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JAPANPATEMTOFFICE

**WIPOASIANREGIONALWORKSHOPONTHEUSEOF
INFORMATIONTECHNOLOGYANDMANAGEMENTOF INDUSTRIAL
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CASESTUDIESI -THE SUCCESSFULUSEOF TRADEMARKS,PETTY
PATENTS/UTILITYMODELSANDINDUSTRIALDESIGNSIN ENHANCING
COMPETITIVENESSOF SME ;SECTORALEXPERIENCE(TEXTILES,
AGRICULTURALPRODUCTS,CONSUMERGOODS)

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Australian invention dazzles Hollywood

CSIRO physicist said it was impossible and the Export Market Development Grant board refused to back it but cameraman Jim Frazier went ahead anyway and invented a new lens which has revolutionized the international film industry.

Until the late 1980s Frazier was shooting wildlife films for David Attenborough. He was frustrated with the limitations of the lens available on the market then and set about making his own.

“Wildlife is very unforgiving - there is no time to set up the camera and position the shot the way you want it. As well, with small subjects, such as insects and spiders, it's very difficult to get both the subject and background in focus. I wanted it all in focus and I needed a variable lens which would allow me to rapidly get the shots I wanted.

“In the late '70s I consulted a CSIRO physicist who said that what I wanted was impossible. So I began tinkering myself and started getting the results I'd envisioned.

“Over the next 10 years I kept rebuilding the lens and, with much trial and effort, formulated a lens with deep focus and a single swivel on the end. The optics to do this are very complex but I began to get positive results.”

The new lens has three revolutionary features:

- a 'set and forget' focus which holds everything, from front of lens to infinity, in focus
- a swivel tip so that, without moving the camera, you can swivel the lens in any direction, completing a sphere if needed
- a built-in image rotator. This allows the image to be rotated inside the lens without spinning the camera.

It's a brilliant invention and when Frazier began using it in his work, it did not go unnoticed. Nobody has seen the sort of depth and clarity of filming he was achieving and his work was unique. In 1993 he was invited to speak at Montage 93, an imaging conference in the US.

After his talk *Line of Fire* director John Bailey and the head of the American Society of Cinematography, Victor Kemper, asked to borrow his tapes so they could show it to Panavision. Within days, Panavision was knocking on Frazier's door.

“It was at this point that I thought I should get a lawyer and Peter Leonard, a high technology international contracts lawyer with Gilbert and Tobin in Sydney, did a superb job for me.

“Panavision sent me a standard three-page contract which my lawyer advised me not to sign. He rewrote it and we sent back a document of 30 pages which not only protected my invention but helped me negotiate a very sweet deal.”

The contract was structured so that Panavision, regarded as the best lens manufacturer in the world, could never come back and say they'd already known about the optics used in the lens. They met with Frazier on neutral ground in Hong Kong and the company had to sign a confidentiality agreement before they saw the lens.

"The deal was that Panavision would patent the device, at their cost, but that I would own the patent. Mantis Wildlife Films gets a set fee for every lens made and, when Panavision rents them out, a percentage of the rentals."

When Frazier first showed his lens to Panavision they couldn't work out how it was done. But they recognized its value. At more than US\$1 million, this would have been one of the biggest patents ever taken out by Panavision but the returns are already rolling in. Nearly every second commercial made in the US uses Frazier's lens and many in the feature film area won't go on a set without it.

The benefits to the film industry are huge. Quite apart from the unique abilities of the lens itself, it has dramatically lowered production costs. What used to be a three-day shoot now takes only one day because Frazier's lens has done away with the need for teams of people to rig up complicated setups every time the director wants a new angle. It's as simple as adjusting the swivel tip.

The eagle lands

EagleBoys™ Pizzachallengesthepizzadeliveryindustrywithahotintellectualproperty strategy

In1986TomPotter,thenonlyinhisearly20s, openeduphisfirstEagleBoysPizza storeinAlburyontheNewSouthWales/Victoriaborder.

Now,almost11yearsandafistfulofawardslater,thereareamindboggling145 franchisedstoresaroundAustraliaandNewZealand.Theimmediateplansforexpansion focusontheburgeoningpotentialofAsianmarkets.

Thoughthisisclearlyabusinesssuccessstory,itisalsoanintellectualproperty triumph.

WhatAustralianbusinessleadersareincreasinglybecomingawareofisthatwatertight businesssystemscombinedwithaggressiveandvisionaryintellectualpropertyprotectioncan makeyourbusinessalmostinvincible.

SaysAlanBates,EagleBoyscompanysecretary,“Thisworksseveralways.Mainly, formalintellectualpropertyprotectionofourtrademarks,thepinkglowthatourlighting fasciaproduces,andspecificinnovationslikeournewdoubletieredpizzabox,givesus tangible,saleableassetswhichwecontrolcentrallyandhavepackagedintoourfranchise system.”

“Thislessensthelikelihoodthatotherbusiness’stho respectintellectualpropertywill directlyinfringeours.Andwhenweareinfringed,whetherintentionallyorinadvertently,we haveapowerfulbitetoourbark.Anactualregisteredtrademarkorpatentcertificatemakesa compellingandpersuasiveargumentwhenwedofindinfringementoutthereinthe marketplace.”

Fromthebeginning,Tomunderstoodthevalueofintellectualpropertyrights.Thefirst EagleBoystrademarkwasregisteredwithinmonthsofestablishinghisfirststore.Nearlya dozentrademarkregistrationshavefollowedsince.

Morerecently,EagleBoyschallengedthetrademarkregistrationsystembyapplying foramonopolyoverthepinkglowthatresultsfromthelightingfasciaontheirshopfronts.

“Yes,itwasaboldmove,”saysAlan.“Butthispinkglowisatrademarkfeatureifever therewasone.WedidacustomersurveyinsupportofourapplicationtoIPAustraliaandwe foundthatpeoplestronglyassociatedthispinkglowwithourstores.AndIknowthat whenI visitnewfranchiseesinmanyofthesmallertowns,allIhavetodoisdrivedownthelocal street,findthepinkglowandI’mthere.”

Thereisnodoubtthatanyedgeinthehighlycompetitivepizzadeliverygameisvital.

“The pizzadeliverymark etisnowdealdriven.Themajorityofourtelephoneorders involvethe two -pizzadeal.Sowebrainstormedabout howwecouldgettwopizzasintoone box,”saysAlan.

Theendresult,aningenioustwotieredbox,isthesubjectofpatentanddesign registrationapplicationshereandoverseas.Andthebenefitshaveextendedpasttheinitial gimmick.

“Atthetime,ourgoalwassimplytogettwopizzasintooneboxwithoutthepizzasand theboxturningtomush.Butthisoneinnovationhassavedus20%onour boxexpenses.The heatgeneratedfromthetwopizzaskeepsthempipinghot.Weareusinglessmaterialforeach box,andthebox’sstrengthis augmentedbyrecycledpaperstock,soitisanenvironmentally friendlymove.”

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“Ourintellectualproper tyspecialist,IanTannahillofPizzeysinBrisbane, is instrumentalinsecuringformalrights,likeregisteredtrademarksandpatents.Butifwe didn’talsohaveanin -houseunderstandingofthewholespectrumofrights,wecouldactually havemadedecis ionswhichareincrediblydamaginginsteadofprotecting,”saysAlan.

“Forinstance,ourpublicrelations,marketinganddesignteamshavetounderstandthat releasingamajorpatentableinitiative likethenewboxtothepublic,beforewehavemade formalapplications,wouldhavederailedoursuccess.Thefranchiseesofour145storesknow thatthepoweroftheirfranchiseisweakenedbyanyinfringementofourrights.Theyareour eyesandears,andarequicktobringinfringementtoourattention.”

“Soyoumustknowyourrights,butyoumustalsohaveanintellectualpropertystrategy whichbringsalloftheseseparatepiecestogether.Withoutit,wewouldberunningblind.”

Reinventing the wheel

A couple of years ago, three adventurous teenagers sliding down the slopes of an Australian hillside on large blocks of ice set Graeme Attey thinking.

Graeme, a keen surfer and sailboarder, first tried to make a type of land windsurfer with wheels back in 1986, but could not quite get it to work properly. So his early attempt went under the bench in the shed and was forgotten for 12 years — until Graeme saw the teenagers sliding downhill.

‘So I dragged it out and tried again. Over the space of a few weeks I chopped and changed geometry until I had a prototype that was rideable. And then I made a version with larger wheels which worked really well’, Graeme explains.

With its two 20-inch wheels and aluminium frame’s easy maneuverability, Graeme’s ‘dirt surfer’ is set apart from other ‘all-terrain’ type boards, which are basically scaled-up skateboards with three or four wheels.

According to Graeme, the dirt surfer replicates the true feeling of surfing on snowboarding but on grass, dirt or bitumen. You can fly along at 90 kilometres an hour on a smooth road, or take it easy down a gentle grass slope.

Fortunately, Graeme’s 20-year history with producing and patenting products means he knew the value of securing intellectual property on his dirt surfer.

‘It’s critical. You can flounder if you don’t know what to do and you can completely blow it. Most importantly if you don’t have intellectual property as a startup you don’t have anything. How are you going to finance a business and get funds if you don’t have a value on the business? And the only real value when you start up is intellectual property.’

Through his company, Design Science Pty LTD of Western Australia, Graeme has now successfully applied for a patent for the way the Dirt Surfer works, a registered design for the way it looks, and a trademark for the name the Dirt Surfer — which is proving popular here and overseas.

‘We’re starting to sell quite a few boards here in Australia but our highest sales by far are in exports to the UK, France and Japan. We’re about to go to the United States and talk with two companies who want licenses to sell the boards there’, he says.

‘It attracts a broader market than I would have expected — kids and their parents, and I believe the oldest person to ride one is 66, says Graeme.

Certainly, the dirt surfer’s versatility is an important part of its wide appeal. Indeed, Graeme believes dirt surfing will be the new sport of the millennium.

‘We are busy trying to get maximum media exposure and arranging an increasing number of competitions’, says Graeme.

‘There’s a awful lot to be done — we’re just at the start. It’s a lot of fun and it’s great starting a new venture from scratch. Who knows what will happen in the future — my

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agreements.AsanSMEthisisaveryattractivebusinessarrangementasitenablesmetoget
onwithwhatIdobest -designingandpromotingtheDirtsurfer.'

Top level manager appointed to protect Foster's brand

FOSTER'S is a global brand. The blue cans and bottles with the red "F" inside a golden circle and the company's brand vertically up the side mark it as distinctive and definitely Australian. It's one of the key intangible assets of the Foster's Brewing Group (Foster's) which collectively account for well over half of the company's market value.

After reviewing its intangible assets management, Foster's decided that the assets were so important to its business that it needed a senior, top-level manager to oversee them.

"So that was an endorsement of the value of IP," says Owen Malone, whom the company appointed Vice-President, Intellectual Property, a little over a year ago "and it's a direct reflection on the importance Foster places on IP."

Being in charge of Foster's IP entails securing the intellectual assets and controlling their use globally.

"Like Coca-Cola, our competitive advantage is in our brand, so we need first-rate management for our brewing, marketing, licensing and distribution arrangements around the world," Mr. Malone says.

FOSTER'S brand itself is certainly worth protecting. It is well known not only in Australia but also in 130 other countries around the world. In Britain alone, beer drinkers enjoy nearly two million pints of FOSTER'S beer every day and FOSTER'S is the top-selling beer brand in London; it's No. 2 throughout Britain.

Even in the tough US market, Foster's is now ranked as the sixth largest export brand. However, while the company has built a strong brand in brewing, it is also using its considerable branding skill to develop the Mildara Blass wine business in both the Australian and international markets.

The Foster's company is big. Its total operating revenue in 1990 was nearly \$5 billion and CEO Ted Kunkels says Foster's sees itself as a "global brand manager."

"I would expect the FOSTER'S brand, in five years, to have consolidated its position as one of the few genuinely global beer brands in the world," he says.

Mr. Malone says Foster's must not only protect its brand but also increase the value extracted from the company's broader intellectual capital base.

As Ted Kunkels said recently, announcing the company's annual results, this company is much more than a financial balance sheet. "We have another sort of ledger as well, upon which you would find the incalculable value of our human capital—the expertise, core competencies and sheer innovative drive of our people," he said.

As Owen Malone points out, "we have to be proactive about this. It means we have to harness the innovation within the company and lock it into our strategic development, so adding real value."

Innovation is consistently translated into new products or better ways of doing things, at lower cost.

“We must be very focused on this,” he says. “The business context is crucial. Your IP resources must be aligned with the company’s strategic direction—otherwise you may be best served by offloading them to enhance cash flow. So a strategic planning exercise is done to map IP to business priorities and direction.”

This entails changing attitudes – those of the IP people and others in the business.

“The IP person is often seen as “nerdy”, in the backroom; we need to change this. We must become communicators and approachable, and integrate with the rest of the company. We’ve got to be visible, supporting the business at all levels, from research and development, operations and marketing, to strategic development.”

Mr. Malone says that reliance on “autocratic rules” is not the best approach when a company tries to convert its IP assets and knowledge base into business value. “Intellectual capital is intrinsically linked to your human capital. You have to bring people along, to understand, to commit to shared values...and this is incremental. It is as much about cultural change as setting business rules.”

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