# THE IP BRIDGE: Connecting the Lab & Studio to the Market

SESSION 3: REALIZING THE VALUE OF IDEAS

Josh Malone, Inventor of Bunch O Balloons

## The Inventor



The IP Bridge



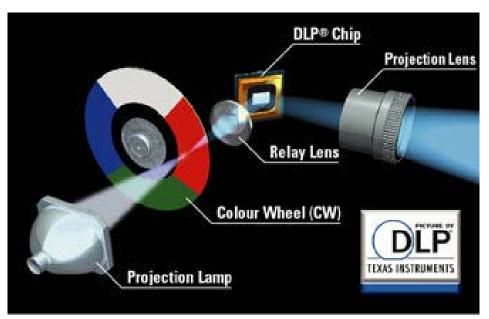
## The Patent Trial and Appeal Board



## Inventors: Thou Shalt Not Pass



# My History with Inventing









#### Bunch O Balloons: 100 Water Balloons in Less Than 1 Minute



Fill and tie hundreds of water balloons in minutes with our attachment that comes ready-to-go, no preparation necessary!

**21.455 backers** pledged \$929,160

funded with KICK STARTER



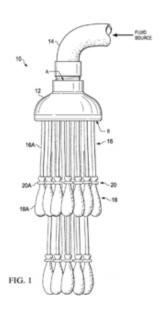




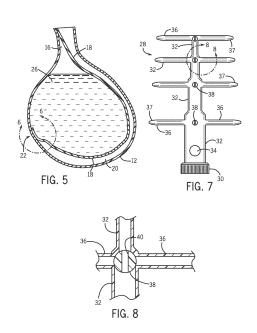
Case	Case	Case
Tinnus Enterprises, LLC v. Telebrands Corporation 19-1782 (CAFC)	Telebrands Corp. v. Tinnus Enterprises, LLC et al PGR2017-00040 (PTAB)	Tinnus Enterprises, LLC v. Telebrands Corporation 17-1175 (CAFC)
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Telebrands Corp. v. Tinnus Enterprises, LLC et al PGR2017-00052 (PTAB)	Tinnus Enterprises, LLC v. Telebrands Corporation 17-1760 (CAFC)	Telebrands Corp. v. Tinnus Enterprises, LLC et al PGR2015-00018 (PTAB)
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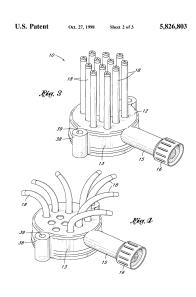
#### Dispute???

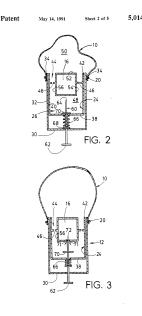
- §112(b) "substantially fille
- §112(b) "filled state"
- §112(a) "press against"
- §103 Saggio, Cooper Donaldson, Lee
- "common face"
- "second end"
- "elastic fastener"

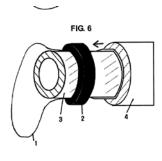


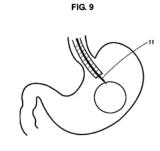
- 1. An apparatus comprising: a housing comprising an inlet and a plurality of outlets; a plurality of hollow tubes...a plurality of containers...and a plurality of elastic fasteners, each elastic fastener clamping a ...container to a ...tube,
- ...the restriction of each elastic fastener being sufficiently limited to permit its respective container to detach from its respective tube upon one or more of (1) at least partially filling the container with fluid and (2) shaking the housing;
- ...they press against each other, regardless whether the...containers are in a filled state or an unfilled state.











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### By the Numbers

- 6 patents
- 8 PTAB petitions
- 14 trips to Federal Circuit
- 7 cases in District Court
- 5 years of litigation
- 4 preliminary injunctions
- 1 jury verdict
- 29 lawyers
- 2,800 docket entries
- \$20M+ legal expense

### Legal Issues

- PTAB constitutionality
- PTAB due process
- Article I/III Conflict
- Examiner/APJ Conflict
- Packard v. Nautilus
- Venue Regular Place of Business
- Licensee standing / lost profits
- KSR prima facie burden shifting

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#### Four-Year Water Balloon Fight Ends With \$31 Million Truce

Inventor of Bunch O Balloons received payout after rulings found rival TeleBrands infringed on patents





Zuru's Bunch O Balloons toy fills many water balloons at once. PHOTO: DANIEL KARMANN/DPA/ZUMA PRESS

#### By Ruth Simon

May 20, 2019 5:47 pm ET

What may be the most expensive water-balloon fight in history is finally over.

The companies behind Bunch O Balloons, a toy used to fill dozens of water balloons at once, has received \$31 million as part of a settlement of a long-running patent dispute with TeleBrands Corp., maker of a rival product known for its "As Seen on TV" logo.

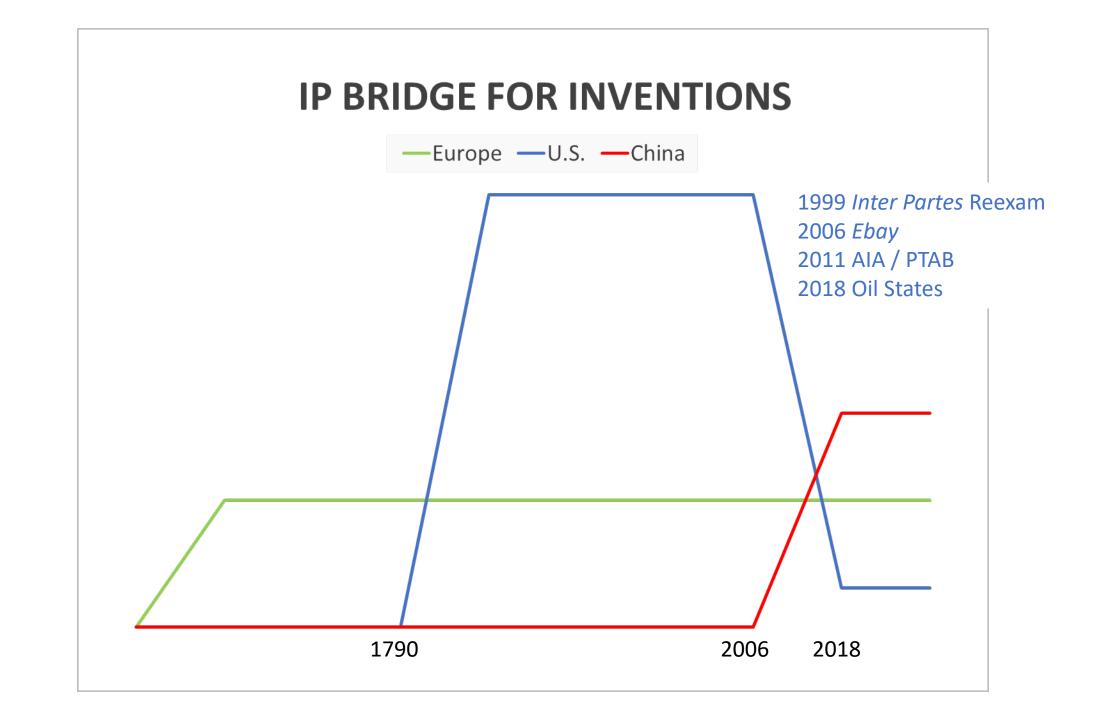
"I am very pleasantly surprised, but very grateful that justice prevailed," said Bunch O Balloons inventor Josh Malone, who said he came up with the idea for the toy in 2014 after spending hours filling water balloons for his eight children.

The balloon battle highlights the legal pitfalls for inventors, who can find themselves enmeshed in costly patent disputes. Mr. Malone said that he and Zuru Ltd., which brought Bunch O Balloons to market, spent about \$20 million in legal fees during nearly four years of litigation. Sales of Bunch O Balloons, which now generates about \$100 million in revenue annually, helped cover the costs, Mr. Malone said.

In March, a federal district court judge in Tyler, Texas, ordered TeleBrands and several retailers to pay more than \$26 million in damages and prejudgment interest and \$4.7 million in attorneys' fees and costs related to TeleBrands' and the retailers' sale of Battle Balloons, a competing product, and issued a permanent injunction.

The payment was made Friday. It also included "a substantial sum" to settle litigation over two other balloon-filling variations, TeleBrands' Balloon Bonanza and Easy Einstein Balloons, Mr. Malone said. He declined to specify the amount.

In a statement, TeleBrands said it "made a business decision to settle all pending litigation" related to water balloons, "which included more than a dozen cases and appeals. This settlement allows TeleBrands to focus its efforts and resources on its business of developing and marketing innovative products," the company added.



# The Bridge to Market for Inventions

- Invent for pleasure/hobby
- Invent as a philanthropist
- Invent with of a benefactor
- Invent for profit in Germany or China
- Invent and protect as trade secret



- Reduced Innovation
- Knowledge Retarded
- Protectionism, mercantilism isolationism, trade wars