



# The Taste of Patentable Innovations

What happens when scientific research enters the kitchen?

Most chefs would never think of downloading recipes from the United States Patent and Trademark Office (USPTO) patent database. To quote a Martha Stewart catchphrase, that's probably "a good thing." Patentese can collide mightily with the common sense of cooking, as the *Chef America v. Lamb-Wesson* case demonstrated. That 2004 case involved a dough-producing process, which included a step of "heating the resulting batter-coated dough to a temperature in the range of 400° F to 850° F for a period of time ranging from 10 seconds to 5 minutes" to first set the batter and melt the shortening flakes.

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As savvy cooks know, if you follow this baking step literally, the resulting product resembles a charcoal briquette. However, patent claims "mean exactly what they say," according to *Chef America*: "The dough is to be heated to the specified temperature. Nothing even remotely suggests that what is to be heated is not the dough but the air inside the oven in which the heating takes place. Indeed, the claim does not even refer to an oven."

While the USPTO isn't on most people's recipe Rolodex, patents offer an intriguing window into potential market trends. Peculiar food innovations are even emanating from our most prestigious universities, such as a new method for carbonated ice cream invented in MIT's Cryogenic Engineering Laboratory. This patented concoction of an "emulsified liquid mixture of liquid carbon dioxide and dessert mix" offers to combine "the chill of ice cream with explosive fizz of soda pop."

Closer to home, Seattle entrepreneurs sought to tackle the age-old problem of how to get your toddlers to eat their peas and carrots instead of unabashedly throwing them back in your face or gleefully smashing them into a pulp with their little fists. A United States patent application (published in May 2010) discloses a method for sneaking healthy vegetables (in powdered form) into classic childhood favorites such as macaroni and cheese or Rice Krispies Treats.

The owner of this patent application is a local startup company, Full Tank Foods.

Full Tank's patent application is the intellectual property counterpart to the copyright infringement battle royal between Missy Chase Lapine, the author of *The Sneaky Chef: Simple Strategies for Hiding Healthy Foods in Kids' Favorite Meals*, and Jessica Seinfeld (Jerry's wife), the author of *Deceptively Delicious: Simple Secrets to Get Your Kids Eating Good Food*. In the end, the Second Circuit Court of Appeals affirmed the summary judgment dismissal of Lapine's "vegetable plagiarism" claims, stating, "Stockpiling vegetable purees for covert use in children's food is an idea that cannot be copyrighted."

Whether Full Tank's method "for enhancing a nutritional value of a target food product without significantly changing an established sensory profile of the target food" will survive USPTO patent examination is questionable for financial reasons. The company had a promising run in its early startup phase. Its vegetable-infused frozen entrées made their way onto the store shelves of Whole Foods Market by 2008. But then the Great Recession struck and Full Tank's fortunes foundered. It simply may have no money to pay for the patent prosecution effort.

Much better funded is Nathan Myhrvold's ongoing research taking place in Intellectual Ventures' kitchen laboratory. A 2,400-page tome Myhrvold is writing with two chefs, *Modernist Cuisine: The Art and Science of Cooking*, is already rocking the professional food world with its \$625 prepublication list price. Intellectual Ventures' test kitchen discoveries could lead to the patenting of cooking devices and methods that will make Ronco's once-patented "Chop-o-Matic" look like child's play.

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