



# Greenblum & Bernstein, P.L.C.

## INFORMATION TECHNOLOGY NEWSLETTER

### Recent News in Intellectual Property

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### Licensing Group May Inhibit Google's Video Initiative

Licensing group MPEG LA has reportedly announced that it plans to create a patent pool related to video and video-encoding standards. As a result, the future of Google's WebM video format has become a little less certain. With WebM, Google hopes to eliminate the use of supposedly performance-draining plug-ins to play video on the Web. However, the adoption of WebM hinges on the use of a video codec called VP8. While Google is attempting to develop WebM as a patent- and license-free, open-source video format, in an interview with CNET.com MPEG LA asserted that the market would benefit from the convenience of a patent pool coordinated by one licensing body. MPEG LA also manages patent pools for VP8's biggest competitor, the H.264 codec, as well as the older MPEG-2 format. The group is inviting any patent-holders of technology essential to the VP8 codec to submit their patent or patents for inclusion in the patent pool by March 18, 2011.

### U.S. Government Panel Challenges Huawei Acquisition

The Committee on Foreign Investment in the U.S. (CFIUS) has reportedly blocked a buy-out of bankrupt server architecture firm 3Leaf Systems by Chinese telecom manufacturer Huawei. The Financial Times reports that CFIUS reportedly offered Huawei the option of voluntarily selling the patents it would acquire in the 3Leaf purchase, but that Huawei refused the offer. Reuters is now reporting that Huawei has reportedly backed off from the deal, saying it would divest itself from 3Leaf. This is the latest in a series of thwarted attempts by Huawei to buy into the US technology market. The company has faced public accusations from elected US officials that it is deeply tied to the Chinese government and the People's Liberation Army. Huawei has reportedly disavowed any ties to government or military backers. The 3Leaf portfolio at issue reportedly deals mainly with cloud computing technology.

### U.S. Patent Office to Offer "Accelerated" Examination Option

Applicants may soon have access to a new accelerated examination process, the U.S. Patent Office (USPTO) announced in a February press release. The new system will ask applicants to select one of three "tracks" for examination, according to how critical the applicant believes it is to the patent's value that it be granted and reach market quickly. The accelerated track would prioritize an application for examination within twelve months of filing, but applicants would be subject to several requirements in order to qualify for the program. These requirements have so far not been announced in detail. However, according to the USPTO's press release, such requirements might include a \$4,000 fee at the time of filing, limiting the number of claims, and requiring use of the USPTO's Electronic Filing System. The USPTO indicated they may grant a fifty percent discount on the fast-track fee for small entity applicants. The US government hopes the three track system will allow motivated inventors to bring their products to market faster. In order to meet the goal for a twelve-month turnaround, the USPTO said that it planned to limit participation in the accelerated track to 10,000 applications in its

first year.

## Nortel Patent Portfolio up for Bid

Nortel Networks, a bankrupt Canadian communications company, has been at the center of a flurry of bids for its remaining IP assets. The company has been selling itself off in pieces since declaring bankruptcy in 2009 and has recently put up for auction its portfolio of around 4000 patents, according to the Wall Street Journal. The Journal reported that the patents relate to long term evolution (LTE) wireless phone networks and CDMA technologies. These patents have reportedly piqued the interest of companies such as Apple, Google, Huawei, and other wireless carriers and network equipment firms, according to the Journal. Several patent-licensing companies and investment groups have also expressed interest. Bidding for the portfolio is reportedly expected to begin at \$1 billion.

## LG Counters Sony Suit with ITC Complaints

Following two complaints filed against the company by Sony last month, Bloomberg reports that LG Electronics has now brought several countersuits of its own. Two of the complaints were filed with the International Trade Commission (ITC). In one complaint, LG alleges that Sony infringes four LG-owned patents (U.S. Patents 6,785,906; RE 37,326; 5,533,071; and 5,923,711) with its high-definition Bravia brand TVs. In the other complaint, LG asserts that Sony's Blu-ray players (including the Playstation 3 console and VAIO computers) infringe another set of four patents, which deal with handling multiple data streams and read-only data reproduction. The second complaint mirrors the civil suit Sony filed in December against LG's own Blu-ray players, which specifically targeted players with Wi-Fi functionality. LG's complaints with the ITC are In the Matter of Certain Digital Televisions, Complaint No. 2785, and In the Matter of Certain Electronic Devices Having a Blu-Ray Disc Player, Complaint No. 2786. LG also reportedly filed a civil suit in California seeking financial compensation for Sony's alleged infringement, which an ITC ruling would not provide.

## Lexmark Settles with Selected Parties

After filing a complaint with the International Trade Commission (ITC) last year, in which it reportedly asserted that 24 companies were infringing patented technology directed to replacement toner cartridges, Lexmark recently announced that it has settled out of court with ten of the named part

ies. Terms of the settlement were reportedly not disclosed; however, Lexmark's statement indicated that the settling parties had reportedly agreed to a permanent injunction in the related civil suit, and also that they would not attempt to block Lexmark from pursuing an ITC ban on the future importation of infringing products. The companies have reportedly denied any wrongdoing in the case. Litigation will continue against the remaining parties named in the original complaint that have not settled with Lexmark.

## IBM, Samsung Swap Patent Access

IBM and Samsung Electronics have reportedly agreed to license their extensive patent portfolios to one another, Dow Jones Newswires reports. Though the specifics of the deal were reportedly not made public, a statement released by IBM noted that the cross-licensing agreement was meant to encourage innovation within the companies and to maintain their competitiveness in meeting market needs for high-end technology. The two companies were top recipients of U.S. patents last year, with IBM receiving 5,896 utility patents and Samsung garnering 4,551 patents.

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