
Europe Shareware software patents newsletter #12
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CONTENTS:

1. US Patent Office president resigns
2. Poetry software patented
3. MS asks for royalties on FAT systems
4. MS asks for royalties on ClearType
5. MS patents HyperText Applications (HTA)
6. MS settles with SPX on web conference patent
7. Eolas case: latest news
8. MS wants its own plugin patent
9. Patent on accessing data on a recordable CD
10. Social networking patented
11. Media ads patented
12. SoftWIRE counter attacks National Instruments
13. The Washington Post on software patents
14. The NY Times on patent writing outsourcing
15. Cringely on software patents

1. US Patent Office president resigns

James E. Rogan, USPTO president, is said to resign on January 9th.

2. Poetry software patented

Patent: US 6,647,395

"Poet personalities"
<<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/>>

srchnum.htm&r=1&f=G&l=50&s1=6,647,395.WKU.&OS=PN/6,647,395&RS=PN/6,647,395>

Famous artificial intelligence scientist Ray Kurzweil (author of "The age of intelligent machines", MIT Press) has been granted a patent on poet personalities.

This patent covers the work done by a poet software to generate poems. That is to say:

1. read and analyze many poem texts
2. assign analysis models to a personality
3. randomly generate new poems from the models

3. MS asks for royalties on FAT systems

Patent: US 5,579,517
US 5,745,902
US 5,758,352
US 6,286,013

"Common name space for long and short filenames"
<<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=5,579,517.WKU.&OS=PN/5,579,517&RS=PN/5,579,517>>

"Method and system for accessing a file using file names having different file name formats"
<<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=5,745,902.WKU.&OS=PN/5,745,902&RS=PN/5,745,902>>

"Common name space for long and short filenames"
<<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=5,758,352.WKU.&OS=PN/5,758,352&RS=PN/5,758,352>>

"Method and system for providing a common name space for long and short file names in an operating system"
<<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=6,286,013.WKU.&OS=PN/6,286,013&RS=PN/6,286,013>>

The FAT file system, used by PCs running Windows, most digital cameras, audio players and other electronic devices with hard drives can't be used anymore without paying 0.25 USD per machine to Microsoft.

This is a kind of move already done by the MP3 patent owners a year ago:
1. give for free your system, file format, etc during a few years so that software publishers, manufacturers, etc embrace it and make it a de facto standard.
2. once you are sure the sector players can't cheaply replace your technology by another, unearth your patents and ask for royalties.

"Microsoft gibt Lizenzgebühren für FAT-Dateisystem bekannt"
<<http://www.heise.de/newsticker/data/anw-04.12.03-004/>>

A few quotes:

- « Hersteller bekommen mit der Lizenz die Erlaubnis, Speichermedien wie Flash Memory mit dem Dateisystem zu formatieren und dafür Microsoft-eigene Techniken zu nutzen. Weiter gilt die Lizenz dann entsprechend für Unterhaltungselektronik, die mit FAT arbeitet; das sind laut Microsoft unter anderem Digitalkameras, Videokameras, tragbare Audio- und Videoabspielgeräte, Multifunktionsdrucker und Fernsehgeräte. »
- « Die Lizenz kostet 0,25 US-Dollar pro Einheit bis zu einer maximalen einmaligen Summe von 250.000 US-Dollar je Hersteller »
- « Damit die Interoperabilität von Medien und Geräten mit PCs gewährleistet bleibt, müssen sich die Lizenznehmer an die von Microsoft erarbeiteten Spezifikationen halten. »
- « Heute sei FAT allgegenwärtig auf Speichermedien, Computern und Handhelds. »

4. MS asks for royalties on ClearType

Patent: US 6,188,385
US 6,219,025
US 6,239,783
US 6,307,566
US 6,225,973
US 6,243,070
US 6,393,145
US 6,421,054
US 6,282,327
US 6,624,828

Same story as above. This time Microsoft asks for royalties on devices using the ClearType technic (screens using ClearType to render letters more sharply).

The royalty per machine you have to pay to Microsoft is :

- 1 USD for a mobile phone / PDA
- 2 USD for a PC
- 3 USD for a Tablet PC

"Microsoft gibt Lizenzgebühren für FAT-Dateisystem bekannt"
<<http://www.heise.de/newsticker/data/anw-04.12.03-004/>>

5. MS patents HyperText Applications (HTA)

Patent: US 6,662,341

"Method and apparatus for writing a windows application in HTML"
<[http://patft.uspto.gov/netacgi/nph-Parser?
Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/
srchnum.htm&r=1&f=G&l=50&s1=6,662,341.WKU.&OS=PN/6,662,341&RS=PN/6,662,341](http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=6,662,341.WKU.&OS=PN/6,662,341&RS=PN/6,662,341)>

Abstract:

« A method, apparatus, and computer-readable medium for authoring and executing HTML application files is disclosed. An HTML application file is basically a standard HTML file that runs in its own window outside of the browser, and is thus not bound by the security restrictions of the browser. The author of an HTML application file can take advantage of the relaxed security. The author of the HTML application file designates the file as an HTML application file by doing one or more of the following: defining the MIME type as an HTML application MIME type; or using an HTML application file extension for the file. When a browser, such as the Internet Explorer, encounters one of the above, it processes the file as an HTML application file rather than a standard HTML file by creating a main window independent of the browser, and rendering the HTML in the main window. »

Microsoft was granted a patent on HTA, these HTA files are meant for executing from the desktop for either "Intranet" style web applications or for utilizing Windows Script Host code locally. HTA applications are scripted HTML files defining their own title bar, icons, etc. It seems that only MS Internet Explorer can handle them.

Many components and configuration dialogs in the newer Windows OSs are just HTA files.

Unfortunately it seems that the USPTO didn't do its bad job since another company claims prior art.

While the MS patent was filed on May 1999, the WPM software was already shipping since one year (WPM was released in May 1998, according to one post on <public-web-plugins@w3.org> from Jerry Mead on december 9th, 2003).

WPM (now Zeepe, see <<http://www.zeepe.com>>) is also a "method and apparatus for writing a windows application in HTML".

6. MS settles with SPX on web conference patent

Patent: US 5,206,934

<<http://investors.spx.com/releasedetail.cfm?ReleaseID=125325>>

According to SPX, Microsoft will pay USD 60 millions to continue the development of its Netmeeting application.

7. Eolas case: latest news

"MICROSOFT: Judge sets ruling in Eolas patent case"

<<http://www.chicagotribune.com/business/chi-0312050201dec05,1,6826899.story?coll=chi-business-hed>>

A federal judge will rule Jan. 6 on Microsoft Corp.'s request to stay a jury's \$520 million award to a Chicago inventor for patent infringement.

8. MS wants its own plugin patent

Patent application: 20030226102

"Displaying plug-in derived content in an application's browser-embedded window with callbacks"

<<http://appft1.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PG01&p=1&u=%2Fnethtml%2FPTO%2Fsrchnum.html&r=1&f=G&l=50&s1=%2220030226102%22.PGNR.&OS=DN/20030226102&RS=DN/20030226102>>

While the W3C is working to make the Eolas patent void, helping Microsoft, Microsoft is filing a patent on the way Internet Explorer will display plugins in a browser window.

9. Patent on accessing data on a recordable CD

Patent: US 5,666,531

"Recordable CDROM accessing system"

<<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/nethtml/srchnum.htm&r=1&f=G&l=50&s1=5,666,531.WKU.&OS=PN/5,666,531&RS=PN/5,666,531>>

Optima, a storage company, sues Roxio over infringement of its patent on access to a recordable CD-ROM. This patent covers software that allows disparate computing systems to access data stored on a recordable CD.

Optima's patent was infringed in several standards adopted by the Optical Storage Technology Association (OSTA), which have been incorporated in a number of CD-ROM hardware and software products, according to Optima's statement.

Optima says that it will sue other hardware and software companies.

"Optima verklagt Roxio wegen Patentverletzung"
<<http://www.heise.de/newsticker/data/anw-16.12.03-009/>>

"CD-burning software prompts patent suit"
<<http://news.com.com/2100-1012-5124558.html>>

A few quotes:

« "Optima asserts that certain of these industry standards is covered by its patent, and if a company uses those OSTA standard specifications for CD-burning software, then they infringe Optima's patent," »

« "Optima seeks to enforce its patent and to receive damages from any hardware or software company using their technology, beginning with Roxio...Optima believes most every company in the CD-burner industry may be infringing." »

10. Social networking patented

Patent: US 6,175,831

"Method and apparatus for constructing a networking database and system"
<<http://12.espacenet.com/espacenet/viewer?PN=US6175831&CY=gb&LG=en&DB=EPD>>

A small startup, LinkedIn, just bought a patent on social networking. The claims cover almost any social networking service giving you the ability to contact your contacts' contacts (Friendster, Monster...).

"Social networking a tech battleground"
<<http://www.bayarea.com/mld/mercurynews/business/7411025.htm?template=contentModules/printstory.jsp>>

A few quotes:

« If the patent is enforced, Hoffman and ally Mark Pincus ``are going to be richer

than Bill Gates in a couple of years,' said Antony Brydon, chief executive of Visible Path, a competitor. »

« But if one of the big players eyeing the social networking sector wanted to intrude, the value of the patent in helping fend them off is questionable. It would take years and millions of dollars for a small start-up like LinkedIn to litigate against a big player, according to patent attorneys and others familiar with Internet claims. »

« Hoffman says the patent does cover most companies in social networking -- they just might not know it. The patent covers all forms of online ``relationship confirmation,' as pioneered by the early company Six Degrees, he said. »

11. Media ads patented

"Unicast asserts new patent covers rich media ads"

<http://biz.yahoo.com/rc/031230/media_advertising_unicast_1.html>

Unicast was granted a patent on rich media ads that covers almost any ad combining animated graphics and music (for example all Flash-based ads are covered).

A few quotes:

« This past spring, Unicast said it won a new U.S. patent for delivering a wider range of online marketing -- from more sophisticated rich media ads that can combine animated graphics and music to billboard-like banner ads. »

« The Unicast patent spells out a delivery process which uses an electronic tag in a Web page. That tag signals to an external computer server where to find an advertisement and how to display it. »

« "I'm kind of surprised they would get a patent that's as broad as that. Calling for something on a central server is the way the Web works," Nail said [Jim Nail, senior analyst at Forrester Research]. »

« "It represents a great opportunity for (Unicast) but it's definitely a bit of a murky area and one that seems to dampen innovation," said Gary Stein, senior analyst at Jupiter Research. »

12. SoftWIRE counter attacks National Instruments

"Federal Judge Allows Softwire-R Patent Infringement Lawsuit Against National Instruments-Tm"

<<http://www.news.scotsman.com/latest.cfm?id=2205851>>

SoftWIRE Technology is counter-suing National Instruments with two software patents. National Instruments' LabVIEW is said to infringe those patents, so SoftWIRE is seeking an order prohibiting National Instruments from continuing to sell its LabVIEW product.

13. The Washington Post on software patents

"Patenting Air or Protecting Property?
Information Age Invents a New Problem"

<<http://www.washingtonpost.com/wp-dyn/articles/A54548-2003Dec10.html>>

The Washington Post describes the growing software patents problem.

A few quotes:

« [...] a small California research firm, which early this year began enforcing the eye-opening claim that it owns the patents on how most audio and video is sent over the Internet. »

« Acacia Research Corp. started by targeting dozens of adult entertainment companies, demanding royalties of as much as 4 percent of their revenue from audio and video streaming. Now the firm is seeking fees from universities that use Web video for remote learning, from companies that serve up movies to hotel rooms, from cable and satellite providers, and from major streaming-media companies such as RealNetworks Inc. and America Online Inc. »

« "It's pretty much the sky's the limit as to where the impact might fall," said a chagrined John H. Payne, director of educational technologies at the University of Virginia's division of continuing education, which uses online video for lectures and courses. "It's like patenting air." »

« The Acacia case highlights why a growing chorus of corporate and government officials is warning that the U.S.

patent system is broken, threatening to stunt technological innovation. »

« The potential result: a digital world carved up into so many pieces that it loses its power to easily link people, communities and ideas. »

« Small firms have an increasingly difficult time breaking through patent "thickets" amassed by large firms. International Business Machines Corp., the world's patent leader, received 22,357 from 1993 to 2002 and earned roughly \$10 billion in licensing fees from them. »

« "When you have so many competing property rights, the cost of clearing permissions is very large, and it becomes a greater and greater tax on what people can do," said Tim O'Reilly, whose O'Reilly & Associates Inc. publishes software books. »

« Bigger companies find themselves prey to clever entrepreneurs like the original owners of Acacia's digital media patents, who skillfully anticipate the direction of certain technologies and then quietly wait for someone else to commercialize a related product. If they guess right, they can demand lucrative licensing fees. »

« R. Jordan Greenhall, chief executive of streaming media firm DivXNetworks Inc. [...] argues that the philosophy behind patents -- that they provide incentive for innovation by granting a 20-year monopoly to the inventor -- falls apart in the software and Internet arenas. »

14. The NY Times on patent writing outsourcing

"In India, a High-Tech Outpost for U.S. Patents"

<<http://www.nytimes.com/2003/12/15/technology/15innovate.html>>

NY Times describes the growing trend among multinationals to outsource their engineers to India or China where the salaries are much lower than in developed countries.

More and more US Patents are filed by indian engineers.

15. Cringely on software patents

"Patently Absurd:

Why Simply Making Spam Illegal Won't Work"

<<http://www.pbs.org/cringely/pulpit/pulpit20031218.html>>

A few quotes:

« Software patents have become inordinately important [...] »

« I have a friend who works in the highest reaches of a very powerful company that must remain nameless, but rhymes with "Intel." He says that patents are worthless because they can always be worked around. Now for a very big company that rhymes with "Intel" that may well be true. You can reverse engineer, and if that doesn't work, you can always just buy a license. It's the little guys who can't do that. And in this case that means people like me. »

« I have a patent [...] and found several more companies making similar devices, none of them protected by patents. Companies were infringing my patent! I'm rich!!!

Except I'm not. I called a patent attorney and asked him to take my case. He asked me for a \$10,000 retainer. So I called the CEO of the biggest company that I believed to be infringing my patent and asked him if he wanted to buy a license. "No thanks," was his answer.

What to do? I'm in the right, but I can't afford to press my case. The system is against me. [...]

My friend at the company that rhymes with "Intel" was right after all. »

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