



Why Is Intellectual Property Overrated?

CambridgePython – 20th - 21st March 2010



Myths About Intellectual Property

- It gives us the right to make the product
- It gives us world-wide rights
- It will keep everyone else from competing with us
- The government will give us money as a reward
- Competitors will come to us to get a licence
- We **MUST** have it

Truths About Intellectual Property

- It does NOT give the right to make the product
- It does NOT give world-wide rights
- It will NOT keep everyone else from competing
- The government will NOT give money as a reward
- Competitors will (probably) NOT come to get a licence
- You do NOT necessarily have to have it

What is Intellectual Property?

- Patents (Patenty)
- Trade Marks (Znaki Towarowe)
- Design Rights (Wzory Towarowe)
- Copyright (Prawo Autorskie)
- Confidential Information (Informacje Poufne)



The *Aladdin* Mobile Phone

Trade Mark

Patent

Design

Confidential information

Semiconductor chip
topography
(copyright)



What is a Patent?

- A Patent is a purely **national** right to take action to **prevent** an unauthorised person from making, importing, exporting, selling, etc something that falls within the **wording** of the **claims** (zastrzeżenia) of the Patent
- For world-wide rights you need a patent in every country of the world!
- You do not need a patent to make a product yourself
- The owner of the patent must take positive action against infringers to stop them or give them permission (a licence)
- No-one else will police the patent

What is a Patent?

- Can be looked at as an agreement with a government:
 - Patent Applicant provides *full* disclosure of an Invention
 - Government grants a monopoly for a limited time (usually 20 years maximum)
- An invention must be:
 - *Useful*
 - *New*
 - Not published anywhere in the world
 - Not disclosed to anyone unless covered by confidentiality (written or implied)
 - Have required some *Inventive effort*
 - Not obvious to someone skilled in the field

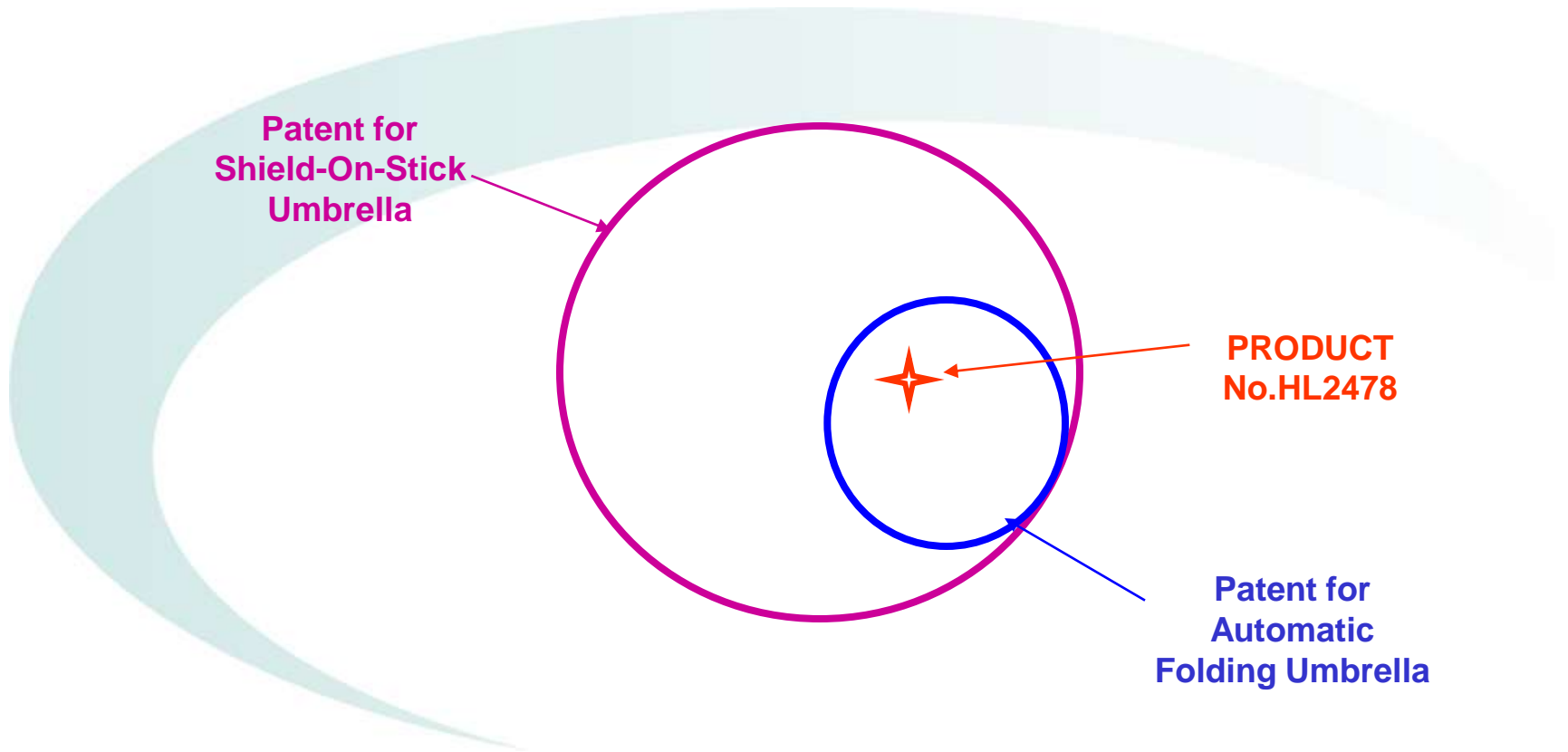
What is a Patent Monopoly?

- The right to exclude everyone else from utilising what is covered by the patent
- NOT the right to commercialise the invention oneself

EXAMPLE

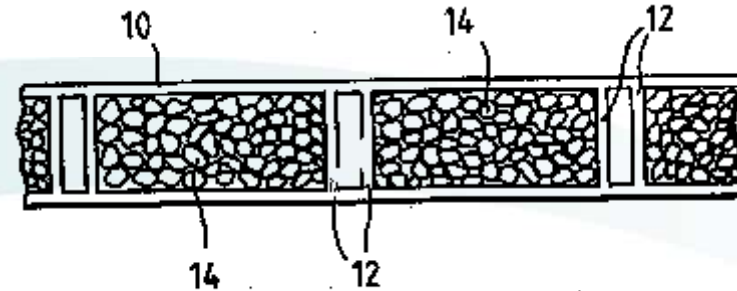
- Known - Idea of umbrella – ‘shield on a stick’
- Invention – automatic folding umbrella

What is a Patent Monopoly?



What is a Patent Monopoly?

The COALTUBE:



OPTION 1:

A tube made of plastic impregnated sacking material divided into segments and filled with coal, the tube being wound on a drum for unwinding directly into a burner automatically.

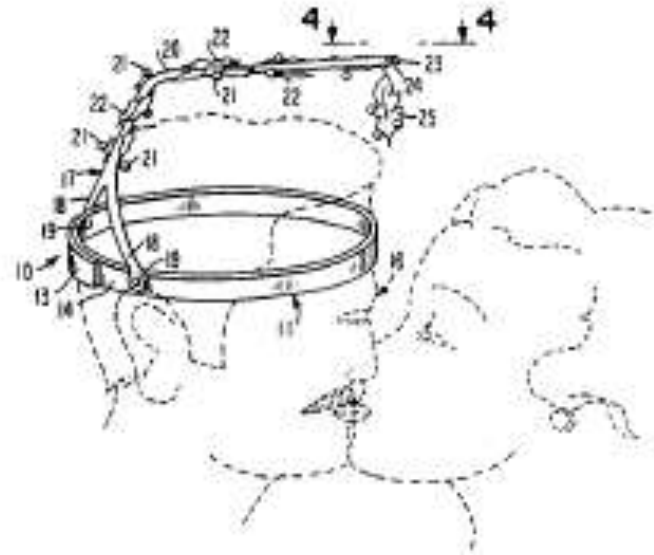
OPTION 2:

A solid-fuel package formed by an elongated tube made of a flexible combustible material containing the solid-fuel.

Is this “worth” Patenting?

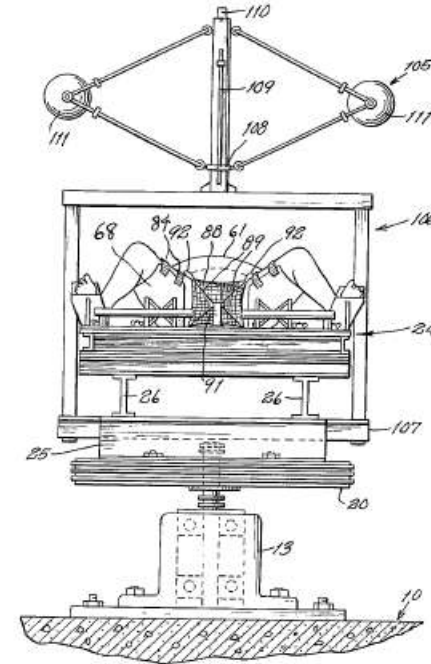
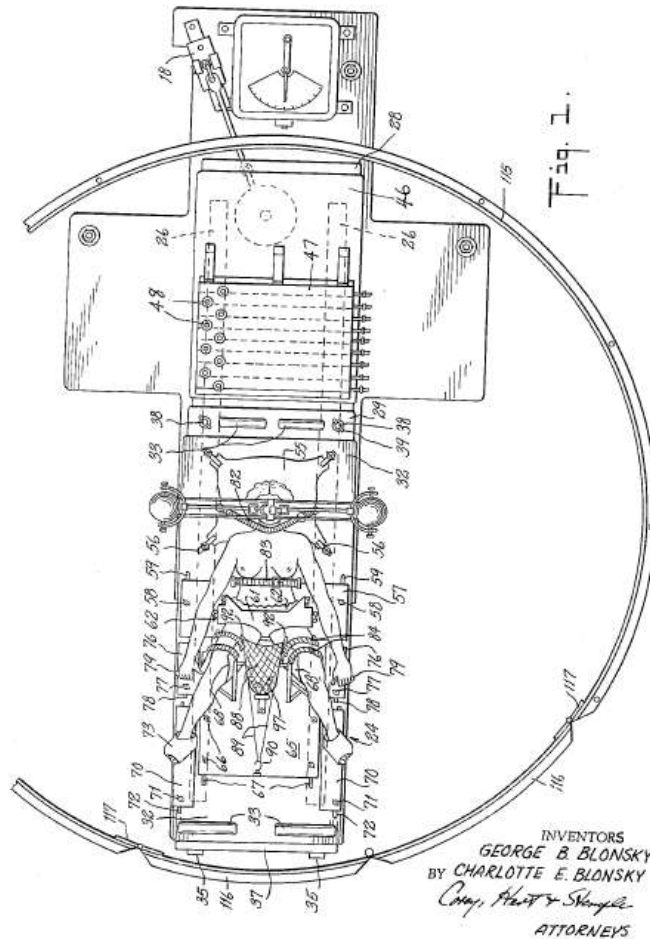


A FIRE ESCAPE



A MISTLETOE SUPPORTING
HEADBAND

Is this “worth” Patenting?



APPARATUS FOR FACILITATING THE BIRTH OF A CHILD BY CENTRIFUGAL FORCE

How to Use a Patent Monopoly?

OFFENSIVELY:

MARKET PROTECTION:

Prevent others from making, using or selling

REVENUE SOURCE:

Collect royalties for the right to make, use or sell

DEFENSIVELY:

MARKET ACCESS:

Leverage into market otherwise foreclosed

MARKET ACCESS:

Cross-license the patents to get rights under other's patents

FREEDOM OF ACTION:

Prevent others from obtaining patent

Should We Patent Something?

- Will our competitors want to use the invention?
- At what level will the invention apply?
- How can infringement be detected?
- How can infringement be avoided?
- How to protect the company's freedom of action?
- Likely commercial value or importance to the company?
- Apparent scope and novelty of invention?
- Relative advantages of keeping invention as a trade secret
- Cost of obtaining patent

What is a Trade Mark?

A Brand Name

A Device

A Logo

A Colour, Sound, Smell

In fact ...

Anything that Distinguishes YOUR Products from those of Others

What is a Trade Mark?

A trade mark is a mark that is used in the course of trade.

It is always associated with particular goods and/or services.

It is NOT simply the name of a person or a company.

A trade mark *may* be the name of a person or a company, but does not have to be.

It can be used by different companies for different products.

A trade mark is a BRAND name - “This is a MYXASTIMBY (brand) widget”

A trade mark is NOT a noun - “This is a MYXASTIMBY”

It is used as an adjective, BUT must not be directly descriptive of the product
- “This is a FINE widget” “This is a PLUMBING widget”

How do You Choose a Trade Mark?

Do NOT choose a word that is directly descriptive of the product because everyone trading in that product **MUST** be allowed to use normal words to describe it.

The best trade marks are completely invented words, e.g. KODAK, MOTOROLA

Next best are words that have no meaning *as far as the product is concerned*, e.g. PENGUIN for books or chocolate biscuit bars, NORTH POLE for bananas

Then words that have an allusion to the character or quality of the product, **BUT STILL NOT DESCRIPTIVE OF IT**

Carry out a Clearance Search!

What is a Design Right?

- Protects the *external appearance* of an article
- Registered (aesthetic appeal)
- Unregistered (non-aesthetic)
- Registration must be applied for before the design is published
- An infringement can be by the same or a different article, that looks the same or similar
- Similarity is a question of what it looks like to a skilled person

What is Copyright?

- Original works of authorship
 - Prevents others from copying
-
- Instructional material
 - Brochures, pamphlets, leaflets
 - Software
 - Data sheets
 - Application notes
 - Advertising
 - Web pages
 - Drawings
 - Books
 - Posters
 - Pictures
 - Presentations
 - Videos, films
 - Newsletters
 - Databases



What is an IP Management Strategy?

- A strategy to identify, protect and effectively manage intellectual capital in a company
 - Assets arising from technology R+D, know-how and branding
 - Intangible assets

What is an IP Management Strategy?

- One function of an IP Strategy can be to preserve and build upon those aspects of a company's business that differentiate that company from its competitors

And so maintain that competitive advantage



Forming an IP Management Strategy

- Start with the end in mind – what are the overall *business* goals and strategies?
 - maintain our competitive advantage
 - grow turnover by x% over the next year
 - increase shareholder value
 - exit in 5yrs
 - make ourselves attractive to investors
 - licence out our technology

Forming an IP Management Strategy

- Start with the end in mind – what are the overall *business* goals and strategies?
 - increase market share
 - prevent competitors copying our innovations
 - enter new markets
 - enter new territories
 - freedom to carry on what we are doing
 - and so on

Forming an IP Management Strategy

- What are the technical, legal and product issues?
 - What are your key differentiators and how critical are they to your business?
 - What IP assets do you currently own?
 - How do you record IP assets?
 - How does innovation “happen” in your company?
 - Where are your markets, competitors and production centres based?



Forming an IP Management Strategy

- What are the technical, legal and product issues?
 - Who are your main competitors and what IP rights do they own?
 - How can you assess the value of any IP?
 - Which products or processes are most at risk from being copied?
 - Who is/would be in charge of IP asset management and what budget should you allocate?
 - What is the level of awareness of what IP is in your company?
 - Where do your inventions lie in the product chain?
 - and so on



Forming an IP Management Strategy

- Use answers to those questions to write an IP business plan setting out a series of actions and processes
- A relatively inexpensive process using management time and some professional guidance

Dziękuję

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Pytania??