



# Protecting Your Intellectual Property in the United States and Abroad

*Presented by*  
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**&**  
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# What is Intellectual Property?

## ▶ Patents

- ▶ New and non-obvious products and processes

## ▶ Trademarks

- ▶ Indicators of source

## ▶ Copyrights

- ▶ Original works of authorship

# Patents

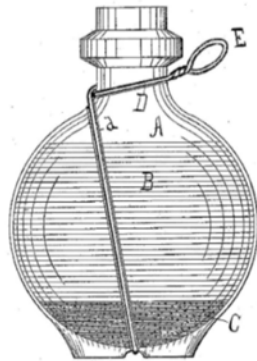
(No Model.)

J. J. HARDEN.

HAND GRENADE FIRE EXTINGUISHER.

No. 297,075.

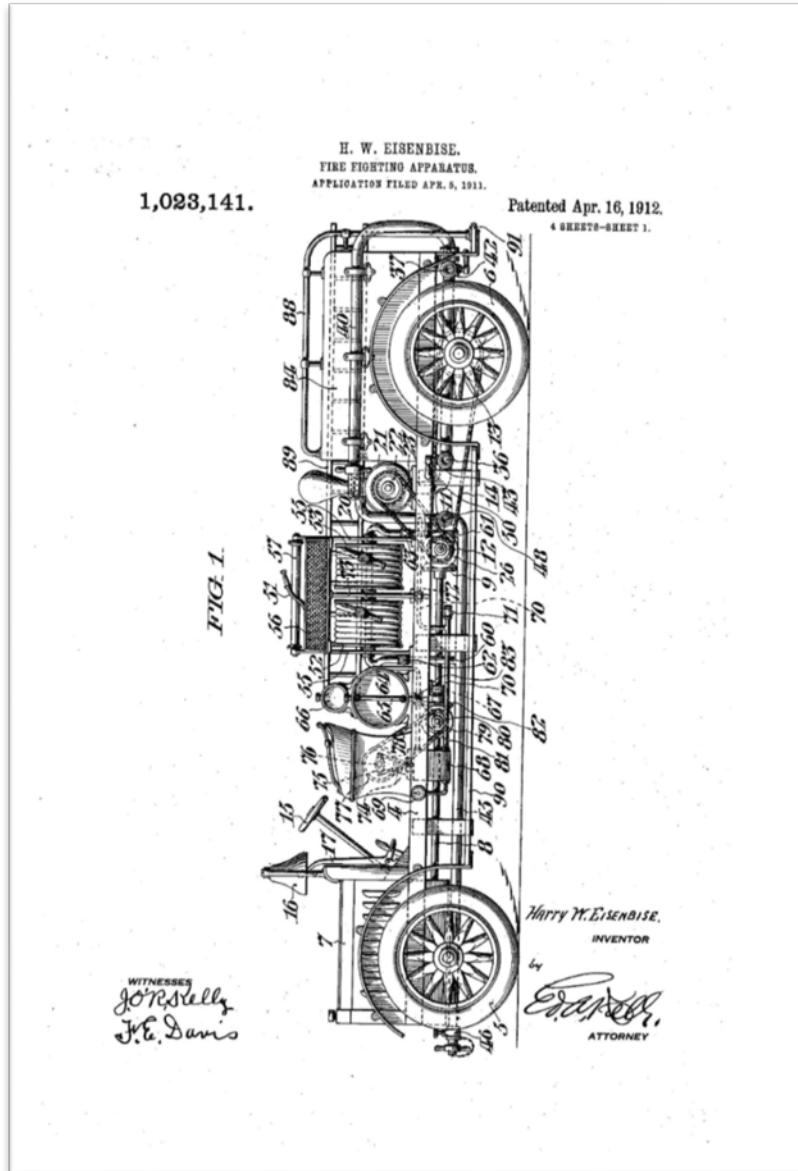
Patented Apr. 15, 1884.



WITNESSES:  
E. L. Thurston  
J. H. Gooden

INVENTOR:  
John J. Harden  
by Hill & Dixon  
Attorneys.

# Patents



# Patents

Jan. 11, 1966

C. K. HUTHSING, JR  
FIRE EXTINGUISHER

3,228,474

Filed Aug. 11, 1961

2 Sheets-Sheet 1

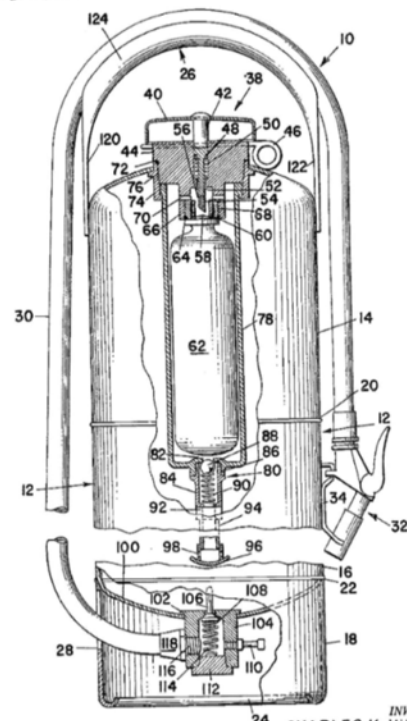


FIG. 1.

INVENTOR,  
CHARLES K. HUTHSING, JR.  
BY *Elliot & Pastore*  
ATTORNEYS

# Patents

- ▶ Patent gives its owner an absolute monopoly in the invention.
- ▶ The invention is defined by the claims.

# Patent Claims

What is claimed is:

1. An improved fire extinguisher comprising: a tank; a pressurized cartridge supported and retained within said tank; a puncturing mechanism sealably coupled to said tank in position for manual puncturing of said cartridge; a normally closed check valve communicating through and connected to the bottom of said tank; an outlet hose connected to the outlet of said check valve; and, a U-shaped carrying handle having the terminal ends thereof connected, respectively, to opposite sides of said tank, said handle having its arcuate base portion of U-shaped cross section to retain a portion of said hose, whereby the remainder of the hose may extend upwardly along one side and downwardly along the other side of said tank.

# Patents

- ▶ Universal novelty: The invention must be new and non-obvious at the effective “priority” date of the application
- ▶ The U.S. has a 12 month grace period, but it does not protect foreign applications



# Patents are Regional in Scope

# Regional Systems for Patents

## ► Patents

- European Patent
- Single Patent Office
  - Examines application
  - Approves patent claims
  - Patents effective in elected member countries after translation and confirmation
- ARIPO Harare Protocol
  - Botswana
  - Gambia
  - Ghana
  - Kenya
  - Lesotho
  - Malawi
  - Mozambique
  - Sierra Leone
  - Sudan
  - Swaziland
  - Uganda
  - Zambia
  - Zimbabwe

# Regional Systems for Patents

## ► Patents

### ► Eurasian Patent Convention

Armenia

Azerbaijan

Belarus

Kazakhstan

Kyrgyzstan

Moldova

Russian Federation

Tajikistan

Turkmenistan

### ► OAPI Agreement

Benin

Burkina Faso

Cameroon

Central African Republic

Congo

Ivory Coast

Mauritania

Niger

Senegal

Tchad

Togo

Mali Republic

Guinea

# Supra-National Applications for Patents

## ▶ PCT

- ▶ A filing procedure effective for over 140 countries
- ▶ Delays national filings by approximately 18 months
- ▶ Phase I - filing at U.S. Patent and Trademark Office in English
  - ▶ International Search Report
- ▶ Phase II - “opinion” from World Intellectual Property Office on patentability
- ▶ After Phase I or Phase II
  - ▶ Entry into national phase

# PCT Application

- ▶ Single application with same effect as national applications in designated countries
- ▶ File at U.S. Patent and Trademark Office
- ▶ File in English
- ▶ No translation costs
- ▶ No foreign associates' fees
- ▶ Can claim priority under Paris Convention

# PCT Statistics

Filings:

About	20,000	in 1990
About	90,000	in 2000
About	155,000	in 2009
About	194,000	in 2012

# What is a Trademark?

- ▶ Word

**APPLE**

- ▶ Symbol



- ▶ Slogan

**JUST DO IT.**

- ▶ Product or Packaging



- ▶ Sound



- ▶ Color



# What is a Trademark?

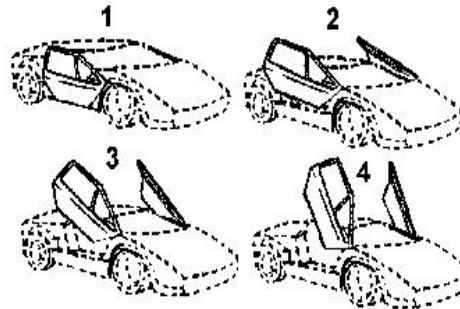
## ► Fragrance



## ► Design of a Business Establishment



## ► Motion





# What is the Purpose of a Trademark?

- ▶ Indicator of source of the goods or services
- ▶ Assures consumers of the quality of the goods or services associated with the mark
- ▶ Creates goodwill and brand awareness

# Is There a Difference Between a Trademark and a Trade Name?

- ▶ Trademark identifies the goods or services of a business

The Coca-Cola logo, featuring the brand name in its iconic red script font.

- ▶ Trade or Business Name identifies the company or business

**The Coca-Cola Company**

# Trademark Rights: How Do I Get Them?

- ▶ By registration at the appropriate government office  
and/or
- ▶ By use (common law used-based rights)

# Is Trademark Registration Necessary?

- ▶ United States and other common law countries determine entitlement by the first to use the mark
- ▶ Registration prima facie proof of ownership of mark and the burden of proof is lessened in contentious proceedings
- ▶ Civil law countries only registration creates substantive rights

# Where Should My Trademark be Registered?

- ▶ Countries where your goods are sold and/or services provided
- ▶ Trademark rights are territorial - use in the United States or registration in the United States does not protect your mark in Canada

# Can I Obtain a Worldwide Trademark Registration?

- ▶ No
- ▶ Registration is usually on a country by country basis with some exceptions

# Can I Obtain a Worldwide Trademark Registration?

## European Community Trademark (OHIM)

One registration covers 27 countries of EC

Austria	Germany	Netherlands
Belgium	Greece	Poland
Bulgaria	Hungary	Portugal
Croatia	Ireland	Romania
Cyprus	Italy	Slovak Republic
Czech Republic	Latvia	Slovenia
Denmark	Lithuania	Spain
Estonia	Luxembourg	Sweden
Finland	Malta	United Kingdom
France		

# Can I Obtain a Worldwide Trademark Registration?

## International Registration (Madrid - World Intellectual Property Organization)

- ▶ Must have national application or registration
- ▶ Can list all or any of the 92 countries party to the agreement
- ▶ Dependent on national registration for first five years
- ▶ Acceptance/rejection by national trademark offices



# Can I Obtain a Worldwide Trademark Registration?

## International Registration (Madrid - World Intellectual Property Organization)

Albania	Cyprus	Italy	Netherlands	Slovenia
Algeria	Czech Republic	Japan	New Zealand	Spain
Antigua & Barbuda	Democratic People's Republic of Korea	Kazakhstan	Norway	Sudan
Armenia	Denmark	Kenya	Oman	Swaziland
Australia	Egypt	Kyrgyzstan	Philippines	Sweden
Austria	Estonia	Latvia	Poland	Switzerland
Azerbaijan	European Union	Lesotho	Portugal	Syrian Arab Republic
Bahrain	France	Liberia	Republic of Korea	Tajikistan
Belarus	Georgia	Liechtenstein	Republic of Moldova	Republic of Macedonia
Belgium	Germany	Lithuania	Romania	Tunisia
Bhutan	Ghana	Luxembourg	Russian Federation	Turkey
Bosnia & Herzegovina	Greece	Madagascar	Rwanda	Turkmenistan
Botswana	Hungary	Mexico	San Marino	Ukraine
Bulgaria	Iceland	Monaco	Sao Tome and Principe	United Kingdom
China	India	Mongolia	Serbia	United States of America
Colombia	Iran	Montenegro	Sierra Leone	Uzbekistan
Croatia	Ireland	Morocco	Singapore	Viet Nam
Cuba	Israel	Namibia	Slovakia	Zambia

# Can I Obtain a Worldwide Trademark Registration?

## Benelux

- ▶ One registration covers Belgium, Netherlands, Luxembourg

## OAPI (Organisation Africaine de la Propriété Intellectuelle)

- ▶ One registration covers Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo Republic, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Ivory Coast, Mali, Mauritania, Niger, Senegal, and Togo

# What is the Procedure to Registration a Trademark?

- ▶ File application at appropriate office
- ▶ Application will be examined by an official as to
  - ▶ (i) availability - is the mark confusingly similar to a mark previously registered or applied for
  - ▶ (ii) registrability - is the mark generic, immoral, descriptive, deceptively misdescriptive, indicative of origin
- ▶ Once accepted, applications are typically published in an Official journal or gazette so interested parties have the opportunity to oppose
- ▶ If no opposition, the registration is granted
- ▶ Once registered proper to use ®
- ▶ If mark is not registered use <sup>TM</sup> or <sup>SM</sup>

# Copyrights

- ▶ Protects against copying of original works of authorship
  - ▶ Movies
  - ▶ Books
  - ▶ Music
  - ▶ Computer Programs
  - ▶ Instructional Manuals
  - ▶ Websites

# Important Websites

- ▶ U.S. Patent and Trademark Office is at:  
<http://www.uspto.gov>
- ▶ Canadian Patent and Trademark Office is at:  
<http://www.cipo.gc.ca>
- ▶ European Patent Office is at:  
<http://www.epo.org>
- ▶ European Trademark Office (OHIM) is at:  
<https://oami.europa.eu/ohimportal/en/>
- ▶ Madrid Arrangement and Protocol is at:  
[http://www.wipo.int/export/sites/www/treaties/en/documents/pdf/madrid\\_marks.pdf](http://www.wipo.int/export/sites/www/treaties/en/documents/pdf/madrid_marks.pdf)
- ▶ PCT Patent countries are at:  
[http://wipo.int/treaties/en/ShowResults.jsp?treaty\\_id=6](http://wipo.int/treaties/en/ShowResults.jsp?treaty_id=6)
- ▶ A European Trademark Registration is effective in every country of the European Union. A map showing those countries is at:  
[http://europa.eu/abc/european\\_countries/index\\_en.htm](http://europa.eu/abc/european_countries/index_en.htm)
- ▶ The European Patent Application provides a route to national patents in 38 countries. A list of the member states is at:  
<http://www.epo.org/about-us/organization/member-states.html>

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