos may be applied to the umbrella surface for promotional purposes. The umbrella may be attached to the beverage container by any one of a number of means, including clip, strap, cup, foam insulator, or as a coaster or the like. The umbrella shaft may be provided with a pivot to allow the umbrella to be suitably angled to shield the sun or for aesthetic purposes. In one embodiment, a pivot joint and counterweight may be provided to allow the umbrella to pivot out of the way when the user drinks from the container.

10 Claims, 5 Drawing Sheets
A tricycle frame providing basic support for the pedal operated mower, pedals turning a forward sprocket for providing locomotion, the locomotion communicating by a chain to turn a rear sprocket mounted on a shaft having a set of split cutting blades peripherally disposed about the cutting shaft for turning the shaft and cutting blades, and gear means connecting the cutter shaft with rear wheels of the tricycle frame and resulting in the locomotion thereof. A protective shield is mounted on the tricycle frame to protect the operator from debris thrown up during the course of mowing, and also a set of goose neck handle bars, an appropriate sized front wheel and a large triangular padded seat are also provided in the combination.
SMOKING DEVICE USING A LASER DIODE AS A SOURCE OF IGNITION

Inventor: Chris Tao, Kent, CT (US)

Correspondence Address:
Maulin V. Shah, Esq.
1375 Broadway, Third Floor
New York, NY 10018 (US)

Appl. No.: 12/489,437

Filed: Jun. 23, 2009

Publication Classification
Int. Cl. A41F 1/30 (2006.01)
A41F 8/00 (2006.01)
U.S. Cl. 131/173; 131/185

ABSTRACT
A smoking device, such as a water pipe or a bong, having an integrated laser diode ignition source. The laser diode ignition source provides a long-lasting life span, and does not require the smoker to use a fuel-based lighter that is not recyclable and requires continuous refilling of the fuel cartridge. Furthermore, the laser diode ignition source does not leave any undesirable aftertaste to the organic material. The ignition source is located within a housing, protected from the environment and wind. The ignition source applies a high intensity laser beam to ignite organic material, such as smokable substances, locating within a bowl adjacent to the ignition source.
COLLAR APPARATUS ENABLING SECURE HANDLING OF A SNAKE BY TETHER

Inventor: Donald Robert Martin Boys, Bella Vista, CA (US)

Assignee: Central Coast Patent Agency, Inc., Aromas, CA (US)

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

Filed: Aug. 29, 2001

Int. Cl. 7 A01K 27/00

U.S. Cl. 119/792; 119/654; 119/769; 119/705; 119/856; 119/864; 119/865

Field of Search 119/792, 270, 119/769, 795, 815, 816, 864, 865, 714, 821, 654, 856

References Cited

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ABSTRACT

A collar for collaring a snake has an elongated collar section forming a physical collar when wrapped around the body portion of the snake. The collar further has a support section for supporting, an attachment mechanism for accepting attachment of a tether and a connector system comprising at least two components affixed to strategic portions of the collar section for securing the collar in place around the body portion of the snake. The length of the collar section is such that a portion thereof overlaps itself when fitted around the snake providing an adjustable interface comprising separate components of the connector system whereby mating the connector components together, secures the collar in place on the snake. In one embodiment the collar apparatus further includes a concertina movement-neutralization device for reducing concertina movement through the collar.

14 Claims, 5 Drawing Sheets
United States Patent

Inventor: O. Alan Breazeale, 8307 County Rd., 6920, Lubbock, TX (US) 79407

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

Appl. No.: 10/638,505
Filed: Aug. 12, 2003
Int. Cl. 7 ................................. F42B 33/06; F42B 12/34; F42B 12/36
U.S. Cl. ..................................... 86/50; 102/502; 102/504
Field of Search ............................ 86/50; 102/502; 102/504

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6,439,121 B1 8/2002 Bureaux et al. ............. 102/503

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Primary Examiner—Teri P. Luu
Assistant Examiner—Bret Hayes
Attorney, Agent, or Firm—Peter Loffler

ABSTRACT

A net is made from an explosive resistant material such as Kevlar and is thrown over an explosive-laden device such that the net helps contain the blast force of the explosive-laden device. The net also has a nozzle that is fluid connected to a fire suppressant agent as well as a high density foam, each of which are discharged through the nozzle once the net is thrown over the explosive-laden device, the fire suppressant agent and the high density foam each helping to minimize the blast force of the explosive-laden device. The net can be thrown manually or can be fired from a gun that uses either pneumatic force or a firing cartridge to propel the net at its target.

9 Claims, 4 Drawing Sheets
PROCESS FOR THE UTILIZATION OF RUMINANT ANIMAL METHANE EMISSIONS

Inventor: Markus Donaul Herrema, 3 Hancock St., Laguna Niguel, CA (US) 92677

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 118 days.

Filed: Oct. 15, 2003

Int. Cl. C1N 1/30 (2006.01)
A61K 35/42 (2006.01)

US. Cl. 435/250; 424/557; 435/252.1; 435-289.1

Field of Classification Search 435/250,
435/252.1, 289.1; 424/543, 557
See application file for complete search history.

References Cited
U.S. PATENT DOCUMENTS

OTHER PUBLICATIONS

Primary Examiner—Robert A. Wax
Assistant Examiner—Rosanne Kosson

ABSTRACT
A process for the utilization of the methane contained within ruminant animal exhalation, specifically to a process that utilizes the methane contained within ruminant animal exhalation as a source of carbon and/or energy for the production of methane-utilizing microorganisms in a microorganism growth-and-harvest apparatus.

14 Claims, 3 Drawing Sheets
[Diagram of a medical device]

**FORCED AIR WARMING UNIT**

**Inventor:** Allen Humid Zalimehr, Eden Prairie, MN (US)

**Assignee:** Ardazt Healthcare Inc, Eden Prairie, MN (US)

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1168 days.

**Appl. No.:** 11/704,547

**Filed:** Feb. 9, 2007

**Patent No.:** US 7,976,572 B2

**Date of Patent:** Jul. 12, 2011

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FOREIGN PATENT DOCUMENTS

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ABSTRACT

Both the flow rate and the temperature of the air exiting a forced air warming unit are regulated in response to a single act or operation of a single element of control on a manually operated remote control.

7 Claims, 10 Drawing Sheets
DEVICE FOR SELF-DEFENSE TRAINING

Inventor: Robert Archer Scheinmel, 18012 Havertus St., Northridge, Calif. 91324

Appl. No.: 707,361
Filed: Jul. 21, 1976

Int. Cl.: A63B 69/00
U.S. Cl.: 272/76
Field of Search: 272/76, 77, 78, 98;

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3,834,906 4/1974 Vielase .............................. 272/76

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360,371 7/1922 Germany ........................................ 272/76
64,018 6/1927 Germany ........................................ 272/76
600,059 3/1944 United Kingdom .............................. 272/76

ABSTRACT

An improved device for use in self-defense training, as in karate and the like, includes a life-like articulated training dummy supported in an upright position on a post and having a plurality of separate pressure receptors disposed at various target locations in the dummy. The receptors are interconnected to a signal such as individual lights in a remote display panel so that hits on the receptors can be separately displayed by the panel. The panel can include a timer, hit sequence counter, hit sequence programmer, printed readout, and hit sequence replayer, as well as a warning signal, visual and/or audible, and other safety and training aids. The receptors can be made to distinguish between light and heavy blows. The support post can be rotated at high speed to cause the dummy to simulate an attack when activated by weight detectors in a base around the post. The weight detectors are also disposable in the base in a mode to facilitate stance training. The dummy and post can be provided with shock absorbing elements to protect them from heavy hits during practice. Preferably the dummy includes a tough, resilient surface layer for further protection of the dummy and trainee (one using the dummy) and for toughening the hands of the trainee. The device provides unique advantages in the art of self defense training.

29 Claims, 14 Drawing Figures
Title: TECHNIQUE FOR DIAGNOSES
ATTENTION DEFICIT HYPERACTIVITY DISORDER

Inventors: Richard N. Blazey, Penfield, NY (US); Peter A. Parks, Topeka, KS (US); David L. Patton, Webster, NY (US); Paulette Miller, Rochester, NY (US)

Assignee: Eastman Kodak Company, Rochester, NY (US)

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 20 days.

App. No.: 09/886,902
Filed: May 25, 2001

Prior Publication Data

Abstract:
A method for determining a threshold value of a parameter used to determine whether an individual has Attention Deficit Hyperactivity Disorder (ADHD). The method includes: providing a group of individuals a segment of which is known to have ADHD and a segment of which is known to be normal and not have ADHD; testing each individual in the group by sampling the peripheral skin temperature of the individual during a pre-determined time interval when the individual is in an inactive state to provide sampled peripheral skin temperature data and analyzing the sampled peripheral skin temperature data to produce a parameter value for that individual. The method further includes processing the individual parameter values for all of the members of the group to determine a threshold parameter value which is acceptable for determining whether or not an individual has ADHD when tested by the testing procedure.

20 Claims, 4 Drawing Sheets
ABSTRACT

An animal head suitable for attachment to a stuffed animal body is molded to form a thin shell and then filled with conforming foam rubber. The head defines open jaws that can fit around a wrist of a person and an elongated tongue that can be wrapped around the wrist and secured between the upper and lower jaws to serve as a carrying handle. By making the tongue flesh tone in color and providing a red coloration on a visible portion of the tongue, a novelty effect simulating blood dripping from a bite is achieved.

9 Claims, 2 Drawing Sheets
A chemical/biological hazard protection suit has two pants legs which extend to a midsection below waist level. An opening in the midsection defines an outlet from the suit interior. A waste collector has an upper segment which is fixed to the midsection and which adjoins an intermediate segment which is in turn connected to a waste receptacle. A first seal is between the upper segment and the intermediate segment, and a second seal is between the intermediate segment and the waste receptacle. A region of weakened material encircles the intermediate segment between the seals. A wearer discharges waste through the outlet and past the two open seals into the receptacle, whereupon both seals are closed, and the receptacle is detached from the upper segment, leaving both the receptacle and the suit sealed. Prior to use, the waste receptacle may be retained within a pocket on one of the pants legs.
ARTICLE OF CLOTHING WITH A NOVEL ATTACHMENT MEANS

Inventor: John Matt Goodman, 9472 Central Ave., Garden Grove, CA (US) 92844-1803

Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 128 days.

Appl. No.: 10/113,522
Filed: Apr. 1, 2002

Prior Publication Data

Int. Cl. A61F 5/00
U.S. Cl. 600/38; 267; 269; 2300
Field of Search 600/38-41; 128/886, 128/887; 886; 234, 67, 69, 781.1, 455, 456, 406, 309, 247

References Cited
U.S. PATENT DOCUMENTS
4,966,165 A 10/1990 Anderson

FOREIGN PATENT DOCUMENTS
FR 2647313 A 11/1990
WO WO 96/26706 A 9/1996

Primary Examiner—John P. Lacyk

ABSTRACT
An article of clothing including extensions for insertion into a body cavity permit swimsuits, undergarments, and several other types of clothing to be secured in place with a minimum of fabric, as described. The articles are made dimensionally stable to maintain their position and orientation relative to the wearer's body.

3 Claims, 7 Drawing Sheets
Spectacles to be worn by hens in order to prevent their eyes from being injured by the beaks of other birds: Patented December 10, 1902
Treaties and Foreign Patents

- Information presented here applies to U.S. laws and regulations.

- Inventor must apply for patent protection in each foreign country.

- Paris Convention for the Protection of Industrial Property
  - Includes 175 contracting parties (countries), including the U.S.
  - Provides across-the-board patent and trademark rights as each country gives its own citizens.
Treaties and Foreign Patents

- Patent Cooperation Treaty
  - Includes 148 contracting states (countries), including the U.S.
  - Facilitates patent application filing with centralized filing procedures and standardized format.
America Invents Act (AIA)

- Leahy-Smith America Invents Act signed by the President on Sept. 16, 2011 and enacted in phases, with final phase enacted on March 16, 2013.

- U.S. has transitioned from a first to invent (date of conception) patent system to a system where priority is given to the first inventor to file a patent application, which follows most of the rest of the world.

- Expanded Prior Art: On-sale, used in public, published and patented.
  Newly added: “or otherwise available to the public.”
One-year grace period given to inventor only for his or her own publications. Publications by others during grace period are prior art to inventor’s application if filed later. But the grace period extends to inventor for publications by others if publication is derived from inventor’s invention (burden of proof is on inventor).

Now it is more important to submit disclosures quickly so that patent applications can be filed after due diligence research and before public disclosure, or as soon after public disclosure or publication as possible.
Publication can include enabling dissertations, public descriptions or abstracts, posters, or white papers published online, for example.

Universities must be strategic and diligent since filing too early may result in unnecessary multiple filings and costs.

AIA brought other changes to U.S. patent law, but those are for another presentation.
Rejections/objections can be appealed to:

- Commissioner of Patents or Board of Patent Appeals and Interferences.
  - Rejections are based on statute and appealable to the Board, not the Commissioner.
  - Objections, depending on their basis, are appealable to the Commissioner or Board.

- May alternatively re-file the application as a continuation application that includes changes or amendments.
  - May file a Request for Continued Examination.
APPEALS

- May appeal **Board** decision to either U.S. District Court for the District of Columbia or U.S. Court of Appeals for the Federal Circuit.
  - May appeal from U.S. District Court (D.C.) to Federal Circuit.
- May appeal **Commission** decision to a U.S. District Court.
  - May appeal from U.S. District Court to Federal Circuit.
- May appeal **Federal Circuit** decision to U.S. Supreme Court.
University Disclosures

- Formal disclosures provide a fixed record of invention conception and description.

- Date of conception of an invention should still be maintained and preserved, even under the AIA’s first inventor to file concept.
Inventors should keep a record of all inventive activity, such as a witnessed, bound, page-numbered and dated manual or electronic notebook or notarized records as evidence of conception and development of an invention to verify proof of invention, if necessary.
Invention Development Organizations

- Private consulting and marketing groups.
- Assist inventors with patenting process and marketing of patents.
- Some are legitimate, while others are not.
The inventor in patent law is the person or persons who conceived the patented invention and reduced it to practice.
Patent Inventorship

Conception exists when a definite and permanent idea of an operative invention, including every feature of the subject matter claimed, is known and able to be applied in practice (defined by statute and case law).
Patent Inventorship

Conception: complete when one of ordinary skill in the art could construct the system or perform the process without extensive research or experimentation.
Patent Inventorship

**Conception:** Requires contemporaneous recognition and appreciation of the limitations of the claimed invention.
Reduction to practice: The other component of invention.

- **Reduction to practice:**
  - Actual reduction to practice, or
  - Constructive reduction to practice.
Actual reduction to practice:
• Involves the invention’s being constructed and sufficiently tested to prove its usefulness for the intended purpose.

Constructive reduction to practice:
• Involves the filing of an application for a patent directed to the invention.
Patent Inventorship

- The filing of the application has the legal effect of being, constructively, a simultaneous conception and reduction to practice of the invention.
Patent Inventorship

- Inventor need not provide evidence of either conception or actual reduction to practice when relying only on the content of the application.

- No requirement exists that the invention be actually constructed, or actually reduced to practice, before being patented.

  **EXAMPLE:** In 1888, the U.S. Supreme Court upheld a patent issued to Alexander Graham Bell even though he had filed his application before constructing a working telephone: “It is enough if [an inventor] describes his method with sufficient clearness and precision to enable those skilled in the matter to understand what the process is, and if he points out some practicable way of putting it into operation.”
For the application to constructively reduce the invention to practice, it must teach one of ordinary skill in the art how to make and use the invention.

No specific requirement exists that the inventor be the person to constructively reduce the invention to practice, so that the filing of the application by another on behalf of the inventor is sufficient for constructive reduction to practice of the invention.
Patent Inventorship

One is not an inventor for:

- Suggesting a desired end or result, without any specific means of accomplishing that result.
  - Someone suggesting to the Wright Brothers that motorized flight would be desirable, but not describing a way of accomplishing it, would not have made that person an inventor.
- Merely following the instructions of others or for performing routine acts.
- Merely identifying a problem, unless he or she also contributes to the solution of the discovered problem.
Patent Inventorship

The exercise of ordinary skill by a person in developing something is generally not sufficient to make that person an inventor.

- A person who exercises ordinary skill in implementing the instructions of another is typically not considered a joint inventor.

- But one may be an inventor even if he/she does not personally undertake all steps necessary to complete the invention.
Patent Inventorship

- One who merely explains the state of the art to the true inventors or supplies a product for use in the invention, without an inventive act, is generally not an inventor.
Patent Inventorship

- An inventor **must** contribute to a definite and permanent idea of the complete and operative invention.

  - An idea is definite and permanent when the invention has a permanent solution to the problem, not just a general goal or research plan to pursue.
Patent Inventorship

An inventor need not know the invention will work for conception to be complete:

- He or she need only show the idea was complete.
- The discovery that an invention actually works relates to its reduction to practice, not to conception.
- But, conception is not complete if subsequent testing shows uncertainty of the idea, showing that it is not yet a definite and permanent reflection of the complete invention.
Merely confirming the invention works for its intended purpose is general not enough to elevate a person to the status of inventor, who must participate in the formation of the basic concepts of the invention.
Joint Inventorship
Joint Inventorship

Basic Requirements

• When two or more individuals collaborate and each contributes to the formation or conception of the solution to a problem that comprises the invention.

• The claims of a patent are the standard for determining inventorship, whether it be an individual or a group.
  
  • All inventorship questions should be analyzed against the specific steps that make the invention different from any prior art.
  
  • A sole inventor must have conceived the ideas in all the patent’s claims.
  
  • A co-inventor must have conceived the idea in at least 1 of the patent’s claims.
Joint Inventorship

Joint Inventors:

- Do not have to physically work together or at the same time.
- Do not have to make the same type or amount of contribution.
- Do not have to make a contribution to the subject matter of every claim. (A material contribution to one claim is enough.)

A co-inventor must be able to say that without the contribution to the final conception, the invention would have been less efficient, less simple or complex, less economical, and/or less something beneficial.
Joint Inventorship

To help determine inventorship:

Ask of a potential co-inventor’s contribution:

“If this idea had not been contributed, would that claim (or the claimed invention) exist?”

• If the answer is NO, then that person is probably a co-inventor.

Co-workers can be divided into 3 groups:

1. Those who contribute ideas that result in development of an invention as claimed = co-inventors.

2. Those who contribute only labor, supervision, routine techniques, non-mental contributions = NOT co-inventors.

3. Those who contribute ideas while invention is developed, whose ideas don’t contribute directly or materially to claims = NOT co-inventors.
Joint Inventorship

- No explicit lower limit exists on the amount or quality of contribution – each case is fact-specific as to the collaboration between two or more persons working together.

- Joint inventor must contribute in some significant manner to the conception of the invention, so that the contribution is significant in quality when measured against the entire invention.

- If one supplies sufficient inventive contribution, he/she does not lose co-inventor status simply because he/she used services, ideas, or help of others in perfecting the invention (but those others may become joint inventors based on their contributions).
Joint Inventorship

- Therefore, one of ordinary skill in the art who simply reduced the inventor’s idea to practice is not necessarily a joint inventor.

- Adding any individual as an inventor to a patent application as a courtesy, when he/she are in fact not a co-inventor, may likely invalidate any patent that may ultimately be issued.
Invention Ownership

- Inventor generally owns patent rights to the invention, even if the invention was invented during the course of employment, except:
  - An employer owns an employee’s inventions if the employee is a party to a contract to that effect, or
  - When an employee is specifically hired to invent something or to solve a problem or to conduct predetermined experiments (“employed-to-invent exception”).

- If an employee uses the time or facilities of the employer, the employer may have a non-exclusive and non-transferable royalty-free license to use the employee’s patented invention (shop right).
Invention Ownership

- U.S. Patent law allows an inventor to transfer patent rights to another.
  - Inventors may assign their presumed right in the invention to others.

- Universities typically require that employee inventors, by policy and/or contract, assign patent rights to the university for inventions devised pursuant to grants for such purposes to the university.
Utility Patents

Top 10 Most U.S. Patents Issued in 2012 (Intellectual Property Owners Association)

1. IBM 6,457
2. Samsung 5,043
3. Sony 3,608
4. Canon 3,307
5. Panasonic 2,829
6. Hitachi 2,723
7. Microsoft 2,704
8. LG Electronics 2,682
9. Toshiba 2,601
10. General Electric 2,040
Utility Patents

Top 10 Most U.S. Patents Issued in 2013 (Cnet)

1. IBM 6,809 US
2. Samsung 4,675 Korea
3. Canon 3,825 Japan
4. Sony 3,098 Japan
5. Microsoft 2,660 US
6. Panasonic 2,601 Japan
7. Toshiba 2,416 Japan
8. Hon Hai Precision Industry 2,279 Taiwan
9. Qualcomm 2,103 US
10. L G Electronics 1,947 Korea
PRIOR DISCLOSURES (U.S.)

- Involves patent law statutory bars.

- Patent is barred if, more than 1 year before filing an application, the following occurs:
  - Invention is patented or described in a printed publication anywhere in the world.
  - Invention is in public use in the U.S.
  - Invention is on sale in the U.S.

- AIA somewhat modified what constitutes prior art, as discussed.
Patented or Described in a Printed Publication

- Printed description is released to the public anywhere in the world.
  - Must completely disclose the invention.

- “Printed” is broad – paper documents, microfilm, electronic media.
Patented or Described in a Printed Publication

“Publication”

- Means that the printed document is freely available to the public, even if no one has ever read or seen it.
- Single copy of a document distributed without restriction qualifies.
- Documents under non-disclosure or confidentiality agreements are not publicly available and generally do not trigger the bar.
Patented or Described in a Printed Publication

- Documents or posters distributed or shown at tradeshows, documents presented at conferences, or documents posted on web sites can trigger the bar.

- Single copy of a document, i.e. university thesis, stored in a publicly-accessible place (library) anywhere can trigger the bar.

- White papers, printed copies or slide show presentations, marketing materials presented to potential investors can also trigger the bar.

- Draft technical journals published on the Internet for comment can trigger the bar.
Patented or Described in a Printed Publication

- Publication must be public
  - Indexing or cataloguing a document in a library or web index that is “findable” by the public may be considered public disclosure.
In Public Use in the U.S.

- A “totality of the circumstances” test determines if an activity is “public use”:
  - generally any non-secret use
  - may be a single use of an invention by anyone without duty of secrecy
  - a use or sale of a product made by a secret process is public use of the process
In Public Use in the U.S.

- new product display or plans to make it presented at tradeshow or professional meeting

- using software to support a website

- may be public use even if one cannot see it (1880’s use of new corset was patent-barring public use)
In Public Use in the U.S.

- secret process or machine hidden in a business making a commercial product may be a public use of the process or machine

- beta test of new technology with a potential customer could be public if not handled properly

- showing the functionality of an invention to a friend
In Public Use in the U.S.

- Experimental use generally does not trigger the bar, if for testing or research on a claimed feature of the invention.

- Inventor should make sure that:
  - he/she controls the testing
  - detailed records and progress reports of tests and results are kept
  - confidentiality agreement(s) are in place
  - duration and number of tests compare with tests on other similar inventions (reasonable protocol)
  - tests are confidential
In Public Use in the U.S.

- Immaterial that public use was by a third party without knowledge or consent of inventor.

- All that’s necessary is exposure to anyone other than:
  (1) the inventor, or
  (2) someone under a non-disclosure agreement.
On Sale in the U.S.

- On sale when it is subject to a commercial sale or offer for sale and ready for patenting.
  - Ready for patenting means reduced to practice or if inventor has drawings or description sufficient to enable one of ordinary skill in the art to practice the invention.
  - So, if an invention is being developed or has some “kinks” to work out, it is not likely ready for patenting and not capable of triggering the on-sale bar.
On Sale in the U.S.

- Unlike “printed publication” and “public use” statutory bars, the on-sale bar has no “public” component, so that such a sale or offer triggers the bar even if conducted privately, secretly, and not publicly.

- General contract principles under the UCC may determine if an offer and acceptance qualifies as a commercial offer for sale.

- A single offer is sufficient, even if not accepted.
Some countries have an “absolute novelty” rule: application **must** be filed before **any** enabling disclosure.

Most foreign countries do not provide a 1-year grace period so that an application **must** be filed before any public enabling disclosure.

Should file a U.S. patent application first before any disclosure that might trigger a statutory bar.

Can then rely on the U.S. filing date as long as foreign application or PCT is filed within 1 year of U.S. application filing date (1 year dates from provisional if that was filed).

Best to file application before any public disclosure, use, or offer to sell an invention.
PUBLIC DISCLOSURE

Public disclosure can be written, oral, or electronic and may depend on who’s present and the existence of notice of confidentiality:

- Book publications, tech journal articles, dissertations, posters, slides, lectures, seminars, letters, public conversations, grant proposals; providing information to others by email without notice of confidentiality.
PUBLIC DISCLOSURE

- Is it “enabling”? i.e., does it allow or teach one of ordinary skill in the art to make and use the invention?

- Is it “sufficiently accessible”?

- If prior to filing an application, the invention is to be disclosed to a 3rd party, depending on the situation make sure:
  - If for further testing, take steps for proof.
  - Confidentiality agreement is in place.
  - It is not enabling.

- Inventor should record the date(s) of any disclosure and/or make university tech transfer office aware of such beforehand, if possible.
PUBLIC DISCLOSURE

Grant proposals are not public until available to the public for review.

- Mark all pages and legend “Confidential”, include a notice of its exemption from disclosure under Freedom of Information Act, and include a notice that any release must be approved by the principal investigator.

- Disclose all possible inventions to university tech transfer office when submitting a paper for publication or preparing to present a seminar to protect all national and international patent rights to the technology.
IMPROVEMENT PATENTS

- Involve inventions that improve on or add to existing inventions.

- Protect the differences between a new product and previously existing product.

- Can involve a new technology built into an old product: Ex: digital replaces analog control

- Can involve a new use of an existing invention: new use of a product or composition normally used for other purposes.
IMPROVEMENT PATENTS

- **Patentability** involves distinctions with existing inventions and determination of novelty, usefulness, and non-obviousness of the improvement.

  - If same inventive entity of existing invention files application for improvement within 1 year of issuance of existing invention, existing invention is not prior art.
  
  - If after 1 year, regardless of inventorship, existing invention will likely be prior art in evaluating patentability.
IMPROVEMENT PATENTS

- Practicing the improvement may infringe the existing patent (depends on inventive entity and licensure).

- For a pending application, improvements can be protected by filing continuation-in-part applications.

  Continuation application:
  
  1. claims same invention as previous application, but contains some variation in scope of subject matter claimed (no new disclosure information allowed).
  
  2. continues prosecution of earlier application that can’t be completed due to USPTO administrative rules.
IMPROVEMENT PATENTS

- **CIP:** contains all or part of disclosure of previous application and additional subject matter in the disclosure (new matter) for added improvements, which have priority as of filing the CIP if not supported in earlier specification.

- **Divisional:**
  
  (1) claims an invention independent from that in previous pending application but based on same subject matter as earlier application.

  (2) may result from earlier application’s restriction into subsets of original claims.
OTHER TIPS

- Keep an inventor’s notebook.
  - Preserves date of conception and reduction to practice
  - Assists determining inventorship (if at issue)

- For trade journal articles, news releases, symposia presentations, research proposals for grant applications and funding solicitations, and the like, if possible preserve confidentiality:
  - Don’t make it enabling: omit or limit, if possible, critical details.
  - Limit disclosure to results achieved without describing the means by which results were achieved.
OTHER TIPS

Remember:

- U.S. provides 1-year grace period for filing patent application after disclosure, but many foreign countries do not.

- Foreign patent applications and PCT applications must be filed before any publicly enabling disclosure is made.

- Applicant can rely on a U.S. filing as long as foreign filing is within 1 year of U.S. filing.
Trademarks and Service Marks ™ SM ®

- Registration is through the U.S. Patent and Trademark Office (federal) and state offices of each state’s Secretary of State (state).

- A trademark is a word, picture, phrase, symbol, design, or combinations thereof, that identifies and distinguishes the source of a product or service of one party from those products or services of others.
THE UNIVERSITY OF SOUTHERN MISSISSIPPI 1910


(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

24.05.01 - Circular or elliptical seals; Seals, circular or elliptical

76194531

January 17, 2001

1A

May 7, 2002

2600598

July 30, 2002

(Rегистra) University Of Southern Mississippi, The STATE AGENCY MISSISSIPPI Post Office Box 5016 Hattiesburg MISSISSIPPI 39406

Cara R. Baer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MISSISSIPPI" and "1910" APART FROM THE MARK AS SHOWN

Color is not claimed as a feature of the mark.

TRADEMARK

PRINCIPAL

SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20120810.

1ST RENEWAL 20120810

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<td><strong>Attorney of Record</strong></td>
<td>Cara R. Baer</td>
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<tr>
<td><strong>Disclaimer</strong></td>
<td>NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE &quot;UNIVERSITY&quot; APART FROM THE MARK AS SHOWN</td>
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## GO GOLD

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| Filing Date   | May 31, 2005 |
| Current Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | October 3, 2006 |
| Registration Number | 3185287 |
| Registration Date | December 19, 2006 |
| Owner | (REGISTRANT) The University Of Southern Mississippi STATE AGENCY MISSISSIPPI 118 College Drive, #5079 Hattiesburg MISSISSIPPI 394060001 |
| Attorney of Record | Cara R. Baer |
| Description of Mark | Color is not claimed as a feature of the mark. |
| Type of Mark | TRADEMARK |
| Register | PRINCIPAL |
| Affidavit Text | SECT 15. SECT 8 (5-YR). |
| Live/Dead Indicator | LIVE |
Word Mark: SPORTS EVENT SECURITY AWARE SESA
Mark Drawing Code: (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code:
- 01.01.09 - Stars, two; Two stars
- 01.01.13 - Stars - multiple stars with five points
- 26.03.17 - Concentric ovals: Concentric ovals and ovals within ovals; Ovals within ovals; Ovals, concentric
- 26.03.21 - Ovals that are completely or partially shaded
Trademark Search Code: LETTER-3-OR-MORE SESA Combination of three or more letters as part of the mark
Facility Classification Code:
- SHAPES-ASTRO Astronomical shapes consisting of celestial bodies, globes and geographical maps
- SHAPES-COLORS-3-OR-MORE Design listing or lined for three or more colors
- SHAPES-OVALS Oval figures or designs including incomplete ovals and one or more ovals

Serial Number: 77280940
Filing Date: September 17, 2007
Current Basis: 1A
Original Filing Basis: 1B
Published for Opposition: April 8, 2008
Registration Number: 3499936
Registration Date: September 9, 2008
Owner: (REGISTRANT) The University of Southern Mississippi STATE UNIVERSITY MISSISSIPPI 118 College Drive #5116 Hattiesburg MISSISSIPPI 39406
Disclaimer: NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SPORTS EVENT SECURITY" APART FROM THE MARK AS SHOWN
Description of Mark: The color(s) blue, red, white is/are claimed as a feature of the mark. The mark consists of blue and red non-concentric circles with "SPORTS EVENT SECURITY AWARE" written in white in that section. The center white section contains the initials "SESA" in blue. Two white stars appear to the left and right of the initials.
Type of Mark: SERVICE MARK
Register: PRINCIPAL
Live/Dead Indicator: LIVE
Trademarks and Service Marks

- A service mark is a mark that identifies and distinguishes the source of a service rather than a product.
  - Ex: USM trademark exists for stickers, flags, and clothing
  - Ex: USM service mark exists for educational services of providing instruction courses

- Registration is not required (state or federal)
  - Rights are established on legitimate use of the mark.
  - Should use “TM” or “SM” next to mark to visually indicate claim of ownership.
Trademarks and Service Marks

Registration **does** provide:

- Constructive notice of owner’s claim of ownership
- Evidence of ownership
- Ability to file an injunctive or infringement action in federal court
- Ability to file for registration in foreign countries
- Ability to file for registration with U.S. Customs Service to prevent importation of infringing foreign goods
Trademarks and Service Marks

- May use “TM” or “SM” designation with the mark any time owner claims rights in a mark to place public on notice of claim of ownership.

- May use “®” ONLY after the federal USPTO registers the mark, NOT while application is still pending or if only registered through a state’s SOS office.

- Notice is used to ideally prevent others from using a confusingly similar mark.
  - Cannot prevent others from making, selling, or providing the same types of products or services under a clearly different mark.
  - Others may also use a similar mark if in a completely different classification and if no public confusion would exist.
Trademarks and Service Marks

- Basic fees (federal and state) per mark for each category (classification) of products or services, depending on the application.

- Can be obtained for:
  - Use in commerce
  - Intent to use in commerce

- Prior mark search should be completed initially.
Trademarks and Service Marks

Levels of mark strength (from strongest to weakest):

- **Fanciful** – Invented or made up, Ex: “Kodak”
- **Arbitrary** – Commonly used but no meaning as to the goods, Ex: “Arrowhead” water
- **Suggestive** – Some sort of quality or characteristic, Ex: “Coppertone” sun lotion
- **Descriptive** – Describes goods or services, Ex: “Bob’s 10 Minute Lube”
  - 4a. **Surnames** – Like descriptive marks, but can become stronger through use, Ex: “Smith Shoes”
- **Generic** – No protection or registration since it is used for an actual item, Ex: “Modem” modems
Trademarks and Service Marks

- Rights can last indefinitely if owner continues use and files periodic renewal documents.
  - Registration and renewals granted prior to Nov. 16, 1989 have a 20-year term
  - Registration and renewals on or after Nov. 16, 1989 have a 10-year term

- Principal Register – for fanciful, arbitrary, suggestive marks

- Supplemental Register – for descriptive marks
  - May allow descriptive marks to be registered on Principal Register after 5 years of use in commerce.
Trademarks and Service Marks

- Owners must take active steps to prevent infringement, as well as from becoming generic (“Kleenex” for tissues or “Xerox” for copies)
  - Ex: Golden Eagle mark and Iowa’s Hawkeye mark
  - Ex: MSU mark used by Northern State University in South Dakota.

- Typically, the mark owner may send a cease and desist letter to an offending party.

- Parties may agree to a co-existence agreement if regionally separated, for example.
Certification Marks

- Any word, name, symbol, device, or combination thereof, used in commerce by the owner’s permission to certify:
  - Regional or other origin
  - Material
  - Mode of manufacture
  - Quality
  - Other Accuracy
  - Characteristics or features of goods/services
  - That work was performed on goods or services by members of an organization or union.

- Ex: “UL” for Underwriters Laboratories (manufacturers of electrical equipment)
- Ex: “Grown in Idaho” for potatoes grown in Idaho
IC A. US A. G & S: ELECTRICAL EQUIPMENT, USUALLY NOT OF A VOLTAGE EXCEEDING 600 V; FIRE FIGHTING AND FIRE PREVENTION EQUIPMENT; CHEMICALS SUCH AS DETERGENTS, FLAMMABLE LIQUIDS, ADHESIVES, PLASTICS, COATINGS, FUMIGANTS, SOLVENTS, FLAME RETARDANTS, REFRIERGANTS, CHEMICALS TO TREAT WATER AND SIMILAR CHEMICALS; BUILDING MATERIALS AND EQUIPMENT; HYDRAULIC EQUIPMENT; EQUIPMENT FOR HANDLING AND UTILIZATION OF HAZARDOUS LIQUIDS AND GASES, INCLUDING HEATERS, AIR CONDITIONERS, AND REFRIGERATION EQUIPMENT; EQUIPMENT AND SYSTEMS FOR PROTECTION AGAINST BURGLARY, THEFT, AND FIRE; SAFETY APPLIANCES AND AIR DUCTS; FABRICS AND DECORATIVE MATERIALS; PREFABRICATED COMMERCIAL, INDUSTRIAL AND RESIDENTIAL BUILDINGS OR BUILDING UNITS; RECREATIONAL VEHICLES; PLUMBING EQUIPMENT; AUTOMOTIVE EQUIPMENT, MARINE EQUIPMENT; MOTORS; MEDICAL INSTRUMENTS; LIGHTING EQUIPMENT; HEATING EQUIPMENT; INDUSTRIAL VEHICLES; PROTECTIVE CLOTHING AND FOOTWEAR; INSULATED AND INSULATING HAND TOOLS; POWDER ACTUATED TOOLS, MUSICAL INSTRUMENTS; OFFICE APPLIANCES, BUSINESS EQUIPMENT AND HOUSEHOLD CLOCKS; GAS AND OIL EQUIPMENT; ROOFING MATERIALS AND SYSTEMS; ELECTRICAL APPLIANCE AND UTILIZATION EQUIPMENT; AND ELECTRICAL CONSTRUCTION EQUIPMENT. FIRST USE: 19371200. FIRST USE IN COMMERCE: 19371200

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

26.01.01 - Circles as carriers or as single line borders
<table>
<thead>
<tr>
<th>Attorney of Record</th>
<th>Carol H. Morita</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior Registrations</td>
<td>0782589</td>
</tr>
<tr>
<td>Type of Mark</td>
<td>CERTIFICATION MARK</td>
</tr>
<tr>
<td>Register</td>
<td>PRINCIPAL</td>
</tr>
<tr>
<td>Affidavit Text</td>
<td>SECT 15. SECT 8 (6-YR).</td>
</tr>
<tr>
<td>Other Data</td>
<td>The certification mark as used by persons authorized by applicant certifies that representative samplings of the goods conform to the requirements of the applicant.</td>
</tr>
<tr>
<td>Live/Dead Indicator</td>
<td>LIVE</td>
</tr>
</tbody>
</table>
GROWN IN IDAHO


(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Mark Drawing Code

01.17.11 - Maps, States of the United States; States (map of)
01.17.25 - Bodies of water (maps); Cities (maps); Counties (maps); Maps or outlines of other geographical areas
26.11.02 - Plain single line rectangles; Rectangles (single line)
26.11.21 - Rectangles that are completely or partially shaded

Serial Number
76542378

Filing Date
September 3, 2003

Current Filing Basis
1A

Original Filing Basis
1A

Published for Opposition
October 5, 2004

Registration Number
2914307

Registration Date
December 28, 2004

Owner
(REGISTRANT) State of Idaho Potato Commission STATE AGENCY IDAHO 599 West Bannock Street P.O. Box 1068 Boise IDAHO 837011068

Attorney of Record
Thomas W. Brooke

Prior Registrations
0631499;0802418;0943815;1233007;AND OTHERS

Type of Mark
CERTIFICATION MARK

Register
PRINCIPAL

Other Data
The certification mark, as used by person authorized by the certifier, certifies the regional origin of potatoes grown in the State of Idaho and certifies that those potatoes conform to grade, size, weight, color, shape, cleanliness, variety, internal defect, external defect, maturity and residue level standards promulgated by the certifier.
Collective Marks

- Trademark or service mark used in commerce by members of a cooperative, association, or other collective group.

- Includes a mark indicating membership in a union, association, or other organization.

- Collective marks may be used by members of the group that owns them, while certification marks may be used by anyone who complies with standards defined by the owner of the certification mark.

  - Ex: "ASOA" used by the American Society of Cataract and Refractive Surgery
<table>
<thead>
<tr>
<th><strong>Word Mark</strong></th>
<th>ASOA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mark Drawing Code</strong></td>
<td>(1) TYPED DRAWING</td>
</tr>
<tr>
<td><strong>Design Search Code</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Serial Number</strong></td>
<td>74138497</td>
</tr>
<tr>
<td><strong>Filing Date</strong></td>
<td>February 11, 1991</td>
</tr>
<tr>
<td><strong>Current Filing Basis</strong></td>
<td>1A</td>
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<tr>
<td><strong>Original Filing Basis</strong></td>
<td>1A</td>
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<tr>
<td><strong>Published for Opposition</strong></td>
<td>March 24, 1992</td>
</tr>
<tr>
<td><strong>Registration Number</strong></td>
<td>1694315</td>
</tr>
<tr>
<td><strong>Registration Date</strong></td>
<td>June 16, 1992</td>
</tr>
<tr>
<td><strong>Owner</strong></td>
<td>(REGISTRANT) American Society of Cataract and Refractive Surgery CORPORATION CALIFORNIA 4000 LEGATO ROAD Suite 850 Fairfax VIRGINIA 220334055</td>
</tr>
<tr>
<td><strong>Attorney of Record</strong></td>
<td>HOLLIS R. COPELAND</td>
</tr>
<tr>
<td><strong>Type of Mark</strong></td>
<td>TRADEMARK. SERVICE MARK. COLLECTIVE MEMBERSHIP MARK</td>
</tr>
<tr>
<td><strong>Register</strong></td>
<td>PRINCIPAL</td>
</tr>
<tr>
<td><strong>Affidavit Text</strong></td>
<td>SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20020402.</td>
</tr>
<tr>
<td><strong>Renewal</strong></td>
<td>1ST RENEWAL 20020402</td>
</tr>
<tr>
<td><strong>Live/Dead Indicator</strong></td>
<td>LIVE</td>
</tr>
</tbody>
</table>
According to Forbes Magazine, what are the top 10 most valuable trademarks?

1. Google $44.3 Billion
2. Microsoft $43.8 Billion
3. Walmart $32.6 Billion
4. IBM $32.6 Billion
5. Vodafone $30.7 Billion
6. Bank of America $30.6 Billion
7. General Electric $30.5 Billion
8. Apple $29.5 Billion
9. Wells Fargo $28.9 Billion
10. AT&T $28.9 Billion
Copyrights ©

- Registration is through the U.S. Copyright Office.
- Protects the particular way or form an author has expressed himself or herself, but not the subject matter, ideas, systems, or factual information conveyed.
- Registration provides statutory protections that works that are not registered do not possess.
Copyrights

- Provides protection to authors of original works of authorship including:
  - Literary works
  - Dramatic works
  - Musical works
  - Pantomimes and choreographic works
  - Artistic works
  - Pictorial, graphic, and sculptural works
  - Motion pictures and audiovisual works
  - Sound recordings
  - Architectural works
Copyrights

- Available for published and unpublished works.

- Online and paper filing fees per work for different types of registrations.
Copyrights

- Copyright Act of 1976 gives the owner the exclusive right, and authorizes others, to:
  - Reproduce the work
  - Prepare derivative works based upon the work
  - Distribute copies to the public by sale, rental, lease, lending
  - Perform the work publicly
  - Display the work publicly
  - Perform the work publicly by digital audio transmission (for sound recordings)
Copyrights

- Copyright exists when an original creative product is first fixed in a tangible medium or form of expression.
- Owned by the author or those deriving their rights through the author.
- For works made for hire, the employer and not the employee is considered the author for purposes of copyright ownership.
Copyrights

A work made for hire is:

1. A work prepared by an employee within the course and scope of his or her employment; OR

2. A work specially ordered or commissioned for use as:
   - A contribution to a collective work
   - A part of a motion picture or other audiovisual work
   - A translation
   - A supplementary work
   - A compilation
   - An instructional text
   - A test
   - Answer material for a test
   - An atlas
Copyrights

- For a work made for hire:
  - The parties must expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

- Authors of a joint work are co-owners of the copyright:
  - Each can use the work without the other’s consent
  - Must pay the co-owners their share of profits
Copyrights

Notice of copyright is not required but beneficial for these reasons:

- Ex: © 2006 John Smith. All Rights Reserved.

  1. Establishes public record of claim.
  2. Must have registration before filing infringement lawsuit.
  3. Damages are available based on when registration is obtained.
  4. Allows owner to register with U.S. Customs Service to protect against infringing imports.
Copyrights

- Notice informs the public that a work is protected by copyright.

- In infringement action, defendant generally cannot claim innocent infringement regarding actual or statutory damages.

- Protection duration depends on when work was originally created and/or published:
  1. Created on or after Jan.1, 1978:
     - Author’s life +70 years
     - Works for hire: 95 years from publication or 120 years from creation, whichever is shorter
Copyrights

2. Created before Jan.1, 1978 but not published or registered by that date:
   - Same as for works created on or after Jan.1, 1978.

3. Created and published or registered before Jan.1, 1978:
   - Complicated, but generally renewal term from secured date + 67 years and a total term of 95 years.
Copyrights

- Exceptions to owner’s exclusive rights: FAIR USE
  - Criticism
  - Comments
  - News reporting
  - Teaching
  - Scholarship
  - Research
Copyrights

Copyright Act provides 4 factors to determine whether or not use is fair:

1. Purpose and character of use, whether it is for commercial purpose or for nonprofit educational use;
2. Nature of copyrighted work;
3. Amount used in relation to the whole; and
4. Effect of use on the market for or value of the work.
Copyright Ownership

- Under the Copyright Act, there are 3 types of copyright owners for which the “author” initially owns the copyright:
  - Individual Owners
  - Joint Owners
  - Owners of works made for hire
Copyright Ownership

- Individual owners – solely own copyright rights to creation

- Joint owners – Two or more individuals create a joint work
  - Each individual is an owner of an equal share of the copyright to the work, regardless of amount or quality of each contribution.
Copyright Ownership

- Works for hire can be:
  - Works prepared by an employee in the course and scope of employment
  - Works specially ordered to be created and used in certain types of works as a(n):
    - Contribution to a collective work
    - Part of a motion picture or audiovisual work
    - Translation
    - Supplementary work
    - Compilation
    - Instructional text
    - Test
    - Answer material for a test
    - Atlas
  - Parties must expressly agree in writing that work is a work made for hire.
Copyright Ownership

For works for hire, the employee is considered the author even if the employee created the work.

Exception (common law) is that copyright in academic writings and scholarly work generally belongs to the teacher/professor. (for example, journal articles, lecture notes, and teaching materials).

Electronic distance education and online courses have created issues of who owns copyright in material and who has control over distribution, revision, and maintenance.
Copyright Ownership

- Copyright ownership, sole or joint, in a university setting, likely depends on the facts (case-by-case basis).
  - Employer control.
  - If a relevant project is highly integrated into university projects or dependent on administration or outside entities.

- University institutions should have clear policies and/or contractual provisions regarding such ownership since, like all IP, institutions should not relinquish property right without negotiation and/or obtaining Fair Market Value.
AUTHORSHIP

• Involves copyright law and is not synonymous with inventorship.

• A copyright is an exclusive property right to control the intellectual creation granted to the author (creator) of an original work fixed in a tangible medium of expression.

• For papers or articles, authorship is defined as one who contributes to the creation of the paper or article; i.e. the final product.

• Important to the reputation, promotion, and grant support of authors and the reputation of an institution or university.

• May include researchers who conducted the subject study.
AUTHORSHIP

- Includes those who contribute to:
  - Algorithms, equations, or figures used during research.
  - Published reports of scientific research.
  - Words, images in paper or electronic media, published or not.
  - Published reports of new discoveries and ideas.
  - Published reviews of existing knowledge.
  - Educational programs.

- Authors contribute to a final written product and might imagine an outcome or solution or write or publish about it, but inventors participate in the inventive step and describe the steps and mechanisms needed to get to the solution.
AUTHORSHIP

- Co-authors of an article or publication, including students, co-workers, supervisors, employees, technicians, department chairs, and thesis advisors are not necessarily co-inventors of an invention.

- Standards for authorship and order of authorship of an institution’s policy should be followed to preclude adversely affecting effectiveness and reputation of the authors and the institution.
AUTHORSHIP

- An author is one who makes a substantial, direct, intellectual contribution to a work (design, analysis, or interpretation of data).

- Others who make substantial contributions, such as acquiring funding or providing technical services or materials, could also be acknowledged.
Trade Secrets

Trade secrets are formulas, practices, patterns, designs, instruments, processes, devices, methods, techniques, or compilations of information used by a business to obtain an advantage over competitors.

Trade secrets are:
- Not generally known or easily obtained by proper methods.
- Economically valuable to their holder, and
- Should be the subject of reasonable efforts to maintain their secrecy.
Trade Secrets

- Also known as “confidential information.”

- In business, trade secrets are subject to be protected by:
  - Non-disclosure agreements (confidentiality agreements)
  - Non-compete clauses

- Protection can extend indefinitely (i.e., Coke) since generally not protected by a patent (public disclosure), but are always subject to disclosure or “reverse engineering.” (Coke also holds many patents as well).
Trade Secrets

- State and Federal laws protect trade secrets:
  - Uniform Trade Secrets Act (48 states, D.C., Puerto Rico, Virgin Islands)
  - Economic Espionage Act of 1996 (U.S.)
Trade Secrets

- Owner should take reasonable steps to protect and maintain secrecy:
  - Employees – agreement not to reveal employer’s proprietary information.
  - Employees – agreement to sign over rights to intellectual property to employer during course of employment and as condition of employment.
  - Other companies or universities – agreement not to disclose secrets in licensing talks or business negotiations.
Trade Secrets

- Ex: In February, 2012, federal prosecutors charged 5 individuals, 2 of whom were Dupont employees, and a Chinese company with theft of Dupont’s technology to manufacture titanium dioxide (TiO2), which was part of a $17 billion global market.

- Ex: December, 2012, President Obama signed into law the Theft of Trade Secrets Clarification Act, expanding the Economic Espionage Act of 1996 to include trade secret theft relating to products a company sells AND that a company uses internally.

- Ex: In January, 2014, a regional manager of a San Francisco area executive search firm was sentenced to prison and fined for trade secret theft by convincing 3 former co-workers to download and send him customer list information that he used to start his own firm.
Trade Dress

Category of trademark law that refers to a product’s image and visual appearance or its package.

Includes:
- 3-dimensional shape
- Graphic design
- Color
- Smell
Trade Dress

2 Basic Requirements for protection:

1. Features must function as a source indicator – identify a product and maker
2. Features must be nonfunctional – cannot affect cost, quality, or ability to compete

Functionality depends on the product:

- Ex: Color is functional for clothing since it affects appearance and buyers
- Ex: Color is non-functional on home insulation since it is purchased for in-wall use and not seen
- Ex: Colors and theme of a restaurant (WENDY’S)
- Ex: Packaging for Wonder ® bread
- Ex: Tray configuration for Healthy Choice ® frozen dinners
Domain Names

- A mark comprised of an Internet domain name is registerable if it functions as an identifier of the source of goods or services.

- It is important to evaluate the commercial impression of the mark as a whole, including the top level Internet domain name (TDL) indicator, such as “.com,” “.org,” and “.edu”.

- TDLs and uniform resource locators (URLs) “http://www.” typically function to indicate a World Wide Web address and not as a source-indicating function.
EBASEBALLCLUB.COM

IC 035. US 100 101 102. G & S: Online sports recruiting services for high school athletes, namely, providing a website where athletes are able to provide information and player profiles for showcasing their athletic and educational abilities for college recruiters, professional scouts, coaches and other having an interest in obtaining information about athletes and for the providing of information and assistance for allowing athletes, scouts, coaches and college recruiters to evaluate or match athletes with required needs associated with the selection and recruiting of athletes. FIRST USE: 20041116. FIRST USE IN COMMERCE: 20041116

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

21.03.01 - Balls (basketballs, table tennis, footballs, etc.); Baseballs; Basketballs; Billiard balls; Bowling balls; Footballs; Golf balls; Paddle balls; Table tennis balls; Tennis balls; Volleyballs
24.09.07 - Advertising, banners; Banners

Owner
(REGISTRANT) Elite Fantasy League Sports L.L.C. LTD LIAB CO ILLINOIS Suite 102 240 East Ogden Avenue Hinsdale ILLINOIS 60521

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE
Semiconductor Mask Works

- Covers semiconductor integrated circuits.
- Mask works are used in semiconductor fabrication like stencils to create layers of devices comprising the chip circuitry.
- Semiconductor Chip Protection Act of 1984 protects original mask works when registered with the U.S. Copyright Office.
- Protection rights continue for 10 years from registration date.
Patent and Trademark Resource Centers

- PTRC located at Mississippi Library Commission in Jackson.
- Receives and houses copies of U.S. patents and trademark materials
- Good source of information
- www.uspto.gov
- www.Google.com/patents
- www.wipo.int/ (for foreign patents)
- www.FreePatentsOnline.com
- Internet Search
Why Is It Important to Protect IP?

- Start-up companies and typically many types of companies today are driven by new business models based on new innovations in technology.

- Many start-ups have few tangible assets or inventory, but may have valuable IP.

- Start-up businesses are generally based on a core concept that may only exist, for example, as computer software running on a few servers.
Why Is It Important to Protect IP?

- Universities drive IP and research and potentially have enormous caches of valuable intellectual resources.

- Obtaining the Proper Mix of IP
  - Patents may be obtained on core developments, products, and methods, including products, processes, and methods of doing e-business, and on software, for example.
  - Trademarks may be used to give a product a unique and recognizable identity in the market or be used as Internet domain names.
Why Is It Important to Protect IP?

- Obtaining the Proper Mix of IP (continued)
  - Service marks may be used to identify unique services offered.
  - Trade dress may be used to characterize visual appearances of a product or its packaging.
  - Copyrights may be obtained to protect paper documentation, electronic content, or computer software.
  - Trade secrets may be used to obtain and maintain a competitive advantage over competitors.
Why Is It Important to Protect IP?

- Obtaining the Proper Mix of IP (continued)

  - Obtaining (by purchase, license, or self-generation); managing; and commercializing IP assets are critical factors that may determine the success or failure of an invention by a company or university.
Why Is It Important to Protect IP?

Protection of IP

- IP assets should be vigorously protected and defended to prevent theft, misuse, and/or loss.
- IP assets must be asserted against and defended from potential and/or actual infringers or misuse.
- Universities must be diligent to detect and defend against conduct of IP piracy or copying, or risk losing exclusive use of IP assets.
Protection of IP (continued)

- IP may weaken in value and strength, or be lost, if infringement is not addressed and terminated or if not managed properly.
- IP should not be amicably transferred or given away by a university since it likely is state property.
- Fair Market Value should be the benchmark value of IP when it comes to transfer by licensure or sale of IP assets.
Methods of Protecting IP

- Review Internet searches of mark and domain name usage.
- Review USPTO and other databases and printed publications in journals and trade publications for published patents and trademarks.
- Send well-reasoned and data-specific cease and desist letters to infringers.
- Register IP assets with appropriate entities.
- Initiate litigation in state and/or federal court when appropriate and necessary.
Methods of Protecting IP

- Require employees to execute contracts of employment with reasonable assignment and/or royalty clauses and use non-disclosure agreements, when appropriate, to protect proprietary information, products, or material.

- Require university researchers/employees to assign rights to ownership of intellectual property created for the university during employment before beginning employment and as a condition of employment.

- Employees should reveal all intellectual property owned or co-owed prior to beginning employment.
Methods of Protecting IP

- Require employees and other individuals and companies with whom licensing and business is conducted to execute non-disclosure agreements and confidentiality agreements, as required.

- Set forth and have employees acknowledge employee termination procedures that reinforce the university’s IP policies.

- Maintain methods to keep trade secrets proprietary.
Methods of Protecting IP

- Maintain carefully planned and executed assignment and license agreements that benefit the university.

- Maintain control and accountability over all licensee(s) regarding matters such as royalties, product quality, product control, and periodic review.

- For outside contract work, ensure by written agreement that all IP created belongs to the university, as required.
Methods of Protecting IP

- Practice computer security and physical security.
- Set forth in writing the university’s IP policies and have employees acknowledge such policies and receipt thereof.
- Maintain accurate and up-to-date records of all IP assets.
Methods of Protecting IP

Ways to Protect IP Assets

- Evaluate IP assets on a periodic basis and the direction the university is or should be going.
- Motivate employees to assist in the process of generating additional licensable IP through royalties and other incentives.
- Encourage the disclosure program for employees to provide written evidence of IP concepts and a timely process to evaluate such IP and provide feedback.
Methods of Protecting IP

- Regularly hold seminars and provide publications for employees to identify potentially valuable, protectable, and licensable IP.

- Identify potential licensees and partnerships through normal business channels, university associations, trade shows, and on-line searches.
Common IP Mistakes

- Failure to obtain written assignments or license of IP rights or rights developed by employees or consultants.

- Missed opportunities for patent protection of inventions – Critical deadlines (statutory 1-year time line bar) must be met and understood before trade show demonstrations, publishing technical papers, or offering for sale to 3rd parties.
Common IP Mistakes

- Poor trademark choice(s) – choosing strong marks adds value to novel product(s) and process(es) for the university.

- Use of IP, including trade secrets from a prior employer – civil and criminal litigation can result from use by employees of customer lists, semiconductor design, computer software, methods, and products, for example.
Developing an IP Strategy

Patent Strategy

- Develop an accurate process for identifying potentially patentable inventions and compare to simply using trade secret protection.
- Include potentially patenting both product and method or process of manufacture.
- Determine which inventions are most valuable to protect and which inventions are most likely to be licensable.
- Review others’ relevant patent filings.
- Determine in what relevant foreign countries, if any, to file for protection.
- Decisions of protection should ideally be made prior to public disclosure (to protect foreign rights).
- Decisions to disclose certain inventions so 3rd parties cannot patent them.
Developing an IP Strategy

Copyright Strategy

- Make certain university has proper transfers of copyrights by employees and independent contractors.
- Register copyrights in important products to ensure legal enforcement and to possibly obtain statutory damages and attorneys fees, if litigation becomes necessary.
- Employees should understand copyright issues to prevent unauthorized use of 3rd party software, manuals, or materials.
Developing an IP Strategy

- Trademark Strategy
  - Ensure that trademark selection is controlled so each product or service uses a distinctive mark.
  - May use a primary trademark for a group of products and secondary marks for certain products.
    - (Ex: Microsoft uses “Microsoft” on all products and uses secondary marks such as “Internet Explorer” and “WORD” for specific products).
Trademark Strategy (continued)

Trademark should be “cleared” before adoption to ensure another entity does not have rights to it either in the U.S. or foreign countries.

Determine in which countries to protect the mark based on importance of the mark and the product

(Ex: Adobe Systems, Inc. cleared the mark “Acrobat” in 20+ countries at least 9 months prior to product introduction).
Trademark Strategy (continued)

Universities must have policies to ensure their marks are used properly and that their own use does not undercut their ability to enforce them.

Must ensure university marks are not misused by others or 3rd parties and that others do not adopt confusingly similar marks

(Ex: Apple Computer successfully objected to the use of “Apple Soup” for computer software by a start-up company).
Trade Secret Strategy (continued)

- Should have policies in place for protection and ability to prove the use of procedures and efforts to use “reasonable measures” to protect confidentiality.

- Measures should include employee assignment and confidentiality agreements, non-disclosure agreements, and a marking program.
Developing an IP Strategy

Trade Secret Strategy *(continued)*

- Employees should be trained to recognize and properly protect trade secrets.

- Trade secret program should coordinate with patent program, since issuance of a patent (with public disclosure and 20-year protection) terminates trade secret protection (which enjoys effectively endless secrecy and protection).
Developing an IP Strategy

Licensing Strategy

- Carefully review “inbound” license (to the university from 3rd parties) to ensure inclusion of rights broad enough to account for evolution of university’s research, products, and future research, the ability to sublicense these rights, and transferability in case of assignment, transfer, or sale.

- Ensure university’s exclusive licenses to 3rd parties do not prevent exploiting its own technology in other markets and that they include minimum performance requirements.
Developing an IP Strategy

Licensing Strategy (continued)

- Indemnification for IP infringement.
- Establish a policy for the use of open source software in university products and ensure its compliance.
Developing an IP Strategy

- Royalties and IP Audit
  - “If you don’t attempt to measure it, you can’t manage it.”
  - Unlike typical assets, IP is generally intangible and IP value may be difficult to measure, at least initially.
Developing an IP Strategy

- Royalties and IP Audit *(continued)*
  - Royalty and IP audits provide a means of measuring revenue and value to the university due to IP assets:
    - Royalty and IP audits
    - Determine if licensees are in compliance with terms of agreements;
    - Instill confidence in information obtained from licensees;
    - Provide benchmarking and assess changes in technology; and
    - Determine under-utilized assets, new avenues to develop IP assets, and bring the university’s departments together.

- Consider utilizing a 3rd party to execute IP audit(s).
Developing an IP Strategy

Remember:

- Disclosure is more important than ever under the AIA.
- The use of different IP assets are not mutually exclusive but should compliment each other.
Developing an IP Strategy

One Example:

A university may decide to register for copyright protection for software, seek patent protection on all or certain aspects of the software, keep other aspects of the software trade secrets, and obtain trademarks and service marks for the product and services, respectively.

Choosing the best course of protection and communalization depends on the factual and marketing circumstances behind each situation.
The University of Southern Mississippi
Intellectual Property Primer

Thank you

Questions?
Larry A. Schemmel
Special Assistant Attorney General
Office of the Attorney General
601-359-7600
lschemmel@mdot.ms.gov