
Europe Shareware software patents newsletter #13
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1. FFII challenges Amazon's gift ordering patent

Patent : EP 927945

"Erneuter Einspruch gegen Amazons Geschenk-Patent"
<<http://www.heise.de/newsticker/data/wst-26.01.04-000/>>

The european Foundation for a Free Information Infrastructure (FFII) challenges Amazon's gift ordering patent. This patent covers the fact of ordering gifts via email and phone communications. The flowers distributor Fleurop and Germany's Computer Acience Association "Gesellschaft fur Informatik" undertake similar legal action against Amazon's trivial patent.

More information :
<<http://plone.ffii.org/litig/>>
<<http://swpat.ffii.org/patents/samples/ep927945/index.en.html>>

FFII press release :
<<http://swpat.ffii.org/news/04/amaz0125/index.en.html>>

2. Latest Eolas news

"Eolas Browser Verdict Against Microsoft to Proceed Despite Patent Review"
<<http://www.eweek.com/article2/0,4149,1437244,00.asp>>

Eolas wins against Microsoft in the "plugin" patent case.
A federal judge upholds the USD 521 million verdict against Microsoft

A few quotes :

« Judge James B. Zagel, in an order issued in U.S. District Court in Chicago, found that Microsoft had infringed on Eolas Technologies Inc.'s patent on the embedding and invoking of interactive applications, such as plug-ins and applets, in Web browsers. »

« Zagel wrote that the reexamination was not reason enough to delay his decision or the appeals process and that such a delay would more significantly hurt Eolas if the patent ultimately remains valid. »

« Zagel also awarded Eolas prejudgment interest totaling, as of Wednesday, \$45 million. »

« Microsoft spokesman Jim Desler said the company is still reviewing Wednesday's decisions to determine whether or not to proceed with changes to IE. »

See also :
"Urteil gegen Microsoft wegen Web-Patent hat vorerst Bestand"
<<http://www.heise.de/newsticker/data/jk-15.01.04-004/>>

and

"Judge rules Microsoft infringed on Eolas patent"
<<http://news.com.com/2100-1023-5141318.html>>

"Microsoft holds off on Eolas-based tweaks"
<<http://news.com.com/2100-1012-5150346.html>>

Microsoft decided that it will not modify its Internet Explorer browser until the end of its lawsuit with Eolas.

"Eolas Discussing Browser Patent With Linux Community"
<http://www.eweek.com/print_article/0,3048,a=116554,00.asp>

Thanks to its victory in Courts over Microsoft with its "plugin" patent, Eolas is now looking for royalties among companies using open source software.

3. "TV pause" patent case

Patent : US 6,233,389

"Multimedia time warping 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=6,233,389.WKU.&OS=PN/6,233,389&RS=PN/6,233,389>>

"TiVo sues EchoStar over DVR features"
<<http://www.siliconvalley.com/mld/siliconvalley/7643098.htm?template=contentModules/printstory.jsp>>

"TiVo verklagt EchoStar wegen Patentverletzung"
<<http://www.heise.de/newsticker/data/anw-06.01.04-003/>>

TiVO is using its Time Warp patent, which includes the method used to allow viewers to record one program while watching another and the storage format that supports advanced TrickPlay capabilities such as pausing live television, rewinding and slow motion, to exclude competitors from its market.

4. WWW domain naming system patented by a lawyer

Patent : US 6,671,714

"Method, apparatus and business system for online communications with online and offline recipients"
<<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=6,671,714.WKU.&OS=PN/6,671,714&RS=PN/6,671,714>>

4>

"USPTO grants Calif. lawyer patent over entire WWW naming scheme
How could Albert Einstein have ever been one of these cretins?"
<<http://www.geek.com/news/geeknews/2004Jan/gee20040120023507.htm>>

A few quotes :

« The concept of domains and subdomains, as well as the e-mail addresses associated with them, has been around for a long time but apparently has escaped being patented prior to now. Meyer, a lawyer by trade, has capitalized on that oversight, and as of December 30, 2003, Meyer owns it. And now he's using it where it'll do the most good--in court. »

« On January 17, 2004, Meyer brought suit against Internet heavyweights Network Solutions, Inc. and Register.com, claiming the two services are infringing upon Meyer's newly-granted patent. »

« [...] such fights cost money, and if Meyer's thinly-veiled extortion plot "requests" only a small license fee, the registrars may decide to pay him off and save themselves the trouble. »

"Domain registrars sued over URL patent"
<<http://news.com.com/2100-1038-5141810.html>>

A few quotes :

« The patent covers the method of assigning URLs and e-mail addresses of members of a group such that the "@" sign is the dot in the URL. For example, if a group used a so-called third-level URL, www.john.smith.com, the e-mail address would be john@smith.com. »

« In the complaint, Nizza Group specifically indicates that Network Solutions and Register.com are infringing the patent by selling rights to URLs and e-mail addresses under the .name domain. The .name domain is called a third-level domain, because it uses an extra dot, as in the case of john.smith.name. »

"Network Solutions, Register.com Face Lawsuit "
<<http://thewhir.com/marketwatch/net011904.cfm>>

"Network Solutions und Register.com wegen Patentverletzung verklagt"
<<http://www.heise.de/newsticker/data/tol-16.01.04-002/>>

5. E-Data sues european music download services

Patent : EP 0195098

"Patentstreit um Musik-Download in Europa beigelegt"
<<http://www.heise.de/newsticker/data/bem-21.01.04-000/>>

A few quotes :

« Das US-Unternehmen E-Data hat die Beilegung der europäischen Patentstreitigkeiten gegen Microsoft, Tiscali, HMV-Group und On Demand Distribution (OD2) bekannt gegeben. »

« Das Patent aus dem Jahr 1985 umfasst das Herunterladen und Aufnehmen von Informationen wie Musik von einem entfernten Computer auf ein bewegliches Objekt wie CDs oder DVDs. »

"Einigung im Patentstreit um Musik-Download-Dienste"
<<http://www.golem.de/0401/29377.html>>

6. Microsoft file patents for the XML grammar of Word documents

Patent application : EP 1 376 387 A2

"Word-processing document stored in a single XML file"
<<http://12.espacenet.com/espacenet/viewer?PN=EP1376387&CY=ch&LG=fr&DB=EPD>>

"Microsoft seeks XML-related patents"
<<http://news.com.com/2100-1013-5146581.html>>

A few quotes :

« Microsoft has applied for patents that could prevent competing applications from processing documents created with the latest version of the software giant's Office program »

« XML capabilities have been one of the main selling points for Office 2003. The patents could create a barrier for competing software, such as future versions of OpenOffice and StarOffice, from working with Microsoft's XML format. »

« [...] they could prevent future versions of OpenOffice and StarOffice, its proprietary sibling, from working with Microsoft's XML format. »

"Microsofts heimliches XML-Patent"

<<http://www.heise.de/newsticker/data/hps-23.01.04-000/>>

A few quotes :

« Wie weit die Errungenschaften, die Microsoft in seinem Patentantrag beschreibt, andere Office-Programme vom Gebrauch des Formats XML abhalten, werden wohl die Patentanwälte klären müssen. »

« Die Sprache WordML, Microsofts XML-Abart zum Kodieren von Dokumenteneigenschaften, dürfte aber nach einer Patenterteilung als Speicherformat fremder Anwendungen tabu sein. »

7. MS gets patents on HDTV signal packing

Patents : US 6,510,177
 US 6,683,980

"System and method for layered video coding enhancement"

<[http://patft.uspto.gov/netacgi/nph-Parser?](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=6,510,177.WKU.&OS=PN/6,510,177&RS=PN/6,510,177)

Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=6,510,177.WKU.&OS=PN/6,510,177&RS=PN/6,510,177>

"System and method for compressing data"

<[http://patft.uspto.gov/netacgi/nph-Parser?](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=6,683,980.WKU.&OS=PN/6,683,980&RS=PN/6,683,980)

Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=/netahtml/srchnum.htm&r=1&f=G&l=50&s1=6,683,980.WKU.&OS=PN/6,683,980&RS=PN/6,683,980>

"New Patents Could Propel Microsoft's Digital Media "

<www.internetnews.com/bus-news/article.php/3305461>

A few quotes :

« Microsoft has just been awarded two United States patents for a proprietary method of packing a high-definition television signal onto a hard drive »

« The patents propose breaking up a video signal and storing it on a PC as two bit-streams, one of which is a lower-resolution, or "lossy" video sequence. The second is a higher-resolution, or "supplemental" signal »

8. Patent on paying open source developers

Patent : US 6,658,642

"System, method and program product for software development"
<<http://patft.uspto.gov/netacgi/nph-Parser?u=/netahtml/srchnum.htm&Sect1=PTO1&Sect2=HITOFF&p=1&r=1&l=50&f=G&d=PALL&s1=6658642.WKU.&OS=PN/6658642&RS=PN/6658642>>

"IBM patents method for paying open source volunteers"
<<http://www.theinquirer.net/Default.aspx?article=13813>>

A few quotes :

- « [...] gives examples such as open source software development such as Linux as the basis for its patent. »
- « The patent says that selected module programmers could earn money while those who don't win might get a "pre-authorized" small payment as an extra incentive. »
- « Those payments, it continues, would be awarded to developers that submitted letters of intent and who submit modules that pass the module tests but are not selected. »

9. WLAN redirection patented

Patent : US 6,636,894

"Systems and methods for redirecting users having transparent computer access to a network using a gateway device having redirection capability"
<<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=/netahtml/searchbool.html&r=1&f=G&l=50&col=AND&d=ptxt&s1=Nomadix&OS=Nomadix&RS=Nomadix>>

"WLAN-Redirect bei Hotspots patentiert"
<<http://www.heise.de/newsticker/data/anw-27.01.04-008/>>

A few quotes :

- « In der Patentbeschreibung heißt es, das System enthalte ein Gateway für den Empfang von Daten von Nutzern, die Zutritt zum System wünschen. Dazu kommt eine Nutzerdatenbank sowie ein AAA-Server (Authentication, Authorization und Accounting). Das System sei für die Nutzer transparent. Sie könnten mit ihren tragbaren Computern auf diese Weise in verschiedene Netzwerke eingelassen werden, ohne die Netzwerkeinstellungen ändern zu müssen. »

10. MS sued over image half-toning patent

Patents : US 5,726,772
US 5,708,518
US 5,543,941
US 5,477,305
US 5,341,228
US 5,111,310
EP 0560872

"Federal Judge Rules Against Microsoft In Ariz Patent Suit"
<http://biz.yahoo.com/djus/040128/1815001726_1.html>

A few quotes :

« RCT alleges several Microsoft products, including Windows 2000, Windows XP and Office 2003, infringe on patents for its half-toning technique, which is a process used to display and print digital images. »

« RCT, which owns the patents, filed similar infringement lawsuits against Hewlett-Packard Co. in 1999 and Seiko Epson Corp. in 2000. Both cases were later settled and the printer makers have taken licenses to the technology. »

"Windows und Office: Microsoft der Patentverletzung bezichtigt"
<<http://www.heise.de/newsticker/meldung/44198>>

A few quotes :

« Sie hält ein Patent auf ein an der Universität Rochester entwickeltes Verfahren namens Blue Noise Mask »

« Eine Blue Noise Mask ist eine Art Störungsprofil, das für jedes Ausgabegerät optimiert und in dessen Treiber eingebaut werden kann. Es soll Artefakte wie Rauschen und Moirés unterdrücken und dennoch die Geschwindigkeit beim Erzeugen der Halbtonbilder nicht wesentlich beeinträchtigen. »

11. Playing online games patented ?

Patents : US 5,823,879
US 6,183,366
US 6,264,560

"Wow, someone has patented playing online games?!"
<<http://www.scwatch.net/modules.php?name=Forums&file=viewtopic&t=16>>

Nayantara Studios says it received a letter where Sheldon Goldberg is claiming that he has patents on onling gaming.

A few quotes :

« claim 92 of the '560 Patent covers the playing of a game over a communication network, such as the Internet, where multiple instances of a game are transmitted over the Internet between multiple players and a gaming website and some of these instances may overlap in time. Also, users' rankings may be transmitted from the gaming website to the users, where the rankings are indicative of the users' proficiency in playing the game for which the users' ranks are being displayed, and where the rankings are updated. »

12. European patent on video/audio on demand

Patent : EP 1 335 601

<<http://12.espacenet.com/espacenet/viewer?PN=EP1335601>>

"Streaming-Spezialist Acacia erwirbt europäisches Patent"

<<http://www.heise.de/newsticker/data/anw-14.01.04-008/>>

Acacia managed to have its famous "Digital Media Transmission" patent granted in Europe. It claims that already more than 114 companies have already licensed its patent.

A few quotes :

« Digital Media Transmission ist bedeutend für Audio- und Video-on-demand über Internet, Kabel, Satellit und drahtlose Systeme. »

« Bisher haben laut Acacia 114 Unternehmen die Technik lizenziert. »

13. Personalized e-mail links patent legitimated

"EBay settles patent suit with Tumbleweed"

<http://www.boston.com/business/technology/articles/2004/01/07/ebay_settles_patent_suit_with_tumbleweed/>

By settling with Tumbleweed and paying license fees, Ebay does the worst for the e-commerce sector : it legitimates Tumbleweed's patent over personalized e-mail links.

A few quotes :

« Tumbleweed, a tiny software company with less than \$50 million in annual revenue, previously has used the same patent claim to obtain licensing agreements with several other companies, including Hallmark and American Greeting »

"eBay einigt sich mit Tumbleweed in Patentstreit"
<<http://www.heise.de/newsticker/data/akr-06.01.04-000/>>

14. Whiteboard patent gets legitimacy

Patent : US 5,206,934,

"Microsoft settles in whiteboard patent dustup"
<<http://news.com.com/2100-1014-5133588.html>>

Microsoft prefers to pay USD 60 millions in license fees than to invalidate the Whiteboard patent.

15. Rockwell sues a licensing company

"Returning Fire"
<<http://www.law.com/jsp/printerfriendly.jsp?c=LawArticle&t=PrinterFriendlyArticle&cid=1039054478800>>

Rockwell decided last december to sue a company with no products but solely in the business of licensing patents that sued its customers thanks to a software patent.

A few quotes :

« Niro Scavone and its clients contend that Rockwell's technology infringes a patent on a method of controlling factory production processes. »

« Rather than suing Rockwell for infringement, Solaia [...] has sued Rockwell's customers. The customers include Clorox Co. Inc., Boeing Co., Eastman Kodak Co., Eli Lilly and Co., General Dynamics Corp., Shell Oil Co. and Tyco International Inc., among others. »

« The patent at issue relates to methods of communicating information between a network of programmable logic controllers and a personal computer. »

« From 1994 through July 2001, name partner

Raymond Niro Sr. won 20 multimillion-dollar jury verdicts in a row, which garnered more than \$400 million for his clients. Niro's fee generally ranges from 35 percent to 45 percent of gross revenues. »

16. Does India introduce software patents ?

"Patents (Amendment) Bill introduced "
<<http://www.thehindubusinessline.com/2003/12/23/stories/2003122301230400.htm>>

17. The patenting of software is a complete mess

"
Charles Arthur: The patenting of software is a complete mess and discourages innovation"
<http://news.independent.co.uk/low_res/story.jsp?story=478647&host=3&dir=86>

A few quotes :

« who's most likely to take out patents? The big organisations, which can afford the research and the patent lawyers to draw them up. They can use these to attack upstart rivals, claiming that they infringe their patents, and sue them to death. »

« And patenting software - pure software - suffers from the problem of abstraction. What exactly do you leave out of the patent? Your patented implementation needs to run on a computer. What computer? Running what software? Does it rely on the software to work? In which case, must you also be able to patent the software that it needs, too? »

« One starts to wonder whether, if Amazon had built One-Click (which it applied for as "A Method and System for Placing a Purchase Order Via a Communications Network") on top of Microsoft software, it would need to specify that Microsoft product in the patent. If so, rivals could implement One-Click without infringing the patent by using different software. In other words, patenting software is a complete mess; what's more, it discourages innovation - being able to copy an idea and use it again yourself - the purest form of intellectual bootstrapping - will make any useful technology spread at dramatic speed. »

18. Rash of costly US claims raises patent concerns

"Rash of costly US claims raises patent concerns"
<<http://business.scotsman.com/index.cfm?id=94622004>>

A few quotes :

« there is still a swathe of patents that are viewed as being a licence to print money. Although not all lawsuits are successful, defending a patent infringement case can divert a company's attention from its core business and cost significant amounts - EBay is reputed to have spent around \$10m on fighting business method patent lawsuits. »

« Historically, European states have been unwilling to grant patents for ideas or business processes, but the proposed Directive on the Patentability of Computer-Implemented Inventions would allow for greater patentability - and this has caused uproar, particularly in the software industry. »

« A final position is yet to be agreed, but the proposed directive could mean there being differing protections available for the same ideas in Europe and the US. »

« The rise in litigation should concern us all as consumers will ultimately pay the costs of the giants doing battle with patent owners, thanks to the lax system employed by the US. »

19. USA Today on software patents

"Patents out of control?"
<http://www.usatoday.com/tech/news/2004-01-13-patentscover_x.htm>

A few quotes :

« PanIP and others have shaken up the Internet industry recently by demanding -- and often getting -- license fees from mostly small e-commerce companies after brandishing patents on everything from video streaming to Web browsing. The companies say they were targeted because they can't afford to defend themselves in court. »

« But patent lawsuits are a growing annoyance even for giants such as Intel and Microsoft.

Industry and government officials say the lawsuits are but one symptom of a patent system gone haywire, especially in technical fields such as computers, software and biotechnology. »

« The furor has been rekindled by a dot-com bust that left hundreds of companies with no assets other than their patents, many of which were scooped up by specialized firms whose sole business is to seek patent royalties.

The issue has become serious enough to discourage some small software and biotech firms from innovating for fear of being sued. »

« But even giants such as Intel bemoan a system they say forces them to use big chunks of research budgets to stockpile patents just to use for cross-licensing when other patent holders threaten them. »

« Critics also say patents are not needed to spark software innovation. They say that unlike pharmaceuticals, for example, development costs are low and product life cycles are short. »

« If you didn't have any patents at all, people would still be doing the same stuff because of the speed of the marketplace," says Jordan Greenhall, CEO of DivX, a video-download software maker.

In fact, Greenhall says patents discourage innovation. DivX two years ago developed the first practical electronic ID, or "watermark," to track TV shows distributed by pirates on the Web. But he dropped the project after getting a patent royalty request. "I said, 'I'm not sure of the demand (for the product). I'm pulling out.' " »

« In the PanIP case, the company claimed patents granted in the 1980s on automated credit checks and virtually any computer exchange of data involving "textual and graphical information." Co-owner Lawrence Lockwood last year sued 50 small e-commerce companies. Many settled for one-time fees of less than \$30,000 rather than run up legal bills. »

« Critics say a new breed that simply collects royalties owns many of the new Web patents. "It doesn't contribute anything to the economy," Banner says. »

20. International Herald Tribune on the software patents crisis

"Europe's tug of war over software patents"
<<http://www.iht.com/cgi-bin/generic.cgi?template=articleprint.tplh&ArticleId=127600>>

A few quotes :

« Opponents of patenting software include some of Europe's most promising young technology companies, such as the Norwegian browser maker Opera and MySQL, a Swedish open-source database company. They say software patents kill innovation and point to studies that say implementing them leads to less, rather than more, research and development. »

« The current uncertainty hurts innovation, said Hakon Wium Lie, chief technology officer of Opera, which has received letters charging that it has breached a variety of American patents. "In most cases, our analysis concluded that we were not in breach, but it was very expensive for us to deal with this," he said. If Europe also adopts software patents, he said the problem would become much worse. "All in all, software patents are good for lawyers, but not software," Lie said. "We don't see how patents will benefit us in any way." »

« At the end of last year, Sign On, a public software company in Stockholm specializing in electronic signatures and forms, was granted patent rights to the process of securing the transmission of electronically signed documents via the Internet. The patent covers as many as 27 European countries.

"Sign On's patent is so wide that it can cover all secure ways of sending e-documents, a process which is key for e-government and other types of e-services," said Hans Sundstrom, chief legal adviser of the Statskontoret, a department of the Swedish government that handles procurement contracts for some 7 billion Swedish kroner, or \$947 million, of information technology equipment annually for various government agencies. »

« Europe has a chance to take a leadership role by deciding that software should be treated differently than other inventions, say organizations such as the Munich-based Foundation for a Free Information Infrastructure. »

« Creighton [a venture capitalist] said she had invested E2.5 million in Straakt, a Swedish software company specializing in procurement. Later, she learned about the Sign On patent. "When that patent showed

up, it was, 'Good God, we are dead,' " she said. »

21. Wired on the "patent everything" ideology

"The Eagle Is Grounded

While America works to protect intellectual property, everyone else is innovating."

<http://www.wired.com/wired/archive/12.02/start_pr.html>

A few quotes :

- « Entire nations are making the leap to Linux. Last year, China began installing the open source operating system on 500,000 computers, with perhaps 200 million more machines on the way. That's bad for Microsoft but good for Linux, as China's vast pool of programming talent turns to developing the software further. (As a monopoly, Microsoft has the same market effect as a spurious patent or overregulation - reducing innovation and increasing prices.) »
- « They reflect the gulf between IP owners, with their rigid sense of controls, and those who would seek to use that intellectual property with all the flexibility afforded by technology - the Internet, in particular. And that's not just a difference of opinion, it's a technological generation gap. As Intel chair Andy Grove recently told The Washington Post, the US needs to reassess its conception of intellectual property "for an era that is the information age as compared to the industrial age." »
- « But so far, IP owners are doing all they can to lock in their old entitlements, pushing for increasingly restrictive laws and enforcement. »
- « The result: laughably broad patents [...] patents awarded for software (even though it is already protected by copyright law) »
- « By taking a flexible approach to IP, companies could capitalize on the next wave of innovation rather than shirk from it. But wait too long and this ship will have sailed. »

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