

Star Wars And Technology: May The Patent Office Be With You...

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Today, December 18, 2015, is the official release in the U.S. of *Star Wars: The Force Awakens*, which is the seventh installment in the film series. The original trilogy began in 1977, and 38 years later is still going strong; a highly regarded film franchise to say the least. In part, the film series owes some of its success to the technology that “surrounds and penetrates” the movies.

“Your focus determines your reality.” Since the original trilogy, inventors have focused on creating or improving upon such *Star Wars technologies* as human prosthetics, solar power, robotics, lasers, rocket and missile technology, force fields, clones and genetic engineering, cybernetics, forms of levitation, and holography. The world is still waiting for interstellar travel and carbonite freezing, as well as levitation anywhere (not just in controlled environments) but anything is possible if we “stay on target!”

The film series has been celebrated for its innovation in cutting edge special effects. Industrial Light & Magic (ILM) was founded in 1975 by George Lucas when production of the first film began and was for many years a leading industry standard before being acquired by Disney. With each installment, the films have pushed the existing boundaries of special effects with live models, live action, and computer-generated imagery (CGI) seamlessly intertwined throughout the films. Later developments, such as the photo editing software Photoshop, and establishment of the computer animation and film studio Pixar, are also known to have roots in the original ILM company and innovations.

If you are thinking about trying to make something from the *Star Wars* universe a reality, “do...or do not. There is no try.” “You can’t stop change any more than you can stop the suns from setting.” And if you invent something, remember that it is “unwise to lower your defenses.” Startups and companies with limited budgets often have thoughts of skipping patent protection because of the inherent costs and complexities. My advice to those having such thoughts is to, “be mindful of your thoughts...They’ll betray you.”

It is true that as US and international patent law has evolved over time, the patenting process can be construed as complicated, and the odds in many instances are against the patent examiners and offices siding with the inventor and confirming that an invention is, in fact, patentable. Some might even have the view that at the various patent offices around the world, “you will never find a more wretched hive of scum and villainy” because of the positions rejecting the patentability of claimed inventions. I contend that the amount of effort and analysis that goes into drafting patent applications, and the iterative process of the patent examiners thoroughly examining them, only means that pending patent applications prepared with the help of a patent attorney, and patents that grant therefrom, are of demonstrably better quality, and therefore that much more valuable.

Many sophisticated inventors and companies take the position of “never tell me the odds”, because the process of working closely with a patent attorney to file patent applications can

itself help to refine the technology and even to sharpen the eventual marketing message, whether a patent ultimately grants or not. The process also serves as evidence to potential investors that an experienced professional thinks there is something patentable or cutting-edge about the technology and the vision.

It is true that inventors can prepare and file their own patent applications, and they do so in many cases. However, to seasoned investors, do-it-yourself patent applications or even minimalist patent applications prepared by a junior patent attorney with low budget constraints can cause them to think, “what a piece of junk.” This is because there has been no vetting or considered strategy led by an experienced patent attorney, and in most instances, fatal errors are committed by the inexperienced draftsman when preparing such filings. With recent case law developments in the requirements for written description and enablement, and in the requirements for characterizing an invention to avoid it being considered merely an abstract idea and therefore unpatentable, an inexperienced effort or a minimalist approach in the foundational patent application filings can result in later problems. “Only at the end do you realize the power of the Dark Side.” Several years after your product is public, when competitors are surfacing, the realization that earlier-filed do-it-yourself or minimalist applications prepared by less experienced draftspersons lacked the necessary substance, and consequently do not protect against those competitors, is a dark side you do not want to experience. “Once you start down the dark path, forever will it dominate your destiny”, causing issues with the value of your patent portfolio.

As such, the patenting process requires commitment from the very first filed patent application. “A Jedi [inventor] must have the deepest commitment, the most serious mind.” The time it takes for the inventor to comprehensively and sufficiently document the invention details, and the cost of having an experienced patent attorney draft an application, are factors not to be taken lightly, which is why many startups and small companies and even some larger companies fear it. However, “fear is the path to the dark side.” Working with an experienced patent attorney imparts a level of legitimacy to the invention and technology advancement that instantly boosts valuations – often by millions of dollars – justifying the initial costs of investing in a patent portfolio before an invention is made public. There is also the benefit of causing competitors to say “the force is strong with this one” when the label of “patent-pending” or “patented” can be affixed to goods or services after initial patent applications are filed or granted. Finally, substantial effort invested up front can keep you away from “the dark side” of finding out later that your earliest efforts were insufficient.

Star Wars has brought a lot of innovation to the real world, by actual advancements in special effects and computer animation, and by inspiring future inventors. If you are one of those inspired inventors, make sure to work with an experienced patent attorney from the very beginning – And may the force (in this case, the patent office) be with you...

**Note: All quoted phrases in this article attributed to lines spoken by characters in the Star Wars film series are the property of Lucasfilm Ltd., which is owned by Disney.*