## The Million Year Patent

by Charles L. Harness

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Bryan Burke pushed aside his physics book and his slide rule and turned to his father. "How do I go about getting a patent?"

"What on?" said Jim Burke from behind his news tapes.

"Space travel-- at speeds faster than light."

"Unpatentable, my boy. Nothing can move faster than light. Einstein settled that centuries ago."

"Einstein was wrong."

"Can you prove it?"

"I think so. All you need is two ships, each traveling toward the other at a speed of more than one-half the speed of light. According to Einstein, all motion is relative. So you can imagine that either ship has zero motion, and the other has all the motion."

"True, I think. But where will you find two such ships?"

"It says here in the shipping news, that Electra, in dock on Joro, sixth planet of Sirius, will convert to your new Burke drive while taking on cargo and passengers, and then take off for Earth. It also mentions that Thor, of Alpha Centauri, will convert to Burke, and drive for Earth. I've just plotted the courses of both ships as part of my homework in Astrogation. Both ships will land here at Washington Terminal on the same day and at practically the same hour, three years from now..."

"...and with my new drive," said Jim, "each ship would have a velocity of six-tenths the speed of light toward Terra, and a total of 1.2 times the speed of light toward each other. Very interesting, and somehow, of course, impossible."

Bryan's face fell.

"Oh well," said Jim, "at least I'll get you a date with Jack Lane. He's a patent attorney who handles some of my private inventions, outside my research at Pan-Stellar."

The boy brightened. "Just one more question. How long would the patent last?"

"Seventeen years, I suppose."

"I know *that.* I mean, how do you calculate those seventeen years on a ship moving at a substantial fraction of the speed of light? Remember, time slows down on an accelerating body. Seventeen years Earth time might be only five or ten years, ship time."

Jim shrugged. "Nice legal point. Maybe your patent-- if you ever get it-- would still be in force on such a ship, after seventeen years of Earth time. It would depend on whether the ship time is legal time. That's one for Jack Lane. What difference does it make?"

"Maybe none," said Bryan thoughtfully.

And so the patent application was filed, and Jim Burke pretty much forgot about it.

During this time, Electra and Thorcontinued to gather speed. They peaked out at 0.6 c on schedule, and toward the end of the third year, they began the long deceleration toward Sol.

And then came the explosion in the research laboratories of Pan-Stellar, which nearly killed Jim Burke, and following which he was hauled off to Washington Central Hospital.

And then there came, during the next months, with a certain horrid rhythm, additional unpleasant events. These included a series of operations on Jim Burke, which finally established that he was

probably going to live; but that radiation side effects would prevent competent use of his optic nerves; that all his money was gone; and that Pan-Stellar deeply sympathized, but that the Burkes could not expect any financial help.

In fact, Pan-Stellar sent out their special representative to see Jim and to explain exactly how things stood between Pan-Stellar and Jim Burke. They sent Mr. Slicer.

T. Elliott Slicer, Esq., Chief of the Accident and Claims Section at Pan-Stellar, thought of himself as a kind man. This particular term, however, was rarely foremost in the list of adjectives that other people used when referring to him. Nevertheless (or possibly, therefore) his superiors considered him a brilliant adjuster, whose technique had saved the Line millions of talers. Rather often, when lawyers were contacted to handle accident claims against the Line, they turned down the case when they learned Slicer was on the other end.

Mr. Slicer smiled a lot, and he was smiling when he walked into the hospital room and introduced himself to Jim Burke, who held out his hand. Mr. Slicer put a piece of paper in it and said, "Since you cannot read, Mr. Burke, I will tell you what it is. It is a copy of our complaint, which I have just filed in the Hall of Justice."

"Huh?"

"In summary, Mr. Burke, Pan-Stellar holds you personally responsible for the damage to the new experimental drive and to the building, plus incidentals including the resulting delay in the drive research program."

"But... but..."

"The claim is in the amount of four hundred eighty-three thousand talers," said Mr. Slicer.

It finally sank in, and Jim began to react. "You've got it all mixed up! I'm here because of what I was doing for Pan-Stellar. Pan-Stellar owes *me!*"

Mr. Slicer smiled kindly. "I hope you will retain competent counsel, Mr. Burke, who can help you correct these odd misconceptions."

"But my insurance... terminal pay... pension... disability...?"

Mr. Slicer grinned. "We have deducted these, of course, Mr. Burke, from the gross amount of the damage you have done to the laboratory. Our claim represents our net loss, after all deductions. We are fair."

Jim Burke was silent.

Mr. Slicer pursed his lips, then continued. "You have a magnificent reputation with the Line, Mr. Burke. I am informed that you invented the basic drive now being installed in the newer ships. The Line has asked me to take this into consideration, and I will. Under the circumstances, we are willing to drop our suit if you will waive all claims, past, present, and future, against Pan-Stellar. I have the waiver, here."

Jim Burke heard the rustle of paper.

"Couldn't you throw in a small pension?" he asked in a low voice.

"I'm afraid not, Mr. Burke."

"Something for my son's college education?"

"Quite out of the question."

"My hospital bill?"

"My dear Mr. Burke. Are you being deliberately difficult? Well, never mind. Perhaps I can help you see things our way, after our next legal step. It distresses me to inform you that I shall have to attach all your property, real and personal, including your house, your cars, furniture, books, instruments... everything."

"Why should that distress you, Mr. Slicer?" Jim was genuinely curious.

"Because the expenses of attachment are not taxable to the defendant, but must be borne by Pan-Stellar."

"My heart goes out to the Line," murmured Jim.

"I'll leave the waiver on the night table," said Mr. Slicer cheerfully.

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A week after Mr. Slicer's visit, Margie Burke and Bryan were walking behind Jim's exercise chair in the sunshine room at the hospital. Margie was trying to explain it all to Bryan. "The Line won't pay anything. Mr. Lane has had it out with their lawyers."

Jim Burke said something so quietly that Bryan did not quite get it; the hair on his neck rose nevertheless.

Margie Burke continued. "Mr. Lane says he is going to see Mr. Slicer again next week. He thinks Mr. Slicer might still call off the damage suit against your father and give us a little money, if we coax and plead a little. It's the custom in the big Lines to give a small income to permanently injured employees."

"Will there be enough money for my patent application, too?" asked Bryan.

"I'm afraid not," said his mother.

"Just a minute," said Jim. He sensed an interesting possibility, even though he was not sure just how he could use it. "What's the latest on your patent?"

"Mr. Lane says the Patent Office has sent another rejection. He says the Patent Examiner doesn't believe the invention can work, and that to continue prosecution, we will have to submit actual proof that two space ships have moved toward each other at a speed greater than the speed of light. But I think we can provide the proof pretty soon."

"How's that?"

"It just happens that Dr. Talix is on the Electra, due to arrive next week here at Washington Terminal. And this new drug, *kae* extract, that they want Dr. Talix to try on your eyes, is due to arrive on Thor, all on the same day, maybe the same hour. You can calculate the distances from Sirius and Alpha Centauri, and the time in flight, and by simple arithmetic you can get a velocity of 0.6 c for each ship toward Sol. So the ships would have to have a net approach velocity toward each other of 1.2 times the speed of light."

"Ah, yes," mused Jim. "I remember now. Very curious, and very impossible. Things just can't move faster than light, whether they're moving towards themselves or towards Sol or a third-party observer. Or can they? Could Einstein be wrong?" He was silent for a long time. "It's curious to think, isn't it, that if you *are* right, and if you *do* get a patent, the Line will soon be infringing it with every pair of ships moving toward each other along the same vector, where each of the ships has an average speed over one-half *c*."

"And that's also true if the ships are going *away* from each other," said Bryan. "They'd start infringing soon after they left the same space port."

"Margie," said Jim, "get hold of Jack Lane again."

"What for?"

"I want him to go down to the Patent Office with Bryan. I want him to get this patent issued, and then I want him to file a counterclaim against Pan-Stellar."

"Counterclaim?"

"For one million talers, for patent infringement."

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Patent Examiner Honaire addressed his two visitors with care and precision. This was in accordance with the Terran Patent Office rule that all interviews be entered into the computers for instant evaluation in the prompt determination of patentability. "The Application Branch," said Honaire, "had a problem the day this application was received. As I'm sure you are aware, Mr. Lane, there is a very ancient rule, dating back to the first century of operation of the old United States Patent Office, that if the application clearly calls for a mode of operation that violates a law of nature, this would be called to the attention of the applicant, with an offer to return his application fee. If the applicant refused the offer, we would take his money and then demand a working model. That generally ended the matter. But we couldn't apply that rule here. In the first place, the Solicitor's Computer gave us a ruling that Einstein's Theory of Relativity wasn't a law of nature, but only a hypothesis. So when Einstein said that an object couldn't move at a velocity greater than the speed of light, he was simply stating a consequence of his theory.

Therefore we have accepted your fee, and we have duly examined your application, and we will let you try to prove Einstein wrong."

"That seems fair," said Bryan.

"Yes, indeed," said Jack Lane.

"Now, then," continued Honaire, "let us get to the heart of the matter. In your working example, you mention two ships, Electra and Thor. You concede that, as observed from the Earth, the velocity of each ship with respect to the Earth will never exceed the speed of light. On the other hand, what is the velocity of each ship as measured by the other? In neither ship will there be any apparent motion to the occupants of the ship. On the contrary, the other ship will appear to have all the motion, and will further appear to be approaching the observing ship at the combined velocities of the two ships, which, in the case suggested in your latest amendment, for Electra and Thor, is alleged to be 0.6 plus 0.6, or 1.2 times the speed of light. You contend that the gap will therefore be closing at a rate greater than the speed of light. The position of the Office is that this is quite impossible in view of Einstein's Theory."

"And my client, of course, respectfully traverses," said Lane, looking at his watch. "Electra and Thor should be arriving at the Washington Terminal any minute now. If they come in on schedule, Einstein and the Patent Office are wrong. It's as simple as that!"

"Not quite, Mr. Lane. Perhaps I should have explained earlier another unusual aspect of this case. The Einstein Theory is integrally programmed into all Patent Office computers. For this reason we can rely on our computers only in limited areas in examining an application predicated on the proposition that the Theory itself is wrong. This requires that all essential features of patentability be developed personally by the Examining Corps. Indeed, the Commissioner of Patents himself has taken a personal interest in this application. This is, of course, on account of the fact that the patent, if granted, could be expected to cover a large segment of the interstellar traffic of the Cluster. The Commissioner has advised further that proof of operability of a most clear and convincing character will be required. The reason is, obviously, that operability, if established, will necessarily refute Einstein's Theory, a theory which has been accepted as axiomatic for several hundred years. The Commissioner therefore requires that any demonstration adduced in support of operability be witnessed by himself in person."

Lane rose from his seat in protest. "But that would require that we arrange for the Commissioner to be at the Terminal when two specific ships arrive simultaneously! We have no other way to prove operability. And it will take weeks of negotiations with the space lines, not to mention the problems of getting hold of the Commissioner on a split-second schedule!"

"I appreciate the difficulties inherent in your position," agree Honaire gravely. "Unfortunately, in view of the interest of the Commissioner, I'm afraid I must adhere to the proof requirements as I have stated them. You can, of course, appeal my decision to the courts."

"No," said Lane glumly. "We don't have time for that. We need the patent now."

Honaire glanced at the clock on the wall behind his visitors, then studied Bryan for a moment. "Then I would recommend," he said enigmatically, "that we defer the question of operability for the time being, and proceed to the issue of aggregation raised in the latest Office action."

Bryan studied his copy of the Office action. "What's aggregation?"

"'Aggregation'," said Honaire, "means that each of the elements of the invention contributes merely what it would do anyway, if the other elements were not there. Aggregation is unpatentable because it is obvious to one skilled in the art. The instant rejection on aggregation is based on the facts that each ship carries its own load, makes its own schedule, and travels at its own 0.6 c, quite independently of the other. The total system is therefore aggregative, and hence unpatentable."

"We traverse," said Lane. "In fact, we rely on aggregation to prove patentability. *Our* aggregation is unobvious!"

Honaire blinked. "How can aggregation ever be unobvious? It's a contradiction in terms."

"Let me explain," said Lane. "Normally, when you add 2 and 2 you expect to get 4; and so, when you do get 4, that's aggregation. It's obvious, and unpatentable. But if you got 3 or 5, that could not possibly be aggregation, and therefore it might be patentable invention. Well, our situation is exactly the reverse. When we add 0.6 and 0.6, we do *not* expect to get 1.2, but rather a value somewhat less than 1.0. So

when we actually do add 0.6 and 0.6 and get 1.2, that *is* unexpected. In other words, it's the very fact that we *do* get aggregation that is unexpected, and therefore unobvious, and therefore patentable."

"A novel concept, indeed." Honaire was thoughtful. "And it reduces still further the area of logic circuits in our computers available for interim findings of law and fact in this application."

"It would appear, then," said Lane, "that the question of aggregation rests entirely within the personal discretion of the Examiner. We formally request a ruling."

"I accept the personal jurisdiction of the issue," said Honaire coolly. "Nevertheless I shall retain the rejection on aggregation until a suitable showing of operability is made." He looked across at the clock. "By your calculations, Electra and Thor should be landing in about ten minutes?"

Lane shrugged his shoulders. "And the Commissioner is probably out playing golf. Shall we proceed to the rejection on art?"

Honaire smiled. "Very well. We have a rejection on the prior art, based on counsel's own statements made in prior prosecution of record, to the effect that Electra and Thor, taken together, are examples of operability and utility of the invention. But in view of Electra-Thor, how can the instant invention be *novel?*"

"It's novel because this application was filed three years ago, before either Electra or Thor reached  $0.6\ c$ ," said Lane. "In other words, the Electra-Thor system, considered as a supra-c system, isn't prior art simply because it isn't *prior*."

Honaire nodded. "We agree. That particular rejection will be withdrawn. We can now proceed to the formal objections."

"He means objections to the language of the claims," Lane explained to Bryan.

"Quite right," said Honaire. "Your main claim simply says 'Space travel at speeds greater than the velocity of light.' The claim would cover all motion in excess of light, regardless of how it is accomplished."

"But that's what I invented," said Bryan. "Why can't I claim it?"

"You invented *one* method of moving at speeds greater than light," said Honaire. "Your method requires two vessels, each moving at a speed greater than 0.5 c. Later on, if someone else can invent another way to cause a vessel to move at a speed greater than the speed of light, independent of a second vessel, your patent ought not to cover such subsequent invention."

"Suppose we amend to recite two ships," said Lane, "each having a velocity greater than 0.5 c, and having a net velocity with respect to each other exceeding c?"

"Still too broad," said Honaire. "In your invention, as described in your application, both ships are accelerated until they reach  $0.6\ c$ ."

"We will further amend," said Lane, "to recite that each ship is accelerated to a velocity of at least 0.6 c"

"Seems reasonable," said Honaire, making interlineations in his file. "Would you please read the proposed claims into the record?"

Lane dictated briefly, then looked up at Honaire expectantly.

"The revised claims meet all objections in phraseology," said Honaire, looking at the clock. "This leaves only the issues of aggregation and operability, which we are forced to postpone until--"

The audio buzzed.

"Ah!" said Honaire. "Perhaps *this* is what we have been waiting for." He flipped the incoming button. A crisp voice crackled through. "Honaire!"

"Yes, sir!"

"Both ships came in on schedule. Incidentally, I have both Dr. Talix and the kae in my private car, and we are headed for the hospital. You might so inform the applicant."

"He's going to see Dad!" exclaimed Bryan. "Who is he?"

Jack Lane was shaken. "*That* was the Commissioner of Patents." His voice gradually came back. He asked Honaire: "I gather that the Commissioner witnessed the arrival of the ships with his own eyes?"

Honaire smiled. "Yes. So the Office must withdraw the rejections on inoperability and aggregation." "And you'll allow the claims?" Lane's voice had an edge of disbelief.

Honaire was calm. "I am pleased to inform you, Mr. Lane, that, as presently advised, all objections and rejections in this application have been met, and in accordance with the Statutes and the authority vested in me by the Commissioner of Patents, I do now grant the patent."

Bryan started to cheer, then remembered where he was. Instead, he jumped up, whirled around twice, and sat down again. "You mean *right now?*"

"Yes, right now," said Honaire. "In ancient times, it took at least six weeks after allowance, to issue the patent. Now, of course, with computers, we can deliver the sealed document within a few minutes-- and *here it is.*" A gold-sealed document emerged from a slot on the top of his desk, and he handed it to Bryan.

And at that instant the room was plunged in darkness.

"What's the matter?" whispered Bryan.

Honaire laughed wryly. "I think I can explain. When a patent is granted, it is automatically abstracted and integrated into our computers, so as to constitute a reference against any future patent application for a similar invention. Simultaneously, all points of law involved are programmed into the computers in the Solicitor's office. These operations necessarily require the computers to accept and digest data on the Einstein Theory, and on the law of aggregation, that they 'know' are wrong. Their circuits probably couldn't handle the conflict. My guess is, that all the computers involved are temporarily out of commission-- nervous breakdowns, if you will." He sighed. "And *my* office lights are out because our government, always economy conscious, has wired our computers and office lights on a common circuit. But if you will bear with us, the current balancers will take care of the problem in a moment. Ah, here come the lights again."

"Then we'd better leave before we cause any further difficulty." Lane shook hands with Honaire. "The courtesies of the Office are greatly appreciated," he said formally. But he was grinning from ear to ear.

Honaire played it dead-pan. "We serve the Cluster." His eyes flickered, and he turned to Bryan. "There is just one final requirement."

Bryan's heart skipped a beat. "Sir?"

"May I have the autograph of the boy who blew the fuse at the Patent Office?"

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They found Jim Burke waiting for them impatiently in his room at the hospital. "You missed all the excitement," he said from behind his bandages. "Some government fellow collected Dr. Talix and the *kae* at the port and brought them here together. Talix has just finished giving me my first treatment."

"Can you see yet?" demanded Bryan eagerly.

"Well, of course not, not yet. Even if it works, it'll take weeks. But enough about me. You got the patent?"

"Yes," said Lane.

"So now you can file the counterclaim and preliminary injunction against the Line?"

"Both are now on record. We stopped by the Hall of Justice."

"What's our next step?"

"We wait. Slicer is certainly going to put out feelers for settlement. When he comes around again, we'll have to be ready to talk to him about a license under the patent..."

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"I am here," said Mr. Slicer warmly, "because of my continuing deep concern about Mr. Burke. All of you will be delighted to learn that I have been able to persuade Pan-Stellar to offer a generous disability pension to Mr. Burke."

"How much?" asked Jim.

"One hundred and twenty-five talers a month," said Mr. Slicer kindly.

Jim Burke began a slow rhythmic gurgling.

"Mr. Slicer," said Lane patiently, "we know you mean well, but owing to my client's facial bandages, it is painful for him to laugh."

Slicer stared at Jack Lane suspiciously. "I wasn't trying to be humorous. My motives are entirely humane-- "

"I'm sure they are," smiled Lane. "And of course our counterclaim for patent infringement has nothing to do with your presence here. So if your tactics require that you spend the first fifteen minutes telling us that our patent is worthless and that we ought to settle for a monthly payment of one hundred and twenty-five talers, you go right ahead. But we may smile."

Slicer studied the three uneasily; then he shrugged his shoulders. "Well, frankly, now that you mention it, I *don't* think much of your patent. But it would take a long and expensive fight in the courts to find out where we stood. For this reason, we are willing to buy in, if the price is right. But the figure in your counterclaim, one cent per ton, seems high."

"What rate did you have in mind?" said Lane carefully.

"Something like, say, one-tenth of a cent."

"Too low."

Slicer was no longer smiling. "I don't think your patent will stand up in court."

"We'll soon know, won't we?" said Lane genially. "Since patent infringement is a counterclaim in Pan-Stellar vs. Burke, the question of whether my client must reimburse the Line for the explosion will be decided by the same jury that decides whether the Line infringes the patent issued to this man's son-- this same bright young lad, who, with tears running down his cheeks, helped carry his father's stretcher down in front of the jury box."

Slicer patted his forehead with his handkerchief. "Mr. Lane, we seem to be constantly misunderstanding each other. What are your minimum terms?"

"One-quarter cent per ton royalty, non-exclusive. Exclusive is half-a-cent per ton."

"If we were exclusive, could we sub-license the other lines and keep the income?"

"You can," said Lane, "if you will take the responsibility for policing the patent and financing all litigation."

"Seems reasonable."

"But before we get too far along," said Lane, "let me mention that we will require a substantial lump-sum down payment."

"Ah, the down payment. How much?"

Bryan said: "One million talers." Then he held his breath.

"Make it a quarter million," said Slicer.

"That's not enough," said Bryan. "Remember, Mr. Slicer, we have to get enough to pay the Line your claim of 483,000 talers. But we'll come down a little, to 966,000 talers. Then we could pay your claim and still have 483,000 talers left over."

Slicer glared at Bryan. "Which, by some strange coincidence, is exactly what we were suing your father for!" His eyes rolled upward. "Never in my entire professional career have I dealt with such unreasonable people."

"Then maybe there's another way, Mr. Slicer," said Bryan carefully. "But first, a question for our lawyer. Mr. Lane, is ship time legal time? I mean, can you write a patent license where something happens by ship time?"

Jim Burke leaned forward suddenly.

"Yes, of course," said Lane, looking puzzled.

"What difference does it make?" sniffed Slicer. "The patent expires in seventeen years, no matter how you calculate it. Earth time, ship time, it's all the same. After seventeen years, your royalties stop."

"Then we're pretty close to agreement," said Jim quickly. "If the Line will waive its claim against me, I'll waive the down payment. On one condition."

"Which is?"

"The seventeen-year period will be determined by the chronometers of ships operating under the patent claims."

Slicer studied the three. "There's something here I can't quite put my finger on." He rubbed his chin thoughtfully. "All right, it's a deal. I'll send the contract over within the hour." And now he was smiling again. He smiled his warmest, kindliest smile. "Master Bryan, you have no idea just how much money the Line is going to make from this license."

Bryan smiled back. "No, sir. But then, the Line doesn't know for how long it's going to be paying the Burkes."

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One year later Jim Burke drove Jack Lane, Bryan, and Margie out to the dedication ceremonies for the new Burke Research Laboratories.

"I still don't like it," said Margie. "Putting all our patent money into those buildings and that funny equipment. It'll take years before you get enough clients to break even. You'll overwork. And you know what Dr. Talix says about not tiring your eyes. Also, I'm sure the patent royalties won't go on forever."

"Now *there* is a curious point," soothed Jim. "Because, for practical purposes, the patent royalties *will* go on forever."

"Are you out of your mind? The patent expires in seventeen years." She turned to Lane. "Doesn't it, Jack?"

Lane chuckled. "It does, but it all depends where the seventeen-year period is taking place. Bryan gets the credit for this gimmick, so why don't we let him explain it?"

"It was the last thing we talked about, with that nice Mr. Slicer," said Bryan. "We got him to agree to keep paying the royalties as long as the patent was in force, as determined by ship time."

"Well?" said Margie.

"Don't you see, dear?" said Jim. "Everything on a ship under acceleration slows down, including clocks. The faster the ship, the slower the clock. But, as long as Pan-Stellar ship-pairs are arriving or departing at high speeds during the remaining sixteen years of the patent *on their clocks*, they are accruing royalty under the patent, no matter whether the patent has long since expired by local time here in Washington. So when the patent expires in sixteen more years, Earth time, there will be hundreds of Line ships in deep space with clocks that register only a two-year lapse. The patent will still be in force on those ships, and we collect our royalties on them, even though some of them won't be back for twenty or thirty years, Earth time."

"And that's just a starter," said Bryan. "Right now, Pan-Stellar is provisioning nearly fifty ships for the first attempts at several of the nearer globular clusters. The round trip will take nearly a hundred years, Earth time, but their clocks will show a time lapse of only about seven years."

"Those royalties should take care of our grandchildren comfortably," said Jim Burke.

"And that isn't all," said Bryan. "Pan-Stellar is building ships to try for the Magellanic Clouds. The round trip is about 40,000 light years, Earth time, but the ships' clocks will show only about ten years lapse, well within the patent."

"And next will be the nearer galaxies," said Lane. "M-31 in Andromeda is nearly a million light years away, but, calculating ship time by the Einstein Theory, the round trip will be less than seventeen years for the people on the ships."

"But what kind of patent is it," wondered Margie Burke plaintively, "if you got it in the first place only because Einstein was *wrong*, and then you make it last for a million years because Einstein is right? Don't you have to be consistent?"

Lane laughed. "Not in the patent game. But don't worry about Einstein. He would understand. After all, he was a patent examiner in ancient Switzerland!"