

Patents | Teresa Riordan

Two inventors hope they will finally win compensation for a device that was squelched.

APERSISTENT feature of the American imagination consists of legends about corporations that squelch competition by buying up new technology and then shelving it. Among the most popular of these tales is that big auto makers have suppressed the introduction of a carburetor that gets 100 miles or more to the gallon.

Few cases of such suppression of an invention have been documented, however. Yet this is precisely what Carlile R. Stevens, an inventor, and Bill Alling, his business partner, have set out to do in a legal odyssey that began 13 years ago.

Two different juries have affirmed allegations that the Universal Manufacturing Corporation, now a division of Magnetek Inc., defrauded Mr. Stevens and Mr. Alling by buying the rights to their new energy-saving fluorescent-lamp ballast only to keep it from coming to market.

The second jury awarded the two partners nearly \$100 million in 1994, about four times the compensation awarded by the first jury and overturned on appeal.

But Mr. Stevens and Mr. Alling have yet to see any of the money. Lawyers for Fruit of the Loom Inc. (a previous owner of Universal, which is liable for any damages) have appealed the verdict. The two partners expect to hear within days from the state court of appeals in San

Francisco whether the \$96 million judgment will stand.

Although this case is about the suppression of an invention, rather than infringement of a patent, it raises many similar questions. Chief among them is whether the personal cost that inventors and entrepreneurs must bear is worth the fight to defend their rights.

Universal and its subsequent owners, now on their seventh law firm, have spent an estimated \$25 million on the case over the years and have never offered to settle. Officials of Fruit of the Loom would not comment on the case.

Mr. Stevens, 67, calculates that over the last dozen years he has devoted three to four man-years to the litigation. He has filed for bankruptcy court protection from his creditors. "My personal wealth has been decimated," he said. "To this day I have a \$2 million tax loss carry-through," he said.

He believes the ordeal took a toll on his wife, who died in 1995.

Mr. Alling, who is 10 years younger than Mr. Stevens, sounds equally frustrated. "It's put a lot of lives on hold, not the least of which is mine," he said. "My wife bailed out a long time ago. She just couldn't take the pressure."

Nor has it been easy for their lawyers. Eugene Crew, who has represented the two from the beginning,

said that when the first verdict was overturned on appeal, it "rocked our firm's foundation." He estimates that his firm, Townsend, Townsend & Crew in San Francisco, which represents Mr. Alling and Mr. Stephens on a contingency-fee basis, has spent \$8 million to finance the case.

And the defense has argued that the public has suffered as well. Amory B. Lovins, director of research at the Rocky Mountain Institute, who testified on behalf of the defense, said the delay in introducing the electronic ballast to fluorescent lighting cost the American public \$100 billion in extra-energy spending.

The two men met in 1969, when Mr. Alling worked in marketing for a division of the Singer Corporation, for which Mr. Stevens, a physicist, designed a traffic light system.

While trying to figure out a way to make stoplights brighter, Mr. Stevens stumbled upon his idea for a solid-state electronic ballast in fluorescent lamps. At that time the ballasts, which regulate the flow of electricity in the lamp, were magnetic.

Starting in 1974, Mr. Alling persuaded 175 investors to put up \$3.5 million in seed money by pitching the electronic ballast as a socially responsible answer to the energy crisis of that decade. Mr. Stevens's ballast, whose development also was financed by what is now the Department of Energy, was shown in a number of tests to achieve 50 percent to 70 percent energy savings over the magnetic variety.

In 1981, Universal, one of the two major magnetic ballast manufacturers, approached Mr. Alling and Mr.

Stevens about acquiring the new technology. The partners licensed the patents on the technology to Universal in exchange for royalties from future sales of the ballast. As part of the deal, Universal hired Mr. Alling to head the electronic ballast division and promised to finance Mr. Stevens's research.

But by 1984, Mr. Alling said, he realized that Universal had no intention of putting the new ballasts onto the market. He quit and filed suit.

Electronic ballasts are now commonplace, introduced primarily by a newcomer to the field, Motorola Inc.

Motorola wanted to buy an exclusive license to Mr. Stevens's technology back in 1989, after the first trial, according to Mr. Alling. But Universal did not relinquish rights to the patents, the first of which will expire next year, until 1994. By that time, large companies were already selling their own electronic ballasts.

Though they now live half a country apart, with Mr. Stevens near Austin, Tex., and Mr. Alling in Danville, Calif., the men talk on the phone several times a day, conferring on other business ventures.

What will they do with the money if the \$96 million judgment is upheld? Mr. Alling wants to be able to pay off the original investors in the ballast enterprise and have enough left over for his children's college education. Mr. Stephens wants to have enough to put away for his retirement.

"It's a frustrating life," Mr. Stevens said. "I have to plan my life as if I'll never get a dime. I can't ignore it and yet I can't count on it."