



**INNOVATION**

## KICKING THE CAN ACROSS GLOBE

Tenacity, serendipity and a good patent lawyer turned a bright idea into a global company. **Report: Kath Walters**

Greg Stokes thinks selling wine in a can is a great idea. Once, he had to work hard to convince people. Not so today.

Sure, he had \$10 million in sales last financial year on his side but it is really his rivals that have cemented the value of the invention. Companies in Australia challenged the patents held by his company, Barokes.

Then, companies in Europe and the United States took the challenge to the highest intellectual property court in the world, The Hague.

When they lost, the value of the Barokes IP was beyond doubt. As a result, Barokes is transforming itself from making wine in a can to selling patent licences around the world.

The legal challenges to Barokes cost about \$3 million. The story of Barokes' survival is a lesson in the key rule of intellectual property – pay for the best advice and make sure the coffers can withstand an attack. How Stokes, his wife Irene, and his business partner, Steve Barics, triumphed is a tale of

strategy and serendipity. Like the Greek mathematician Archimedes, Stokes's great idea occurred in the bath – or, more accurately, the jacuzzi. Amid the bubbles of his backyard spa, Stokes leant over to refill his wine glass. He bumped the bottle into the froth and thought as he caught its fall: "There has to be a better way" to keep wine cool without an ice bucket that's safe from breakage and packaged in responsible quantities.

But the idea of wine in a can is not new. Inventors have been trying to solve the problems of canning wine since 1936, Stokes says. The challenge is to protect the wine from the can, chemically speaking. "The wine collapses, and ends up a pile of dirty salts," Stokes says.

Moreover, Stokes used only organic wine (he's allergic to preservatives and additives). He'd been making batches of organic home-brewed wine with his mates, Barics and Farley Clements.

After Stokes had his jacuzzi moment, the three friends tipped in \$50,000 each to start the company. After a couple of rounds of investment, Barics and Stokes bought Farley out. It was 1996.

While Stokes and Barics worked nights to develop a wine suited to canning, they contracted packaging company Amcor for about \$12,000 to develop the lining for the can. They also worked weekends to develop a method of filling it so the wine did not oxidize. It took four years.

Stokes was a police prosecutor. He then trained in law and worked as a consultant for several years. In 2001,

**Inventor: A jacuzzi changed Greg Stokes' life**

with the prototype product ready, Stokes wrote a business plan for Barokes, with Japan as the first market. "They are not a wine drinking culture so they don't have to make a shift and they are interested in novel packaging," he says.

Stokes and Barics took a trip to a patent lawyer in 2001, and discovered to their horror that a worldwide patent would cost up to \$100,000. They borrowed against their homes.

By the time Stokes began knocking on the doors of venture capital companies and wine companies showing the prototypes, the partners had spent \$500,000. After four months and 18 companies, serendipity intervened.

When Stokes cracked open a can of wine at a Christmas party, a guest turned and asked: "What the hell is that?" After a taste test, he told Stokes he'd be in touch. He came back with his boss, millionaire Morry Fraid, co-founder of Spotlight Group. Fraid paid \$3.5 million for a 40 per cent share in July 2002.

In 2003, Amcor started the first challenge to the patent. Sales in Japan were just gaining momentum. Stokes and Barics sold 10 per cent of the company to Fraid to pay legal costs. After three cases and \$60,000 in legal fees, Barokes won.

By June 2004, the company had revenue of \$400,000 in Japan. A year later, Barokes had two distributors in Japan and was exporting to Singapore, Korea, Hong Kong, Taiwan, Burma, Belgium, the Netherlands, Germany, United Kingdom and Canada.

Then, in 2006, a large can manufacturer in Europe banded together with two in the United States and another seven smaller companies to file 87 challenges to the Barokes patent.

Their [then] patent attorney, David Gibson, advised them to argue the case in the Hague under the patent co-operation treaty. It took four years to win the battle. Then the former rivals came to Barokes ready to sign licence deals.

The first deal, with Ball Packaging Europe, is likely to result in a licence to make 150 million cans of wine a year.

Today, Barokes sells 250,000 cans of wine in Japan a month and is exporting to another 30 countries. Eighty-five per cent of its \$10 million revenue last year came from wine sales, 10 per cent from its private label business, and 5 per cent from licence deals.

Stokes expects the company to get 85 per cent of its revenue from licensing within three years. **BRW**

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