

TechRoadmap *Directions*

Intellectual Property Issues of Interest to High Tech Companies

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Welcome

This month's Directions breaks from our usual format of extracting a "lessons learned" from a recent court of appeals decision.

As I was preparing this issue I received a question in an email from a friend and reader. This friend, Michael Katz of [Blue Penguin Development](#), puts out a wonderfully readable E-Newsletter on, well, E-Newsletters. His frequent format is to describe some observation about his family life and translate that into something we should do in our E-Newsletters.

Well, Michael's emailed question was really a question from his son. In an indirect way it went to the heart of what TechRoadmap does, so I figure if working off his son's questions works for Michael, maybe, this month only, I should run with it. To learn about why we have so many types of plastic coffee cup lids, read "From the Mouths of Babes".

● Putting the lid on competition

Even patent-aware companies lose track of why they are filing for a patent or what they should be doing to maximize the value of their patent portfolio.

Acting as your Director of Intellectual Property TechRoadmap helps you develop and maintain a system for managing the flow of IP from the inventors' heads to the patent office. You wouldn't build your product without engineering management; don't protect it without IP management!

Request a no cost review



We would be happy to schedule a visit to your facility to help you review the good and not so good IP practices you use. Sign up on our web site with the link below.

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IP Links of Interest

- [US Patent Office](#) A host of useful, official information.
- [EKMS, Inc.](#) A strategic IP management partner of TechRoadmap.
- [The Patent Cafe](#) An on-line portal for IP matters.
- [AlvaMed, LLC](#) A medical device consulting company we work with.
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● From the mouths of babes

My friend Michael wrote: "A patent related question was asked of me by my 12 year old son the other day, and of course, I thought of you. He was noticing the unbelievable variety of hot cup plastic lid designs, and asked:

1. **Why are there so many** (is this really an area that needs improvement or is the fact that some claim to be patented a reason to develop a new approach)?
2. **How different would a design have to be** to not to infringe on the patent?

That first question really cuts to the chase - why would something as mundane as a coffee cup lid be patented? The purpose of a patent is to prevent others from making/selling your invention. **Presumably cup lids are nominally a commodity item** - that is, your basic lid from Dixie is no better or worse than from some other company. Commodity products don't have much profit margin, since there's always someone else out there willing to name that tune in fewer notes.

One way to increase your profit margin is to sell a unique product, so lid manufacturers try to develop new "features" that will differentiate themselves from the pack. But **without a patent to block others from duplicating these features the competitive advantage would not last long**. Hence, they patent.

Of course, each manufacturer wants to play in the market, so they develop their own unique (and patented) lid design. Then the competition is no longer just on price but on whose lid the customer thinks delivers more "value"; if your lid has a neat feature people will pay more for it, even though the cost of production is probably no higher = more profit!

The second question is more tricky. To be patentable the invention must be "non-obvious" and that is the hardest criteria to know for sure since it means "if all the related work (not just patents) were laid out on a table before a person of "ordinary" skill in the art (in this case, lid design), would it be "obvious" to combine pieces of the prior art to make the new invention?"

The other aspect of the problem that makes this impossible to answer without looking at a specific case is the broadest claim in the patent might cover a lot

more ground than the specific lid you have in your hand. A patent's claims define the boundaries of your invention, just like your deed defines the boundaries of your property; without reading the patent you can't tell for sure what's covered, just like pulling into your driveway doesn't tell me how much of the property behind your house is yours.

- **Tip of the Month**

If you're kids are as precocious as Michael's, just email their questions to me too. If you have questions or need help managing your IP, then contact us to see how we can help.

- **Disclaimer**

Nothing in this newsletter should be construed as legal advice. TechRoadmap serves as an interface between companies and their legal counsel.

:: bruceahz@techroadmap.com

:: <http://www.techroadmap.com>

617-243-0007