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Patent Troll Tracker

An alternative look at patent litigation trends, focusing on the increasing number of patent lawsuits brought by shell corporations that make or sell no goods or services.

SATURDAY, FEBRUARY 23, 2008

Blogger, Revealed

Live by anonymity, die by anonymity.

Yes, I have been unmasked. It happened quite the way this blog happened - I got an anonymous email, from the guy who probably collected the bounty, telling me I better tell everyone who I am (and he clearly knew), or else he would take care of it for me. The clear threat in the email is that he would do it in a way I wouldn't be happy about. I don't know what that means, but as I have been growing weary of anonymity anyway, here I am.

So now that it's happened, let me introduce myself. My name is Rick Frenkel. I started in IP over 10 years ago, as a law clerk at Lyon & Lyon in Los Angeles. After a few years there as a law clerk and attorney, I litigated patent cases for several years at Irell & Manella. Two years ago I moved to the Valley and went in-house at Cisco. In my career, I have represented plaintiffs, defendants, large companies, small companies, individual inventors, universities, and everything in between. I currently work at Cisco.

When I started the blog, I did so mainly out of frustration. I was shocked to learn that a huge portion of the tech industry's patent disputes were with companies that were shells, with little cash and assets other than patents and a desire to litigate, and did not make and had never made any products. Yet when I would search the Internet for information about these putative licensors, I could find nothing. I was frustrated by the lack of information, and also by the vast array of anti-patent-reform bloggers out there, without a voice supporting what I did believe and still believe is meaningful reform.

Why blog anonymously? For one, I really didn't want the publicity. Second, I feared that someone would claim to have the patent on blogging, and I might face a retaliatory lawsuit. I was close, no?

I never expected the blog to get quite the following it did. It has brought new information to me, in the many emails from people alerting me to this, that, and the other. Incredible stories, about patents on gift cards and videos-on-a-website, and demand for tens of millions of dollars. I have been exposed to a clearly overworked PTO examining core, who can't help the fact that the number of claims being examined has quintupled in recent years, while the

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About Me

Rick Frenkel
Patent lawyer, trying to gather and organize information about patent litigation in an informative and useful way.

[View my complete profile](#)



EFF is helping bloggers protect their Constitutional right to anonymous speech



Blogs I Read

[Above The Law \(People Magazine, for Lawyers\)](#)

[Anticipate This!](#)

[Benefit of Hindsight](#)

[Chicago IP Litigation Blog](#)

[Delaware IP Law Blog](#)

[Dennis Crouch's Patently-O Blog \(the Godfather of Patent Blogs\)](#)

[How Appealing \(Howard Bashman\)](#)

[IAM Magazine Blog \(Euro-focused\)](#)

<http://trolltracker.blogspot.com/>

10/13/2008

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average years of service of the examiner core has been decreasing. Couple that with the "correction" to obviousness laws by the Supreme Court in KSR, and the huge increase in the number of patent cases in the courts, and we are in the middle of the perfect storm of patent news. My blog fulfilled a long-felt need - the need for people to share information about who are the entities out there asserting patents. And for those people who keep claiming that I am biased against the individual inventor, you haven't been reading me close enough. I just don't think that if you sue dozens of companies in one lawsuit, claiming to own the smartphone on a patent issued years after the smartphone market took off, you shouldn't be shocked if you are the subject of scrutiny, whether from me or others.

Although my direct manager at Cisco knew I was writing the blog, the content was entirely my own, and nobody at Cisco ever wrote any content for me or made any attempts to edit me, nor was anyone up the chain above my direct manager aware that I was the author.

Cisco respects intellectual property, and indeed is one of the most innovative companies in the world. Our patent portfolio, consistently ranked as one of the tops in our field, is the result of numerous of hours spent by our hard-working engineers. Our research and development is significant; during the last fiscal year, Cisco spent over \$4.5 billion in developing innovative new products and solutions. Cisco also has a culture of openness and transparency. Within Cisco, there are both company blogs, and also blogs by employees on their own time. This blog is in that tradition, and I am proud to be part of a terrific organization.

Thanks to Dennis Crouch for blazing the patent blawg path. I have been reading your blog from day one. In that light, also to Peter Zura, Michael Smith, and even Gary Odom (Patent Prospector), who probably gets the most credit in inspiring me to write something from my own perspective.

Thanks also to all the people who kept my secret for so long. I'm surprised with all the friends and family that knew, it took as long as it did. Someone may have made \$15,000 or so from a bounty posted by Ray Niro on this one - not sure I'll ever find out who or how. I don't actually even care.

Finally, thanks to all the readers who have emailed me with support and ideas. Not sure any of you want to be named, but you know who you are. There are also people who inspired me to blog, and encouraged me to write as a hobby. I'll thank them personally.

Now that I have been unmasked, I'm not sure where the blog is going from here. I'd like to keep it going. For one, I still have quite a few post ideas in me (indeed, I have several already prepared, waiting to go). Further, there aren't many in-house counsel blogging, and I think we deserve a voice. I'm going to take off the next couple of weeks to think it over.

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Posted by Rick Frenkel at 4:00 PM [50 comments](#)
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FRIDAY, FEBRUARY 22, 2008

Desire2Appeal

A Lufkin, Texas jury found for Blackboard in the Desire2Learn patent trial, finding the claims valid, infringed, and awarding \$3.1 million in damages, according to Desire2Learn's [blog](#) and other newswires. [News reports](#) say that Blackboard sought \$17 million. Ex parte and inter partes reexaminations have been ordered by the Patent Office (13 months ago), but there have been no office actions in those reexams, despite the Patent Office's commitment to resolve reexaminations with "special dispatch."

An inequitable conduct trial to Judge Clark is ongoing.

Posted by Rick Frenkel at 7:20 PM [0 comments](#)
 Labels: [Blackboard](#), [Desire2Learn](#), [jury verdict](#), [Lufkin](#)

Ted Frank on Patent Reform

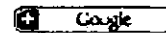
Ted Frank is a resident fellow at the American Enterprise Institute for Public Policy Research and Director of the AEI Legal Center for the Public Interest, and a blogger-contributor to [Overlawyered](#) ("Chronicling the high cost of our legal system"). Frank authored an interesting paper, published yesterday, titled "There Is a Role for Congress in Patent Reform." In it he concludes:

Barfield and Calfee's Biotechnology and the Patent System is correct about the importance of the patent system to American innovation. But patent litigation is broken, and Congress is every bit as qualified as--and often more qualified than--the courts to fix it. Patent reforms are possible that discourage patent trolls while protecting the rights of both legitimate patent-holders and defendants and satisfying the "do no harm"[46] principle of Barfield and Calfee.

To read Frank's entire report, [click here](#). To read the other side of the story, about why patent reform is evil and will bankrupt our economy, click on the "Patent Prospector" link on the right.



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▼ 2008 (49)

▼ February (20)

[Blogger, Revealed](#)

[Desire2Appeal](#)

[Ted Frank on Patent Reform](#)

[Email From Sorensen](#)

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[Troll Wars](#)

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Posted by Rick Frenkel at 3:30 PM 1 comments
Labels: [patent reform](#)

Email From Sorensen

Dear Anonymous:

It has come to the attention of Sorensen Research and Development Trust that your blog has made reference to SRDT, describing recently filed cases as a "last gasp to get retirement money" and "last gasp for filing infringement suits."

In the interest of fair reporting, you may want to investigate a little further. Attached is a news release for your review. You may find it interesting to know that in the infringement litigation involving Black & Decker, defense counsel for Black & Decker is none other than the law firm of Niro Scavone, et al.

+++++

Well, I'm always interested in fair reporting. So here is the [Sorensen Press Release](#). Sorensen is seeking \$1.44 Billion from Black & Decker, and has filed 23 new patent lawsuits in the last 3 months. Clearly, Sorensen is seeking more than retirement money. I stand corrected.

Posted by Rick Frenkel at 3:06 PM 1 comments
Labels: [Sorensen](#)

THURSDAY, FEBRUARY 21, 2008

Mike Masnick on Intellectual Property

Mike Masnick of TechDirt has posted the first in what he promises to be a series exploring intellectual property. In the [first installment](#), he explores the dialog between two of our founding fathers, Thomas Jefferson and James Madison, on the nature of intellectual property, and their concerns that too-strong intellectual property laws could lead to abuse. The compromise that they arrived upon was the now-familiar refrain from Article I, Section 8 of our Constitution:

The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

Mike queries whether the patent system we have today is always

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