

# Dedication of Patents to the Public?

A view of a JP patent  
attorney

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Dr. Shoichi Okuyama

AIPPI



Today's message:

We need patents



# In the wake of Covid-19 pandemic

- India and South Africa requested that the WTO TRIPS Council consider a temporary waiver suspending TRIPS obligations on all medical products needed to control the COVID-19
- WHO announced the launch of the COVID-19 Technology Access Pool, or C-TAP
  - insisting that the initiative “will help ensure faster and more equitable access to existing and new COVID-19 health products.”
- Japan’s Prime Minister Shinzo Abe proposed the creation of a “COVID-19 vaccine patent pool”



## In Japan

- 20 companies, including Toyota, Canon, Honda and Nissan, started the Open Access Covid-19 Declaration, and others joined
- 840,000 patents
- Do not temporarily exercise the rights and do not seek any consideration or compensation
- Until the day when the WHO declares the end of the COVID-19 epidemic

# DG Gurry of WIPO (now ex.)

- April 24, Director Francis Gurry noted, "there does not appear to be any evidence that IP is a barrier to access to vital medical preventative measures, such as vaccines, or treatments or cures."
- " Instead, because the most significant barrier to accessing a COVID-19 vaccine was the lack of one, Director Francis Gurry argued that the main policy challenge was to incentivize research and develop other technologies that can assist in COVID-19 response efforts, such as contact tracing applications.

# Patent pool or give up your patents?

- At the time of crisis or in the context of green technology, some people always say patents are hinderance
- Is it true?

# Penicillin

- Discovered by Alexander Fleming, UK researcher, in 1928
- No patents were given to new substances in UK then



- No pharmaceutical companies were interested in developing mass-scale manufacturing processes in a war-stricken UK, for the fear of not being able to recover investments without a patent

# In the US, penicillin was mass produced

- An Oxford University team led by the Australian Howard Florey devised a method, but the yield was low in late 1930's
- They crossed the U-boat infested Atlantic Ocean to find help at the Northern Regional Research Laboratory in Peoria, Illinois
- Andrew Moyer found a solution and saved 2 million wounded soldiers
  - US patent 2442141 filed in 1945 and granted in 1948
- As a national project, the issue of patents was set aside during WWII

# Second antibiotic

- Streptomycin for tuberculosis
- Albert Schatz first isolated in October 1943 at Rutgers University in a research project funded by Merck and Co.
  - US2449866 granted in 1948, to Waksman and Schatz, assigned to Rutgers Research and Educational Foundation
- By 1949, Rutgers made \$1,750,000 in royalties

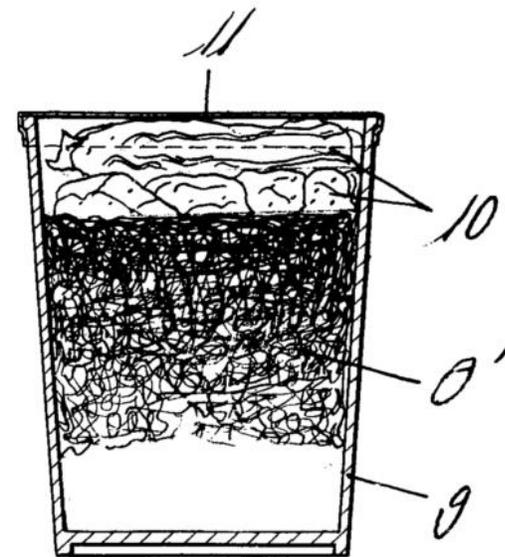
# The Chicken Ramen Story

- Momofuku Ando invented instant noodles, Chicken Ramen, at the age of 48 in 1958 and founded Nissin Foods
- He had two patents and trademarks, but imitation was rampant (about 360 players)
- He was liberal and licensed to 61 companies
- And what he did also was to form an association of instant noodle makers, Japan Ramen Industry Association, with 56 member companies
- He continued to build up patent portfolio

Mr. Ando -  
Cup Noodle  
JP 0924284 (1975)

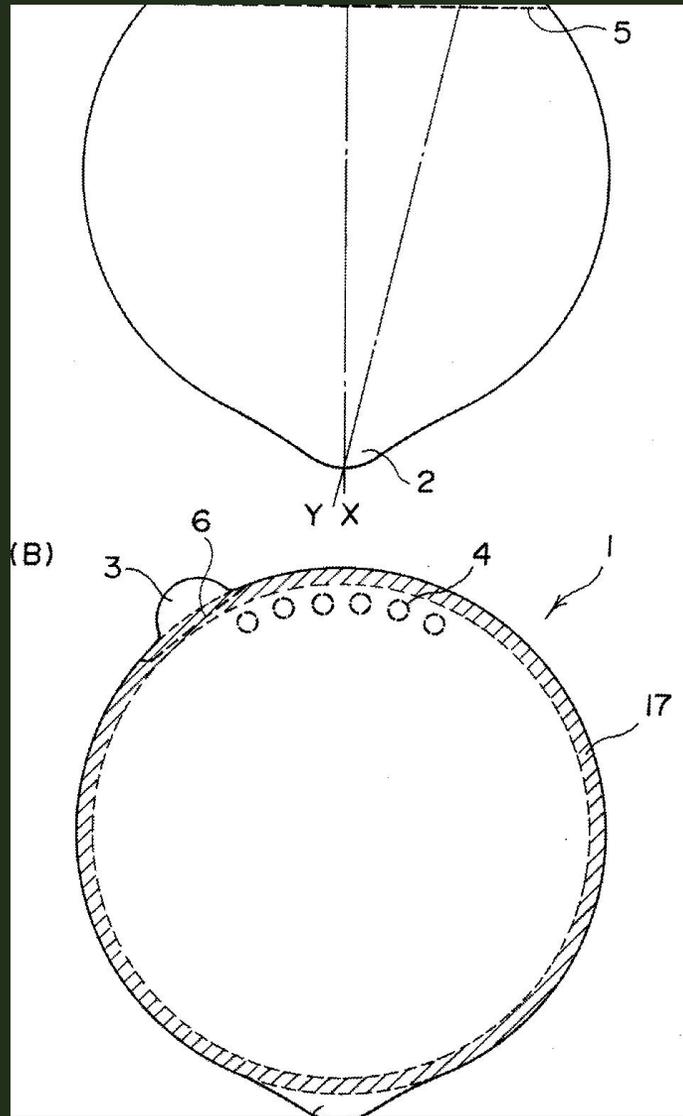


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# Package Lid JP 4190625 (2008) jointly with Toppan

Nisshin Foods filed 76 JP  
patent applications in 2018



Shelter, Corp.



# Shelter does not enforce IPRs, but...

- Mid-sized architect firm in Yamagata - about 120 employees
- A pioneer of large wooden buildings (currently 11-story building)
- Has a basic patent and a lot of other patents and design registrations
- Founded the Japan Fire-proof Timber Building Association, involving major construction companies (100 times larger or bigger) to create a platform

# Elon Musk

- "All our patent are belong to you" on June 12, 2014
  - <https://www.tesla.cn/en/blog/all-our-patent-are-belong-you>
- "We believe that Tesla, other companies making electric cars, and the world would all benefit from a common, rapidly-evolving technology platform."
- "Tesla will not initiate patent lawsuits against anyone who, in good faith, wants to use our technology."

# Conclusion

- We do need patents
  - To deal with COVID-19 and for green technology
- We can use patents in many different flexible ways
  - It is not just simple enforcement
  - They may become a cohesive force to create a new forum or platform



Thank you

[okuyama@quon-ip.jp](mailto:okuyama@quon-ip.jp)