

EXHIBIT 1

BusinessWeek

APRIL 24, 2006

www.businessweek.com

THE WORLD'S MOST INNOVATIVE COMPANIES

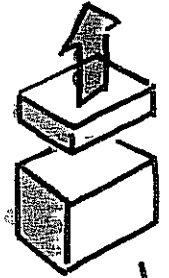
p. 62

by  Jena McGregg

WHO

HOW

- APPLE → Innovator in chief
- P&G → Share patents
- SAMSUNG → Networks of brainy scientists
- IBM → Design strategy
- BMW → Speed cycle time
- STARBUCKS → Get into the customer's head
- TOYOTA → Free time to experiment
- GOOGLE → Embrace suppliers



what's with Sony??



be courageous take big risks!



is there an innovation premium in the stock price? oh yeah!!



0 74820 18248 2

Underdog Or Patent Troll?

How Burst.com went from making software to suing tech giants

BY PETER BURROWS

RICHARD LANG COMES across as a mellow Californian. The youthful-looking 52-year-old lives on an 11-acre estate among apple trees in the hippy town of Sebastopol, north of San Francisco, where he plays guitar in local bands and his wife runs an “equine experiential learning institute” that helps clients get in touch with themselves by riding horses. But there’s nothing laid-back about his strategy at Burst.com, the Santa Rosa (Calif.) company he co-founded 18 years ago. With just two employees, Burst holds 10 U.S. patents, and its focus is on asking big companies to license its technology—and suing them if they don’t.

In March, 2005, Burst won a \$60 million settlement from Microsoft Corp. The next target, Lang says, is Apple Computer Inc., which he says infringes on Burst’s patents covering superfast transmission of content, such as songs and video, over networks. He’s seeking a chunk of the tech giant’s burgeoning music revenues, and says he plans to sue in mid-April if no settlement is reached.

That makes Burst, in many people’s eyes, a “patent troll.” In recent months tech giants such as Microsoft, Intel, and Yahoo! have vilified the trolls—tiny com-

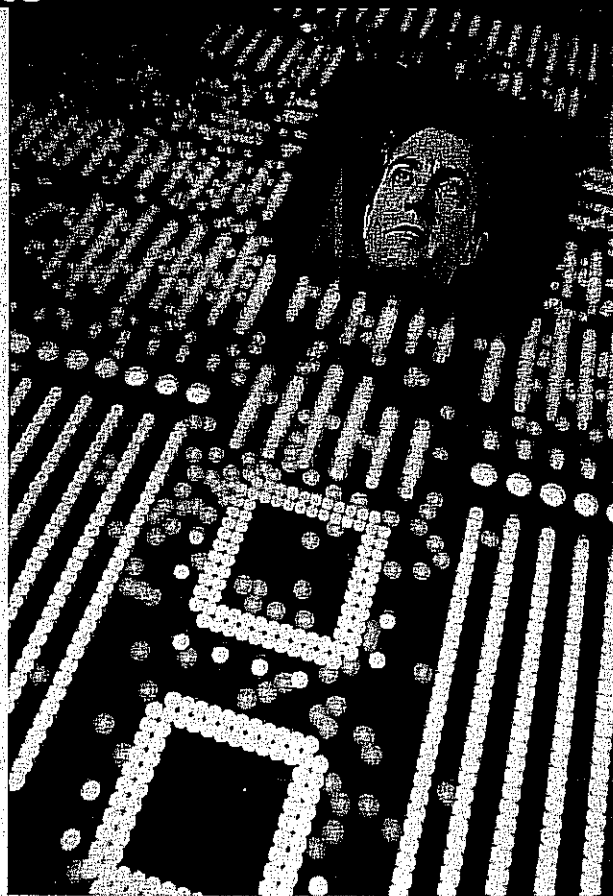
panies that don’t make anything but simply hold a portfolio of patents. Their business plan consists of cashing in on this intellectual property by suing traditional corporations, the types that produce real products. That infuriates the targets of these suits, who claim that the legal risk forces them into exorbitant settlements, and that the ensuing payoffs increase costs for consumers. For many, the poster child for trolls is NTP Inc., the tiny company that extracted \$612 million from Research In Motion Ltd., the maker of the BlackBerry wireless e-mail device.

But it was never Lang’s plan to be in the litigation business. A legitimate visionary, he patented a method for transmitting data over digital networks that turned out to be years ahead of its time. His company once seemed poised to become a major tech player in its own right. But the hardball tactics of Microsoft blew apart Burst’s original business model, Lang claims, and gave him no choice but to turn to the courts.

EYEING IPOD
Lang’s next target will be Apple, barring a settlement

While big companies have been complaining that the patent system is tilted against them, Lang believes his tale demonstrates that the opposite is often true. “There’s a million ways for a plaintiff to lose a patent case but only one way to win,” he says. “So if you’re a big rich company, why not go ahead and go through the [legal] process? Maybe the little guy will run out of money, or run out of courage.”

The validity of Lang’s tale of woe will ultimately have to be determined by the courts, but right now he is not winning many friends in Silicon Valley. Burst is asserting very broad patents, and Lang has been making the rounds with veiled threats of infringement actions. He’s aiming for big payments. While Lang won’t discuss his hopes for the Apple claim, his lawyer cites as a point of reference other cases in which plaintiffs were rewarded more than 2% of infringing revenues. That would be about \$200 million so far for Apple. “Burst.com approached Apple claiming that some of our products violate their



TO THE WINNER GOES... NOT THAT MUCH

Here’s what Richard Lang was left with after Burst.com’s \$60 million settlement with Microsoft got divvied up:

Burst shareholders	Lawyers	Burst working capital	Creditors	Lang and his wife
\$32 million	\$20 million	\$4 million	\$1.5 million	\$2.5 million

RICHARD MORGENSTEIN

patents, but we don't agree," says an Apple spokesperson. On Jan. 4, Apple filed a suit seeking to invalidate Burst's patents.

While Lang is controversial, his record as a tech clairvoyant is impressive. When the rest of the world was focused on stuffing 500 channels onto cable TV, he was devising ways to use digital networks to deliver content more efficiently and reliably. Lang recognized that shows could be sent faster than they could be viewed—in "bursts" that took full advantage of momentary increases in network capacity, rather than in constant "streams." Indeed, at the 1991 Consumer Electronics Show, Lang drew a crowd with a demo in which 15-minute segments of a PBS documentary were zipped to a TV across the booth in seconds. "They were demonstrating things that other people couldn't do," says tech pundit Robert X. Cringeleay.

"SO OUTSIDE THE BOX"

AFTER SPENDING the 1990s trying to perfect "real-time streaming" of content—often in low resolution with tiny images—titans including Apple, Microsoft, and Real Media have since embraced Lang's general approach. "We were so

outside the box that even in the late 1990s, people didn't get it," says Lang.

By the late '90s his company had grown to 110 employees and was selling a software package called Burstware. Then, Microsoft got in the way. When the software giant upgraded its Media Player software in 2000, suddenly Burst's key product stopped working. Lang is certain it was on purpose, a charge Microsoft denies. Regardless, Burst nearly went bust. Customers backed away, as did bankers who had been arranging a \$70 million secondary offering for the company. Within months, he'd laid off all but four staffers and was begging Microsoft for a licensing deal. "Microsoft, like many big companies, wants to wear out their opponents," says Lang. In one e-mail, Burst's contact at Microsoft reported that the company was "going, going..."

Burst survived, though. Convinced that a 2001 release of Windows Media Player infringed on Burst's technology, Lang got an investor to put up \$1.5 million to keep

the company afloat as it pursued a lawsuit, filed in June, 2002. Without admitting liability, Microsoft agreed to the \$60 million settlement a day before a hearing on whether it had destroyed evidence. Although the myth is that trolls get fabulously wealthy, Lang personally ended up with just a fraction of the settlement proceeds, \$2.5 million.

Believing the victory validated his patent claims, Lang has expanded his search for licensees. Apple was his first stop, and not only because of its deep pockets. Apple reps had approached him at a trade show back in 1991, and Burst met with Apple in 1999, 2000, and 2002. "The attitude is exactly like it is at

Microsoft and everywhere else. If you won't take next to nothing [for Burst's technology], we'll fight you for the next 10 years," he says.

That may well be what happens. Lang's patents have never been upheld in court, and Apple will be a formidable foe. But he insists his easygoing style doesn't tell the whole story. "I'm a bit of a terrier." ■

His ideas for data transmission won the day. Now Lang wants a cut

We Link IT All!

COMPUTEX TAIPEI

Taipei International Information Technology Show

2006

June 6 - 10

www.ComputexTaipei.com.tw

Organizers:
 Taiwan External Trade Development Council (TAITRA)
<http://www.taiwantrade.com.tw>
 E-mail: computex@taitra.org.tw

Sponsors:
 Bureau of Foreign Trade, MOEA
 Taipei World Trade Center
<http://www.computex.biz>
 E-mail: info@computex.com.tw

Venue:
 Taipei World Trade Center
 Exhibition Hall 1, Hall 2 & 3
 Taipei International Convention Center (Hall 4)

Media Partners:
 BBC WORLD
 BusinessWeek