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TRUTH IN THE SHADOWS:

THE IMPACT OF INTELLECTUAL PROPERTY ON
PEOPLE OF COLOR



PRESENTED BY: RENEL DATULMA, ESQ.
INNOVAPRIVA, PLLC

ORIGINS OF U.S. INTELLECTUAL PROPERTY

United States Constitution: Article I, Section 8, Clause 8:

- The Congress shall have power . . . to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries



WHAT COMPRISES INTELLECTUAL PROPERTY

- Patents
- Copyrights
- Trademarks
- Trade Secrets



PATENTS

- 35 U.S.C. § 101, the categories for patentable subject matter are broadly defined as any process, machine, manufacture, or composition of matter, or improvement thereof.
- Elements:
 1. Patentable subject matter ;
 2. Utility;
 3. Novelty;
 4. Nonobviousness; and
 5. Enablement.



PATENT RIGHTS

- Decide on use, license, and assignment of invention.
- Owner can exclude others from making, using, offering for sale, selling, or importing into the United States the invention claimed in the patent.



TRADEMARKS

- Distinctive
- Use in Commerce



TRADEMARK RIGHTS

- Decide on what goods, services, or products the mark may be applied.
- Owner can legally prevent others from using the same or a similar trademark for related goods or services without owner's permission.



COPYRIGHTS

- Original works of authorship as soon as an author fixes the work in a tangible form of expression.
- Includes paintings, photographs, illustrations, musical compositions, sound recordings, computer programs, books, poems, blog posts, movies, architectural works, plays, etc.



COPYRIGHT RIGHTS

- Reproduce the work in copies or phonorecords.
- Prepare derivative works based upon the work.
- Distribute copies or phonorecords of the work to the public by sale or other transfer of ownership or by rental, lease, or lending.
- Perform the work publicly if it is a literary, musical, dramatic, or choreographic work; a pantomime; or a motion picture or other audiovisual work.
- Display the work publicly if it is a literary, musical, dramatic, or choreographic work; a pantomime; or a pictorial, graphic, or sculptural work. This right also applies to the individual images of a motion picture or other audiovisual work.
- Perform the work publicly by means of a digital audio transmission if the work is a sound recording.
- Copyright also provides the owner of copyright the right to authorize others to exercise these exclusive rights, subject to certain statutory limitations.



TRADE SECRETS

- Information, including a formula, pattern, compilation, program, device, method, technique, or process that:
 - Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
 - Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
 - Uniform Trade Secrets Act



TRADE SECRET RIGHTS

- Right to prevent unauthorized disclosure, acquisition, or use so long as the subject matter is not generally known.





JACK DANIEL'S



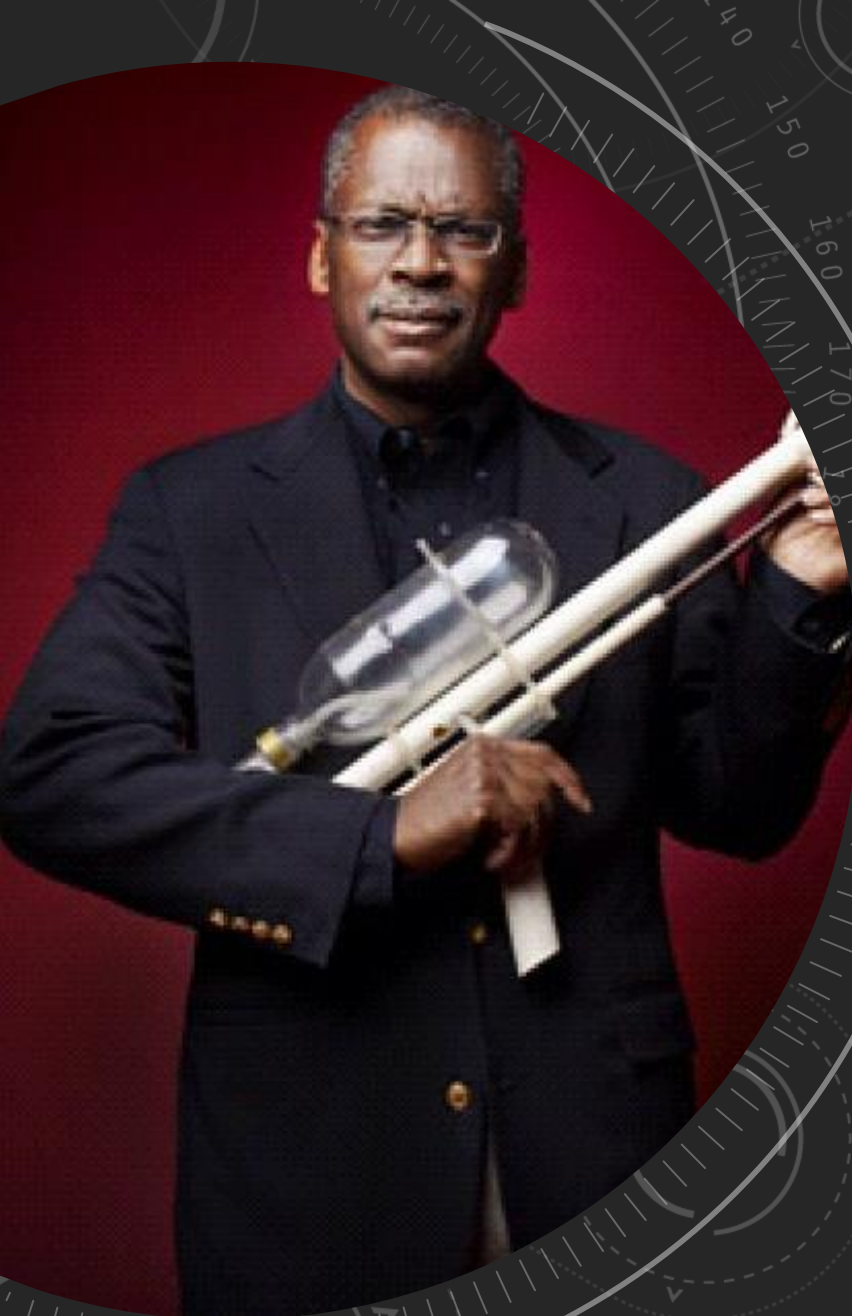
UNCLE NEAREST

JACK DANIELS WHISKEY

UNCLE NEAREST JACK DANIELS

- Jack Daniels:
 - Valued at \$1.717 Billion according to Interbrand in 2024.
 - Nathan “Nearest” Green taught Jack Daniels how to distill whiskey.
 - In the 150+ years since the creation of Jack Daniels whiskey, a member of Nearest’s family has worked at Jack Daniel’s distillery.
- Uncle Nearest:
 - Founded by Fawn Weaver
 - Valued at \$1.1 Billion according to Yahoo Finance in 2024.
 - Fastest growing whiskey brand in U.S. history.





Lonnie Johnson
Johnson Research and
Development Co.
Hasbro Super Soaker & Nerf

LONNIE JOHNSON HASBRO SUPER SOAKER

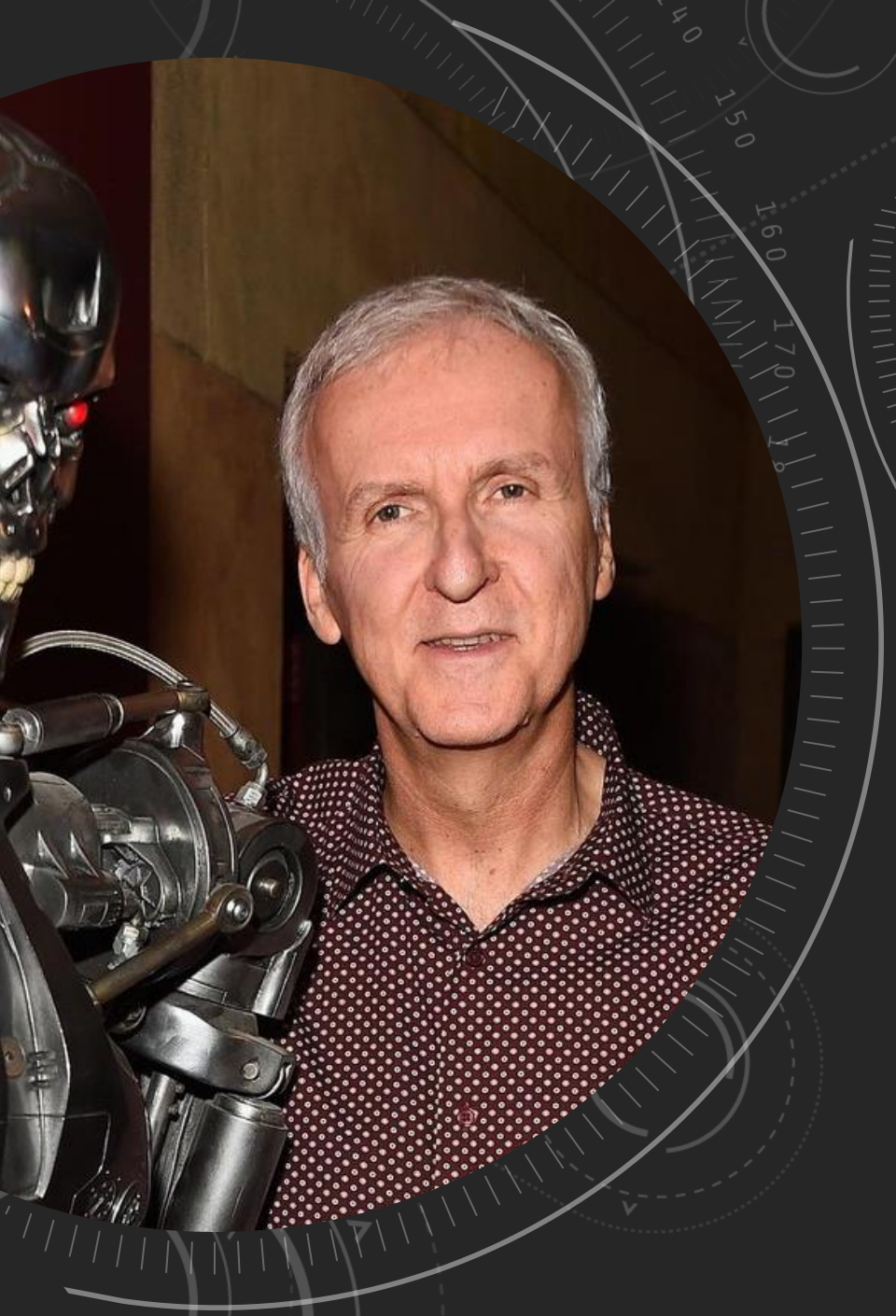
- Over \$1 Billion of sales for super soaker.
- Nerf valued at \$350 Million in 2024 by Statista.
- Johnson and his company, Johnson Research and Development Co., sued for royalties.
 - Royalties paid: \$72.9 Million
 - Johnson Research & Development Co., Inc. v. Hasbro, Inc. and Hasbro International, Inc., AAA Case No. 30-133-Y-00064-13





THE MATRIX SERIES

WARNER BROS.
WACHOWSKI BROTHERS



THE TERMINATOR SERIES

20TH CENTURY FOX
JAMES CAMERON

SOPHIA STEWART DISPUTE ABOUT THE MATRIX AND THE TERMINATOR

- Sophia Stewart created and wrote the book “Third Eye Matrix” and subsequent books in the series.
- She submitted her book and additional materials to 20th Century Fox and the Wachowski brothers.
- The respective studios created their movies after they received the work from Ms. Stewart.
- The alleged respective defenses have been the same:
 - The individual creators/ producers did not have access and knowledge to the materials and that there is no substantial similarity between the respective movies and Ms. Stewart’s works.
- Stewart v. Wachowski, 574 F. Supp. 2d 1074; 2005 U.S. Dist. LEXIS 46704 (C.D. Cal. 2005)



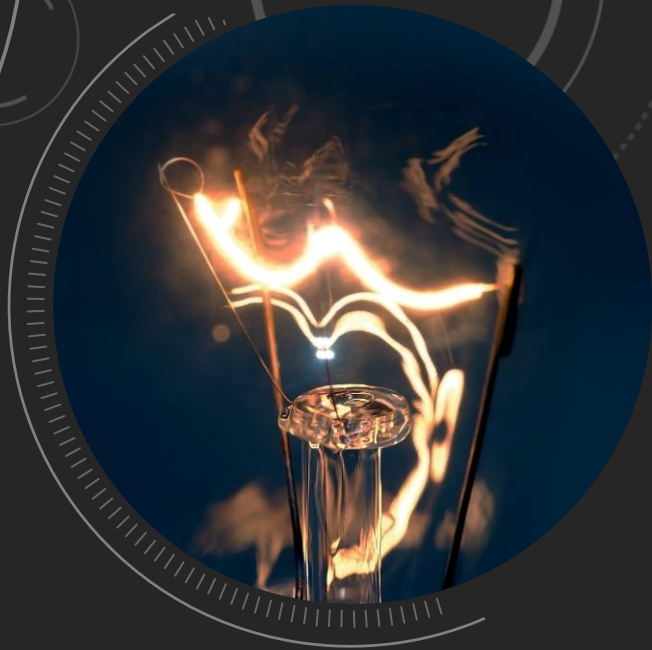
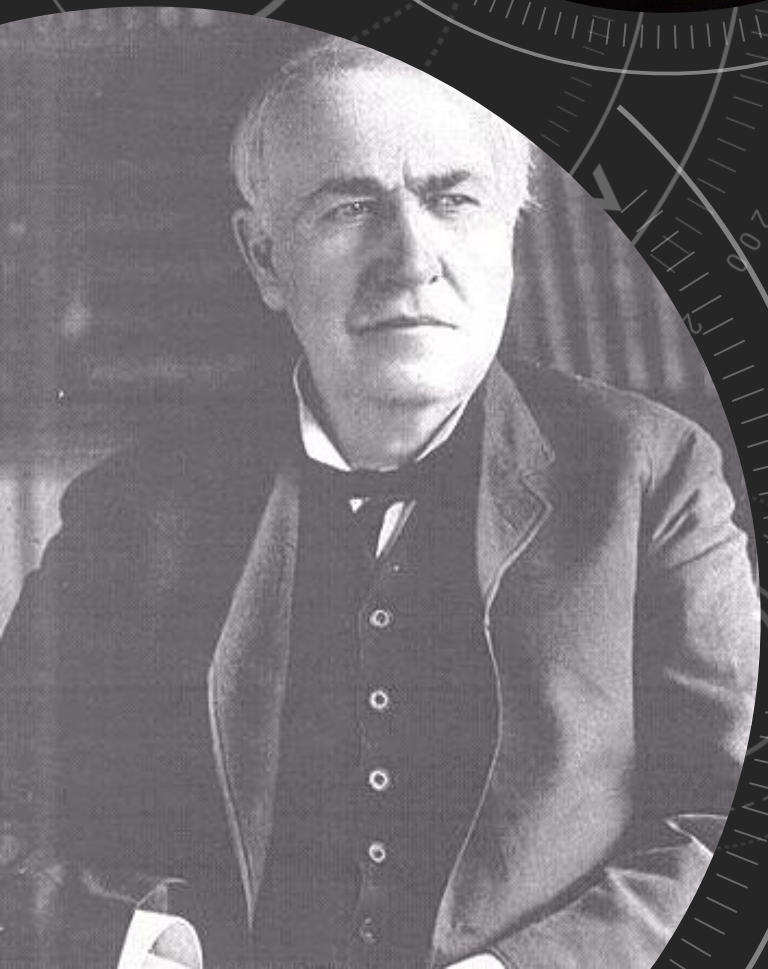
SOPHIA STEWART DISPUTE ABOUT THE MATRIX AND THE TERMINATOR

- Pro Se Representation
- Attorney Client Relationship Issues
 - Stewart v. Stoller et al, No. 2:2007cv00552 (D. Utah 2012)
- Power dynamic with studios
 - Waivers for similar ideas
- No NDA
- Failure to appear at a hearing and provide evidence of knowledge and access to the materials by the individual producers/ creators
 - Stewart v. Wachowski





GENERAL ELECTRIC



THOMAS EDISON

GENERAL ELECTRIC AND THE LIGHT BULB

LEWIS LATIMER

- Edison began creating incandescent light bulbs but they could not last.
- It was Lewis Latimer who invented a method for producing a more durable carbon filament, making incandescent lighting practical and affordable for consumers.
- National Inventor's Hall Fame



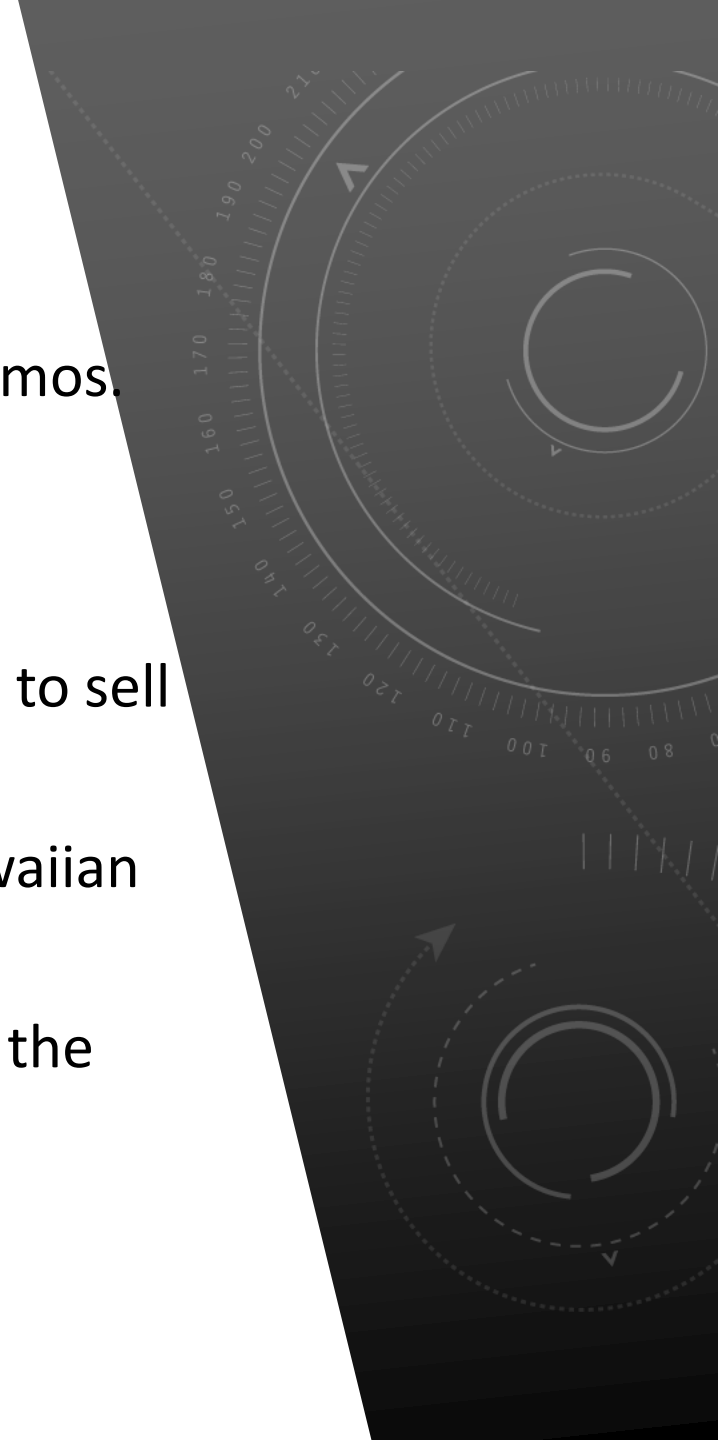


FAMOUS AMOS

FOUNDER WALLACE AMOS

FAMOUS AMOS

- Founded by Wallace “Wally” Amos, better known as Famous Amos.
- Sold to Bass Brothers Enterprises.
- Eventually owned Ferrero Group, maker of Nutella.
- Wally Amos cannot use the name Famous Amos or his likeness to sell brands.
 - He founded The Cookie Kahuna, which is inspired with Hawaiian flavors.
 - Without the use of his likeness and “Famous Amos” name, the brand has had a harder time growing.
 - Also did not help that it was based out of Hawaii.
 - Company is longer in business.





TACO BELL
ORIGINS OF ANOTHER

MITLA CAFE

- Concept of the hard-shell taco was taken from another restaurant, Mitla Café
 - This allowed Taco Bell to grow and become the brand that it is today.
- Mitla was founded in 1937 by Lucia Rodriguez and her then husband Vicente Montañó in San Bernadino, CA.
- After Vicente passed, Lucia married Salvador Rodriguez and helped grow the business.
- They served tacos dorado.



MITLA CAFE

- Bell opened a hamburger stand in 1948 called Bell's Hamburger.
- McDonald's was growing and competing with Bell's business.
- Bell, then, befriended Lucia and Salvador.
 - He learned their frying technique and appropriate their Mexican cuisine.
- In 1954, Bell opened Taco Tia which would become Taco Bell.
- Glen Bell began to take credit for creation of the crispy fried taco, as the dish grew in popularity with the mostly white patrons.



MITLA CAFE & JUVENCIO MALDONADO

- Taco Bell does not credit Glen Bell for the invention of tacos;
- But they do credit him as having played a large role in the mass production of hard-shell tacos.
- Mitla Cafe and U.S. Patent US2506305A by Juvencio Maldonado for “Form for frying tortillas to make fried tacos”



BUSINESS IMPLICATIONS

- VC Funding
- Business Growth
- Protection of Business
- IP Theft
- Future Competition



GENERATIONAL WEALTH

- How much more money and generational progress would the families of Nearest Green and Lucia Rodriguez have experienced?
- What impact would that have had on their communities?



WHAT SHOULD A CREATOR OR FOUNDER DO?

- File appropriate applications.
- Keep secrets as secrets.
 - Don't always share, even if you think it's not a secret.
- File appropriate/ timely lawsuits.
- Find the right lawyers.
- Document everything.
- NDAs, noncompetes, licenses, and other agreements.



The background is a complex, monochromatic abstract composition. It features a large, semi-transparent globe on the right side, which appears to be composed of various geometric shapes like cubes and spheres. To the left of the globe, there are several interlocking gears of different sizes, some of which are partially obscured by other elements. Overlaid on these are several circular patterns, including solid lines, dashed lines, and concentric circles, some with small arrows indicating a direction of rotation. A large, semi-transparent circular arc with tick marks, resembling a protractor or a scale, spans across the middle of the image. The overall effect is one of technical complexity and interconnectedness.

QUESTIONS?



RENEL DATULMA, ESQ.
INNOVAPRIVA, PLLC
RDATULMA@INNOVAPRIVA.COM
(786) 218-2878
INNOVAPRIVA.COM
LINKEDIN: INNOVAPRIVA-PLLC

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