

A round-up of IP-related quotes, observations and opinions from August and September 2010

“Once the [US] patent office is back to operating effectively, the backlog of 1.2 million applications should yield, judging from history, roughly 780,000 issued patents, about 137,000 of which would go to small businesses. Then, going forward, the agency could grant an additional 88,000 patents within three years. By 2013, small businesses would have received some 225,000 patents that they could then use to secure financing to build their businesses and hire more workers.”

Paul Michel, recently retired chief judge of the Court of Appeals for the Federal Circuit, and **Henry Nothhaft**, CEO of Tessera, *New York Times*, 5th August 2010.

“In its current state, the agreement contemplated creating a standardised system for the settlement of disputes concerning patents is incompatible with the treaties.”

The advocate general of the European Court of Justice in a non-binding opinion on the proposed plan to create a unified patent litigation system in Europe. Opinion issued in French on 2nd July 2010; unofficial English translation supplied by Kevin Mooney and Paul England of Simmons & Simmons in August.

“I love when my competition writes patents because they give me insights into the thought process of the inventor. I have read several patents that were so novel in their approach that they actually triggered new ideas for me, which I subsequently used for my own applications. Did I violate the patent? No. In fact, my idea was for something totally different. However, the patent described the technical details in such a way that served as a sort of creative inspiration. Had the inventor never written the patent, I doubt I would have come up with the same idea in such a short amount of time.”

Christopher Marki, director of research at Marki Microwave. Taken from an article entitled “A case against patents”, published on the *Microwave Journal* website, 26th August 2010.

“Interval Research was an early, ground-breaking contributor to the development of the internet economy ... Interval has worked hard to bring its technologies to market through spinning off new companies, technology transfer arrangements, and sales of its patented technology ... This lawsuit is necessary to protect our investment in innovation ... We are not asserting patents that other companies have filed, nor are we buying patents originally assigned to someone else. These are patents developed by and for Interval.”

Spokesman for Microsoft co-founder Paul Allen as Allen's company Interval Research launches proceedings against 11 companies it claims infringe four patents it owns relating to internet search and e-commerce technology, 27th August 2010.

“This lawsuit against some of America's most innovative companies reflects an unfortunate trend of people trying to compete in the courtroom instead of the marketplace. Innovation – not litigation – is the way to bring to market the kinds of products and services that benefit millions of people around the world.”

A spokesman from Google, one of the companies being sued by Interval, responds to the suit, 28th August 2010.

“It seems that some very large patent holders in the semiconductor space have decided that the very small incremental value that the last

1% or 10% of patents in their massive patent portfolios brings to cross-licence negotiations is not sufficient. Spinning out a group of patents to a licensing group such as Round Rock or Acacia generates additional returns that are shielded from cross-licence exposure. But where does it end? If enough companies adopt this model, they all end up in a second layer of cross-licences with one degree of separation. The process is inherently less efficient, though, as they increase the need for licensing service organisations to be their proxy licensing departments. I wonder if this is the next evolutionary step in patent licensing. Operating companies spawn NPEs by proxy to participate in the next licensing goldrush? If you can't beat them?”

Terry Ludlow, founder and CEO of Chipworks, 28th August 2010.

“The requirement of independence means the absence of any employment relationship between the lawyer and his client, so that legal professional privilege does not cover exchanges within a company or group with in-house lawyers.”

Quote from the decision issued by the European Court of Justice in Akzo Nobel Chemicals Ltd v Commission, 14th September 2010.

“There was a slowdown in the growth of patent grants in 2008. The total number of grants across the world is estimated at 780,000 in 2008, representing a 0.6% increase from 2007. The slowdown is largely explained by a substantial drop in grants at the patent offices of the Republic of Korea (-32.5%). Without the substantial growth of grants in China, there would have been a contraction of total worldwide patent grants in 2008 ... Around 6.7 million patents were in force across the world in 2008, representing a 5.3% increase over 2007. Patents in force in China and the Republic of Korea saw double-digit growth at 24% and 10.1%, respectively. Residents of Japan and the US owned around 48% of total patents in force in 2008.”

World Intellectual Property Organisation press release, published on 15th September 2010.

“Start-up firms that successfully file patents before receiving any VC investment are more likely to complete IPOs (initial public offerings) and less likely to fail or be acquired. Such prior patenting helps VC investees to receive substantially more VC funding, attract a larger number of more prominent VCs, and experience a longer incubation period ... Our empirical evidence therefore suggests that patenting serves as an effective signalling device for mitigating the asymmetric information problem between entrepreneurs and VCs.”

Jerry Xao, of Singapore Management University, and **Po-Hsuan Hsu**, of the University of Connecticut, in their paper “Patent Signalling, Entrepreneurial Performance, and Venture Capital Financing”, published in September 2010.

“The Swedish Pirate Party did its best election campaign ever. We had more media, more articles, more debates, more handed-out flyers than ever. Unfortunately, the wind was not in our sails this time, as it was with the European elections.”

Rick Falkvinge, leader of the *Pirat Partiet*, responding to a vote share of just 1% in the Swedish general election which took place on 19th September 2010. In the European elections held in June 2009, the party had secured over 7% of the vote.