

The Limited Monopoly

Priming the Pump: Published Patent Applications

as Leading Indicators in the Upstate NY Region

A Quasi-Scientific Survey

No doubt we have all seen the annual stats and summaries of patents issued to local employers in the Upstate New York region. Our area has long been recognized as being prolific in the generation of inventions and patents, particularly when normalized to a per capita basis.

To get a look at a leading indicator of issued U.S. patents, there is another metric available to consider – published U.S. applications. As of November 2001, a U.S. patent application is published 18 months after its filing date (unless the applicant requests non-publication *and* does not file a related foreign patent application). Since pendency of patent applications in the U.S. is now on the order of two to three years, a look at what is published this year can be indicative of what patents may issue next year and beyond. It can also provide a better indicator of how the technology and IP landscape is evolving.

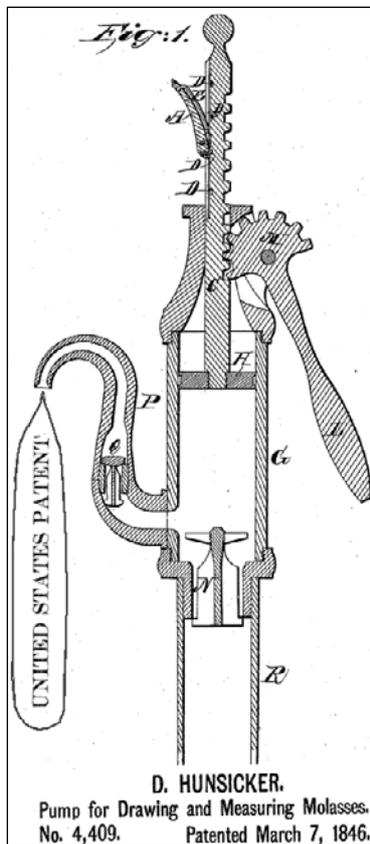
To illustrate the point, this month we will take a very quick snapshot (digital, of course) at what's in the pipeline for three of our well known employers. In a future column, we will check the "back forty" and see what seeds have been planted by a few of our tech startups. First a few caveats however, i.e. the "quasi" part as noted above.

When doing an "Assignee" search of published applications, you can't be sure that you're finding everything. Sometimes companies file their assignments later in the process. Sometimes the applications are first filed (and published) internationally, obviating the need for U.S. publication. And sometimes the applicant requests non-publication. All of which reduce the "hits" in an assignee search. Also, keep in mind that not all published applications ultimately issue as patents; they are an indicator of what might issue, but not an absolute. So, given all of that, here are a few results:

The Majors

Kodak: EK had about 750 patents issue in 2002, and about 700 in 2006. Currently, there are about 570 applications assigned to Kodak that published in 2006. It's not difficult to see where their technology has headed. Judging just from the titles of Kodak issued patents only five years ago, it looks like roughly 30% pertained to analog photography. In the recent published

"And then there's Wegmans. One patent issued for a pastry box in 2001. They seem to think that groceries can be sold successfully without patents. Go figure."



applications, analog is in the low single digits at best. Kodak has plenty going on now in digital imaging, OLEDs, ink jet, and nanomaterials though.

Xerox: A very busy company with respect to patents. Granted almost 900 patents in 2002, and about 800 in 2006. Xerox is listed as assignee of 1403 published U.S. applications in 2006, and already has over 300 published in 2007 as of early March. They span a range of product and material technologies for the "digital document."

There are numerous other large-sized upstate companies with a substantial number of pending published patent applications covering a range of technologies. Bausch and Lomb, Carrier, Corning, Delphi, Greatbatch, BorgWarner, and Welch

Allyn stand out, with an additional tier of medium-sized firms in the game as well.

New Kid 800 Lb Gorilla on the Block

One major success story for our region has been the establishment and growth of the GM fuel cell R & D center in Honeoye Falls. Exact numbers for published applications from the HF operation are difficult to determine, because it appears that the assignee is often not listed by GM at the time of application filing. (We know a few GM employee/inventor names to search on, and we're guessing that they don't own their fuel cell patent applications that we found).

Searching by the term "fuel cell" in the abstract, New York as the inventor's state, and blocking "Delphi," "Plug Power," and several other potential assignees, it appears that GM's Honeoye Falls operation is responsible for well over one hundred published patent applications in the past year. And that's what is at least 18 months old – there must be plenty more upstream. Good news indeed.

Newsflash – IP Not Always Required.

And then there's Wegmans. One patent issued in 2001 for a pastry box. No published patent applications in the past year. They seem to think that groceries can be sold successfully without patents. Go figure. □

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