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This update focuses on recent intellectual property decisions and developments impacting the field of information and communications technology.

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- As part of an ongoing dispute in the US involving the CSIRO and several major hi-tech companies, Marvell Technology Group has preemptively filed a lawsuit against the CSIRO which holds a patent purported to cover aspects of the popular IEEE 802.11 wireless communication standard. Marvell, which makes computer chips used in Apple's iPod, is seeking a court ruling that its products don't infringe the CSIRO's patent. Marvell's lawsuit is the latest round between the CSIRO and a number of companies including Intel, Apple, Dell, Hewlett-Packard and Netgear. These companies have collectively asked a US court to rule that CSIRO's patent, issued in 1996, does not cover the IEEE 802.11a or 802.11g wireless networking standard or is invalid. The CSIRO is pursuing royalty payments from several companies and has previously taken action in the courts asserting infringement of the patent. The CSIRO has already had a round one win against Buffalo Inc. with a Texas court finding Buffalo's products infringed the patent.
- A media statement issued by the Australian Labor Party alleges nearly AU\$4 billion worth of Commonwealth computer software is at risk of "disappearing" because of the Government's indifference to intellectual property (IP). The statement alleges that the latest Auditor-General's report into the management of IP in the government sector shows the issue of IP management has not improved since a report in 2004, when it was found only 30% of government agencies had addressed IP management.
- A US district court judge has ruled that Google Earth, the popular three-dimensional software that provides tours of the Earth on the Internet, does not infringe a patent held by Skyline Software Systems. Skyline had been seeking damages as well as an order to prevent Google from using the technology.
- Sony Corp. and Immersion Corp. have settled their patent dispute over vibration technology in hand-held game controllers. Immersion sued Sony in 2002 and a US court found Sony had infringed two of Immersion's patents, ordering Sony to pay damages. The agreement means the 'rumble' function of a game controller, giving a sense of realism to a game player by jolting the player's hands, can return to Sony's products. As part of the agreement, Sony will pay Immersion US\$97.2 million in damages and interest, as well as US\$22.5 million in licensing payments to 2009. The vibration technology was not included in Sony's recently released Playstation 3.
- Microsoft is reported as having recently acknowledged that it owns 253 patents that are infringed by open source software. Speculation that the Linux operating system infringes on third-party patents have been around for at least a few years, but recently Microsoft performed an analysis and believes the number of infringed patents is 253. Microsoft's general counsel issued a statement that the goal of Microsoft is not to litigate based on the patents, but to license the patents in question. Microsoft has already signed patent agreement deals with Novell, Xerox and Samsung for their use of Linux. The Free Software Foundation is presently preparing the next General Public Licence (GPL version 3) for Linux, which is believed to try and prevent another Microsoft and Novell type deal over Linux open source software.



Patents and Designs

- Amazon.com and IBM have settled all of their patent infringement lawsuits. Each company will let the other use some of its technology and Amazon.com will make an undisclosed payment to IBM. Previously, IBM had filed lawsuits that Amazon.com infringed five patents relating to how Amazon.com's website recommends products to customers, advertises and stores data. Amazon.com had counter-sued that IBM infringed five of its patents relating to IBM's WebSphere business software.
- In an auction for the intellectual property assets of bankrupt US company Ipix, Sony emerged as the buyer of the assets for US\$3.6 million. The assets include 35 patents and applications in the US, and 50 patents and applications in countries such as Australia, Canada, Europe and Japan, generally related to immersive still photography and 360 degree digital immersive video. Ipix is best known for developing technology that converts two 180 degree digital images into a rotational 360 degree panoramic view.
- A US federal court judge had ordered Microsoft to pay US\$1.53 billion to Alcatel-Lucent in a patent dispute involving digital music, with the damages being set by a jury. Alcatel-Lucent claimed computers running the Windows operating system infringed its patent relating to MP3 audio compression technology. Microsoft is reported as saying it believed it had properly licensed MP3 technology from Fraunhofer, a company which helped develop the MP3 compression technology with Lucent's Bell Labs. The case is only one part of a larger dispute between Microsoft and Alcatel-Lucent (originally between Lucent and PC makers Dell and Gateway) that dates back to 2002. Subsequently, a week after Microsoft was ordered to pay the US\$1.53 billion, in a second trial relating to another Alcatel-Lucent patent covering speech coding technology, all claims of patent infringement against Microsoft were dismissed.

However, more recently, the US Supreme court has ruled that Microsoft cannot be held liable for damages for any patent infringement that occurs when copies of the Windows operating system are made (from a master disk produced in the US) and installed overseas. This most recent decision will likely substantially reduce the previously awarded US\$1.53 billion which was based on worldwide sales of the Windows operating system. Four back-to-back trials had been scheduled and the protracted legal dispute continues.

- A US court injunction was issued against Vonage preventing it from using Internet telephone call technology patented by Verizon Communications. Vonage's share price plunged nearly 26% on the news and its CEO recently resigned. A jury found Vonage had infringed three patents held by Verizon and set damages at US\$58 million plus 5.5% royalties on future sales. Vonage has indicated it will appeal and immediately sought a stay of the injunction, preventing it selling its products, pending the appeal. Vonage was recently successful in obtaining an emergency stay of the injunction to continue to be able to provide VoIP, however, it is still seeking a permanent stay of the injunction until the appeal case. Vonage is also reported as saying it does not presently have a workaround to avoid infringing the patents in the future.

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