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HUNGRY TO GET IN THE GAME BUT IT'S HARD TO SCORE A DEAL

'INVENTION PROMOTERS' MAY NOT BE THE BEST WAY TO GET A NEW PRODUCT OFF THE GROUND

Bob Gonzalez proudly admits that he's an "87.5-year-old" retired engineer and Navy veteran. Now, he can add "inventor" to that description.

Since retiring from HDR Engineering - an Omaha, Neb.-based firm where he worked as a structural engineer - the Bethel Park resident has received patents for two inventions. The prototype for one looks like a cross between the fan on your home's external air conditioning unit, a pinwheel and a Frisbee.

It's a disc for a throwing game, called Extra Points, that he says is like an older cousin to Frisbee.

Rather than simply throwing a disc back and forth, players must toss a disc at a post that looks like a mini version of the field goal in football. Beneath, a six-block grid assigns points to each landing spot. Mr. Gonzalez's second patent, issued in May 2016, covers this goal post and scoring.

With patents and physical prototypes in hand, all he has to do is commercialize the game.

Turns out, the inventing was the easy part.

Mr. Gonzalez said, due to his age, it's difficult for him to make it to trade shows or travel to meet potential investors. So he hired a licensing agent to do that work - a common move for solo inventors.

Just one problem: He's called that agency dozens of times to check up on progress but hasn't heard a word back. And it hasn't been a matter of months, Mr. Gonzalez said, it's been years.

The U.S. Patent and Trademark Office (USPTO) calls these agents "invention promoters" and advises inventors to be wary of the potential for scams.

The best since sliced bread

Most patents don't end up leading to a huge pile of money, said William Lang, a patent attorney in Beaver. It's bringing the invention to market that ultimately creates a cash cow.

Except, that doesn't happen very often.

In a June 2018 Forbes article, Jay Walker, a founder of Priceline.com - a website that tries to help travelers find the best deals - said that of about 2.1 million active patents at the time, about 95 percent failed to be licensed or commercialized. To date, Mr. Walker has been issued 955 patents, according to the USPTO.

Entrepreneurs like Mr. Gonzalez, who believes he is "sitting on a gold mine," remain determined. Many think their invention is the best thing since sliced bread, Mr. Lang said.

So, they're willing to listen to pitches from companies that promise to seek out interested investors or manufacturers.

Mr. Gonzalez said he chose an invention marketing firm because he had already spent \$29,000 in legal fees to obtain both of his patents.

"I can't afford to leave the house ... so I said OK."

'They can't lose'

In 2016, Mr. Gonzalez said he paid a \$90 contingency fee to the invention marketing firm, which he declined to name.

Mr. Gonzalez said it's a gamble for the agency, because it won't make any further money unless it finds an investor. If it works out, the company gets 25 percent to 30 percent of the royalties.

For three months, the firm said it was marketing Mr. Gonzalez's game at trade shows. By the fifth month, he wondered why he hadn't heard any feedback.

So he sent an email. No response. Another email a few months later. More silence. Another call. Another message. Still nothing.

Mr. Gonzalez is frustrated.

But he is lucky he paid under \$100, Mr. Lang said.

These companies usually charge a relatively small upfront sum, sometimes called a "contingency fee," to initially evaluate an idea. Then the company returns with a package that details related patents and ultimately calls out the inventor's idea as unique enough to license, he said.

Most of the report is boilerplate, though, meaning it's used for many different inventors with just a few pages of original content.

From there, firms will request the big bucks - thousands of dollars to do things such as file a patent application, show off your gizmo at trade shows or include your invention in pamphlets sent to manufacturers.

If a licensing agreement is reached, the promotion company will get a percentage of the royalties, Mr. Lang said. But, he added, "99 percent of [their] payment ends up being that upfront cost from the inventor."

Fraud reduction

To help mitigate potential fraud, the USPTO requires invention marketing firms to disclose their success rates in helping inventors find deals under the American Inventors Protection Act of 1999.

Most of these companies find licensing deals for 1 percent or less of their clients, Mr. Lang said.

While the patent office provides a forum for inventors to lodge complaints, it does not directly investigate them or take legal action. But the Federal Trade Commission does.

In July 2008, the FTC ordered Davison - a global invention promotion firm based in RIDC Park in O'Hara - to pay \$10 million for deceiving customers. The commission alleged that Davison charged inventors upward of \$12,000 in some cases to evaluate and promote their ideas.

As of January 2019, 767,288 consumers have submitted product ideas to Davison in the past five years. Of those, 278,225 were offered a contingency agreement or contract for licensing representation, according to the company's website. During that period, 99 inventors obtained a license and 15 made more money in royalties or sales proceeds than they paid to Davison.

The company declined to comment for this story after multiple requests.

Another firm, Downtown-based InventHelp, offers similar services. The company often uses television ads featuring George Foreman - a former boxer and Olympic gold medalist who markets the George Foreman Grill.

Lark Blasi, compliance manager at InventHelp, said in an email that the company does "not guarantee success or profit."

She said InventHelp tries to gain attention for clients' inventions through multiple channels, but that ultimately, "it is an exceptionally difficult thing to do, and we make sure our inventors understand the risks involved."

Some InventHelp success stories include: a microfiber cloth used to clean the blades on ceiling fans, a skin cream and a massager that claim to eliminate spider veins, and supports to place under melons in your garden to prevent rot.

InventHelp, Ms. Blasi wrote in an email, has entered into 251 licensing agreements with companies over the past five years.

Between 2015 and 2017, the company signed "submission agreements" with 6,564 clients. Of those, 166 received licensing agreements for their products and 49 clients made more money than they paid for InventHelp's services.

Last June, a Philadelphia-based inventor filed a class action lawsuit against InventHelp, citing alleged fraud, breach of contract, breach of duty, negligent misrepresentation and unjust enrichment.

InventHelp is seeking to have the case dismissed, according to court filings.

"The lawsuit has no merit or basis in fact; we look forward to clearing our good name as we continue providing our inventor clients with responsive, quality services," Ms. Blasi said.

Licensing is out of style

Gary Topolosky, a patent attorney in Brentwood, said it's probably better to work with a patent attorney - or even on your own - to solicit potential investors or manufacturers.

"Unless [invention marketers] promise you that they know someone at Mattel that can market it for you ... I say you would be just as successful sending your own email to 20 different companies like they may do for you."

In 2007, when Mr. Lang first opened his practice, he said he spent years searching for businesses he could refer clients to in order to help them market their inventions, speaking with marketing professionals and business professors.

"I basically came up with a goose egg ... licensing agreements just aren't happening."

Instead, he directs his clients to start their own business around their inventions. If that's not possible for financial reasons, he said the crowdfunding platform Kickstarter is a good option.

He said it allows inventors to test out the market and see if people are willing to preorder. Mr. Lang points to Pebble, a now-defunct company that produced one of the first smartwatches. In 2012, that campaign raised \$10.3 million on Kickstarter. At the time, it was the most-funded project on the platform. In 2016, the wearable fitness tech company Fitbit purchased Pebble's intellectual property.

Common characteristics of campaigns that succeed, he said, include a good demonstration of a product, including a prototype in action, and videos or descriptions that give the viewer a chance to get to know the people behind the project.

Meanwhile, Mr. Gonzalez holds out hope that one day his game will be played by intramural college teams or kids on the beach and, of course, that he'll make money from it. Until - and if - that happens, he's content to have two patents in hand, ones that he solely owns.

"Is it right to consider my invention my legacy?" he said with a laugh.

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