

## INTELLECTUAL PROPERTY WATCH: Look Before You Leap

### Will a Stake From Your Competitor's Patent Pierce Your Plans?

The excitement of a new product or service launch can quickly turn to disappointment when the sheriff delivers a Temporary Restraining Order to your business or showroom. The disappointment quickly falls into the depths of despair if federal court litigation follows and with it the possibility of a large judgment, demands on key employees' time for depositions and document production, and finally, possibly most painful of all, mounting legal fees resulting from our complex federal court system and adversaries' tactics. How, you will be asked repeatedly, could this have been avoided? How will you prevent this from happening next time?

One great advantage of the patent and trademark legal system that protects our new ideas and brands is the fact that most all of such rights are a matter of public record. While there are a few exceptions--trade secrets and unpublished patent applications, a targeted search of often-free electronic databases can yield a wealth of information and identify land mines you want to avoid.

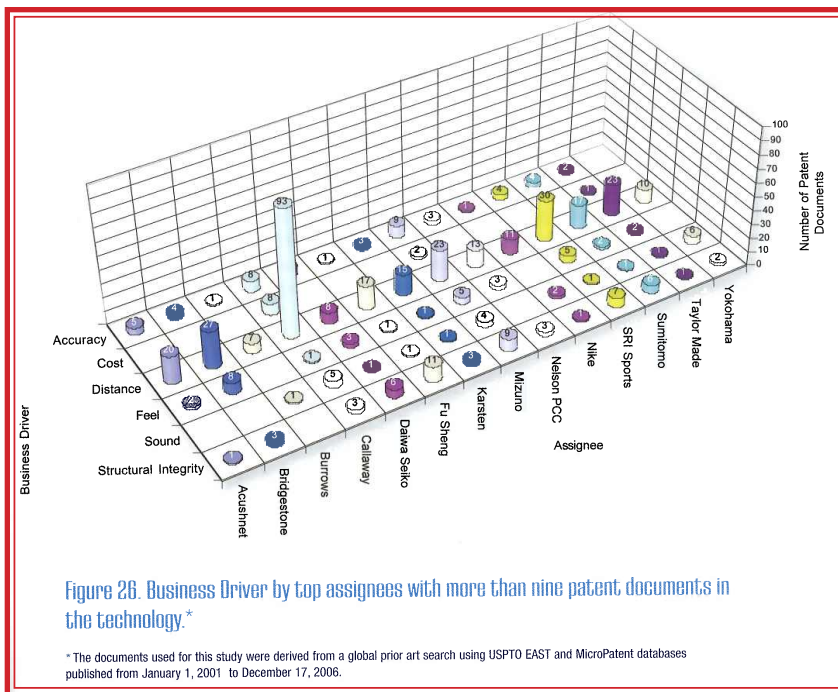
The published and issued patents by the United States and most developed countries are available online in searchable databases. Patents can be searched by inventor ("J. Scott"), key words (e.g., "truck assembly wheel anti-gyro"), subject matter classification ("Class 704 Data Processing/Subclass 2 Speech Signal Processing"), assignee or patent owner ("XYZ TECHNOLOGICAL DEVELOPMENT CORPORATION"), and of course patent number (such as the one you see on your competitor's product!).

Specifically, US patents can be searched at <http://patft.uspto.gov/> and European patents can be searched at [http://ep.espacenet.com/numberSearch?locale=en\\_EP](http://ep.espacenet.com/numberSearch?locale=en_EP). The resulting "hits" can be analyzed by patent counsel, who will identify both mine fields and even areas in a void that you may want to rush to fill. For large subject matter searches, complex information can be produced graphically, as shown in the accompanying chart concerning patents by golf club manufacturers.

Conducting a clearance study also is vitally important prior to launching your new brand. Although your own search engine (e.g., Google®) inquiry is invaluable, many governmental trademark databases also are available and must be searched for trademarks that share a look, sound or meaning with your proposed new word mark or logo. For example, US trademarks are searchable at <http://www.uspto.gov/main/trademarks.htm>. Your trademark attorney can help interpret the results, as well as suggest additional databases for other possible conflict searches, e.g., trademarks registered only at the State level.

Spending some time and effort searching for conflicts prior to launch can end up saving you tremendous headaches and legal fees later, and possibly avoid a visit from your local sheriff.

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**Note: Specialized intellectual property products are available to assist with costs and judgments, including abatement coverage, defense coverage, and even breaches of confidentiality agreements.**