



Understanding IP : Supporting Your Commercial Objectives

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ABOUT WRAYS

Wrays is a firm of Intellectual Property experts, patent and trade marks attorneys, lawyers, and corporate advisers

Founded in Perth in 1920

Proud supporters of WA innovation and entrepreneurship



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THE PLAN

What is IP and why is it important?

Key IP concepts

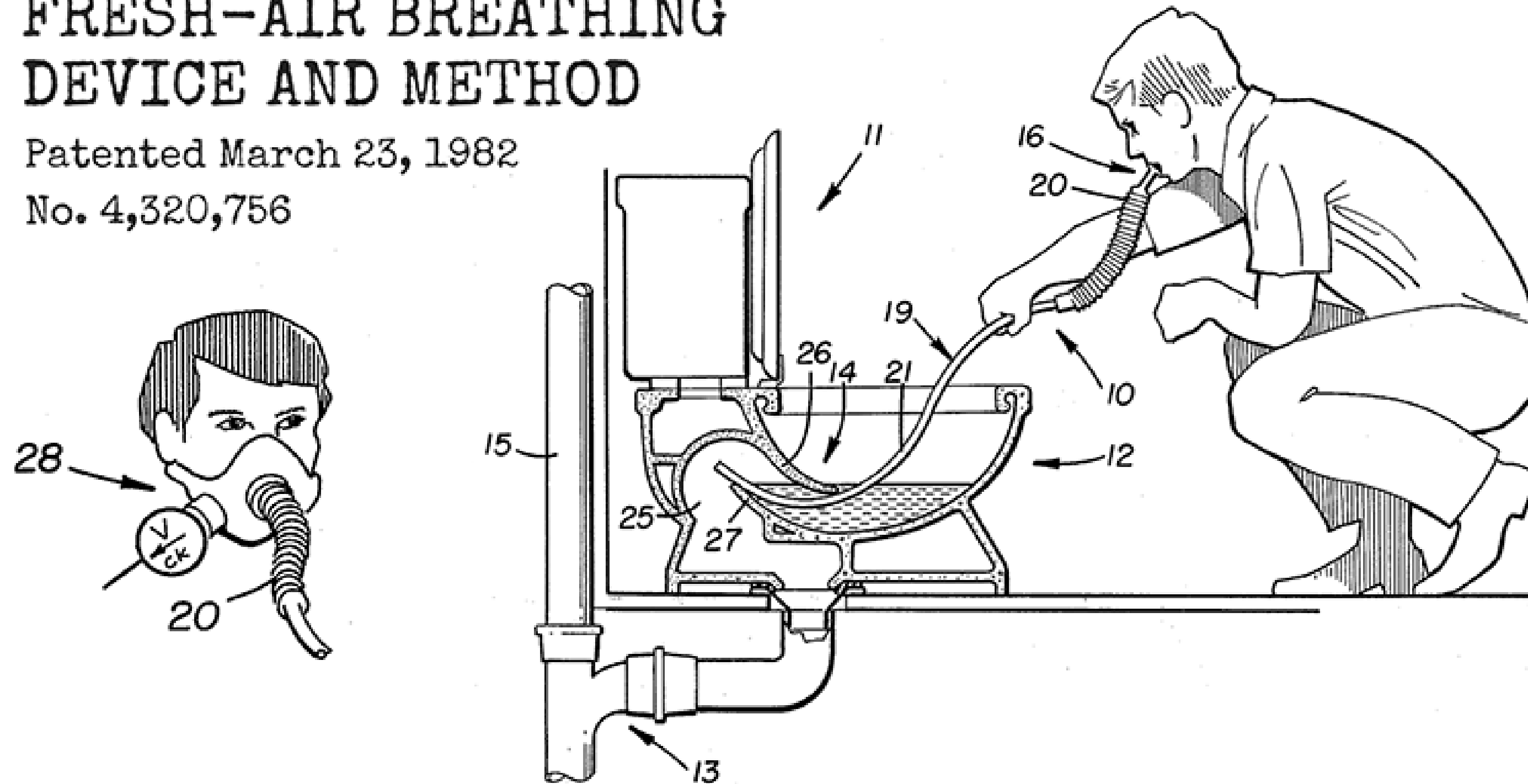
IP management considerations

Patent tour de 'idiocy

WILLIAM O. HOLMES
FRESH-AIR BREATHING
DEVICE AND METHOD

Patented March 23, 1982

No. 4,320,756



What is IP?

“Intellectual Property (IP) refers to creations of the mind such as inventions, designs, brand names, software, processes and data”

Why is IP important?

Monopoly rights

Investor confidence

Commercialisation options

Bargaining power

Minimises risk to business

R&D clarity



Sustainable competitive advantage

Market value

Future revenue streams

Options/choice

IP positively impacts valuations

Plenty of measured and anecdotal evidence exists supporting increased business/technology valuations where a strong IP position can be brought to bear

Patents and trade marks increase investors' estimates of business value by around 20%

SMEs that own IP rights on average employ 3.5x people as their peers with no IP rights and pay a higher median wage

Doubling patent stock boosts start-up valuations by 20%

SMEs that file for patents are more than 2x more likely to achieve high turnover growth than their peers

IP takes many different forms

Concepts

Documents

Software

Know-how

Data

Trade
secrets

Inventions

Processes

Drawings

Control
Strategies

Product
labelling

Reports

Trade Names

Logos

Branding

Pictures

Results

Ideas

Confidential
Information

Programs

IP rights types

Registered IP

patents, registered designs,
registered trade marks,
plant breeders rights

Unregistered IP

copyright, confidential information,
trade secrets, know-how, circuit
layouts, unregistered trade marks,
goodwill

One innovation – multiple rights

Patents

Protect processes or how a product works

Trade Marks

Protect the names/ brands

Copyright

May protect any software, the packaging artwork, and the user manuals

Registered Designs

Protect the visual appearance of the products

Proprietary Information

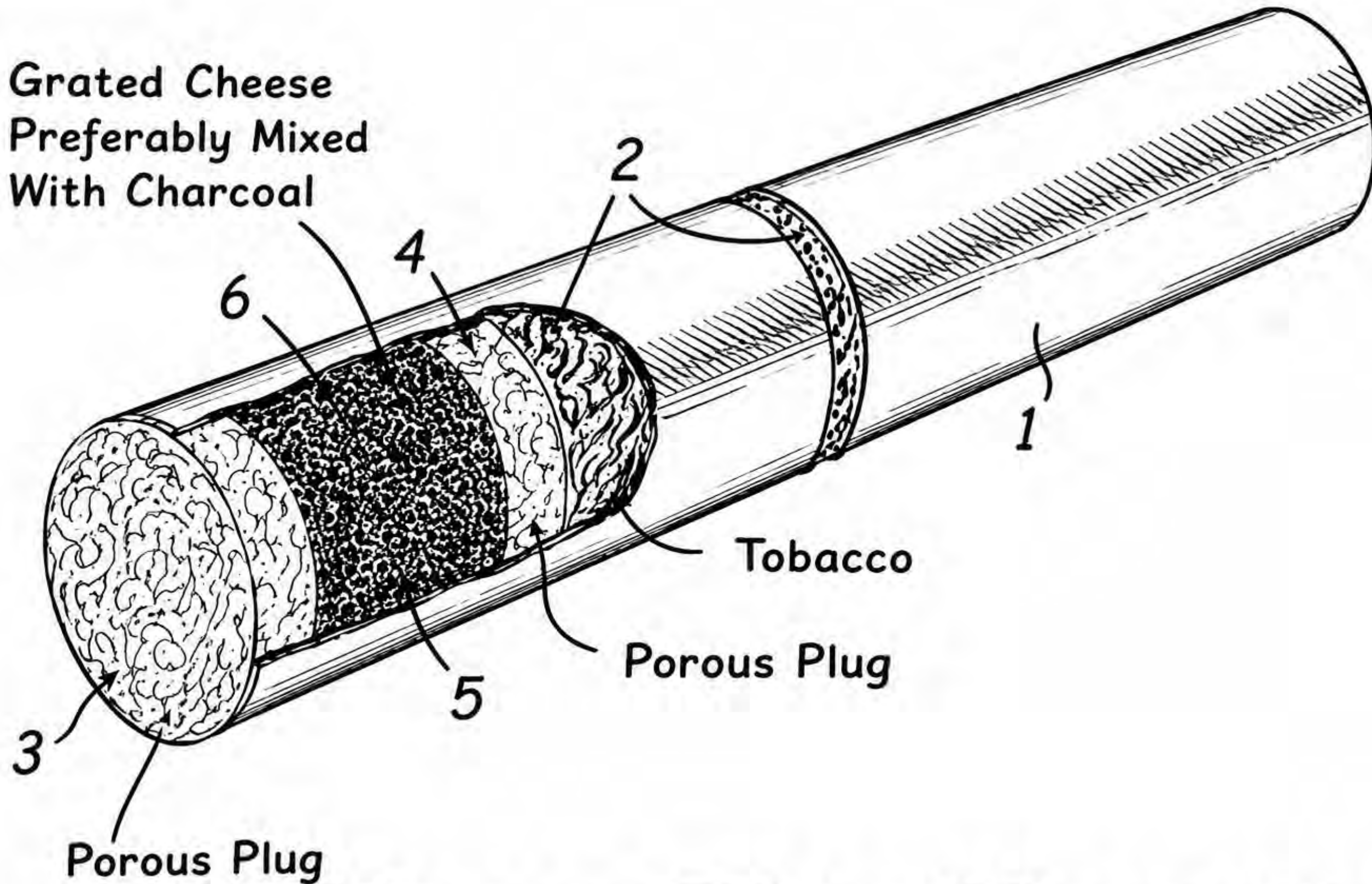
Relating to processes, data, know-how and operations

Circuit Layout Rights

Protect the design of the printed circuit boards



Grated Cheese
Preferably Mixed
With Charcoal



Cheese Filter Cigarette

Patents

- Provides monopoly over function or operation
- Three essential criteria
 1. Novelty
 2. Inventive step
 3. Is it patentable subject matter?
- Finite life and annual renewals
- Strategy recommended prior to filing



US 20140224195A1

(19) **United States**

(12) **Patent Application Publication**
Tsukahara et al.

(10) **Pub. No.:** US 2014/0224195 A1
(43) **Pub. Date:** Aug. 14, 2014

(54) **SIX-STROKE ENGINE**

Publication Classification

(75) **Inventors:** Ei Tsukahara, Shizuoka (JP); Takuro
Kamichika, Shizuoka (JP)

(51) **Int. Cl.**
F02B 75/02 (2006.01)
(52) **U.S. Cl.**
CPC **F02B 75/021** (2013.01)
USPC **123/64**

(73) **Assignee:** YAMAHA HATSUDOKI
KABUSHIKI KAISHA, Iwata-shi,
Shizuoka (JP)

(57) **ABSTRACT**

A six-stroke engine includes a cylinder, a piston, a cylinder head, a combustion chamber, cylinder injector, a spark plug, an intake port, an exhaust port, an intake valve, an exhaust valve, a valve gear, and a control device. The valve gear operates the intake valve and the exhaust valve to execute six strokes including an intake stroke, a compression stroke without ignition, an expansion stroke without combustion, a compression stroke with ignition, an expansion stroke with combustion, and an exhaust stroke in this order. The control device is programmed to cause the cylinder injector to inject fuel and to energize the spark plug in the compression stroke with ignition.

(21) **Appl. No.:** 14/129,568

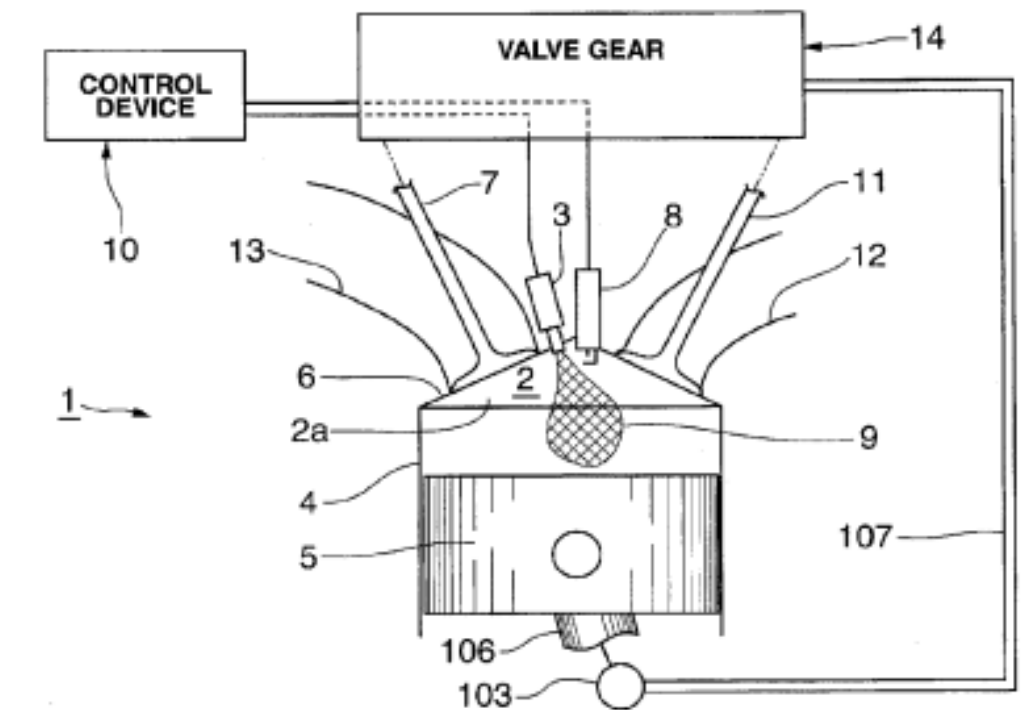
(22) **PCT Filed:** Jul. 2, 2012

(86) **PCT No.:** PCT/JP2012/066919

§ 371 (c)(1),
(2), (4) **Date:** Feb. 26, 2014

(30) **Foreign Application Priority Data**

Jun. 30, 2011 (JP) 2011-145518



Mythbusting – Patents

I have filed a world-class patent!

NO!

Securing your own IP rights guarantees
freedom to operate!



Trade secrets

Are:

- Information that gives a competitive advantage because it is not generally known
- Something the business can evidence, control and keep confidential
- Useful when strategically managed

Are not:

- A form of protection that safeguards against reverse engineering
- Useful when poor controls or safeguards are in place
- A perfect substitute for a patent



Trade secrets vs Patents

ISSUE	PATENTS	TRADE SECRETS
Possible Term	20 years	Duration of secret
Independent Discovery	Protect against this - and often reverse engineering	No protection against this or reverse engineering
Scope for Publication	Yes - possible	No opportunity
Enforcement	Infringement	Breach of confidence, contract, fiduciary duty etc
Scope of Protection	Can be broadened beyond specific discovery	Specific to particular secret

Trade Marks

- Protects your brand identity
- Essential step in formally protecting a brand
- Individual rights in individual jurisdictions
- Different categories/classes for different goods/services
- 10-year registration period
- Unregistered or registered



TM

Brand management



Classes:

21: Vacuum flasks, steel jacketed and lined vacuum bottles, other vacuum bottles, and stainless steel jugs having stainless steel inner liners

Owner: Pacific Market International LLC



Classes:

1, 6, 7, 8, 9, 11, 16, 17, 18, 20, 21, 25, 28

21: Painters' gloves, sponges for spackling, sanding, printing, and wallpaper, gloves for gardening and household utility use, garden sprinklers, plant holders and pots, watering cans

Owner: Stanley Black & Decker, INC



Brand management

New Brand Adoption

~~Same/Similar
Registrations~~

Distinctive

~~Descriptive
Terms~~

No Similar
Marks

~~Geographical
Indications~~

Registrable

~~Pronouns~~

Check Other
Markets

Registration/Use Overseas – consider early

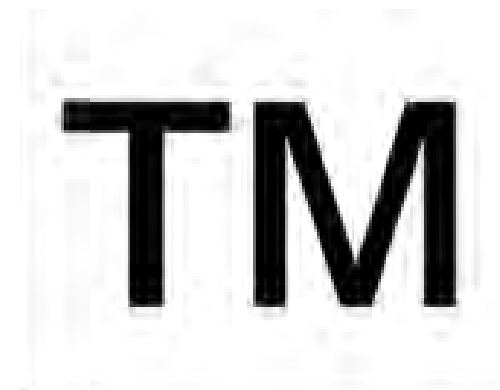
- **Madrid Protocol** – 1 application, multiple countries
- Beware 1st to file countries
- Translations – is localised version/pronunciation of brand different?
- Meanings – check for potentially different meanings in key markets

Registered vs Unregistered – both may be options

- **Registration is best way to prevent replication!**
- Use appropriate marking



vs



Mythbusting – Trade marks

Business name registered means brand is

NO!

Domain name is free means brand is free
to use



The image shows a document titled "Record of Registration for Business Name" issued by ASIC (Australian Securities & Investments Commission). The document is for the business name "FANTASTIC GARAGE DOORS". It includes the date of registration (12 May 2009) and the next renewal date (12 May 2018). The document is signed by Rosanne Bell, Senior Executive Leader, Registry. The document is labeled "RECORD OF REGISTRATION" vertically on the right side. The footer includes "FANTASTIC GARAGE DOORS" and "Page 1 of 3".

 **ASIC**
Australian Securities & Investments Commission

**Record of Registration
for Business Name**

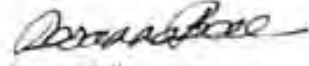
Business name information for:

FANTASTIC GARAGE DOORS

This Record of Registration contains information recorded on the Australian Securities and Investments Commission's (ASIC) register under section 33(8) of the Business Names Registration Act 2011.

Date: 12 May 2009
Next renewal date: 12 May 2018

Record of registration issued by the Australian Securities and Investments Commission on 13 May 2015.


Rosanne Bell
Senior Executive Leader
Registry

RECORD OF REGISTRATION

FANTASTIC GARAGE DOORS

Page 1 of 3

Dec. 9, 1947.

C. ADLER, JR

2,432,078

AIRPLANE HORN

Filed April 4, 1946

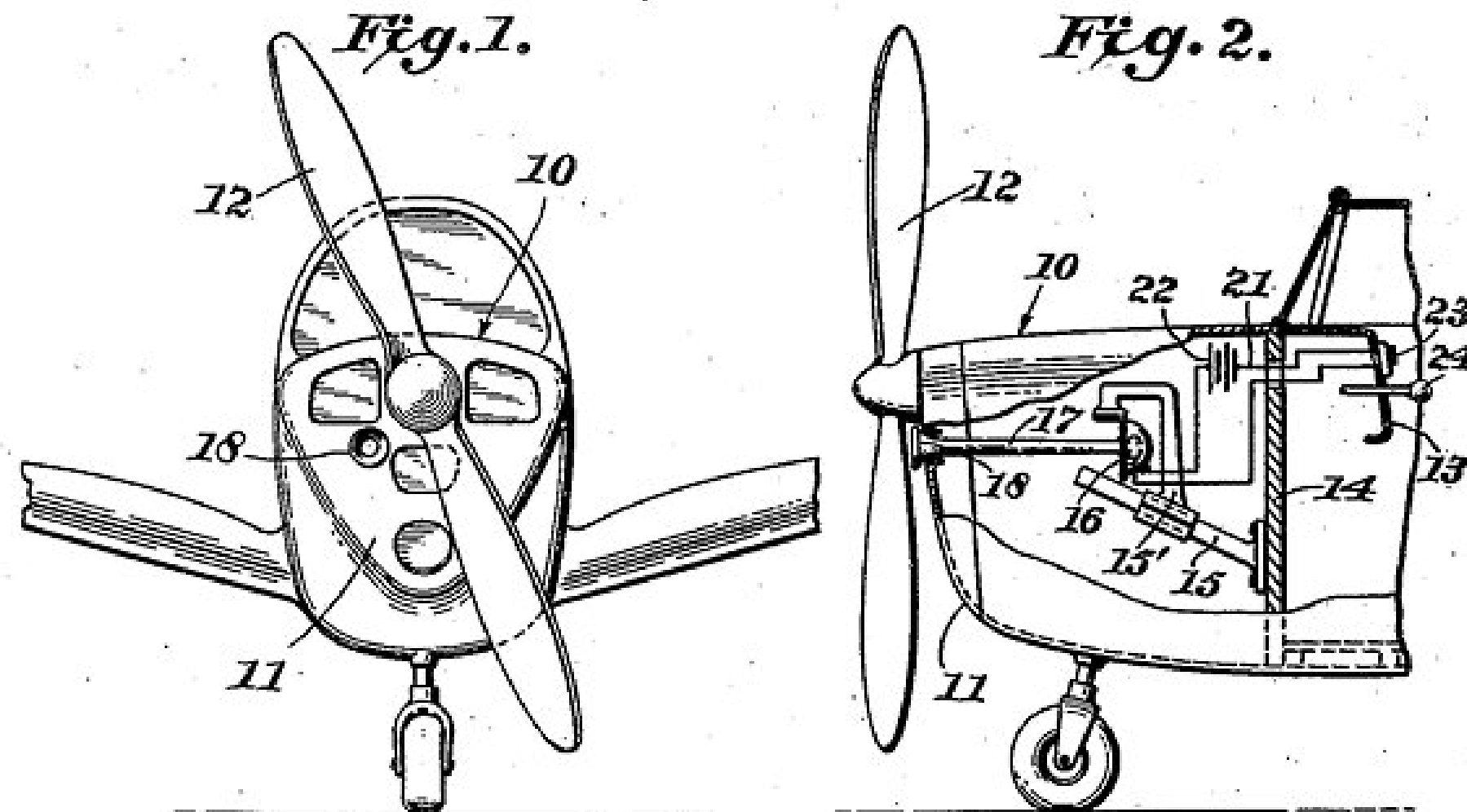


Fig. 3.

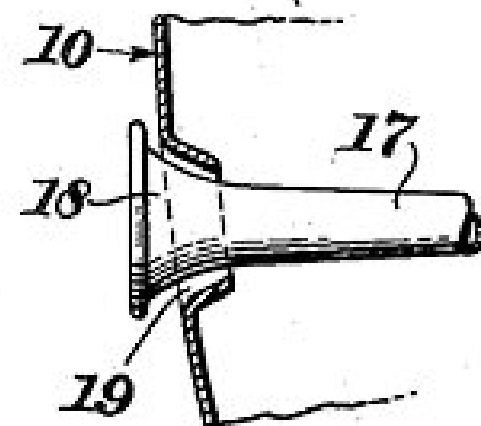


Fig. 4.

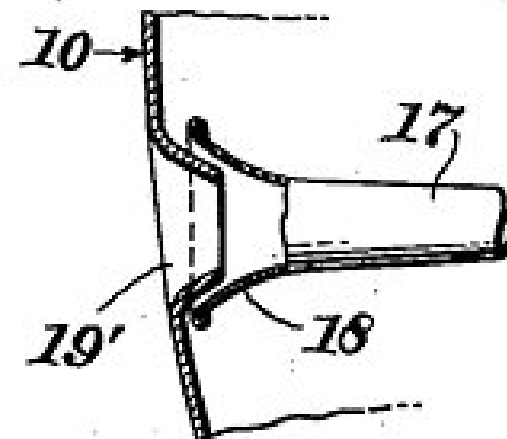
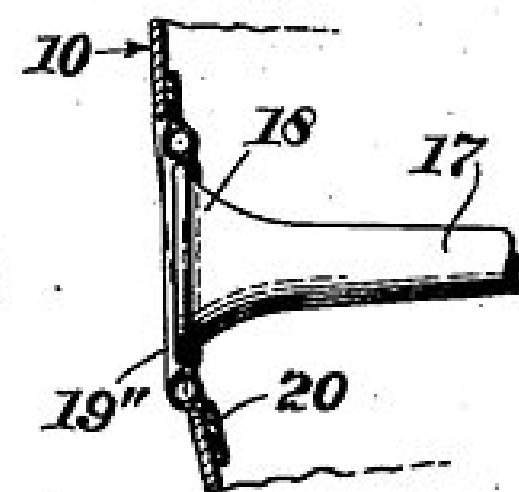


Fig. 5.



Registered Designs



Mythbusting – Registered designs

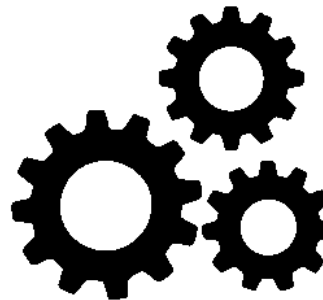
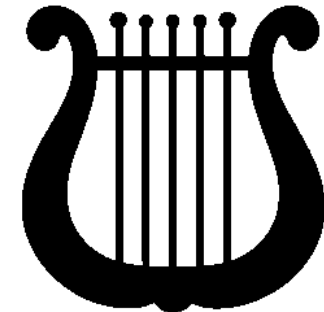
You only have to change the product by 10% to get around a registered design right

NO!

Designs only provide limited protection and so are useless!



Copyright



Copyright protects expression- not the idea

Copyright Protects

- Software code
- Drawings and diagrams
- Written content
- Images and creative works
- Training materials and manuals

Does not protect

- An abstract idea
- Independent creation
- A general method or function
- Facts as such



Mythbusting – Copyright

You only have to change something by
10% to avoid someone's copyright

NO!

Anything published on the internet is
public domain



Think about an “IP asset bundle”





(12) **United States Patent**
Donnelly

(10) **Patent No.:** **US 8,668,088 B2**
(45) **Date of Patent:** ***Mar. 11, 2014**

(54) **SANITARY CANDLE COVERS FOR CAKES AND CUPCAKES**

(56) **References Cited**

U.S. PATENT DOCUMENTS

(71) Applicant: **Brian Donnelly**, East Northport, NY (US)
(72) Inventor: **Brian Donnelly**, East Northport, NY (US)

1,125,855 A	1/1915	Mapes
1,511,004 A	10/1924	Poach
1,778,597 A	10/1930	Hertzog
1,879,477 A	9/1932	Powell
1,982,723 A	12/1934	Bantleon
2,303,540 A	6/1940	Montgomery
2,393,267 A	1/1946	Gould
2,496,777 A	9/1946	Koretzky
2,468,505 A	4/1949	Mineill
D157,043 S	1/1950	Gruber
2,617,350 A	11/1952	Shol
2,758,458 A	8/1956	Carlson
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3,076,577 A	2/1963	Craig

(Continued)

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FR 2592782 A1 7/1987
WO 2009/111821 A1 9/2009

Primary Examiner — Steven A. Reynolds

Assistant Examiner — Ernesto Grano

(74) *Attorney, Agent, or Firm* — Alfred M. Walker

(57) **ABSTRACT**

A sanitary cake cover with a removable candle deck, which protects the contents of the cake from contamination during blowing out of celebratory candles. The transparent cake cover includes a removable candle deck for at least one candle, which does not pierce the cake or cover being decorated by lighted celebratory candles. The cake cover can be used without the candle deck. The sanitary cake cover is impervious to assault by normal airborne contaminants, such as dust and dirt as well from contaminated expelled breath during the act of blowing out candles. The separate removable candle deck is removable to enable the container to be used for other food items without the obstruction of candle recesses. The flat top of the cover has a peripheral top ridge forming a flat central depression of dimensions to fit the flat candle deck.

18 Claims, 16 Drawing Sheets

(65) **Prior Publication Data**

US 2013/0248402 A1 Sep. 26, 2013

Related U.S. Application Data

(63) Continuation-in-part of application No. 13/430,194, filed on Mar. 26, 2012, now Pat. No. 8,459,456.

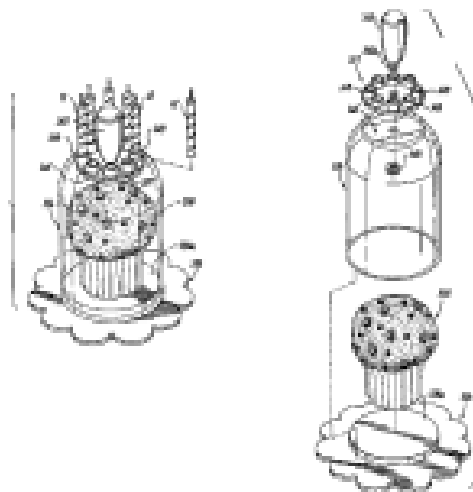
(60) Provisional application No. 61/468,628, filed on Mar. 29, 2011, provisional application No. 61/475,302, filed on Apr. 14, 2011.

(51) **Int. Cl.**
B65D 73/00 (2006.01)

(52) **U.S. Cl.**
USPC 206/457; 431/295

(58) **Field of Classification Search**
USPC 206/457, 459.5, 499, 223, 508, 519, 206/521

See application file for complete search history.



U.S. Patent

Mar. 11, 2014

Sheet 1 of 16

US 8,668,088 B2

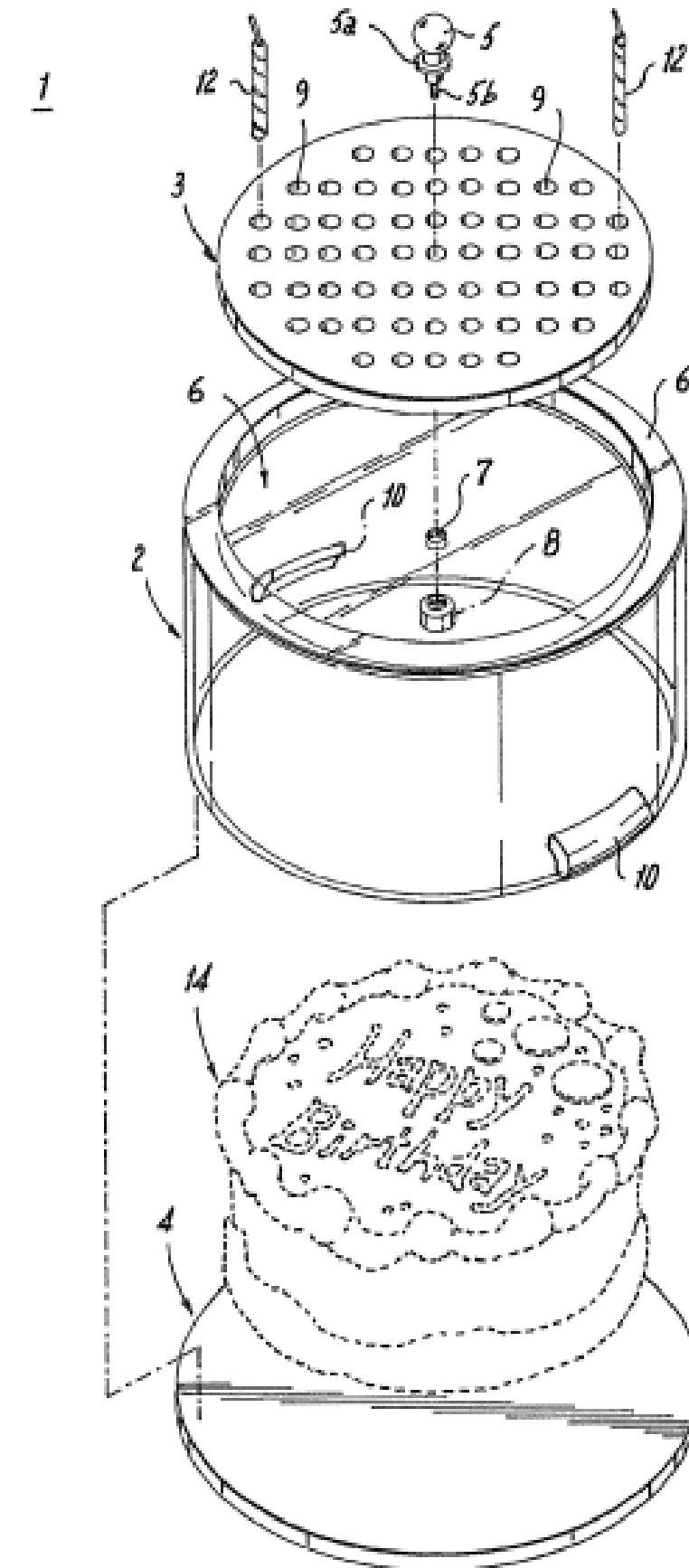


Fig. 1

AI generated IP

AI presents new opportunities to assist with ideation and business. It also presents several new challenges which require consideration:

To what extent can I protect what has been generated?

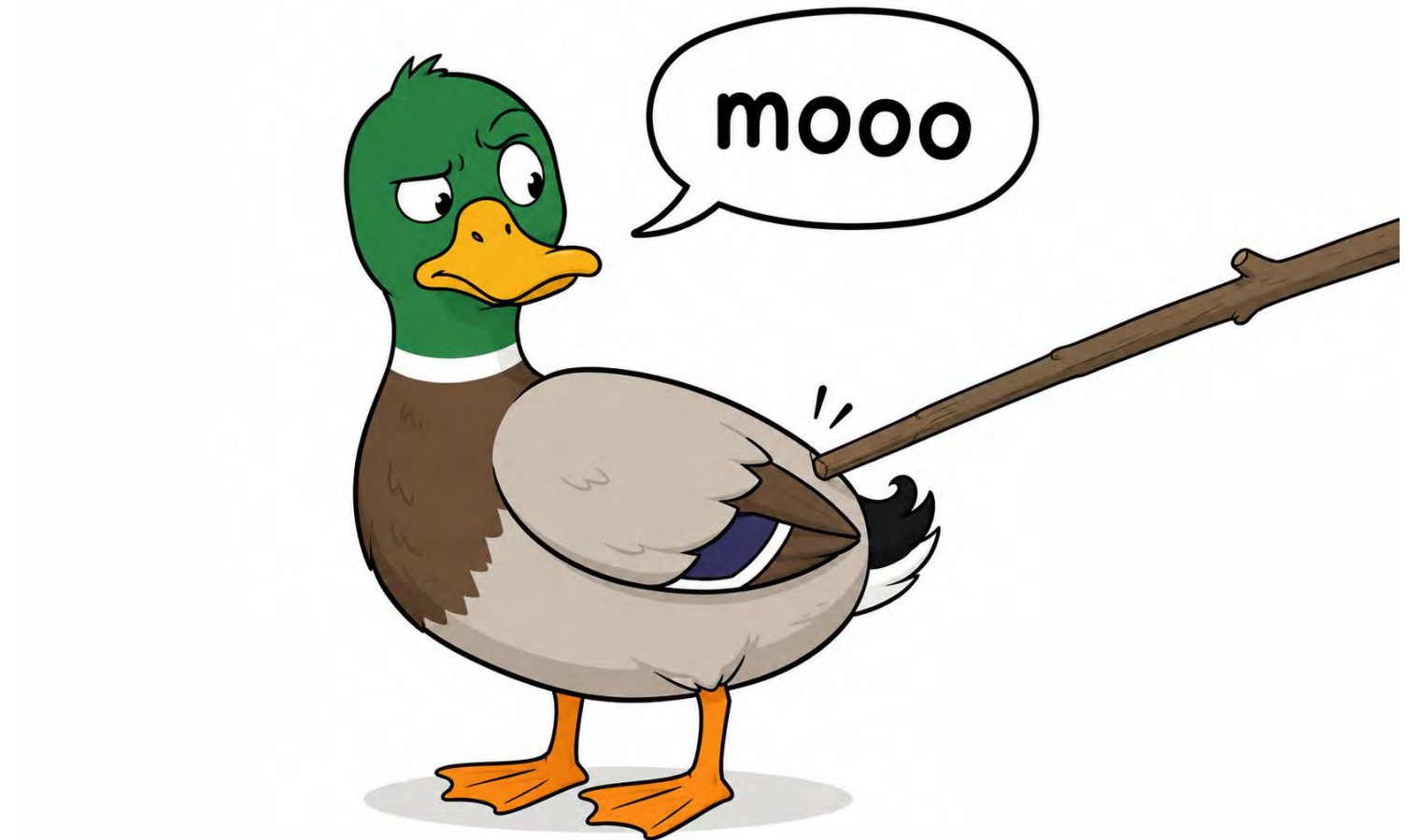
Are you infringing someone else's IP rights?

Unintentional infringement isn't an excuse!

AI generated IP – Considerations

Using AI in generating IP can and will impact what protections are available

- Understand the limitations that AI or software can place on your protection options
- What are you **disclosing**, and what happens to your disclosures by others?
- What **ownership rights** do you have whilst using AI assisted software?
- Is the author, ‘**an author**’ legally?
- Can you **validate** you’re not infringing someone else's rights?
- Is the “quality” of the output relevant?



AI generated content is fit for a purpose, but not every purpose

Mythbusting - AI

My AI can be the legal owner of intellectual property

Anything created by AI is automatically free to use without restriction

NO!

 Midjourney

 ChatGPT

 Hugging Face

 DALL-E 2

 stability.ai

 Bard

 NovelAI

 CapCut

 Google AI

 Bing

 OpenAI

 character.ai

IP landscape

Very worthwhile monitoring and understanding “your IP space”

Inform business planning activities

Avoid ‘reinventing the wheel’

Revolutionary vs evolutionary technology?

Avoid infringement of 3rd party IP rights

Highlight potential need to ‘license in’ IP

Early detection of infringing activities

Knowledge
can benefit
the business
in numerous
ways

Commercialisation options

Each comes with unique legal and business implications

Assignment or sale of IP assets

Licensing or sub-licensing options

Franchising models

Merger or acquisition activities

Manufacture and supply arrangements

Joint venture or collaborative efforts



IP ownership & access

Ensure clear
‘chain of entitlement’
to key IP assets

Clear rules of engagement

Employee obligations

Contractor obligations

Background IP vs Project IP

Rules re. Improvements

When agreements fail

Poorly understood or inadequate agreements can result in several unfavourable and often irreversible outcomes for IP

- Dilution or surrender of IP ownership
- Forego some or all rights to IP improvements
- Complicate or erode ownership position
- Licensing:
 - To someone else w/o fit for purpose protection
 - Caution around royalty calculations
 - Provisions around manufacturing
 - Clauses which limit **your** ability to assign IP
 - Sufficient provisions to exit



Success modifiers

Fails to seek professional advice when required

Disclosing too much information, or incorrectly

Not capturing and managing IP

Dilutes IP ownership carelessly or gives it away without knowing

Failing to use contracts and agreements

Infringes third-party rights

Failing to monitor and research the IP landscape

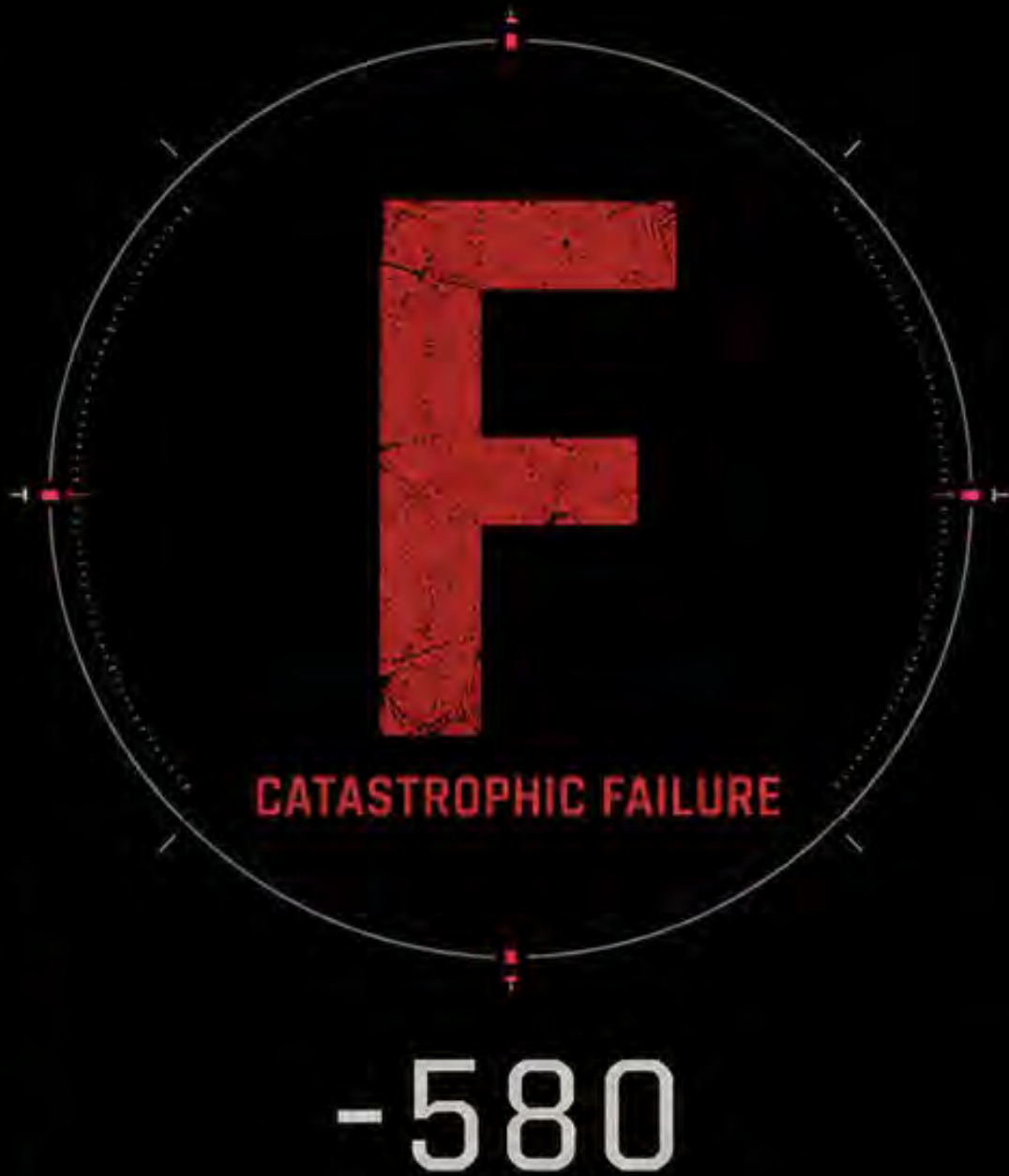
Doesn't read and understand contracts and agreements

Doesn't protect or value IP

IP MANAGEMENT REVIEW

POST-REVIEW DEBRIEF

REVIEW TIME 00:44.00
BEST PRACTICE 05:54.00



SCORES

GOOD IP MANAGEMENT FACTORS

1. Basic company name registered	COMPLETED	+10
2. One NDA template in place	COMPLETED	+10
3. Domain name secured	COMPLETED	+5
4. Trade mark search started	IN PROGRESS	+5
5. Some key documents retained	COMPLETED	+10

POSITIVES TOTAL +40

IP MISTAKES / RISKS

Public disclosure before filing	-150	1
No contractor IP assignment	-120	1
Core invention copied from unvetted AI output	-80	1
Trade secrets shared with third parties	-90	1
No freedom-to-operate review	-60	1
No evidence chain or invention records	-40	1
Brand launched without clearance	-35	1
Unprotected overseas disclosure	-45	1
Patent rights likely lost	-40	1

DETRACTORS TOTAL -660

FINAL SCORE +40 - 660 = -620

RISK PROFILE EXTREME

EXPORT REPORT

REVIEW SETTINGS

TRY AGAIN

RETURN TO DASHBOARD

IP MANAGEMENT REVIEW

POST-REVIEW DEBRIEF

REVIEW TIME 00:44.00

BEST PRACTICE 05:54.00



SCORES

GOOD IP MANAGEMENT FACTORS

1. Ownership chain verified	COMPLETED	+100
2. Confidentiality controls in place	COMPLETED	+80
3. Patent and filing strategy aligned	COMPLETED	+90
4. Trade mark protection secured	COMPLETED	+70
5. Contractor and employee IP assignments executed	COMPLETED	+75
6. Freedom-to-operate reviewed	COMPLETED	+65
7. IP register maintained	COMPLETED	+60
8. Trade secret controls implemented	COMPLETED	+70

POSITIVES TOTAL +610

IP MISTAKES / RISKS

Minor recordkeeping gap	-10	1
AI disclosure exposure	-5	1
Delayed invention capture	-10	1

DETRACTORS TOTAL -25

FINAL SCORE +610 - 25 = +585

RISK PROFILE LOW

EXPORT REPORT

REVIEW SETTINGS

TRY AGAIN

RETURN TO DASHBOARD

Think like the investor

- What risks are present?
- What access issues are there?
- Do you have freedom to operate?
- Is their investment practically able to pay a future dividend?
- Can you '**steal**' from the founder



US 20090195400A1

(19) **United States**

(12) **Patent Application Publication**
Oreshkin

(10) **Pub. No.: US 2009/0195400 A1**
(43) **Pub. Date: Aug. 6, 2009**

(54) **ZIPPER WARNING ALARM SYSTEM**

Publication Classification

(76) **Inventor:** Viktor Oreshkin, Seattle, WA (US)

(51) **Int. Cl.**
G08B 21/00 (2006.01)

Correspondence Address:
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247 (US)

(52) **U.S. Cl.** 340/686.1

(21) **Appl. No.:** 12/258,356

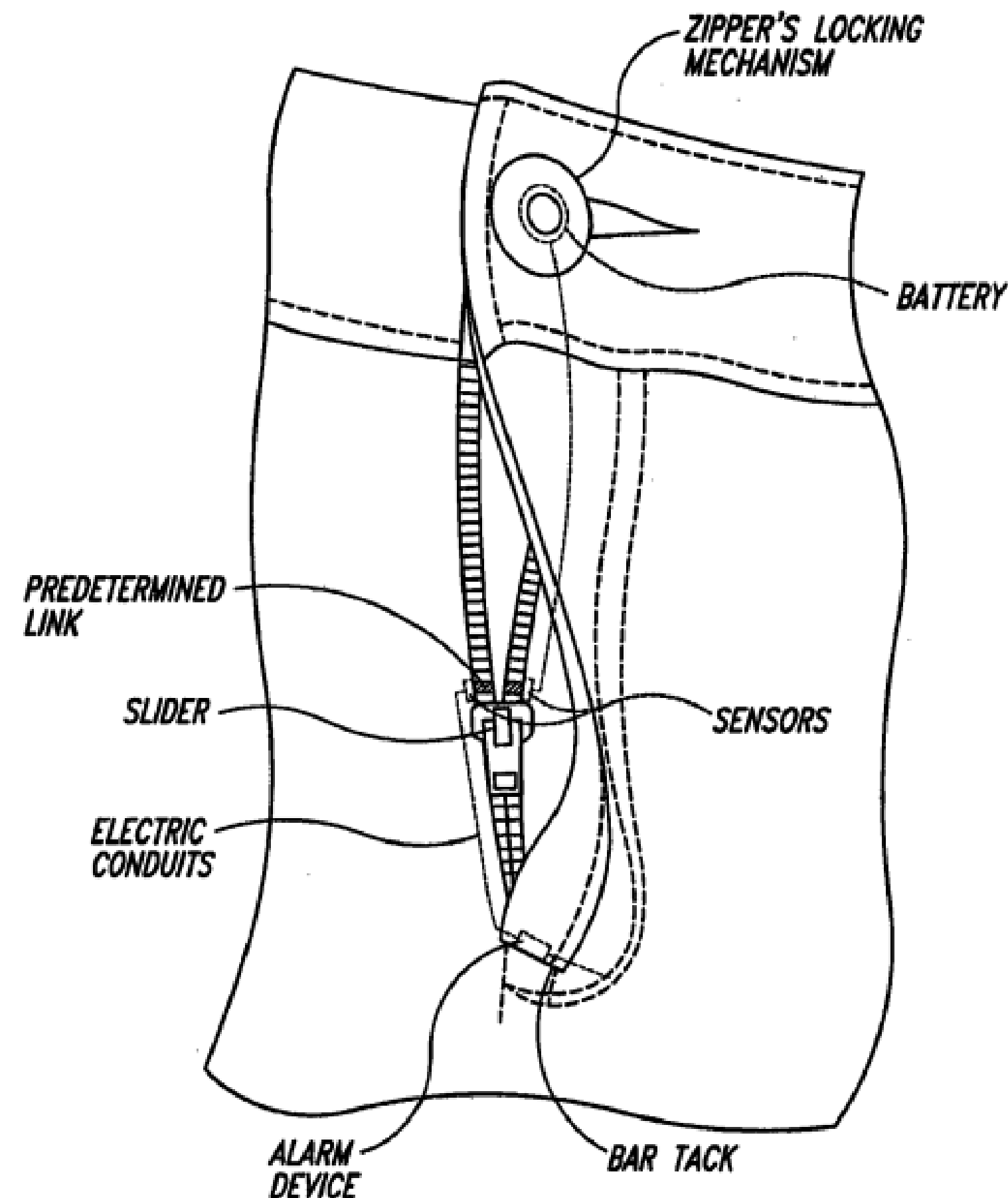
(22) **Filed:** Oct. 24, 2008

Related U.S. Application Data

(60) Provisional application No. 60/982,517, filed on Oct. 25, 2007.

(57) **ABSTRACT**

A zipper warning alarm system is described, wherein an operator is warned when a predetermined link of a zipper is not closed. Sensors may be placed in links of the zipper and can communicate to the alarm system whether the predetermined link is in contact with the opposing link in the bar tack. The alarm issues a warning to a user informing that the zipper is not closed



WIRAYS

Key takeaways

Use AI judiciously

Don't sign without reading, or in doubt

Seek advice when at milestones or crossroads

Manage your IP

SUPPORTING START & SCALE - UPS

- We're dedicated to helping start-ups safeguard your most valuable asset, your intellectual property.
- We offer a range of tools and services to start-ups at zero cost:
 - Free resources for the first stage of your journey.
 - Additional resources for the next step.

wrays.com.au/industries/start-ups/



Thank you



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