

For a Patchogue Inventor, a Costly Uphill Battle

By WARREN STRUGATCH

AT the heart of American enterprise is the "build a better mousetrap" axiom: create a fine product, and the market will reward you handsomely.

Try telling that to Carmine F. Vasile. This last year has been a long and trying one for Dr. Vasile, an electrophysicist who lives in Patchogue, a basement inventor and, of late, a lapsed believer in free-market economics. Dr. Vasile (pronounced vah-SILL-ee) believes that he invented the proverbial better mousetrap but that bigger companies and their lawyers have stolen his ideas. "A great invention doesn't do you any good unless you can afford to protect it all over the world," he said.

Nineteen years ago, during a period of self-employment between stints at Motorola and the Hazeltine Corporation, an electronics manufacturer in Greenlawn, Dr. Vasile developed a heat-exchange process that had considerable commercial potential, he thought. The process uses a copper coil inserted in a drain to absorb heat from wastewater and transfer it to incoming cold water. The process makes it cheaper to heat cold water.

Dr. Vasile, who said that during his career he had received about 35 patents on behalf of various employers, including Motorola, Rockwell, Hazeltine and Grumman, holds Patent No. 4,619,311 himself. He assigned the patent to a company called Hydrofilm, a limited partnership he and his wife, Cheryl, operate from their home.

Dr. Vasile calls his invention a gravity film heat exchanger — GFX for short. In 1994 Dr. Vasile retired early to focus his entrepreneurial energies on bringing the GFX to market. At the time, Dr. Vasile said, he thought the GFX would finance a comfortable retirement for himself and his wife.

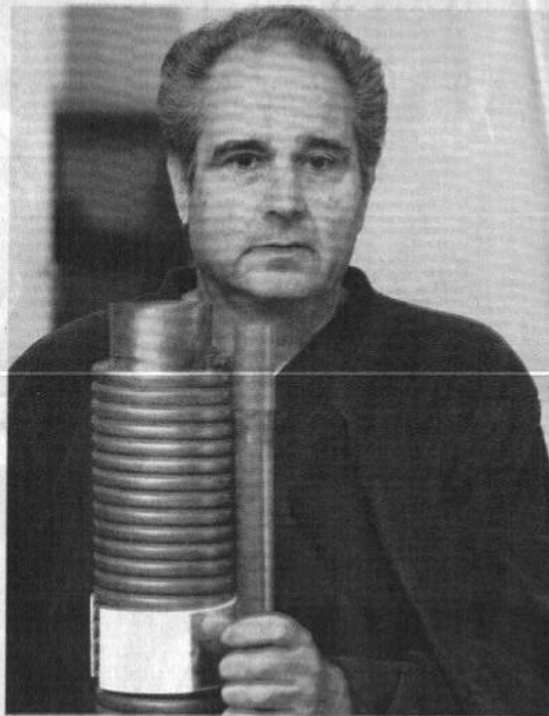
Five years ago, Dr. Vasile found a partner, Doucette Industries of York, Pa., which manufactured and marketed the device and mailed him monthly royalty checks ranging from \$2,000 to \$4,000.

In March, the checks stopped. Doucette announced it was ceasing distribution of the GFX in favor of another product called the Power-Pipe, manufactured by a company called Renewability Inc. in Aurora, Ontario.

As might be expected, Dr. Vasile was furious, and the Power-Pipe, in his view, is just the GFX under another name.

"This is fraud," he said. "I have pictures of the product. Power-Pipe is the same thing as GFX."

Dr. Vasile wrote letters, many letters, to everyone involved. He complained to Underwriters Laboratories in Melville, which certified the safety of the GFX; to the Canadian Embassy in Washington; to a trade association of building contractors; and to the Federal bankruptcy court in Central Islip.



Ed Betz for The New York Times

Carmine F. Vasile, who invented a heat exchange device, contends that a Canadian manufacturer has duplicated his invention and that he has not received royalties.

"They tell you to watch out for countries like Thailand," he said, describing warnings he received about product counterfeiting. "Nobody tells you about Canada."

Dr. Vasile acknowledges that his design is not protected under the Canadian patent system, and he knows that many companies routinely patent their inventions in all markets where they expect to sell or where the product might be manufactured.

"I couldn't afford to do that," he said. He said he relied on the belief that the GFX design qualified as a trade secret and was thus protected under the Economic Espionage Act of 1996.

"I protected trade secrets for 20 years for companies like Hazeltine," Dr. Vasile said. "When I talk about trade secrets, I know what I'm talking about."

Charlie Boeckmann, an aide to Repre-

sentative Tim Bishop, said that he had written letters on Dr. Vasile's behalf to appropriate F.B.I. officials, asking them to review his claims under the espionage act, and that the F.B.I. told him earlier this month that the claims were being investigated.

"If in fact his allegations are correct, we have a serious issue on the federal level," Mr. Boeckmann said.

John Lebo, the president of Doucette Industries, refused to comment on Dr. Vasile's contentions. "There really is nothing to discuss with you," he said. "We will comment at the proper venue, and this is not it."

Denis Van Decker, a vice president of Renewability Energy, denied that the Power-Pipe was the same product as the GFX.

Of Dr. Vasile, he said: "The man has no credibility. He throws mud at people. The products aren't the same, and our custom-

ers know the difference."

Mr. Van Decker said that arbitrators had ruled against Dr. Vasile in 12 instances, but Dr. Vasile denied that. He said that there had been only three rulings against him and that the arbitration process was incomplete, because he could not afford to pay the costs assessed by the arbitrators. Mr. Van Decker said the issue would be resolved in court.

Dr. Vasile has "done the lion's share of what would be expected of him" to get his idea successfully commercialized, said an official of the federal Office of Energy Efficiency and Renewable Energy, which administered a grant of nearly \$100,000 given to Dr. Vasile to help him develop and market his invention.

Inventors often confront the problem of defending their patents in other countries, said the official, who spoke on the condition that his name not be used because he was afraid of how his supervisors would react to his comments.

"All these guys are disadvantaged trying to get their technology to the market," the official said, describing independent inventors. "They're like the guy in the Greek myth who pushes the boulder up the mountain," only to have it roll down again.

The official said that there was little the government could do for them, aside from sympathizing with them. His own approach, he said, is to recite motivational speeches made by Vince Lombardi, the Green Bay Packers' coach. "I told Carmine, 'Don't give up,'" the official said. "I regularly tell inventors, 'Don't give up.'"

Dr. Vasile said that he had not given up but that because of financial problems brought on by the GFX, he could not afford to hire a patent lawyer and is presenting a claim in bankruptcy court.

Ronald Weiss, a Huntington lawyer who represented Dr. Vasile at his bankruptcy hearing in Central Islip last month, called the case "particularly complex with several overlapping issues."

"This is a David and Goliath situation, and Carmine is taking on six Goliaths," Mr. Weiss said.

So, instead of financing a comfortable retirement for him and his wife, Dr. Vasile said his efforts to market his GFX invention had depleted "our lifetime earnings."

"It's been a nightmare," he added. "I blew through my retirement money and my wife's. What I've learned is that people can steal technology at will. Unless you've got money to defend your patent, it's worthless."

The GFX patent comes up for renewal next June, but Dr. Vasile is not giving up. "I'll renew it," he said. "With improvements." And things are, in fact, looking up. In July he found a new manufacturer for the GFX, Fuel Cell Components Integrators of Hauppauge, and sales have just gotten underway.

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Please publish other photographs taken by Ed Betz to discredit Denis VanDecker's misrepresentations in "**For a Patchogue Inventor, a Costly Uphill Battle**" by Warren Strugatch. (NY Times, 12/26/04, Long Island Section pg. 8)

They show the counterfeit-label photographed last August by Andrew Vourlos, Program Manager, Customs Anti-Counterfeiting Operations, Underwriters Laboratories (UL). He confirmed to me the label was counterfeit, an investigation was ongoing, and it had two counterfeit trademarks. (See <http://gfxtechnology.com/UL-Letter.pdf> & www.gfxtechnology.com/NYTimes.pdf, pg. 1)

Congressman Bishop and the Canadian Ambassador were contacted because the FBI and RCMP are reluctant to investigate trafficking in counterfeit goods or violations of the Economic Espionage Act of 1996 ("EEA"). Since 9/11 the FBI has opened about 17,000 fewer cases according to a recent report by Glen A. Fine, the Inspector General for the U.S. Justice Department.

They also photographed a GFX sold in May 2004 as a Power-Pipe to a Canadian, Wills Weidmark. Contrary to this misrepresentation -- "**The man has no credibility. He throws mud at people. The products aren't the same, and our customers know the difference**" -- Mr. Weidmark discovered he received an American-made GFX; not an allegedly superior Power-Pipe. (See www.gfxtechnology.com/NYTimes.pdf, pp.2, 3)

He's not alone; this counterfeit label is one of hundreds shipped to Doucette and affixed to GFX-products shipped to Canada; many for the "**GFX/Power-Pipe™ Drainwater Heat Recovery System**" advertised @ <http://www.sedtechnologies.com/powerpipe2.htm>. For verification, compare the installations listed on Sed Technologies' Web site with ship-to addresses on GFX-Invoices posted @ www.gfxtechnology.com/368-TCA-Invoices.pdf. SED also lays false claims to awards, energy credits and independent certifications earned by GFX at great cost to the GFX-patent owners and taxpayers in America & Canada.

Doucette knew these labels had been counterfeited and some had been affixed to GFX-models having no UL safety-certification at all. Doucette admitted using hundreds of such counterfeit labels, also in violation of the Lanham Act, but the Arbitrator failed to report related crimes as required by federal law. (18 USC §4, Misprision of Felony)

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NOTES:

1. The EEA is the first federal statute to criminalize the theft of trade secrets by imparting criminal liability for theft or misappropriation of trade secrets as well as any attempt or conspiracy to steal or misappropriate trade secrets. EEA Section 1882 targets trade secret theft more generally, without regard to its benefit to a foreign entity. Section 1831 applies to theft of either products or technical skills unrelated to a product, while Section 1832 is more limited to addressing theft of a trade secret that is related to or included in a product. Section 1837 addresses conduct outside the United States; 1836 permits civil proceedings to enjoin violations. (See 18 USC Part II, Chapter 90 - Protection of Trade Secrets & The Piper Rudnik IP Report linked to <http://www.envoynews.com>)

2. John Lebo, Denis VanDecker, their companies & agents are all subject to Doucette's confidentiality clause in its GFX-License (Article 14). UL and its agents are subject to the confidentiality clause in WaterFilm's Listing Agreement. Each time I changed jobs, some corporate attorney warned me the **Inevitable Disclosure Doctrine** "...permits a cause of action for trade secret misappropriation to be alleged even in the absence of any actual misappropriation based solely on the employee's exposure to trade secrets and the claimed likelihood of disclosure due to similar or identical responsibilities at the new job."

3. Prior to the EEA, this doctrine was a powerful deterrent against "job-hopping" and trade secret theft or misappropriation, e.g.: "**In Pepsico, Inc. v. Redmond, 54 F.3d 1262 (7th Cir. 1995), the Seventh Circuit Court of Appeals applied the inevitable disclosure doctrine in affirming a district court preliminary injunction barring a former Pepsico marketing executive from holding a similar position at the Gatorade division of Pepsi's competitor Quaker Oats. The Seventh Court recited the Illinois Uniform Trade Secret Act's provision for injunctions against "actual or threatened misappropriation" of a trade secret (emphasis added; see also Cal. Civ. Code ' 3426.2(a) and noted....**" (Quotes from "**Seven Deadly IP Sins in Employee Hiring**" linked to <http://library.lp.findlaw.com>)