



Greenblum & Bernstein, P.L.C.  
INFORMATION TECHNOLOGY NEWSLETTER  
Recent News in Intellectual Property

November 2010

## In This Issue

- **U.S. Supreme Court to Review Microsoft's Appeal in \$290M Judgment**
- **Android Hit with Another Lawsuit**
- **Intel Sued by University of New Mexico**
- **Toshiba Sued over IPG and Parental Control**
- **Groupon Sues MobGob**

### U.S. Supreme Court to Review Microsoft's Appeal in \$290M Judgment

The Wall Street Journal reported that the U.S. Supreme Court has agreed to reconsider Microsoft Corp.'s appeal of a \$290 million patent infringement judgment in favor of Canadian software developer i4i LLP. Toronto-based i4i sued Microsoft in 2007, alleging that Microsoft's Word software infringes i4i's U.S. Patent No. 5,787,449, relating to an improved method for editing markup language for text, or custom XML editing technology. The suit was filed in the U.S. District Court for the Eastern District of Texas. Microsoft, in its defense, reportedly asserted that the patent-in-suit was invalid. Last year, a federal jury found the patent is not invalid, under the instruction to use the "clear and convincing" standard of the Federal Circuit, and that Microsoft had willfully infringed the patent and awarded \$200 million in damages. The federal judge later affirmed the verdict, raising the award to more than \$290 million in damages and interest, and issued a permanent injunction barring Microsoft from selling MS Word 2003 and Word 2007 versions which contain the technology in dispute. In April, Microsoft reportedly asked the U.S. Federal Court of Appeals for the Federal Circuit to review the decision, but the appeal was denied. In July, the U.S. Patent and Trademark Office (USPTO) reportedly confirmed the validity of i4i's patent. Microsoft reportedly filed a request for a second re-examination, but the USPTO reportedly denied the request. Microsoft then filed a writ of *certiorari* to the Supreme Court in August, 2010. The petition was reportedly followed by a number of *amicus* briefs filed by a number of major technology companies, including Google, Apple, Intel, Dell, Verizon, General Motors, Yahoo, and Facebook in support of Microsoft's petition. According to the Wall Street Journal, "a key question in the case is whether proving a patent invalid should require "clear and convincing evidence" or merely a preponderance of the evidence." Microsoft's main argument in the appeal is reportedly that the courts do not require "clear and convincing evidence" to disprove a patent when the USPTO lacked prior-art information before approving the patent. Microsoft reportedly cited the Supreme Court's reasoning in the *KSR International Co. v. Teleflex Inc.* case to make its point. The Supreme Court is expected to hear arguments sometime in March or April, 2011, and to deliver a ruling by the end of June.

### Android Hit with Another Lawsuit

Vertical Computer Systems has reportedly filed a lawsuit against Samsung, LG, and software developer Interwoven over alleged infringement of two patents related to systems for generating applications. According to PC World and ZDNet UK, the suit was filed in the U.S. District Court for the Eastern District of Texas and reportedly

## Contact Us:

[www.gbpatent.com](http://www.gbpatent.com)

[gbpatent@gbpatent.com](mailto:gbpatent@gbpatent.com)

703-716-1191 (phone)

703-716-1180 (fax)



alleges that certain Samsung and LG Android based phones infringe Vertical's U.S. Patent Nos. 6,826,744 and 7,716,629 (both entitled "System and method for generating web sites in an arbitrary object framework"). Vertical has reportedly demanded a jury trial and requested an injunction to prevent the alleged ongoing infringement. The suit is one of many targeted at manufacturers that use the Android operating system, including Apple's lawsuit against HTC; Microsoft's lawsuit against Motorola; Gemalto's lawsuit against Google, Motorola, HTC and Samsung; and Oracle's lawsuit against Google.

### **Intel Sued by University of New Mexico**

STC, an arm of the University of New Mexico, filed a lawsuit against Intel Corp., alleging that the chip maker infringes a patent related to advanced chip manufacturing, according to IDG News Service. The patent at issue is U.S. Patent No. 6,042,998, entitled "Method and apparatus for extending spatial frequencies in photolithography images." The patent pertains to double patterning lithography technology, which is employed to manufacture chips with tiny features the size of a few atoms strung together. STC has reportedly licensed the patent to five companies, including Toshiba, Samsung Electronics, and Taiwan Semiconductor Manufacturing, according to a statement from STC. The complaint filed with the United States District Court for the District of New Mexico reportedly asks the court to declare that Intel is infringing the patent and to order the chip maker to pay damages to STC.

### **Toshiba Sued over IPG and Parental Control**

Japan's Toshiba Corp. and its U.S. subsidiaries were hit by two patent infringement actions brought by Interactive Program Guide (IPG) vendor Rovi Corporation and former Gemstar-TV Guide International Inc., according to a report by Businessweek.com. Rovi reportedly first filed a complaint before the U.S. International Trade Commission (ITC) and then filed suit with the U.S. District Court for the District of Delaware a few days later, both actions asserting that certain TVs and DVRs of Toshiba infringe three Rovi patents relating to IPGs and parental controls. The patents at issue are U.S. Patent Nos. 6,020,929 ("Video Mix Program Guide"); 6,305,016 ("Systems and Methods for Displaying Information with a Perceived Partial Transparency Over a Television Program"); and 6,701,523 ("V-Chip Plus+ In-Guide User Interface Apparatus and Method for Programmable Blocking of Television and Other Viewable Programming, such as for Parental Control of a Television Receiver"). California-based Rovi reportedly alleges that Toshiba has been aware of the infringement since 2000. Rovi is reportedly seeking a permanent injunction and unspecified damages at the federal court and a permanent general exclusion order, a permanent limited exclusion order, and a permanent cease-and-desist order from the ITC.

### **Groupon Sues MobGob**

According to a report by Bloomberg news, coupon website Groupon Inc. filed a lawsuit against MobGob LLC, another group buying site, alleging that the company has been knowingly infringing Groupon's U.S. Patent No. 6,269,343, entitled "On-Line Marketing System And Method," which issued in 2001. Chicago-based Groupon filed the complaint with the U.S. District Court for the Northern District of Illinois. Groupon is reportedly seeking compensatory damages and an order for MobGob to destroy its website, which allows sellers to make a conditional offer for sale of items/services/products at a set price depending on the number of people who accept the price within a limited time.

news in the field of intellectual property. The NEWSLETTER provides monthly updates on recent issues of general interest in this field. The views and/or opinions expressed herein do not necessarily reflect those of GREENBLUM & BERNSTEIN, P.L.C. Information regarding the contents of the Newsletter can be obtained by contacting Steven Wegman at GREENBLUM & BERNSTEIN, P.L.C., 1950 Roland Clarke Place, Reston, VA 20191. Copyright 2010 GREENBLUM & BERNSTEIN, P.L.C.