

News: Small Firms' Patent Claims May Slow Internet Commerce

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FRAMINGHAM (09-01-95) - With visions of licensing fees dancing in their heads, two tiny companies recently stunned the Internet community by claiming they have legal ownership rights to key technologies for electronic commerce.

This could signal the beginning of legal hassles surrounding Internet technologies, experts said. Traditional patent disputes often end in licensing deals or out-of-court settlements and rarely affect customers. But because of the early stage of these patent fights, the potential results are unclear.

In one case, start-up Eolas Technologies Inc. in Chicago announced it has exclusive rights to a pending patent that covers small, plug-in program objects that are embedded in World Wide Web documents. For example, a so-called Weblet could be a video playback program or a software agent that retrieves certain data from the Web.

Michael D. Doyle, the firm's chief executive officer, said Sun Microsystems Inc.'s Java programming language and Netscape Communications Corp.'s Web browser are among the commercial offerings that would infringe on the patent if it is approved.

Doyle hopes to obtain licensing royalties and hasn't yet threatened to file suit.

Doyle's announcement sent shock waves through Sun, Netscape and the Internet community. A spokeswoman for Netscape in Mountain View, Calif., said it is impossible to know if there is infringement because the technical details in the patent application are secret until the patent is granted. In this case, it could be a year before Sun and Netscape get a chance to see the patent details.

"He's launched a pre-emptive strike, but we can't answer it" because the patent claims are unpublished, said Lee Patch, vice president for intellectual property law at Sun, also in Mountain View.

Critics said Doyle "jumped the gun a little bit" by trying to extract royalties before the patent is public. Doyle responded that it would have been unethical to spring the patent on vendors in a year or so.

In a separate case, Interactive Gift Express Inc. in Secaucus, N.J., last month filed a lawsuit claiming that 18 companies are infringing on its patent for certain on-line shopping transactions. The suit requests

unspecified financial damages.

The 1985 patent covers the sale of digital products, such as software, fonts, multimedia clips and on-line news, that are downloaded to a point-of-sale terminal such as a PC, said Arnold Freilich, president of the company.

A patent gives the holder a 17-year monopoly, but licenses can be granted for others to use the invention. Freilich said he prefers licensing to litigation, but "you're not taken seriously unless you sue."

Freilich's suit, filed in New York, has such big-name defendants as Adobe Systems Inc., CompuServe Inc., Intuit Inc. and McGraw-Hill Inc.

Greg Aharonian, editor of the Internet Patent News Service in Belmont, Mass., predicted that this is just the start of patent infringement cases affecting the Internet. "Throughout the 1980s, a variety of patents were issued that can be generalized to be applicable to the Internet and related forms of electronic sales."

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