



LACKENBACH SIEGEL today!

VOLUME 3 - NUMBER 4 - FALL 2002

Welcome to the Lackenbach Siegel today! Online Newsletter.

Lackenbach Siegel, whose history and achievements in intellectual property law span most of the Twentieth Century, has practice areas which include patents, trademarks, copyrights, unfair competition, antitrust, licensing, litigation and all facets of computer, Internet and domain name law.

Lackenbach Siegel today and Since 1923 is all about Patents, Trademarks, Copyrights, Domain Names, Internet and Computer Law

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From Fall 2002 Newsletter

Naked Licensing *Isn't Sexy*

By Howard N. Aronson and Jeffrey Rollings

The basis of trademark licensing is allowing another to use your trademark, most likely receiving royalties or compensation in return. However, unrestricted "renting" or unfettered use of a licensed mark without control by the owner under our domestic jurisprudence can result in catastrophic loss of trademark rights.

From Fall 2002 Newsletter

New Partners at LS

Rosemarie Tofano and Robert B. Golden

Lackenbach Siegel is proud to announce that two of its long-time associates have become Partners of the Firm.

Rosemarie Tofano has been with the Firm for more than a decade and is now in charge of the Foreign Trademark Department. Robert Golden, who joined the Firm in 1993, heads the Litigation Department. Rosemarie and Robert will both continue their respective practices and help the Firm service the needs of its clients.



Robert B. Golden

Oversees the Firm's Litigation Department, which handles actions throughout the country and before the Trademark Trial and Appeal Board of the U.S. Trademark Office, and counsels clients on licensing and transactional matters.

While it is hornbook law that quality control is both contractually and in fact practiced in licensing situations, it is oftentimes forgotten that the penalty for breaking the rules is loss of trademark rights in the licensed mark.

Trademark licenses without verbiage allowing the licensor to practice quality control are styled Naked Licenses. They are "Naked" because they do not include the necessary quality control language. For example, licenses typically require licensees to submit drawings, or prototypes of products to be marketed in connection with the trademark licensed, and further require the licensee to periodically submit production samples of such products. Licensors usually retain the right to approve or disapprove of the quality of the overall product, its design, and the manner in which its trademark is used on, or in connection with the product. Licensees are forbidden from marketing products that have not been approved. Indeed, quality control provisions are valued so highly by licensors that these terms rarely become negotiated points in license contracts.

A federal appellate court in *Barcamerica Int'l USA Trust v. Tyfield Importers, Inc.* determined just this year that a trademark owner had abandoned its LEONARDO DA VINCI trademark for wine by licensing the mark without incorporating quality control provisions in the license agreement, and without actually exercising any quality control.

In the context of wine production, as the court noted, quality control could have been exercised by inspecting the facilities and procedures used to make the wine, and tasting and inspecting the final product to be sure that it was of a "quality" consistent with the licensor's vision of the trademark.

Barcamerica Int'l USA Trust was a trademark infringement suit filed by the trademark owner licensor against an "infringing" producer and importer of LEONARDO DA VINCI wines made in Italy. During the infringement trial, the licensee testified that the licensor never exercised any "involvement whatsoever regarding the quality of the wine and maintaining it at any level." While it was argued the quality control existed by way of licensor's officers tasting a few wines produced under the mark and relied upon the business reputation of its licensee, the court found a lack of realistic quality control and rejected arguments that the final product was indeed acceptable. In affirming the lower court's order of Summary Judgment on the grounds of abandonment of the trademark, and cancellation of the licensor's Federal registration, the court found that the licensor did not play "a meaningful role in holding the wine to a standard of quality-good, bad, or otherwise."

License agreements must be properly dressed to avoid nakedness, and a licensor, at least from time to time, must take a true commercial interest in the products produced under its mark. If not, licensors face the reality of abandonment and cancellation of their valuable trademarks.

Country Code Level Domain Name Registration-- **A Strategic Approach...**

By *Nancy Dwyer Chapman*

The growth of use of the Internet has been explosive, rising in twenty years from virtually nothing to 460 million in 2001. The number of users is increasing by 10

Mr. Golden was admitted to the bar: 1993, New York; 1994, U.S. District Court, Southern and Eastern Districts of New York; 1998, U.S. Court of Appeals, Third Circuit; 1999, U.S. Court of Appeals, Federal Circuit. Education: The George Washington University (B.A. 1989); Brooklyn Law School (J.D. 1992). Moot Court Honor Society; Dean's Merit Scholar. Author and Lecturer: 1998 and 1999 National CLE Conferences, Law Education Institute, Inc. & BNA Books, Inc., *Trade Dress - The Forged-ten Trademark Right and Trade Dress - The Product v. Packaging Tension*; Contributing Author: "Protecting Designs by Trademark, Copyrights, and Design Patents" Vol. 1, Ch. 3 in *Intellectual Property Counseling and Litigation*.

and...

Rosemarie Tofano



Rosemarie Tofano

Responsible for all overseas trademark Matters, including searching, filing, prosecution, maintenance, Opposition / Cancellation proceedings, and licensing.

Ms Tofano was admitted to bar, 1991, Connecticut and New York. Education: Fordham University (B.A., 1985); Pace University (J.D., 1990); 1994, U. S. District Court, Southern and

to 20 million a year, with as many as 500 million users projected by 2003. The "rate of [its] adoption is much quicker than the rate of adoption of the telephone or television," according to the World Intellectual Property Organization. While the majority of those users have been in the US, the numbers of users in other countries is steadily increasing, attesting to the global nature of the medium. July 2001 statistics on home internet access from the Nielsen organization indicate: USA \$ 165.2 Million ("M), Germany \$ 27.9M, UK \$ 23.9M, Italy \$ 18.7M, Taiwan \$ 11.6M, Australia \$ 9.7M.

Further evidence of the growing importance of non-US internet use is demonstrated by Nielsen's monitoring of Internet audience activity for Australia, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Italy, Japan, the Netherlands, New Zealand, Norway, Singapore, Sweden, and the UK. Despite the current economic slowdown, e-commerce at the end of 2000 in Europe was valued at 17 billion euros and estimated to reach 340 billion euros by 2003.

The cornerstone for establishing Internet presence is the domain name, the www.name.com type of designation.



Domain names are, or should be, concise and memorable, based upon company names, trademarks, slogans, phrases and descriptive key words. The appropriate domain name should ensure a user's quick access to one's site, because the user makes the obvious association between the domain name and the putative source. The user types in "generalelectric.com" or "ge.com" and brings up the home page for the General Electric Company. A domain name that conveys that ready connection is a valuable asset to an enterprise and is now recognized as a component of a company's intellectual property portfolio.

Because domain names have assumed this important role, the creation of an international, strategic domain name development and registration program is an important component of any overall business plan. Legal counsel needs to take a leadership role in advising its client of the benefits of implementing such a program, the costs to be incurred, and in providing on-going guidance and management of domain names as business assets.

BACKGROUND OF THE DOMAIN NAME SYSTEM

The Internet began in the late 1960s as a network of four universities' computers

Eastern Districts of New York, 1994, Court of Appeals for the Federal Circuit, and 1994, U.S. Supreme Court. Member: New York State and American Bar Associations. Co-Author, "How Not to Incorporate," New York State Bar Journal, July 1988; Co-Author: "Global Colorblindness to Trademarks is Dying," The National Law Journal, June 5, 1995.

The U.S. Trademark Office Speaks

The U.S. Trademark Office announced that trademark applications for the next two-and-a-half years will be below the figure for 2001 and the projected figure for 2002:

ÒIn 2002 we project that there will be 260,000 applications and in 2004 we project 286,000 applications. To give you some perspective on this, in 2001 when we had 290,000 applications we had to detail over 90 trade mark attorneys to other jobs in the agency because there was not enough work for them. Our projections for 2003 and 2004 fully support the fact that there is not enough work in trade mark operations to justify the size of our trademark attorney workforce.Ó

PATENT CORNER

Featuring a recently issued patent to a client of Lackenback Siegel

United States Patent Number:

known the ARPANET which grew into the Internet, a group of multiple independent networks with encompassing satellite networks, and most importantly, having an "open architecture" which allowed a provider of connections choices in network technology. The advantages of this nascent communications system proved appealing to an expanding community of researchers and developers and the US Department of Defense who also began to communicate via electronic mail, demonstrating its potential versatility and scope. By the early to mid 1990s, the World Wide Web became a commercial reality with programming language innovations enabling easier functioning of the Internet and millions of computer hosts online. The Domain Name System (DNS) was created in the early 1980s.

WHY ccTLDs?

What is becoming increasingly clear to many companies is that obtaining a "dot-com" domain name does not mean all bases have been covered, particularly given the growing numbers of Internet users throughout the world. Over 36,000,000 domain names have been registered worldwide, with two-thirds of those being .com. Of the country code domains, the largest numbers of registrations are in the UK, Canada, Germany, Korea and the Netherlands. It follows that a prudent and thorough domain name policy must consider the benefits and opportunities that can be reaped from registering appropriate individual country code "Top Level Domain" names ("ccTLD"). As Audrey Apfel of the Gartner Group stated, "Being in .com does not mean you are .done."

Obtaining appropriate ccTLD protection makes good economic and business sense when considering the needs and sensibilities of an international user and customer population. While US-centric Internet users may automatically think "dot-com," a British user thinks and researches in a "dot-uk (.uk)" frame of mind. Italian users are known to look for .it domains first when on the Internet. International users will look for local content in their local language and bookmark these sites. Just as marketers must tailor their products and services to local needs and tastes, so should they consider the benefits of similarly targeting websites and their addresses by way of domain names to foreign Internet users. Note, for example, that Internet portal Yahoo! now offers the following "Local Yahoo's" in Europe: Denmark, France, Germany, Italy, Norway, Spain, Sweden, and UK & Ireland; in Asia Pacific: Australia & New Zealand, China, Hong Kong, India, Japan, Korea, Singapore and Taiwan, and in the Americas: Canada, Argentina, Brazil and Mexico. At least a portion of these sites is accessible by using the ccTLD yahoo.dk, .de, or .ca, etc. URL.

Nortel Networks commenced its ccTLD registration program as its country managers began requesting ccTLDs for marketing purposes, even without the establishment of a concomitant local website. Nortel's Web Internationalization Manager Maria Manzo says that Nortel found that the country level domain name was being keyed in first at overseas operations, so the company realized it had to obtain the corresponding ccTLDs to meet this globalization need. Nortel has developed 52 country sites with local content in thirteen different languages and has around 109 ccTLD registrations based on the "nortelnetworks" secondary level domain. Use of a ccTLD helps to make the Internet experience seem closer to home for the user, encouraging loyalty and satisfaction. "[S]ensitivity to cultural and national distinctions will separate success from failure" in the online marketplace, noted Jim Rose, CEO of QXL.com, an online auction service targeting Europe. An enterprise's ccTLD sites can emphasize local content, local language and play upon local preferences. It can also help an enterprise market to a particular region. Rick McMurtry, IP counsel for Turner Broadcasting System,

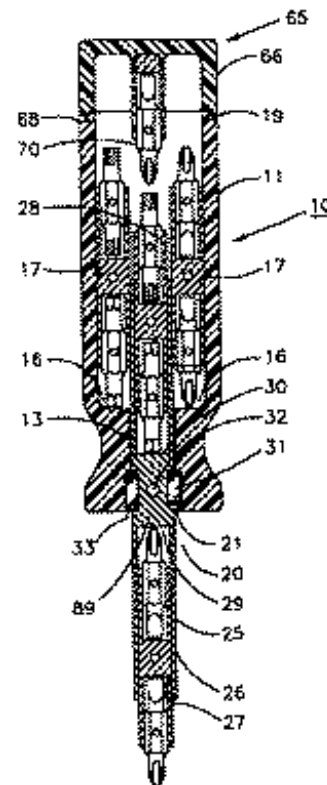
6,305,256

Date of Patent:

October 23, 2001

Inventors:

Wayne Anderson and
Paolo Cassutti



COMPLETE HAND TOOL SET IN ONE HAND TOOL

This invention in one broad aspect is a single hand tool which operably contains a complete screwdriver or multiple tool bit drive hand tool set. In another aspect, this invention is one hand tool which integrally contains upwards of 26 different tool bit drives in combination with multiple hex nut drives, which tool bit drives and hex nut drives are readily interchangeably used in the one hand tool.

The hand tool of the present

notes that TBS, for example, uses Latin American ccTLDs to focus segments of its online offerings for local programming and test marketing for production shorts for that sector of the world in particular. They find ccTLDs can target their entertainment and news products to specific markets. Search engines have customized their services to target country-specific content and, by use of the appropriate ccTLD, reinforce the local focus. "Because of the localization preference, most foreign residents use search engines that correspond to the appropriate ccTLD.

Unfortunately for most U.S. corporations, these search engines present an initial foreign market barrier by filtering the search results by language and prioritizing by local country code. Therefore, .com domain names are not included in their search results." ccTLDs can also play an important role in establishing and reinforcing uniform branding for an enterprise and can provide, as appropriate, intellectual property protection against brand and trade name pirates and against unwanted anticompetitive activity. A 1998 survey conducted by MARQUES, a European association of corporate trademark owners and intellectual property law firms and related providers, provided a telling snapshot of intellectual property vulnerability on the Internet. 60 respondents from 24 countries reported the following online experiences: 85% suffered infringement of their intellectual property.

78% experienced domain name infringement.

98% felt the issue of protection of names on the Internet was very important.

80% wanted controls restricting national registration authorities from marketing ccTLDs inappropriately.

In commenting on the survey results, the then-Chairman of MARQUES, Christopher Devereux, stated, "Trade mark owners are very concerned about Internet infringement. This is not just an issue for large companies but for the public who must have confidence that they can connect on the Internet with the party they are looking for." In fact, one major US corporation which has a significant and growing international presence in both traditional venues and on the Internet has developed the following credo in pursuing ccTLDs: "We get it now or pay for it later."

That shrewd assessment comes from Turner Broadcasting which has pursued an active ccTLD registration initiative in some 150 ccTLD registries. Rick McMurtry, TBS IP counsel, manages and coordinates his company's domain name registration program and decides whether to file based on present and foreseeable-future needs and network presence, now and in the pipeline. He factors in the requests of the company's marketing managers, the likelihood of domain name piracy, the costs for filing and the ease or difficulty in meeting the particular ccTLD's registration requirements.

ccTLDs ARE NOT ALL ALIKE

There are over 240 ccTLDs, from .ac for Ascension Island to .zw for Zimbabwe. See <http://www.iana.org/cctld/cctld-whois.htm> for the complete list. However, less than 200 are

invention provides an ergonomic handle design to house a maximized number of tool bit drives and hex nut drives. The handle in combination with a removable multiple tool bit drive shank provides a full complement of tool bit drives.

The present invention provides a clear plastic ergonomic handle which permits ready viewing of and access to the tool bit drives within the handle. The tool bits may be color coded as to both size and function for viewing through the clear plastic handle for ready identification and access.

The hand tool of the present invention is essentially a complete tool set to the user. The hand tool is of practical and safe design and construction, and readily manufactured by means known to those skilled in the art.

Patent Corner Digest:

Notable, recent LS Patents secured by: Henry Marzullo, Jr., Myron Greenspan and Marvin Feldman.

INTERLEAVER FOR PARALLEL 8 BIT CELL OF ATM SYSTEMS AND A METHOD THEREFOR Patent No.: 6,449,277 Assignee: Hyundai Electronics Industries, Co., Ltd. (Republic of Korea)
AUTOMATIC PRODUCT WEIGHING MACHINES, PARTICULARLY FOR FOOD PRODUCTS Patent No.: 6,448,511 Assignee: Talleres Daumer, S.A. (Spain)
WORKPIECE MOUNTING FOR A WORKING MACHINE Patent No.: 6,446,949 Assignee: Haas-Laser GmbH & Co. KG, (Germany)
ROLLER SKATE AND WHEEL FOR USE ON

currently active, and of these, there are subsets that operate only fitfully. It must be noted that relative to the number of dot-com domain names registered - over 22 million - the numbers of domain name registrations at the ccTLD level are but a fraction. Moreover, the vast majority have registered few domains.

The countries with the most registration activity include Argentina, Austria, Belgium, Canada, China, the Czech Republic, Denmark, France, Germany, Italy, Japan, Korea, the Netherlands, Norway and the UK which have each registered over 100,000; of those, only Argentina, Brazil, Canada, Denmark, Germany, Italy, Japan, Korea, the Netherlands and the UK have over 200,000 apiece.

At present there is no uniformity in the rules governing the registration of ccTLD domain names from country to country, and these existing rules are most definitely subject to change. Fortunately, the general trend of this change is toward a simplification of requirements and an opening of registration opportunities to more applicants rather than skewing the process in favor of domestic entities. There are three broad categories of ccTLD countries: unrestricted, restricted and semi-restricted.

There are approximately 86 ccTLDs which are unrestricted with additional sub-domains like .co.uk (as opposed to the top level .uk). A number of countries require an applicant to further qualify its domain by adding a secondary domain to indicate the registrant is a corporate entity or an academic institution, for example.

Unrestricted countries do not require that the applicant have a local presence; that registry is open to any and all applicants. There is no limitation on the number of domain name registrations a single party may obtain, and registrations are issued on a first-come, first-served basis.

Restricted countries have registration requirements that were designed to give preference to local entities. They require the applicant to have a local presence by way of a local company, a local (national) trademark registration, a local tax identification number, a local billing or administrative contact, and even in some cases, a local domain name server. The local presence requirement in some cases mandates the presence of an in-place corporate entity, as, for example, in Monaco and Macao.

Other countries' presence requirement is satisfied by the designation of a local representative or proof of registration upon the registry of businesses or its equivalent. In Canada the local presence requirement is satisfied by proof of a local trademark registration. In some countries a local contact must be given, and a local law firm may suffice in some cases. Many restricted countries further limit registration to one domain name per organization, a practice that obviously forces the choice to be one's business name or most important trademark only.

Semi-restricted countries also require a local presence of some sort but impose no limit on the number of domain name registrations a party may own. Where the domain name does not consist of a company name, restricted and semi-restricted countries may require the applicant to submit proof of ownership of a local trademark registration or pending application for the word(s) comprising the domain name. Where trademark rights are required, the domain name and the trademark most often must be identical. By way of illustration of the variety of registration schemes, note the following breakdown in Europe. The unrestricted

SUCH A ROLLER SKATE Patent No.: 6,443,463 Assignee: Mark Handels, AG (Switzerland) MACHINING PROCESSOR Patent No.: 6,438,445 Assignee: Makino Milling Machine Co., Ltd. (Japan) COMPACT OR MINI DISC Patent No.: D6,461,819 Assignee: Shape CD Ltd. (USA) MONOCLONAL ANTI-IDIOTYPIC ANTIBODIES (AB2) AND THEIR USES Patent No.: 6,433,148 Assignee: Centro de Immunologia Molecular (Cuba) COLLAPSIBLE/PORTABLE SOCCER GOAL Patent No.: 6,432,002 Assignee: Inventor: Onofrio F. Pavonetti (USA) SAFETY VALVE FOR FLUIDS Patent No.: 6,431,520 Assignee: VALVULAS ARCO. S.A. (Spain) SYSTEM FOR FASTENING BATHROOM ACCESSORIES Patent No.: 6,430,759 Assignee: Ibergesfer, S.L., (Spain) ASYNCHRONOUS TRANSFER MODE (ATM) CELL MULTIPLEXING / DEMULTIPLEXING APPARATUS Patent No.: 6,430,197 Assignee: Hyundai Electronics Inds. Co., Ltd., (Republic of Korea) AUTOMATIC WHITE BALANCE ADJUSTMENT SYSTEM Patent No.: 6,429,905 Assignee: Funai Electric Co., Ltd. (Japan) SPINDLE MOTOR WITH MAGNETIC SEAL Patent No.: 6,429,560 Assignee: Precision Motors Deutsche Minebea GmbH (Germany) MONOCLONAL ANTIBODY WHICH RECOGNIZES THE OLIGOSACCHARIDE N-GLYCOLYLATED-GALACTOSE-GLUCOSE SIALIC ACID IN MALIGNANT TUMORE, AND COMPOSITION CONTAINING IT Patent No.: 6,429,295 Assignee: Centro de Inmunologia Molecular (CIM) (Cuba) BEAN BAG SHOE LOWER Patent No.: D460,852 Assignee: Candie's, Inc. (USA)

METHOD FOR WIRELESS AND REMOTE TRANSMISSION AND RECEPTION OF CODED INFORMATION, VARIANTS AND

countries are Austria, Belgium, Denmark, Switzerland, and the UK. The restricted or semi-restricted countries are Finland, France, Germany, Greece, Ireland, Italy, Hungary, Luxembourg, the Netherlands, Portugal, Spain, Sweden, with France and Sweden having sub-domains with easier terms for registration of domains based on trademarks. Trademark owners in those countries can file for ".tm.fr" or ".tm.se" domain names. A few ccTLDs are being manipulated to act as "other" than as a country name abbreviation. One of the better marketing success stories for these "general purpose domains" concerns .tv which is run by the TV Corporation International (DotTV) under an agreement with the government of Tuvalu which owns the domain. Both Bloomberg and TBS have obtained .tv ccTLD registrations for key names in view of their companies' presences in television media. DotTV has guaranteed a minimum payment of \$1 million per quarter to Tuvalu; selling .tv domains for general use for television-related sites, goods and services has become the island's largest source of revenue. Similar efforts have been launched for .sr (Suriname) as a domain and e-mail address for "senors, seniors and signores," .co (Colombia) as an alternate to .com, .cc (Cocos Islands) as another alternate to .com, .ws (Western Samoa) as a description for "worldsite," and the recently announced intention to market .bz (Belize) as a site for business. Counsel and client should evaluate the efficacy and need for protection in these specialized domains and take note that many of these charge very hefty fees for registration. In fact, .tv auctions its domains rather than sells them for a set price – a potential budget breaker.

CRAFTING A ccTLD STRATEGY

Four and a half years ago an analytical article on trademarks on the Internet in the Electronic Commerce & Law Report carried the summary header reading: "If new Internet domain name space is created, trademark owners will be faced with a difficult decision. Should they register in any or all of the new domains in order to protect their trademarks, or trust their marks to the courts and global dispute resolution processes?" The question is as pertinent today as it was in early 1998, and arguably, with the continued growth of the Internet especially outside the United States, a domain name registration strategy is ever more important. However, some companies are behind the registration curve, especially in Europe's Internet business community, according to Landwell, the legal offshoot of PricewaterhouseCoopers. In a recent survey of nearly 200 dot-com managers and CEOs in France, Germany, the Netherlands and the UK only 42% had protected their trademarks and domain names in overseas jurisdictions where their websites could be accessed, putting some of those enterprises' most valuable assets – their intellectual property – at risk. This conclusion is reinforced by a survey conducted by Net Searchers at the 2001 International Trademark Association Annual Meeting, finding that more than half of intellectual property specialists, both in-house and in law firms, do not have a strategy for registering domain names worldwide.

PRODUCT DESIGN - PROTECTION 101

By Myron Greenspan

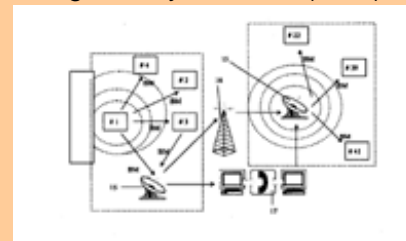
The Problem:

When non-functional elements of a product design are copied or emulated there

PORTABLE DEVICE FOR REALISING THIS METHOD

Patent No.: 6,424,819

Assignee: Cybiko, Inc. (USA)



NON-IMAGING LIGHT SOURCE FOR UNIFORM ILLUMINATION APPLICATIONS

Patent No.:

6,422,718 Assignee: Integrated Systems Technologies Ltd. (United Kingdom)

APPARATUS FOR MEASURING INPUT AND OUTPUT LEVELS OF BASE STATION TRANSMITTERS IN A MOBILE COMMUNICATION SYSTEM

Patent No.: 6,421,332

Assignee: Hyundai Electronics Inc. Co., Ltd., (Republic of Korea)



PROCESS FOR THE PREPARATION OF STABLE YEAST CRYSTALS FOR ENHANCED PRODUCTION OF ETHANOL

Patent No.: 6,420,146

Assignee: Council of Scientific & Industrial Research (India)

PINCH ROLLER BEARING STRUCTURE FOR MAGNETIC TAPE APPARATUS

Patent No.: 6,419,139 Assignee: Funai Electric Co., Ltd. (Japan)

ARYLPIPERAZINYLALKYL-3(2-H)-PYRIDAZINONES Patent No.: 6,413,966 Assignee: FAES, Fabrica Espanola de Productos Quimicos y Farmaceuticos, S.A.

are a limited number of tools in the armamentarium of enforceable rights to stop a competitor. While aesthetic elements may be protectable by copyrights, these are typically protectable only if the elements are works of art that can be separated from and can exist apart from the product itself. Certain product design are specifically excluded from protection by copyright. In the past there has been reliance on the branches of unfair competition dealing with trademarks and trade dress for stopping competitors, whenever the product's appearance was inherently distinctive or unique or had acquired secondary meaning in the market place. In those instances, the principles of trademark law were frequently successfully invoked to protect the public from a likelihood of confusion, since the public associated the non-functional design with a specific source or the original provider of the product. However, the U.S. Supreme Court has now effectively ruled out trade dress protection for most product designs. Therefore, unless a design patent was timely filed protection for the aesthetic design elements may be lost.

An Answer:

Filing a design patent application irrespective of whether there is patentability in the functional aspects of the product design.

1.

No need to rely on trade dress protection, at least initially. Patents afford relatively early protection, without the need to spend substantial advertising dollars.

2.

If an infringing product is introduced before a design patent issues, petition may be filed in USPTO to expedite prosecution and issuance of design patent.

3.

Design patents are provided for by the Patent Act, Title 35, U.S. Code, and premised on Article I, Section 8 of the U.S. Constitution. The Protection is statutory.

4.

Damages are well defined, and provisions exist for treble damages and attorney fees, in instances of willful infringement.

5.

Protection is defined by a great body of decisional law, and made substantially uniform throughout the country by decisions of the Court of Appeals for the Federal Circuit (CAFC).

6.

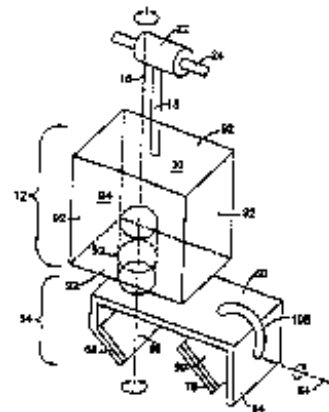
Issuance of a design patent confirms existence of non-functional design elements or components, that can, in time, establish trade dress rights when they acquire secondary meaning, even after the expiration of utility and/or design patents.

7.

While design patents are admittedly narrow in scope and provide limited protection (requiring almost exact copying) the cost for filing a design patent is minimal. The filing of an application enables the product to be marked "Patent Pending" or "Pat. Pend." to ward off potential infringers.

(Spain)

DIGITAL LIGHT PROTECTION APPARATUS WITH DIGITAL MICROMIRROR DEVICE AND ROTATABLE HOUSING
Patent No.: 6,412,972
Assignee: Altman Stage Lighting Co. (USA)



UNIVERSAL FLOATATION CHILD SAFETY SEAT Patent No.: 6,412,865 Assignee: Peter R. Bedard and Thomas V. Giacomponello (USA) FILTER ELEMENT FOR POOL-CLEANING DEVICE Patent No.: 6,409,916 Assignee: Maytronics, Ltd. (USA) TAPE DECK HAVING A BRAKING MEMBER FOR PRODUCING DIFFERENT BRAKING STATES ON A REEL HOLDER Patent No.: 6,405,956 Assignee: Funai Electric Co., Ltd. (Japan) DYNAMIC OVERLOAD CONTROL DEVICE AND METHOD IN DIGITAL MOBILE COMMUNICATION SYSTEM Patent No.: 6,405,045 Assignee: Hyundai Electronics Inds. Co. Ltd. (Republic of Korea)

NEON CRUISING LIGHTS FOR USE WITH MOTOR VEHICLE HEADLIGHTS Patent No.: 6,404,132 Assignee: Liteglow Industries, Inc. (USA)

FOREIGN TRADEMARK DEVELOPMENTS

By Rosemarie B. Tofano

Spain - A new Trademark Law entered into force on July 31, 2002. Applications filed as of July 31st will only be refused based upon prior registrations where the owner of the earlier registration has filed an Opposition. The Spanish Trademark Office will begin notifying owners of "earlier" registrations of the filing of confusingly similar applications for purposes of potential Opposition.

New Zealand - Proposed new trademark law to include: Ten year term for registration; multi-class applications; reduction of the non-use period from five years to three years; abolition of defensive trademark registrations; abolition of infringement by use of registered trademarks in comparative advertisements; and new provisions for criminal liability for trademark infringement.

India - New trademark law passed by Parliament, yet to take effect. Significant changes: Service marks and collective marks are registerable; registration of trademarks which are imitations of well-known marks are not registerable in any class; defensive marks no longer permitted; definition of well-known marks amplified; and Part A and Part B unified into a single Register with simplified procedure of registration and with equal rights.

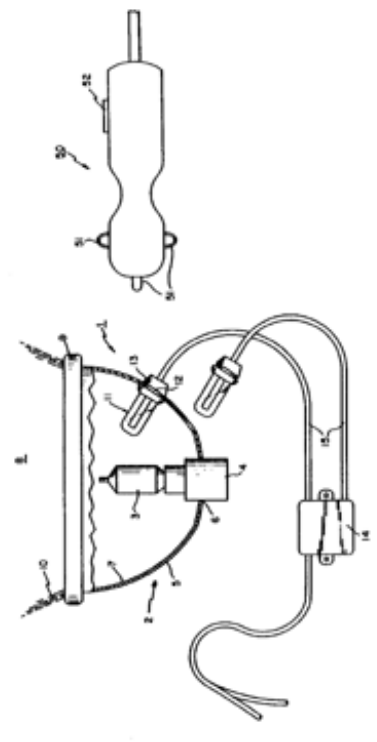
China - New Implementing Regulations under the Trademark Law were entered into force on September 15, 2002. The New Regulations, among other important changes, now allow for assignment of applications; partial registration and cancellation of trademarks; trademark owners to petition before the Trademark Office and the Trademark Review and Adjudication Board for well-known status during opposition or cancellation proceedings; and the removal of a business name that uses a well-known trademark upon application by the owner. Famous trademark filings for foreigners are covered by the Provisional Regulations, which are still under preparation.

TRADEMARK CORNER

Notable, recent LS Trademarks secured by Howard Aronson, Seana LaPlace, Geoffrey Landau and Carol Desmond

Miscellaneous Design Registrant: Shiseido Co., Ltd. (Japan) TERRA NOVA and Design Registrant: Swing Paints Limited (Canada) COOL SUNÉ and Design Registrant: Ellman, Louis OLE! OLE.ES and Design Registrant: Rovira, Jose Valles (Spain) S STRONGMAN and Design Registrant: Garcia, Sergio Ramos (Spain) REACTION Registrant: K.C.P.L., Inc. LA CASERA and Design Registrant: La Casera, Central De Servicios, S.A. (Spain) KC NEW YORK (Stylized) Registrant: K.C.P.L., Inc.

CAFFEINE (Stylized) Registrant: That Alex



HETEROCYCLIC COMPOUNDS FOR THERAPEUTIC USE
 Patent No.: 6,403,629 Assignee: J.B. Chemical and Pharmaceuticals Ltd. (India)
 CAPILLARY ACTION ENHANCED SURFACE MOUNT PIN HEADER Patent No.: 6,402,531 Assignee: Zierick Mfg. Corp. (USA)
 ABSOLUTE ANGULAR SENSOR OF A STEERING SYSTEM FOR VEHICLES Patent No.: 6,400,140 Assignee: Mando Machinery Corp. (Republic of Korea)
 METHOD AND DEVICE FOR TESTING DIFFERENTIAL PROTECTION RELAYS OR DIFFERENTIAL PROTECTION RELAY SYSTEMS Patent No.: 6,396,279 Assignee: Omicron Electronics GmbH (Austria)
 PROCESS AND DEVICES FOR MONITORING FACILITIES IN THE CHEMICAL INDUSTRY Patent No.: 6,385,558 Assignee: BEB ERDAS und Erdol GmbH (Germany)
 TRANSMISSION DEVICE CONTROL SYSTEM EQUIPPED WITH HIGH-EFFICIENCY CODING SCHEME IN COMMUNICATION NETWORK Patent No.: 6,385,314 Assignee: Kokusai Denshin Denwa Kabushiki



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 FINALIZER Registrant: T.C. Electronic A/S (Denmark) PRETTY WOMAN
 Registrant: Triumph Hosiery Corporation ONZE Registrant: Emesco, Ltd.
 COATING ARCHITECTURE Registrant: J.M. Huber Corp. TC Registrant: T.C.
 Electronic A/A (Denmark) EROTIC ROOT Registrant: HSAC, LLC SECURMIX
 Registrant: Eurospital S.P.A. (ITALY) PALM COURTT Registrant: Ascott
 International (Singapore) NETGROCER Registrant: Netgrocer.Com, Inc.
 CLINISERVICE and Design Registrant: Clinic Insurance S.R.L. (ITALY) ZA
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 Telecommunications (France) HYUNDAI CERTIFIED PRE-OWNED and Design
 Registrant: Hyundai Motor America PANDA EGG Registrant: Kabushiki Kaisha
 NKB (Japan) INTERNATIONAL ASSOC. OF PROF. SECURITY
 CONSULTANTS and Design Registrant: Int'ol. Assoc. of Prof. Security
 Consultants TAPING TIGER Registrant: Hyde Mfg. Co. Miscellaneous Design
 Registrant: Mauna Loa Macadamia Nut Corp. (Hawaii) ACAPPELLA Registrant:
 Datamorphosis, Inc. MOTION POTION Registrant: Candie's Inc. PADDOCK
 PALS Registrant: Reeves Int'l., Inc. C and Design Registrant: Candie's Inc.
 QUALITY ON BOARD and Design Registrant: Surge Components Inc. SANTA
 FE Registrant: Hyundai Motor America CANDIE'S Registrant: Candie's Inc.
 MAXXGRIP (Stylized) Registrant: Hyde Mfg. Co. WALLAS Registrant: Wallas-
 Marin OY (Finland) ONE TWO TRADE Registrant: Banque Bruxelles Lambert
 (Belgium) STALKER OUTFITTERS LETHAL FISHING TACKLE and Design
 Registrant: Stalker Outfitters, LLC. BONSER Registrant: Industria Adriatica
 Confezioni S.P.A. (Italy)

B@G (Stylized) Registrant: Indolink Corp.



X NEXT (Stylized) Registrant: Next Management Co., Claxon, Inc., Partnership
 Holding, Inc., and Wilcor Group, Inc., All Corporations of New York State 1 2
 TRADE Registrant: Banque Bruxelles Lambert (Belgium) EVER FLEX
 Registrant: Everlast World's Boxing Headquarters Corp. BEST MOTOR ON
 WHEELS Registrant: Barra, Robert Thomas, DBA Best Motor on Wheels M and
 Design Registrant: Etablissements Marks Morel (France) MASTERSPIN
 Registrant: Altman Stage Lighting Co., Inc. VERSA WRENCH Registrant: S.K.
 Enterprises DEXTER RUSSELL and Design Registrant: Russell Harrington
 Cutlery, Inc. LAUNDRY BRIGHT Registrant: USA Detergents, Inc. EURO CUT
 and Design Registrant: Olympia Group, Inc. KUSHITANI HAMAMATSU and
 Design Registrant: Kushitani Co., Ltd. UNLISTED and Design Registrant: K.C.P.
 L., Inc. ESCORPION Registrant: Amberes, S.A. (Spain) JBC and Design

Kaisha (Japan) MULTILAYER
 MATRIX-ADDESSABLE LOGIC
 DEVICE WITH A PLURALITY
 OF INDIVIDUALLY MATRIX-
 ADDRESSABLE AND STACKED
 THIN FILMS OF AN ACTIVE
 MATERIAL Patent No.:
 6,380,553 Assignee: Pending,
 Invented by Gudesen and Nordal
 (Norway) 50-IN-1
 SCREWDRIVER AND SOCKET
 DRIVER Patent No.: 6,374,711
 Assignee: Pending, Invented by
 Anderson and Cassutti (USA)
 POLYGONAL SPEAKER
 HOUSING WITH LID Patent No.:
 D456,014 Assignee: Pending,
 Invented by Art Richard Powers,
 Jr. (USA) FLAME DETECTION
 DEVICE AND FLAME
 DETECTION Patent No.:
 6,373,393 Assignee: Hochiki
 Kabushiki Kaisha (Japan)
 ASSEMBLY FOR WASHSTAND
 Patent No.: 6,370,711 Assignee:
 Ibergesfer, S.L. (Spain)
 LUMINESCENT DIODE Patent
 No.: 6,3665,920 Assignee:
 Korvet Lights (Russia)
 PROCESS FOR WELDING
 FIXTURE PIPES TO OPPOSITE
 ENDS OF HOLLOW
 STABILIZER'S SUSPENSION
 ARM FOR VEHICLE Patent No.:
 6,365,865 Assignee: Chuohsujo
 Kabushiki Kaisha (Japan)
 PHARMACEUTICAL DENTAL
 FORMULATION FOR TOPICAL
 APPLICATION OF
 METRONIDAZOLE BENZOATE,
 CHLORHEXIDINE GLUCONATE
 AND LOCAL ANESTHETIC
 Patent No.: 6,365,131 Assignee:
 J.B. Chemicals & Pharmaceuticals
 Ltd. (India) DRYING TUNNEL
 FOR FRUIT AND VEGETABLES
 Patent No.: 6,360,452 Assignee:
 Food Machinery Espanola S.A.
 (Spain) FISH TANK WITH
 FILLING BY ASPIRATION OF
 AIR Patent No.: 6,357,391
 Assignee: Antonio Luis Garcia
 Herrero (Spain) PLUNGE
 DRYWALL SAW Patent No.:
 6,357,122 Assignee: Vaughan &
 Bushnell Mfg. Co. (USA) FRONT
 LOADING ADJUSTABLE
 SAFETY UTILITY KNIFE WITH
 SAFETY QUICK-RELEASE
 LOCK Patent No.: 6,357,120
 Assignee: Olympia Group, Inc.

Registrant: Industrias JBC, S.A. (Spain) ISLAND STYLE SMOKED Registrant: Mauna Loa Macadamia Nut Corp. (Hawaii) SEALBAGZ (Stylized) Registrant: U. S. Plastics, Ltd.

BREYER and Design Registrant: Reeves Int'l., Inc.



THE LIFETIME ESTATE PLAN Registrant: The Ettinger Law Firm, P.C. OLYMPIA-TOOLS Registrant: Olympia Group, Inc. THE MEDIA TECHNOLOGY CENTERS Registrant: Media Technology Centers LLC SAGA BABY BLUE Registrant: Tholstrup Cheese A/S (Denmark) SANDLERSCIENCE and Design Registrant: Sandler Communications, Inc. DALL-MILES Registrant: Medimeck AG (Bahamas) SECUREWARE Registrant: Apex Security Hardware Corp. B MAUNA LOA TRUE BLUE REWARDS and Design Registrant: Mauna Loa Macadamia Nut Corp. (Hawaii) VAUGHAN and Design Registrant: Vaughan & Bushnell Mfg., Co. CERRO NEGRO (Stylized) Registrant: Canteras Cerro Negro S.A. (Argentina) TOP HEALTH Registrant: Top Health Inc. NOURISH MY and Design Registrant: Fran Wilson Creative Cosmetics, Inc. CREATIONS PLUS and Design Registrant: Tye-Sil Corp., Ltd. (Canada) AMERICA'S VALUE BRAND and Design Registrant: USA Detergents, Inc. KEMIL Registrant: Emilio Risques Bonet (Spain) LIFFT Registrant: William T. Pordy LEGENDARY FRESHNESS Registrant: Empresa Pesquera Robinson Crusoe S.A. (Chile) RADICOLOR Registrant: Liteglow Industries, Inc. SANTA FE and Design Registrant: Hyundai Motor America OCS and Design Registrant: OCS Security, Inc. WNYC AM 820 /93.9 FM and Design Registrant: WNYC Radio QIORA (Stylized) Registrant: Shiseido Co., Ltd. (Japan) PUFFEN Registrant: Alessandro Sciolari and Emanuele Montani Fargna (Italy) FORDHOOK COLLECTION Registrant: W. Atlee Burpee & Co. CD&L and Design Registrant: CD&L Inc. TECHNAL Registrant: Alcan France Holdings (France) VECTORMARK Registrant: Haas Laser GMBH &Co., KG (Germany) CASTELLO (CASTLE) Registrant: Thorlstrup Cheese A/S (Denmark) THE BIG DIG (Stylized) Registrant: Reeves Int'l., Inc. MEDITERRANEAN FOODS Registrant: Mediterranean Foods, Inc. THE GLOBAL INSTITUTE OF FINANCE AND BANKING Registrant: The American Institute of Banking of Greater New York LET ME B. Registrant: Michael Caruso & Co., Inc. VALENTINA and Design Registrant: Salsa Tamazula, S.A. De C.V. (Mexico) CLIP-N-WEIGHT Registrant: U.S. Balloon Mfg. Co.

(USA) HIGH ENERGY MAGNETIZER/ DEMAGNETIZER WITH MAGNETICALLY ATTACHED FASTENING ELEMENT FOR DRIVING TOOLS Patent No.: 6,356,176 Assignee: Pending, Inventor: Wayne Anderson (USA) METHOD OF APPARATUS FOR THE MANUFACTURE OF CEMENTITIOUS SLAB PRODUCTS Patent No.: 6,355,191 Assignee: Marcello Toncelli (Italy) OPTIMUM VIEWPOINT AUTOMATICALLY PROVIDED VIDEO GAME SYSTEM Patent No.: 6,354,944 Assignee: Sega Corp. (Japan) WRENCH Patent No.: 6,349,621 Assignee: Olympia Group, Inc. (USA) MECHANISM FOR AUTOMATICALLY SETTING PUSH-PULL CONTROL CABLE DEVICE IN STANDBY/CANCEL MODE Patent No.: 6,349,613 Assignee: Chuouhatsujo Kabushiki Kaisha (Japan) MOUTH SHAPE SYNTHESIZING Patent No.: 6,332,123 Assignee: Kokusai Denshin Denwa Kabushiki Kaisha (Japan) FIRE DETECTOR AND NOISE DE-INFLUENCE METHOD Patent No.: 6,329,922 Assignee: Hochiki Kabushiki Kaisha (Japan) SPACER AND MOUNTING STRUCTURE FOR LEAD WIRE EMPLOYING THE SAME Patent No.: 6,325,340 Assignee: Funai Electric Co., Ltd. (Japan) ARM LEG OR NECK WATERTIGHT CONTAINER, FOR HOUSING VALUABLES AND SMALL ARTICLES, SAFELY FASTENABLE TO HUMAN MEMBERS OR TO THE NECK OF DOGS AND OTHER DOMESTIC ANIMALS Patent No.: 6,321,957 Assignee: Pending, Inventor: Federico Rossi (Italy) IMAGE GENERATION APPARATUS, IMAGE GENERATION METHOD, GAME MACHINE USING THE METHOD, AND MEDIUM Patent No.: 6,320,582 Assignee: Sega Enterprises, Ltd. (Japan) DEGASSING UNIT Patent No.: 6,319,398 Assignee: Micro Electronics Inc. Moleh Co.,

Lackebach Siegel LLP

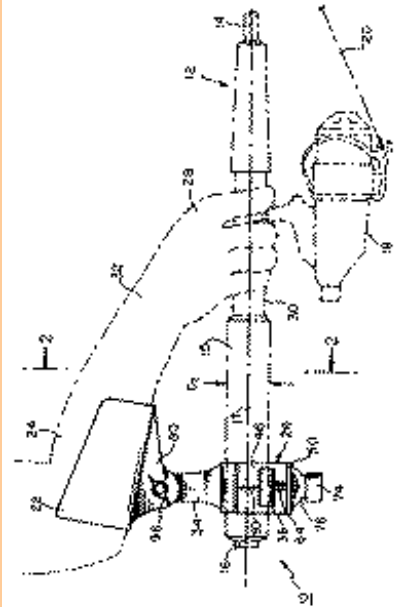
Lackebach Siegel Building - One Chase Road Scarsdale, New York 10583 U.S. A.

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Ltd. (Japan) MICROCID
COMPOSITION Patent No.:
6,316,014 Assignee: Centro de
Bioactivos Quimicos (CBQ)
(Cuba) POWER SWITCHING
DEVICE Patent No.: 6,313,548
Assignee: Hochiki Kabushiki
Kaisha (Japan) COMBINATION
37-WIRE UNILAY STRANDED
CONDUCTOR AND METHOD
AND APPARATUS FOR
FORMING THE SAME Patent
No.: 6,311,394 Assignee:
Nextrom, Ltd. (USA) COMPLETE
HAND TOOL SET IN ONE
HAND TOOL Patent No.:
6,305,256 Assignee: Pending,
Inventors: Wayne Anderson and
Paolo Cassutti (USA) BOTTLE
Patent No.: D449,531 Assignee:
Podlaska Wytwornia Wodek
"POLMOS" (Poland)
CONVERTIBLE WHEELCHAIR
Patent No.: 6,302,429 Assignee:
DA International, Ltd. (USA)
METHOD FOR AUTOMATIC
PROCESSING OF
INFORMATION MATERIALS
FOR CUSTOMISED USE Patent
No.: 6,298,350 Assignee:
Gosudar-Stvenny Nauchno-
Tekhnicheskyy Tsentr
Giperinformatsionnykh
Tekhnology (GNTTS
"GINTEKH") (Russia)

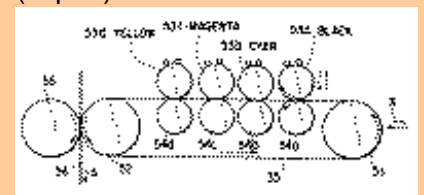
ADJUSTABLE ARM
SUPPORT FOR FISHING
ROD HANDLE
Patent No.: 6,295,755
Assignee: Pending, Inventor:
Michael Macaluso



(USA) COMPUTER-CONTROLLED GAME DEVICE WITH CASSETTE ROM AND CD-ROM Patent No.: 6,288,993 Assignee: Sega Corporation (Japan) POWER MAINS SUPPLY UNIT FOR DIRECTLY AND / OR INDIRECTLY SUPPLYING CONSUMERS WITH POWER Patent No.: 6,285,570 Assignee: Siemens Aktiengesellschaft (AT) RAPID PAPANICOLAOU STAINING METHOD FOR CERVICO-VAGINAL SPECIMENS Patent No.: 6,284,543 Assignee: Pending, Iliana I. Alvarez (USA) CONDUCTIVE RUBBER ROLLER Patent No.: 6,283,903 Assignee: Kinoyosha Co., Ltd. (Japan) LOCKING DEVICE AND ITS RELATED ASSEMBLAGE Patent No.: 6,276,833 Assignee: Delta Electronics, Inc. (Taiwan) TAPE MEASURE WITH TAPE BRAKING CONTROL MECHANISM Patent No.: 6,276,071 Assignee: Olympia Group, Inc. (USA) METHOD AND APPARATUS FOR THE AGGREGATION AND SELECTIVE RETRIEVAL OF TELEVISION CLOSED CAPTION WORD CONTENT ORIGINATING FROM MULTIPLE GEOGRAPHIC LOCATIONS Patent No.: 6,266,094 Assignee: Medialink Worldwide Inc. (USA) CABLE END STRUCTURE FOR PULL-CABLE Patent No.:

6,263,757 Assignee:
Chuohatsujo Kabushiki Kaisha
(Japan) DUAL WASHBASINS
AND FURNITURE STAND
Patent No.: D445,490 Assignee:
Ibergesfer, S.L. (Spain)
SEALING DEVICE FOR AN
ANNULAR GAP BETWEEN
TWO SEALING SURFACES OF
MACHINE PARTS Patent No.:
6,260,852 Assignee: Paul
Troester Maschinenfabrik
(Germany) SUSPENSION
SYSTEM FOR VEHICLE Patent
No.: 6,260,836 Assignee:
Chuohatsujo Kabushiki Kaisha
(Japan) COMPACT DISC Patent
No.: D445,113 Assignee: Shape
CD, Inc. (USA) FRONT
OPENING CORNER SOAP
DISH Patent No.: D444,333
Assignee: Ibergesfer, S.L.
(Spain) DETECTED
INFORMATION DISPLAY
SYSTEM IN FIRE DETECTING
SYSTEM Patent No.: 6,249,220
Assignee: Hochiki Kabushiki
Kaisha (Japan)

PRINTING APPARATUS
FOR PRINTING ON A
MEDIUM BY
TRANSFERRING A
PLURALITY OF
DIFFERENT COLOR INKS
ONTO AN ELASTIC
ENDLESS BLANKET
Patent No.: 6,244,176
Assignee: Kinyosha Co. Ltd.
(Japan)



DIFFERENTIAL LENGTH
METERING APPARATUS AND
METHOD FOR THE CABLING
OF INSULATED CONDUCTORS
WITH FILLERS USING THE
DOUBLE TWIST PROCESS
Patent No.: 6,230,478 Assignee:
Nextrom Ltd. (USA)
FRACTIONAL INDICIA ON
MEASURING IMPLEMENTS
Patent No.: D442,099 Assignee:
Olympia Group, Inc. (USA)
OPTICAL DISC APPARATUS

FOR SELECTIVELY READING
DATA AND AUDIO OUTPUT
FROM CD-ROM Patent No.:
6,229,776 Assignee: Funai
Electric Co., Ltd. (Japan)
SOLVENT DELIVERY PUMP
ASSEMBLY Patent No.:
6,228,153 Assignee: Micro
Electronics Inc. Moleh Co., Ltd.
(Japan) FAILSAFE WELD-FREE
METHOD OF JOINING
TUBULAR ELEMENTS Patent
No.: 6,227,752 Assignee: DA
International, Ltd. (USA)
APPARATUS FOR TREATING
ORGANIC RAW WATER
UTILIZING ANAEROBIC
MICROORGANISMS Patent No.:
6,224,756 Assignee: Hongo Co.,
Ltd. (Japan) CYCLORAMA
LIGHT Patent No.: 6,220,731
Assignee: Altman Stage Lighting
Co., Inc. (USA) CONTROL
CABLE Patent No.: 6,216,554
Assignee: Chuohatsujo
Kabushiki Kaisha (Japan)
WHEELS-ON BRAKE DRUM
GAGE Patent No.: 6,216,357
Assignee: Central Tools, Inc.
(USA) CABLE END
STRUCTURE FOR PULL-
CABLE Patent No.: 6,209,414
Assignee: Chuohatsujo
Kabushiki Kaisha (Japan)
PRESS FIT PRINT CIRCUIT
BOARD CONNECTOR Patent
No.: 6,206,735 Assignee: Teka
Interconnection Systems, Inc.
(USA) SAE AND METRIC
MEASURING TAPE WITH
FRACTIONAL MARKINGS FOR
A TAPE MEASURE Patent No.:
D439,531 Assignee: Olympia
Industrial, Inc. (USA) CRT
DRIVING CIRCUIT Patent No.:
6,204,616 Assignee: Funai
Electric Co., Ltd. (Japan) DOOR
LOCK ASSEMBLY HAVING AN
AUTOMATICALLY ACTUATED
LATCH MECHANISM Patent
No.: 6,196,035 Assignee:
Pending, Inventor: Kai-Liang Tsui
(Taiwan) DRAW-IN NIPPLE FOR
A PLETTE OR CLAMP-ON
PLATE FOR SECURING
WORKPIECES FOR THE
PURPOSE OF METAL
MACHINING Patent No.:
6,174,114 Assignee: Emil Stark
(Austria) PROCEDURE FOR
DETOXIFICATION OF

SHELLFISH, CONTAMINATED WITH PARALYTIC SHELLFISH TOXINS Tepual S.A. (Chile)
GAME PROCESSING METHOD, GAME DEVICE, IMAGE PROCESSING DEVICE, IMAGE PROCESSING METHOD, AND RECORDING MEDIUM Patent No.: 6,171,186 Assignee: Kabushiki Kaisha Sega Enterprises (Japan) GROUP TWINNER FOR SINGLE AND DOUBLE CONDUCTOR BOBBINS AND METHOD OF MAKING COMMUNICATION CABLES Patent No.: 6,167,687 Assignee: Nextrom Ltd. (USA)

