



# **DISPELLING MYTHS AND MISONCEPTIONS ABOUT PATENT LAW**



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INTELLECTUAL PROPERTY LAW  
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# Initial Consultation



# Intellectual Property





# Myth #1: Patents, trademarks, copyrights, aren't they all the same thing?

By KATIE COURIC / CBS / July 1, 2009, 6:53 PM

## King of Pop's Patented Move

f Share / Tweet / Reddit / Flipboard / Email



Michael Jackson, smooth criminal / CBS

interested in picking up, there's no guarantee Jackson's trademark moves are part of the deal.

# Patents

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.





# Trademark

- any word, name, symbol, or device, or any combination thereof—
- (1) used by a person, or
- (2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this chapter, **to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods,** even if that source is unknown.



# Copyrights



The screenshot shows a web browser at the URL <https://www.buydropstop.com/>. The website has a black header with a red octagonal logo on the left that says "DROP STOP" and the text "DONT DROP AND DRIVE®" to its right. On the far right of the header is a white hamburger menu icon. The main content area features a large photograph of a person's hands adjusting a black neoprene pad around a car's seat belt buckle. The buckle is red and white. In the top right corner of the photo, the text "AS SEEN ON SHARK TANK" is displayed in blue. In the bottom left corner of the photo, there is a list of three features, each preceded by a white checkmark:

- ✓ FITS AROUND THE SEAT BELT
- ✓ MOVES BACK & FORTH WITH THE SEAT
- ✓ MADE OUT OF HIGH-GRADE NEOPRENE

17 U.S.C. 102

2 Drop Stops  
1 Slide-Free Pad





# Clarifying Misconception #1

Patents

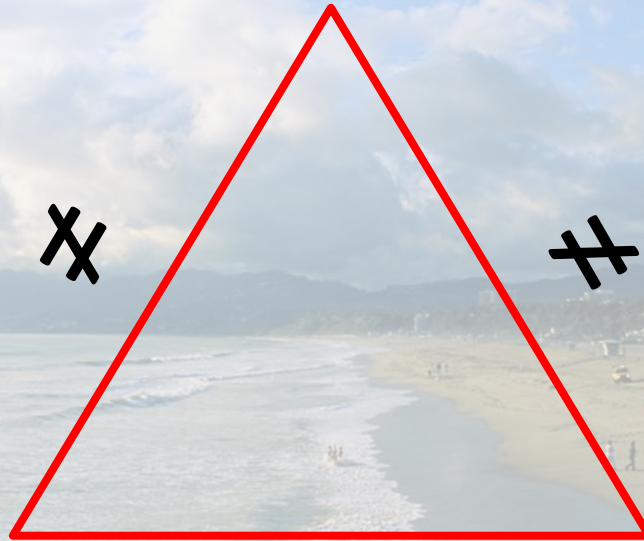
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Trademarks

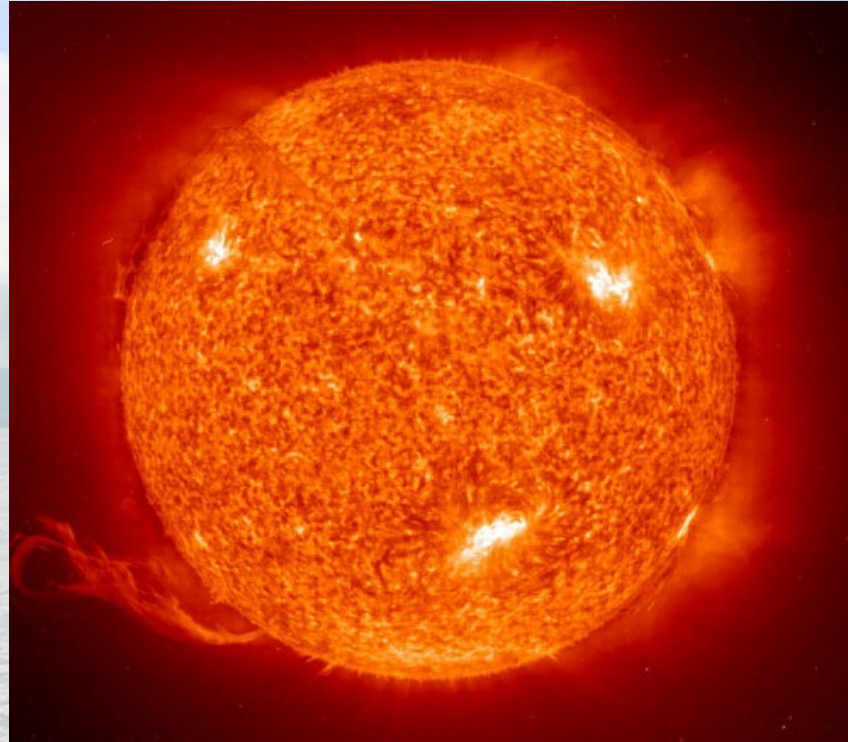
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Copyrights





# Myth #2: I can patent anything, can't I?



Diamond v. Chakrabarty, 447 U.S. 303 (1980) – “anything under the sun that is made by man”



# Not Patentable Subject Matter

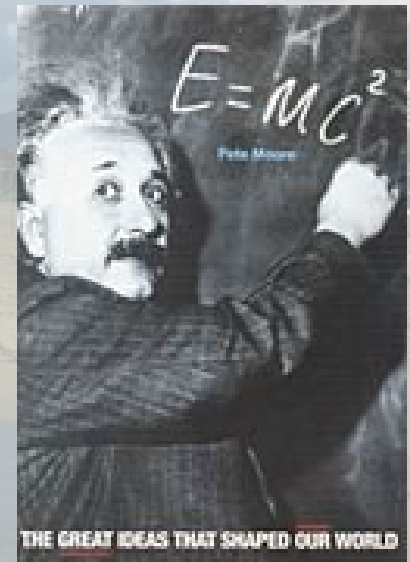
Laws of Nature



Natural  
Phenomenon



Principles and  
Abstract Ideas





# Laws of Nature

## Diagnostics

A method of optimizing therapeutic efficacy for treatment of an immune-mediated gastrointestinal disorder, comprising:

- (a) administering a drug providing 6-thioguanine to a subject having said immune-mediated gastrointestinal disorder; and
- (b) determining the level of 6-thioguanine in said subject having said immune-mediated gastrointestinal disorder,
- wherein the level of 6-thioguanine less than about 230 pmol per  $8 \times 10^8$  red blood cells indicates a need to increase the amount of said drug subsequently administered to said subject and
- wherein the level of 6-thioguanine greater than about 400 pmol per  $8 \times 10^8$  red blood cells indicates a need to decrease the amount of said drug subsequently administered to said subject.



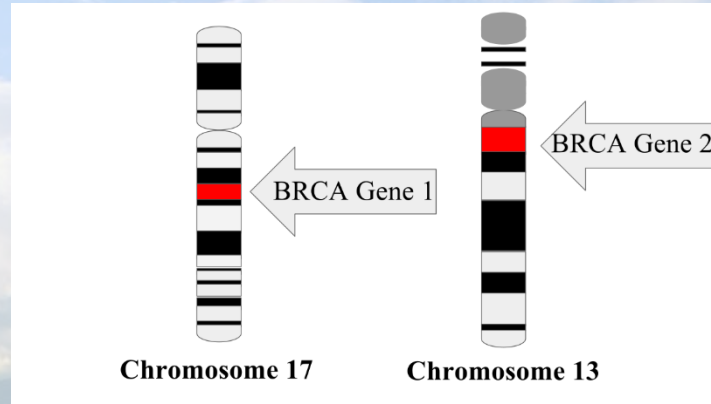
# Laws of Nature Diagnostics

“do the patent claims add *enough* to their statements of the correlations to allow the processes they describe to qualify as patent-eligible processes that *apply* natural laws? We believe that the answer to this question is no.”

MAYO COLLABORATIVE SERVICES v. PROMETHEUS LABORATORIES, INC., 132 S.Ct. 1289 (2012)



# Natural Phenomenon



“Myriad discovered the precise location and sequence of what are now known as the BRCA1 and BRCA2 genes. Mutations in these genes can dramatically increase an individual's risk of developing breast and ovarian cancer.”

“Myriad did not create anything. To be sure, it found an important and useful gene, but separating that gene from its surrounding genetic material is not an act of invention.”

Association for Molecular Pathology v. Myriad, 133 S.Ct. 2107, 2117 (2013).

# Abstract Ideas

## Computer-Implemented Technologies

“Thus, if a patent's recitation of a computer amounts to a mere instruction to “implemen[t]” an abstract idea “on ... a computer,” Mayo, supra, at , 132 S.Ct., at 1301, that addition cannot impart patent eligibility.”

“the claims at issue amount to “nothing significantly more” than an instruction to apply the abstract idea of intermediated settlement using some unspecified, generic computer.”



# Dispelling Myth #2: No, you cannot patent anything.

- 35 U.S.C. 101 – Patent Eligible Subject Matter
  - Diagnostics
    - More than just correlation
      - Mayo Collaborative Services v. Prometheus Laboratories, Inc., 132 S.Ct. 1289 (2012)
  - Naturally-occurring substances
    - Make sure it doesn't exist as claimed in nature
      - Association for Molecular Pathology v. Myriad Genetics, Inc., 133 S.Ct. 2107 (2013).
  - Computer-Implemented Technology
    - Don't Just add computer.
      - Alice Corp. Pty. Ltd. V. CLS Bank International, 134 S.Ct. 2347 (2014)

# Myth #3: There's Nothing Like it on the Market, Can I Get a Patent?





# 35 U.S.C. 102 - NOVELTY

Nov. 9, 1965

G. B. BLONSKY ET AL.  
APPARATUS FOR FACILITATING THE BIRTH OF  
A CHILD

3,216,423

(12) **United States Patent**  
**Khaykin et al.**

(10) **Patent No.:** **US 9,340,178 B1**  
(45) **Date of Patent:** **May 17, 2016**

(54) **ADHESIVE VEHICLE FRONT END FOR  
MITIGATION OF SECONDARY PEDESTRIAN  
IMPACT**

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(72) Inventors: **Alex Khaykin**, San Francisco, CA (US);  
**Daniel Lynn Larner**, San Jose, CA (US)

(73) Assignee: **Google Inc.**, Mountain View, 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.

(21) Appl. No.: **14/539,533**

(22) Filed: **Nov. 12, 2014**

(56) **References Cited**

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| 7,757,804    | B1 * | 7/2010 | Li              | 180/274    |
| 8,191,666    | B2   | 6/2012 | Suzuki et al.   |            |
| 2004/0130167 | A1 * | 7/2004 | Mori et al.     | 293/102    |
| 2006/0186702 | A1 * | 8/2006 | Kisanuki et al. | 296/187.04 |
| 2010/0108424 | A1 * | 5/2010 | Suzuki et al.   | 180/232    |

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|    |              |        |
|----|--------------|--------|
| DE | 2804400      | 8/1979 |
| DE | 10059206     | 7/2002 |
| EP | 1476334      | 3/2007 |
| JP | 08183423 A * | 7/1996 |
| JP | 2009166548   | 7/2009 |

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Machine Translation of JP08-183423. Retrieved Jun. 28, 2015.\*

35  
116  
37  
35

*Gregory A. Hart & Shengqi*  
ATTORNEYS

# Dispelling Myth #3: Just because you don't know about it doesn't mean it doesn't exist; consider conducting a search.

How do I conduct a search?

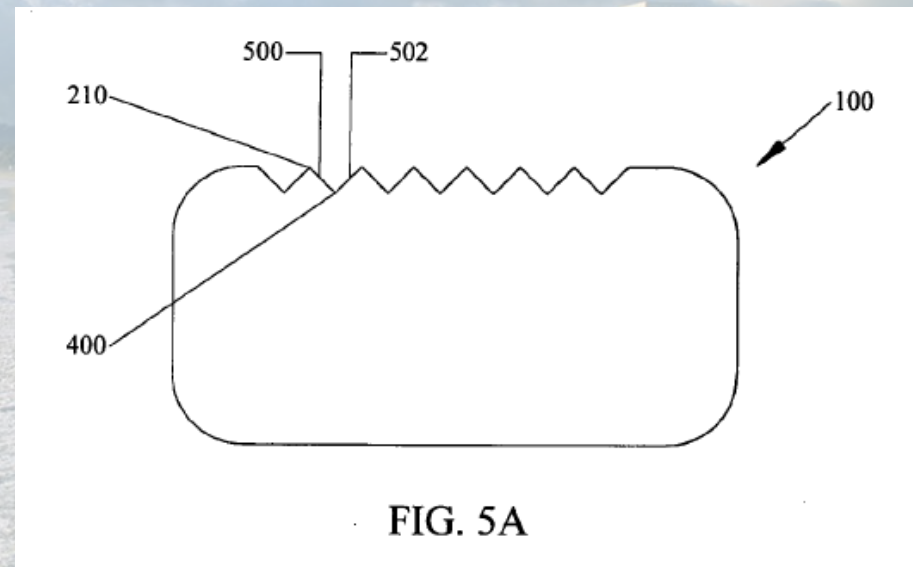
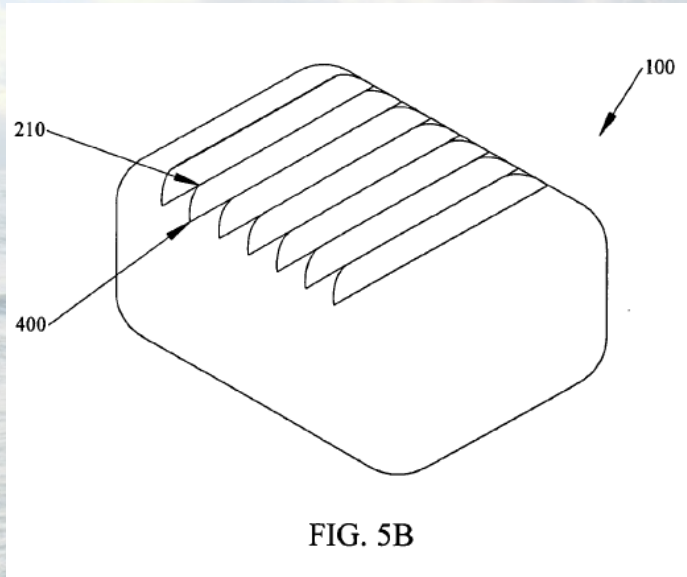
- <http://patft.uspto.gov/netahtml/PTO/index.html>
  - Free
  - Not so easy to use
  - Need to have an idea of what your looking for
- <https://patents.google.com/>
  - Free
  - Easy to use
  - Need to have an idea of what your looking for
- Commission a professional search
  - Costs \$\$
  - Professionals will look for you



# 35 U.S.C. 103 - OBVIOUSNESS



# Melding Soap Bar





# Prior Art

ZEICHNUNGEN SEITE 1

Nummer:

**DE 43 18 246 A1**

Int. Cl.<sup>5</sup>:

**C 11 D 17/00**

Offenlegungstag:

18. November 1993

Fig.2

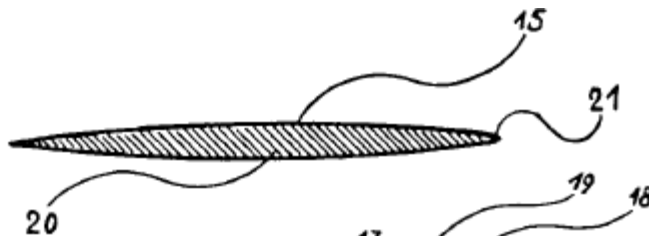


Fig.3

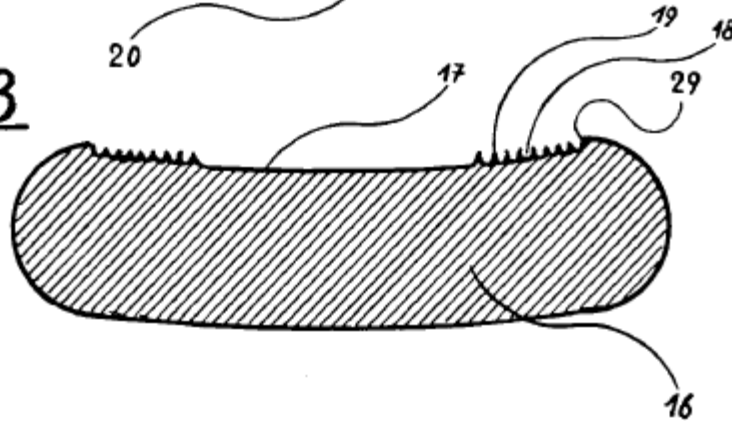
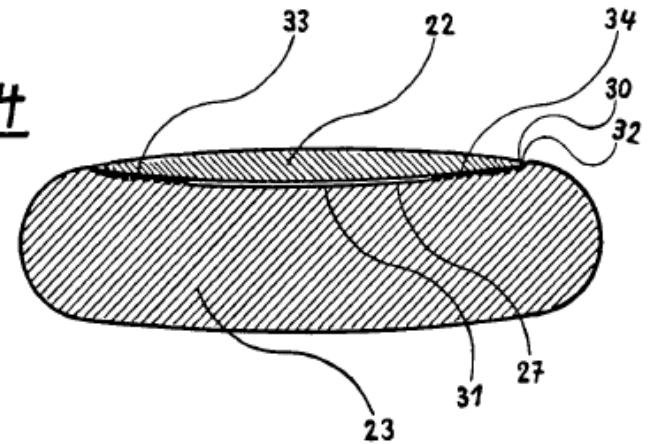


Fig.4



# 35 U.S.C. 103 - Obviousness

(19) **United States**

(12) **Patent Application Publication** (10) **Pub. No.: US 2007/0270322 A1**  
(43) **Pub. Date: Nov. 22, 2007**

(54) **MELDING SOAP BAR**

(76) **Inventor:** Chong Wook Pak, Pasadena, CA (US)

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(21) **Appl. No.:** 11/435,124

(22) **Filed:** May 16, 2006

## Publication Classification

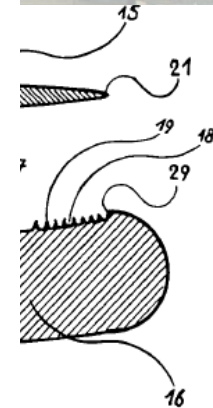
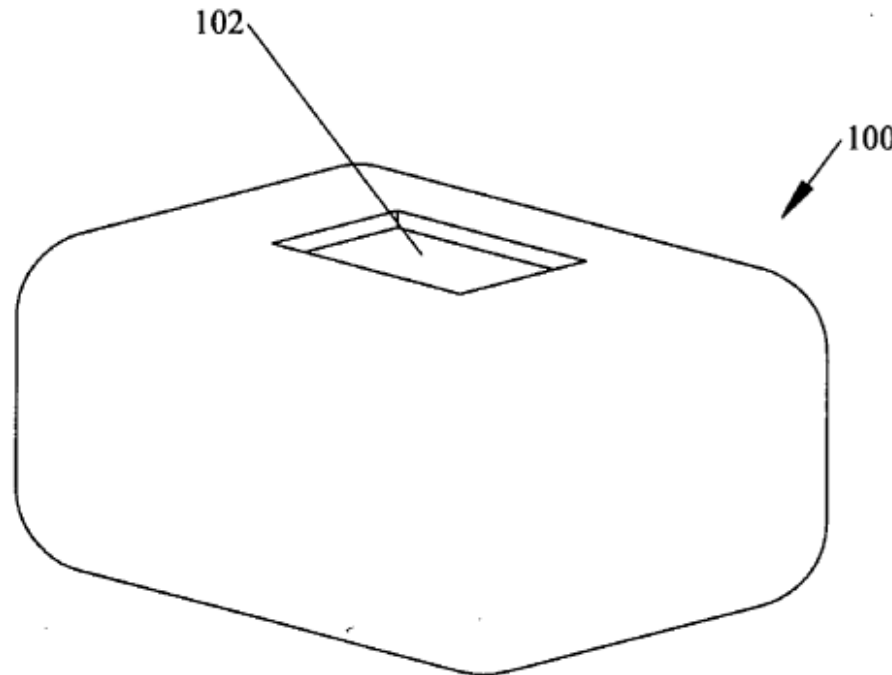
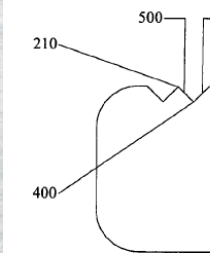
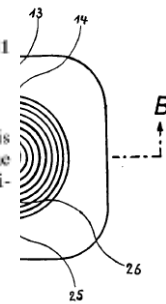
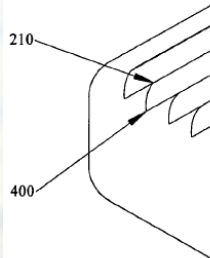
(51) **Int. Cl.**  
**A61K 8/02** (2006.01)

(52) **U.S. Cl.** ..... 510/141

## ABSTRACT

A soap bar that can be melded with a used soap bar is disclosed. A meldable soap bar in accordance with the present invention comprises a plurality of projections, cavities, grooves, or any combination thereof.

Number: **DE 43 18 246 A1**  
Int. Cl. 5: **C 11 D 17/00**  
Offenlegungstag: **18. November 1993**





Dispelling Myth #4: Being different is not enough, the difference has to be non-obvious.





# Myth # 5: Everybody Loves My Idea, Can I Get a Patent Now?

- Tested it on your friends and family
- Took it to a tradeshow
- Sold it on the Internet
- Published in a journal article
- Gave a presentation at a conference
- Public disclosure





Dispelling Myth #5: You can still file a patent application after public disclosure if within 1 year.



# Writing the Application





# Writing the Application

US 9,797,875 B2

1

## AUTOMATED FILTER CHANGER

### TECHNICAL FIELD

This invention relates to an apparatus for automatically changing syringe type filters of different styles, manufactured by multiple vendors for use with devices such as a drug dissolution testing system.

### BACKGROUND

A dissolution testing system may be used to determine the dissolution characteristics of a particular drug in solid, gel, capsule, caplet, gel cap, or similar forms. The dissolution testing system utilizes testing vessels containing media into which the drug is dissolved. A sample of the media containing the dissolved drug is transferred to a collection device so that the amount of drug dissolved can be measured. This can be repeated at various time intervals so that a drug's dissolution rate over time can be determined.

In some instances, prior to collection, a sample of the media containing the dissolved drug may require filtration. Current automated filtration systems are inconvenient to use, susceptible to jams, and susceptible to corrosion. For example, current filtration systems make it inconvenient if the user chooses not to use a filter for a particular sample. The fluidic path would need to be changed by disconnecting the fluid tubing and then reconnecting it in a different configuration to remove the filter changer from the fluidic path, allowing the system to then sample without filtration. This is inconvenient when dealing with a large number of samples. In addition, current filtration systems are subject to frequent jamming because of the method by which the filters are loaded in the system. Also, various components of existing filtration systems may be subject to corrosion.

For the foregoing reasons, there is a need for a filtration system that is easy to use, reliable, and durable, and can be used in conjunction with any dissolution system without many modifications.

### SUMMARY

The present invention is directed to an automated filter changing apparatus for use with a dissolution testing machine, the present invention making available the option of filtering fluids from a dissolution testing machine. The automated filter changing apparatus allows filters to be automatically placed into the fluidic path, if desired. In addition, the apparatus can remove the filter from the fluidic path, discard the used filter into a bin, or hold the removed filter for another sample.

The automated filter changing apparatus utilizes a unique pair of rollers to separate filters from their respective stacks in a sequential order so that only one filter is removed at a time, which reduces the amount of power or torque required to release or remove filters from their respective stacks. Filters can be separated one at a time by utilizing angularly offset indentations on the aforementioned rollers.

A shuttle plate is used to catch a filter separated from its filter stack (referred to as a separated filter) and transport the separated filter to a fluid coupler to filter fluids from a dissolution machine, and the like. A centering plate used in conjunction with the shuttle plate aligns the separated filter properly with the fluid coupler. The shuttle plate is also configured to remove filter in the event filtration is not desired.

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The system is contained in a corrosion resistant housing. The system is programmable to run a variety of protocols, and may have a wired or wireless connection to connect to the Internet to update firmware and the like. In some embodiments, the system may be able to receive a USB flash drive for firmware updates, and for storing data. In some embodiments, the system receives instruction from the dissolution machine or some other smart host.

A variety of different types of filters and filter sizes may be used with the system. In some embodiments, various components may be adjusted to accommodate different sizes of filters.

### BRIEF DESCRIPTION OF DRAWINGS

FIG. 1 shows a front, perspective view of an embodiment of the present invention.

FIG. 2 shows a front, perspective view of an embodiment of the present invention with the housing removed.

FIG. 3 shows a rear, perspective view of an embodiment of the present invention with the housing removed.

FIG. 4A shows a perspective view of an embodiment of the filter stack block and the separator, with various components removed for clarity.

FIG. 4B shows a perspective view of an embodiment of the separator.

FIG. 4C shows an elevation view of a portion of one of the rollers of the separator.

FIG. 5 shows a partially exploded view of an embodiment of the present invention with the housing removed.

FIG. 6 shows a perspective view of an embodiment of the shuttle plate.

FIG. 7 shows a perspective view of an embodiment of the fluid coupler.

FIG. 8 shows a perspective view of an embodiment of the centering plate.

FIGS. 9A through 9I show the process of removing the filter from the filter stack using the present invention.

FIG. 10 shows an embodiment of a computer architecture for automatically operating the present invention.

### DETAILED DESCRIPTION OF THE INVENTION

The detailed description set forth below in connection with the appended drawings is intended as a description of presently-preferred embodiments of the invention and is not intended to represent the only forms in which the present invention may be constructed or utilized. The description sets forth the functions and the sequence of steps for constructing and operating the invention in connection with the illustrated embodiments. It is to be understood, however, that the same or equivalent functions and sequences may be accomplished by different embodiments that are also intended to be encompassed within the spirit and scope of the invention.

The terminology used in the description of the invention herein is for the purpose of describing particular embodiments only and is not intended to be limiting of the invention. As used in the description of the invention and the appended claims, the singular forms "a", "an" and "the" are intended to include the plural forms as well, unless the context clearly indicates otherwise. In addition, some components may be described in singular form, but can be replicated and the description of the singular form applies to the replicated forms. It will also be understood that the term

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2. An automatic filter changer, comprising:

a. housing;

b. a filter stack block attached to the housing, the filter stack block comprising a plurality of holes to receive a plurality of filter stacks, wherein each hole is configured to receive one filter stack;

c. a filter separator positioned below the filter stack block, the filter separator configured to separate one filter at a time from each filter stack away from its respective filter stack sequentially so that a first filter from a first filter stack is separated before a first filter of a second filter stack;

d. a shuttle plate positioned below the filter separator to a released filter, wherein the shuttle plate is movable in a horizontal direction to carry a set of released filters to a fluid coupler, wherein the fluid coupler comprises upper fluid couplings and lower fluid couplings, one upper fluid coupling being coaxially aligned with one lower fluid coupling, the upper fluid coupling and the lower fluid coupling defining a vertical axis;

e. a plurality of centering plates, one centering plate aligned with each fluid coupler such that each centering plate is in between one upper fluid coupling and its respective lower fluid coupling, each centering plate comprising a notch defined by notch arms, wherein the filter separator comprises a pair of rollers each defining a longitudinal axis, wherein the pair of rollers is arranged parallel to each other and separated from each other by a gap, wherein each roller comprises a plurality of indentations, wherein each indentation on a first roller corresponds with an indentation on a second roller to form a plurality of matching indentation pairs such that the corresponding indentations of each matching indentation pairs face each other in the gap during rotation, wherein each indentation on the first roller are angularly offset about the longitudinal axis of the first roller from every other indentation on the first roller, and each indentation on the second roller are angularly offset about the longitudinal axis of the second roller from every other indentation on the second roller.

3. The filter changer of claim 2, wherein the pair of rollers

US 9,797,875 B2

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filter stack sequentially so that a first filter from a first filter stack is separated before a first filter of a second filter stack;

d. a shuttle plate positioned below the filter separator to catch a released filter, wherein the shuttle plate is movable in a horizontal direction to carry a set of released filters to a fluid coupler, wherein the fluid coupler comprises upper fluid couplings and lower fluid couplings, one upper fluid coupling being coaxially aligned with one lower fluid coupling, the upper fluid coupling and the lower fluid coupling defining a vertical axis;

e. a plurality of centering plates, one centering plate aligned with each fluid coupler such that each centering plate is in between one upper fluid coupling and its respective lower fluid coupling, each centering plate comprising a notch defined by notch arms, wherein the shuttle plate comprises a plurality of slots defined by slot arm pairs, each slot configured to align with one filter stack when the shuttle plate is in a first position, and each slot configured to align with one of the vertical axes defined by one pair of upper fluid couplings and lower fluid couplings when the shuttle plate is in a second position.

7. The filter changer of claim 6, wherein each notch of the centering plate is aligned with one slot of the shuttle plate such that when the shuttle plate is moved horizontally towards the centering plates, the shuttle plate slides adjacent to the centering plate such that when at least one released filter is seated in at least one slot, the slot arms and the notch arms trap the at least one released filter within its respective notch and slot, wherein the inlet and outlet of the at least one released filter is aligned with the vertical axis of its respective upper and lower fluid coupling to allow the lower fluid coupling and the upper fluid coupling to attach to the at least one released filter to complete a fluidic path.

8. The filter changer of claim 6, wherein the shuttle plate is positionable in a third position offset from the filter stacks and away from the center plates to allow the released filter to drop below the shuttle plate.

9. The filter changer of claim 6, wherein slot arms within

# Myth # 6: I Don't Have to Tell You Everything About my Invention, Do I?

- Process Claims
  - Method of manufacturing a product
- Computer Implemented Technology
  - Unique algorithms
- Inventions in which the inventive concept (the secret sauce) is not readily discernable by looking at the product.



# Dispelling Myth #6: Yes, it's generally best to disclose all details of your invention.

- If you are purposely holding back information, you should consider trade secret protection.
  - Is the inventive concept extremely difficult to reverse engineer?
  - Establish Trade Secret Protection Program
- If you don't know the details requested, ask somebody on your team who does (typical with computer-implemented technology)
- New information cannot be added after the patent application is filed.

# Prosecuting the Application





# Search and Examination



# Myth # 7: The Prior Art Requires [X], we don't need that.





# Dispelling Myth #7: Always frame your distinction

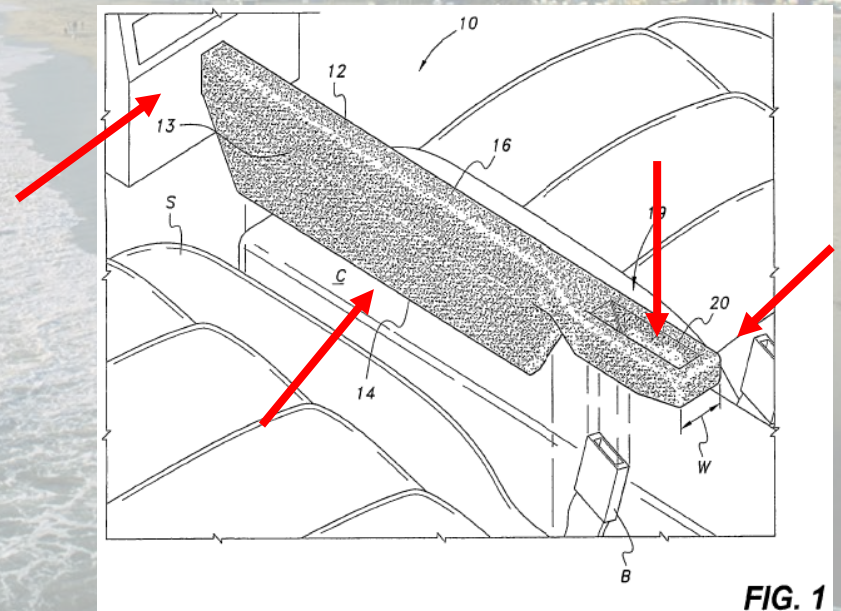
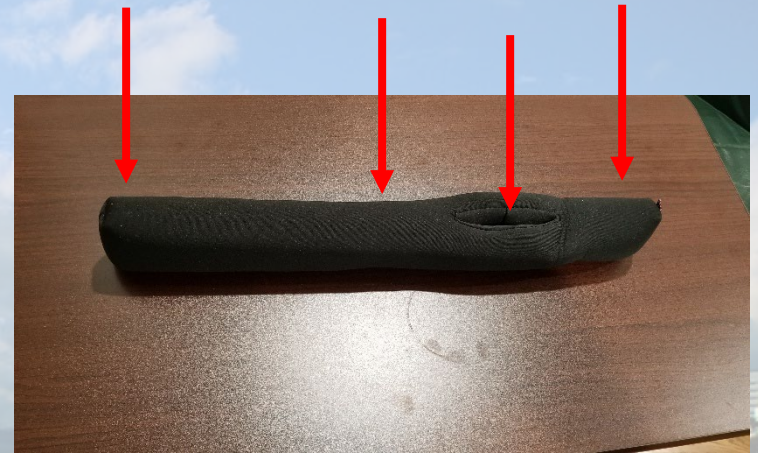
“We claim [X], the prior art does not have [X].”





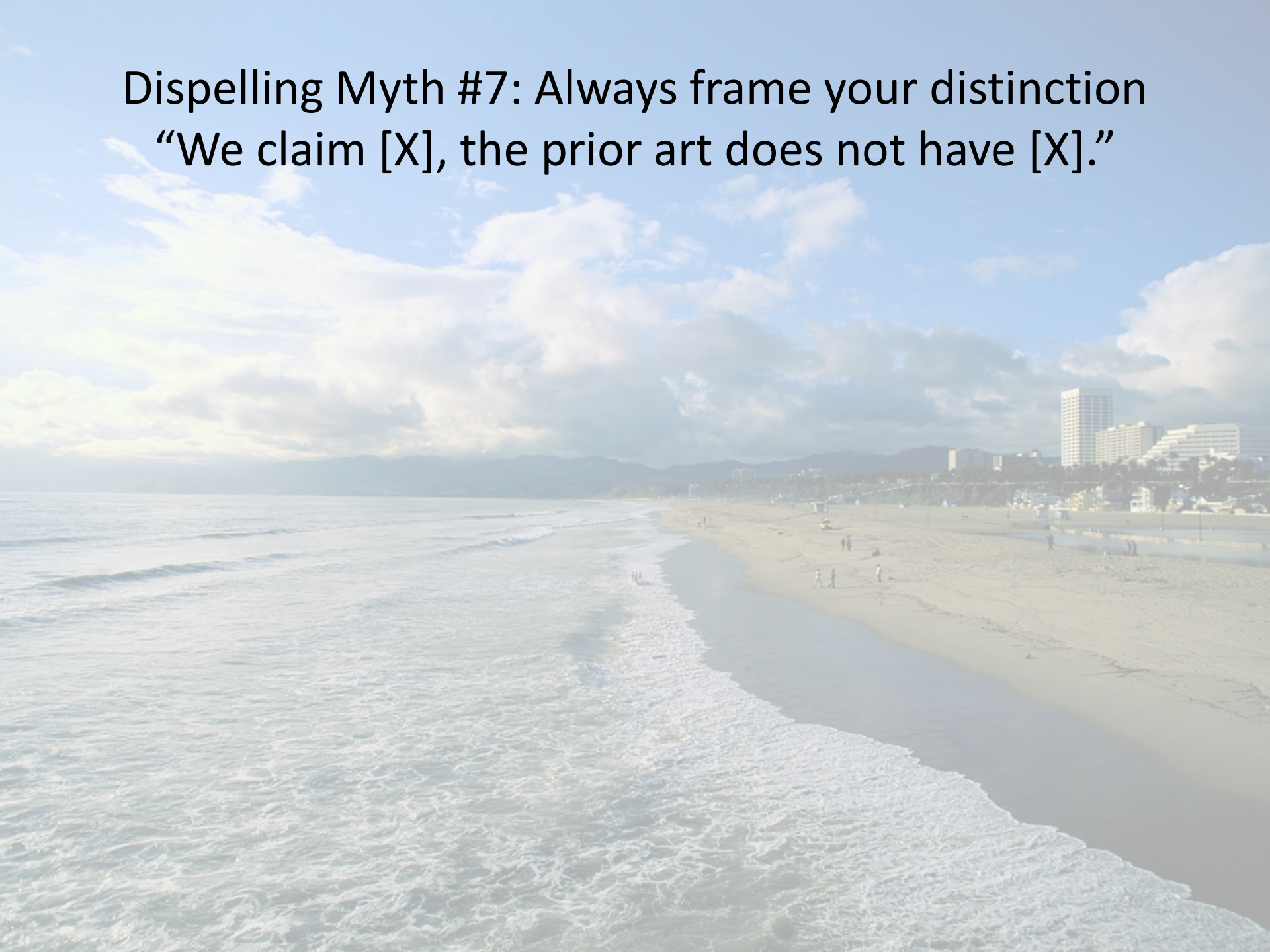
# Myth # 8: We have [X], the prior art does not.

- 1. A device, comprising:
  - an elongated member
  - having two ends; and
  - a slot at one end.





Dispelling Myth #7: Always frame your distinction  
“We claim [X], the prior art does not have [X].”



## Dispelling Myth # 8: Features relied upon to distinguish over the prior art must be claimed.

- Was it claimed?
- Was it disclosed in the written description?
- Was it shown in the drawings?
- This is why it's important to disclose details of your invention. (Remember Myth #6)
  - You never know what you may have to rely on to get a patent.



# Patent Granted

The  
United  
States  
of  
America



## The Commissioner of Patents and Trademarks

*Has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.*

Therefore, this 5,860,492

## United States Patent

*Grants to the person(s) having title to this patent the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States of America or importing the invention into the United States of America for the term set forth below, subject to the payment of maintenance fees as provided by law.*

*If this application was filed prior to June 8, 1995, the term of this patent is the longer of seventeen years from the date of grant of this patent or twenty years from the earliest effective U.S. filing date of the application, subject to any statutory extension.*

*If this application was filed on or after June 8, 1995, the term of this patent is twenty years from the U.S. filing date, subject to any statutory extension. If the application contains a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121 or 365(c), the term of the patent is twenty years from the date on which the earliest application was filed, subject to any statutory extension.*

Acting Commissioner of Patents and Trademarks

Mayorie V. Turner

Attest



# Myth # 9: Now that I Got a Patent, I'm Safe, Right?





Dispelling Myth #9: A patent is a sword, it is not a shield against allegations of infringement.



Myth # 10: There's a company in China infringing my U.S. Patent, let's stop it.





Dispelling Myth #10: Patents are jurisdictional; need a patent in each country you want to enforce in.

- You can stop the importation of your patented invention into the U.S.
- Otherwise, you need foreign patents to stop the manufacture and sales in foreign countries.
- Consider the Patent Cooperation Treaty (PCT) application.



# Summary of Common, But Not Comprehensive, Patent Myths Dispelled

1. Seek **early consultation** with an IP Attorney when you come up with a great idea to identify available IP rights.
2. Consider whether your invention is **eligible subject matter** for a patent.
3. Consider conducting a **search** (e.g., google patents).
4. Consider whether your invention is a **non-obvious** improvement over the prior art.
5. Consider filing a patent application before public disclosure; otherwise, file within **1 year of any public disclosure** your invention?
6. Disclose details of your invention, or consider **trade secret** protection.
7. Frame differences over prior art as **“My invention has feature [X], the prior art does not.”**
8. Feature **[X] must be claimed** (and therefore described or shown in the drawings) in order to rely on to overcome prior art rejection.
9. A patent is a **sword**, not a shield.
10. U.S. Patents can only be enforced in the U.S.; therefore, consider **foreign protection**.



# Contact

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*Digging **DEAP**<sup>TM</sup> to **Defend, Enforce, Advise, and Protect**  
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