

The New York Times

T R Y I N G T O C A S H I N O N P A T E N T S

J U N E 1 0 , 2 0 0 2
B Y T E R E S A R I O R D A N

ROYALTIES from inventions now earn an estimated \$150 billion globally a year. With that amount expected to climb 30 percent annually for the next five years, it is little wonder that a number of patent licensing boutiques have sprung up to cash in on the action.

Perhaps the most prominent of these is ipValue, a firm that helped British Telecommunications dust off a controversial 13-year-old patent in its portfolio that the company asserts covers hyperlinking, a concept so basic that Web browsing would be impossible without it.

Similar to ipValue, albeit a smaller venture, is the General Patent Corporation, which is based in Suffern, N.Y., and run by Alexander Poltorak, a Jewish Russian dissident who fled the Soviet Union with his young family in 1982.

Unlike ipValue and others, which help large companies transmute idle patents into royalties or arrange technology swaps, Dr. Poltorak's company specializes in helping cash-strapped independent inventors pursue their patent claims against the big guys.

Last month, for example, Dr. Poltorak's company secured a licensing agreement between General Motors and John Mickowski,

who claims to have invented a die-casting process that greatly reduces waste in the manufacture of machine parts. General Patent is also currently helping Mr. Mickowski with a patent-infringement lawsuit against Visi-Trak, a maker of factory equipment.

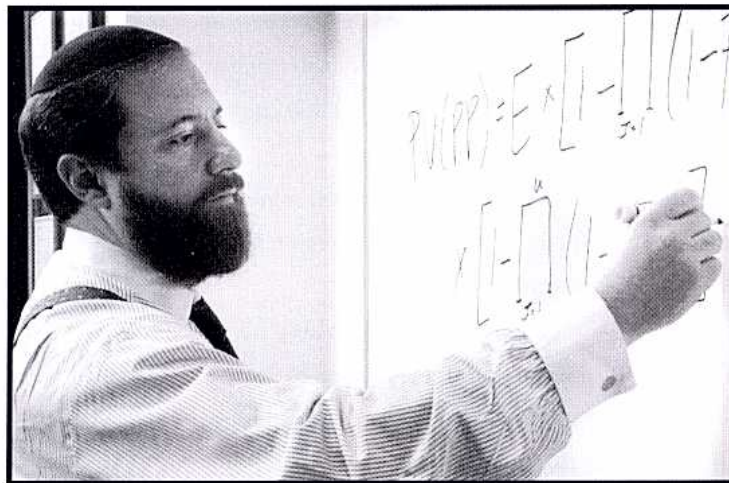
Dr. Poltorak said he learned the hard way about capitalism and the lot of many

When it came time to commercialize the invention, the Hayes relationship went sour. But the board of the fledgling Rapitech, worried that a lawsuit would drain the company of cash, refused to pursue legal action.

Instead, in 1989 Dr. Poltorak acquired four patents from Rapitech - three that had been granted to his colleague Steven Farago and

one granted to another colleague, Randy Brandt - and formed a new business to defend them in the computer industry. It was slow going at first. "I wrote 65 notices of infringement and offers to license our technology," Dr. Poltorak said. "We did not get a single response."

After signing up with a law firm on a contingency basis and filing more than 10 lawsuits in



independent inventors in America. In the mid-1980's, Dr. Poltorak, who had been trained in Russia as a theoretical physicist, started his own computer company, Rapitech Systems, which developed "smart connectors," now known as PC cards - the little devices that allow a laptop computer to be hooked up to a modem, say, or these days, a DVD player.

As Dr. Poltorak recalls it, his company spent a year and a half working with Hayes Microcomputers, which was the dominant modem manufacturer at the time but subsequently went bankrupt.

the last six years, Dr. Poltorak said, he has managed to license the invention to 90 percent of the computer industry, including Motorola and I.B.M., for "millions of dollars." I.B.M. and Motorola confirmed that they had signed licensing agreements but declined to elaborate.

He is continuing to press his claims against other companies, filing suits last week against two California companies, AmbiCom Inc. and Askey Digital, as well as Askey's Taiwanese parent, Askey Computer.

"The unfortunate reality is that industry doesn't respect intellectual property rights," Dr. Poltorak said. "What they respect is power. If they see that an individual inventor has a patent but doesn't have any money they will routinely infringe the patent."

There are two kinds of patent licensing operations: the carrot variety and the stick approach. Dr. Poltorak acknowledges that he uses a stick, by suing or threatening to sue corporations.

"It's like having your big brother with you in the playground when the bully pushes you," said Emmett Murtha, president of Fairfield Resources International, a patent-licensing firm in Stamford, Conn. Mr. Murtha describes Fairfield as more of carrot company, although its sometimes forms strategic alliances with Dr. Poltorak.

The average cost of litigation in a patent infringement case is \$2 million, which makes the system fundamentally unfair, according to Dr. Poltorak. Unless the inventor has deep pockets, he said, a patent is "really not much more than a nice certificate that you can frame and put on the wall and tell your children about."

"When Motorola and I.B.M. are in litigation against each other it works very well," he said. "It's an even playing field, it's

the best system in the world. But not when it is David against Goliath."

Mark Lemley, a professor of law at Boalt Hall School of Law at the University of California, in Berkeley, said that while he was not familiar with Dr. Poltorak's company, it sounded like a natural heir of Jerome H. Lemelson. Mr. Lemelson was an independent inventor who was granted more than 500 patents during his lifetime and whose estate continues to receive patents based on applications he submitted before he died five years ago.

Mr. Lemelson, who established the \$500,000 M.I.T.-Lemelson invention prize and endowed an invention center at the Smithsonian, had long asserted that many of his inventions were stolen by companies. Much of his and his estate's wealth stemmed from the "machine vision" and bar-code technology that, after extensive litigation, was licensed to more than 900 companies for more than \$1 billion.

Dr. Poltorak, for his part, is uncomfortable with any comparison between himself and Mr. Lemelson.

"Jerry Lemelson would keep his patent application in the office for 20 years or more," Dr. Poltorak said. "He had long chains of applications almost ad infinitum.

What that allowed him to do was see which way the industry was going and write the patents in such a way that they clearly covered this new industry. It wasn't necessarily fair because nobody knew about these patents. Mr. Lemelson saw what was happening in the industry and was simply writing around it. Those patents always irked people because they were designed to actually trap people into infringement."

That was a criticism that others also made of Mr. Lemelson while he was alive, but Gerald Hosier, the lawyer for Mr. Lemelson's estate, disputes it.

"There are instances where an applicant might game the system and manipulate it but the patent office is supposed to guard against this," Mr. Hosier said. "If there is an indictment here it is against the Patent Office. Frankly, Jerry Lemelson would have been a lot better off if his patents had issued in a timely way. He didn't see revenues until five years before he died."



Copyright 2002 The New York Times Company - Reprinted with Permission

General Patent Corporation International
Montebello Park
75 Montebello Road, Suffern, New York 10901-3740 USA
www.patentclaim.com
tel: 845.368.4000 fax: 845.368.8770
e-mail: info@gpci.com