TAG-Legal

Participates at Piracy & Trademark Violations Regional Conference

Michael Jackson
Inventor of Anti-Gravity Illusion
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SAN JOSE, CA - eBay announced on July 31, 2009 that it may have to replace the technology at the heart of its popular Skype peer-to-peer telephony tool, because of a long running Intellectual Property dispute with a company run by Skype’s founders.

The auction giant said in a regulatory filing with the US Securities and Exchange Commission (SEC) that it filed a suit against Joltid in March 2009 in the High Court after the latter laid claim to some of the core Skype technology.

Joltid then “purported to terminate the licence agreement between the parties,” according to eBay, an act which could have forced the company to close the popular Skype service.

“Joltid has brought a counterclaim alleging that Skype has repudiated the licence agreement, infringed Joltid’s copyright and misused confidential information,” said eBay.

“Although Skype is confident of its legal position, as with any litigation there is the possibility of an adverse result if the matter is not resolved through negotiation. Skype has begun to develop alternative software to that licensed through Joltid.”

However, eBay warned that if it loses the case, and its attempts to develop an alternative are unsuccessful, Skype could close.

“Skype would be severely and adversely affected, and the continued operation of Skype’s business as currently conducted would likely not be possible,” eBay said in the SEC filing.

Rex Parry, partner and head of IT at international law firm Eversheds, argued that the case should be a “wake up call to companies that rely on technology they do not own”.

“Companies need to ensure that they have clear rights to technology to ensure the long-term health and sustainability of their business,” he said.

“Failure to do so could have very serious implications, and in this case could delay the potential flotation of a business, or worse still, undermine the current systems of the business completely.”

Source: V3
Michael Jackson
Inventor of Anti-Gravity Illusion

CALIFORNIA - He was the Alchemist of music, the man who brought our fantasies to life, on and off stage; when fans saw him do the impossible on the dance floor, they thought well, he is Michael Jackson and there’s nothing he can’t do.

But when the King of Pop and his dancers leaned at a gravity-defying 45 degrees in live performances of the 1987 hit “Smooth Criminal,” it was a secret gimmick – not super-human talent – that made it all possible.

So after all, Jackson was not only an incredible performer who made drastic changes on the music industry, but was also the first of three inventors on United States Patent 5,255,452, granted in 1993 for a “method and means for creating anti-gravity illusion”.

According to the patent document, it is described as a system for allowing a shoe wearer to lean forwardly beyond his center of gravity by virtue of wearing a specially designed pair of shoes which will engage with a hitch member movably projectable through a stage surface. Thanks to this “anti-gravity illusion” Smooth Criminal became Michael Jackson’s ultimate dance video, and one of the world’s unforgettable performances.

It is worth mentioning that Michael Jackson was a great supporter of Intellectual Property, and he is also the owner of copyrights to the songs written by The Beatles’ John Lennon and Sir Paul McCartney.

TAG-Legal
Participates at Piracy & Trademark Violations Regional Conference

AMMAN - Ms. Hayja Abul-Hayja, TAG-Legal’s office manager, participated at the Piracy and Trademark Violations regional conference which took place at the Landmark Hotel- Amman on July-7-9, 2009.

The 3-day event was hosted by the Jordanian Customs Department, and it witnessed the participation of a number of customs officials and officers from the regional countries, mainly Arab states, which convened to discuss the latest developments achieved in combating piracy and trademark violations.

Ms. Abul-Hayja delivered a speech where she gave an introduction about the latest tricks used in piracy and trademark violation, as well as the best and most innovative means to combat them.

Ms. Hayja and all of TAG-Legal’s representatives commended on the conference and stressed on the importance of hosting such events on both regional and international scale.
CUPERTINO, CA - Symantec Corporation announced that it was awarded a combined total of $18.6 million in damages in cases brought against two distributors selling counterfeit Symantec software throughout North America, according to Symantec.

The first judgment of $9.7 million was handed down by the United States District Court for the Northern District of California in San Jose in favor of Symantec against V-Micro Inc., a New Jersey-based organization.

The second judgment of $8.9 million was handed down by the United States District Court for the Central District of California Western Division in Los Angeles in favor of Symantec against Connecticut-based Higher Model Computer LLC.

“The size of these judgments reflects the scope of these two particular operations and the number of unsuspecting users that were put at risk for acquiring fraudulent software from these distributors,” said Joy Cartun, senior director, Symantec Legal Department.

“Counterfeit software also is more likely to contain spyware, which after installation can steal personal and confidential information from someone’s computer without their knowledge. While the judgments are significant, the more important point is that these businesses no longer pose a counterfeit software threat to Symantec’s customers,” Cartun stated.

Symantec filed each case in federal court and included claims alleging copyright and trademark infringement and fraud against both operations for selling counterfeit Symantec products such as Norton SystemWorks, Norton AntiVirus, Norton Ghost, and pcAnywhere.

Symantec is a global leader in providing security, storage and systems management solutions to help consumers and organizations secure and manage their information-driven world.

Source: ag-IP-news

Symantec
Awarded $18.6 Million
in Judgments from Two Anti-piracy Cases
TAG-Legal at the ‘How to Develop and Sell a (Franchise) concept’ Seminar

BEIRUT – Talal Abu-Ghazaleh Legal (TAG-Legal) took part in the “How to Develop and Sell a (Franchise) Concept” seminar held on June 25, 2009 at the Gefinor Rotana Hotel, Beirut.

The one-day event, organized by the Franchise Business Consultants, aimed at providing the necessary methodology, techniques, and requirements needed for evaluating an idea, developing it into a concept and selling it in the market place.

Participating in the seminar, Ms. Soha Al-Masri, TAG-Legal’s office manager in Beirut said “We learned how to evaluate an idea and decide whether it can become a concept or not, and whether it can be profitable if put into the market in the future.”

The event consisted of several workshops and introduced all participants to the Concept Cycle - from idea to concept to franchise, the requirements needed for a concept to be developed and put to market, and finally the legal contracts required to sell the concept.

Mortal Kombat Movie Company Sues Midway over Property Rights

HOLLYWOOD, CA - The maker of the Mortal Kombat films has filed a lawsuit against Midway on June 25, 2009 that could prevent Warner from buying the struggling publisher.

Threshold Entertainment’s Chairman and CEO Lawrence Kasanoff is suing Midway in the US Bankruptcy Court over the Intellectual Property interests in the Mortal Kombat series, GamePolitics reports. The case could block Warner Bros’ proposed $33 million purchase of Midway’s assets, including the rights to Mortal Kombat.

Kasanoff is demanding the right to create derivative film and television projects based on the beat-em-up franchise, as well as copyrights to certain characters, including Sonya Blade and Scorpion. He claims his company’s work with the series’ assets has been crucial to Mortal Kombat’s success.

In his official complaint, Kasanoff said: “The Mortal Kombat series, as it stands today, is far more a creation of Threshold and Kasanoff than of Midway. Midway’s creative input was almost entirely limited to the video games.

“On their own, the video games provided only minimal back-story and mythology, and only flat ‘stock’ characters... Kasanoff and Threshold were responsible for virtually all of the creative input that went into turning the video game concept into a multimedia enterprise.”

Source: MCV
CALIFORNIA- Company called Tsera is suing 23 electronics companies, including Microsoft and Apple, for violating a patent on touch screens, stated a press release by Tsera on July 23, 2009. The suit mentions Apple’s iPod Classic and iPod Nano and Microsoft’s Zune digital media player among other devices.

Tsera says it registered a patent in 2003 for a device that would allow a user to enter commands on a touch screen “by tracing patterns with his finger on a surface of the touchpad”.

“The touchpad replaces the numerous buttons that are typically used to control portable electronic devices, thereby enhancing usability and reducing manufacturing costs,” says the patent.

Tsera is primarily targeting Apple, as it is the company that has made the most money from selling touchpad-enabled devices. Tsera claims that Apple knew about its patent as early as 2004, and that the infringement was “wilful, wanton, and deliberate”. Tsera is seeking triple damages from Apple. Other defendants in the case include Bang & Olufsen, Philips and LG Electronics.

Source: Digitalmedia

AGIP Participates in ECTA’s 28th Annual Conference


Dima Naber, Clients Relations Department manager from AGIP attended the event along with 400 delegates from all over the world.

Topical issues were in the areas of counterfeiting, trademarks and design rights, EU case law and the judicial system presented by a distinguished panel of judges and lawyers.

In his welcoming message, Simon Reeves, ECTA president, stated that “For our 28th Annual Conference, ECTA has put together a program based on a musical theme under the title ‘A Trade Mark Symphony’.”

The ECTA is the principal pan-European body representing the interests of those professionals who practice within the European Union in the fields of trademarks and related IP.

Source: ag-ip-news
Dubai Customs Invites Trademark Owners to Register at Dubai Customs

DUBAI - Dubai Customs (DC) has urged brand owners to register their trademarks at the Department as soon as possible in order to ensure the protection of their rights from counterfeiting and fraud. This comes in a bid to combat illegal trade, prevent its risks, preserve the national economy and encourage investment in Dubai.
“637 brands have been registered at DC up to this date; however, the total number of trademark registered at the Ministry of Economy is currently 60 thousand,” Senior Manager of Intellectual Property Rights (IPRs) Department at Dubai Customs Yousuf Ozair stated.

He urged trademark owners to hurry in registering at Dubai Customs to secure their legal rights.

“The Intellectual Property Rights Department at Dubai Customs has launched Recording Trademarks policy number 2006/DCP/11 which was adopted on November 6, 2006,” he said.

“Law firms and brand owners have been officially informed about the regulations and documents required for filing a brand infringement complaint as well as the administrative fees for opening a brand monitoring file for the brands that are registered in the country,” Ozair continued.

After being registered at the Ministry of Economy, trademarks are recorded at DC by the owner, the agent or the legal representative in the country.

Such procedure entails submitting an official complaint by a law firm or the trademark owner who will have to provide a Dubai Customs’ Trademark Record for the brand after it has been registered in the Ministry of Economy.

Prior to filing a complaint against counterfeit and suspicious goods, law offices and trademarks owners are requested to present Dubai Customs’ Trademark Record after it is recorded in the Ministry of Economy.

The Trademark Record system is circulated to all customs centers to facilitate the identification of the trademark owner by inspection sections in order to accelerate the decision-making process while seizing the suspected goods.

Ozair said that there are required documents and fees on Recording Trademarks which are:

1. A copy of the Recording Trademarks certificate that is alleged to be violated.
2. An accredited and translated Power of Attorney that is well-documented.
3. AED 200 is paid as fees for Recording Trademarks, a trademark on each category.

As for the required documents and fees for opening a complaint file in case of trademark infringement, IPRs Senior Manager stated that:

1. An official written complaint must be issued during the working hours by the trademark owner or the legal representative (in Arabic or in a properly translated version).
2. A valid copy of the Trademark Record certificate that is alleged to be violated.
4. A written Undertaken of paying inspection and storing expenses or any delays resulting from the complaint.
5. When filing an official complaint for trademark infringement, AED 2000 is charged to cover the expenses of inspecting, transferring and following-up.
6. AED 5000 is collected as a guarantee and it is refundable in case complaint was correct.
7. In case of filing urgent complaint an additional AED 500 is paid.
8. In case of complaints issued during official holidays, AED 1000 is charged.

Source: ag-IP-news
NEW JERSEY - A civil jury in New Jersey awarded a man nearly $100,000 in a lawsuit he filed against his mother. John Garrity was installing hardwood floors in his mother’s home when she tapped him on the shoulder to tell him that lunch was ready. Garrity, who was using a miter saw at the time, quickly turned around, causing his hand to slip into the saw’s path and severing his pinky finger.

Garrity filed the lawsuit against his mother, Nancy Garrity, seeking nearly $200,000 in damages in addition to nearly $40,000 in medical bills. Court records show that the mother admitted she was at fault. “It was very noisy from the machine which he was operating, so I tapped him on the shoulder,” read one court document. “He appeared to be startled and then held up his hand, which had blood on it.” The jury in the State Superior Court found each party to be 50 percent at fault for the accident and thus awarded Garrity 50 percent of his claim.

BRUSSELS - Statistics published by the European Commission relating to goods infringing Intellectual Property Rights (IPRs), show for the sixth consecutive year a significant increase in customs activity, according to the official website of the European Union.

In 2008, customs registered over 49,000 cases of goods detained at the EU’s external border, suspected of IPRs infringements. Compared with 43,000 cases in 2007, this increase shows a further strengthening in cooperation between customs and industry, enabling customs to better target suspected shipments and to recognize IPRs infringing goods.

The number of articles detained more than doubled in 2008 to 178 million, of which about 20 million were potentially dangerous to the health and safety of European consumers. The 2008 statistics show that:

- Customs detentions have never been so high, with an increase of almost 13% – over 49,000 cases registered, compared to 43,000 in 2007.
- Cooperation with industry has continued to develop, with nearly 13,000 applications (10,000 in 2007) filled in by the industry to request customs actions in cases where there is a suspicion that products are infringing an IPRs. This represents 80% of the customs interventions in 2008.
- There was a sharp increase in 2008 in the actual number of IPRs infringing goods detained by customs – 178 million compared to 79 million in 2007.

EU legislation (Council Regulation (EC) No 1383/2003) provides for Customs to temporarily detain any goods if they suspect that these goods infringe any IPRs, including patents.

Under the customs legislation, Customs authorities do not decide whether goods are infringing IPRs. The general procedure is to detain goods and subsequently inform the right holder of the detention.
Your genes belong to you - all 23,299 of them - but the moment they leave your body your genes are “isolated”. They have been transferred into an artificial state, a foreign place. And in this new state patent law says they are patentable subject matter.

As a result, thousands of patents have been granted to biotechnology companies, universities and others, including scientists. The scientists responsible for this transformation are named on the patents as “inventors”.

In 2005, a study published in the prestigious journal Science disclosed that about 20 per cent of the human genome was “the subject of US IP”. In other words, US inventors claimed to have invented 20 per cent of your genes.

“How is this happening? My genes weren’t invented; my parents gave me my genes,” you say, surprised and now a little miffed by the idea that someone is claiming to be the inventor of some of your genome.

Yet that’s what’s been happening for more than 20 years, and in 1998 the European Parliament passed a law called the European biotechnology directive to make it legal. Today the European Patent Office in Munich accepts that an isolated human gene is patentable subject matter. It has to. That’s the law.

In the United States and Australia, however, moves are afoot to stop the patenting of your genes which, let’s face it, no one invented. We all know that our genes belong to us and that they are natural phenomena.
Just like all living things on this planet, they have either been created by God, if you’re a creationist, or have evolved, if you subscribe to Darwin’s theory. Either way, they are products of nature and according to the US Supreme Court are things that are “free to all men and reserved exclusively to none”.

This year the Senate’s community affairs committee is conducting an inquiry into gene patents and their effect on the Australian people.

In May 2009, the American Civil Liberties Union launched legal proceedings against the US Patent Office and Myriad Genetics. The law suit challenges the validity of US patents granted to Myriad over the gene mutations that are responsible for breast and ovarian cancer in women who come from families that are predisposed to these forms of cancers.

Chris Hansen, the attorney at American Civil Liberties Union (ACLU), says: “It has long been a principle of law in the United States that you can’t patent a product of nature, like a basic element such as gold, and you can’t patent a law of nature such as gravity or E=MC2.

It is our position that many of the patent claims when they cover the gene itself, or the gene in certain mutated forms, represent both laws of nature and products of nature and are therefore inappropriate for patenting.”

On August 3, 2009 the Senate’s public hearings commence in Melbourne, but will also take place in Sydney and Canberra later that week. The Senate was galvanised into action in November in 2008 after Senator Bill Heffernan first raised the issue in committee.

His interest was stoked by a lawyer’s letter that Genetic Technologies Limited, a publicly listed Australian company controlled by Dr Mervyn Jacobson, sent to every publicly funded laboratory that performed a genetic test designed to detect mutations to the BRCA1 and BRCA2 genes.

The BRCA1 and BRCA2 genes are in everyone, but mutations to these genes have been linked to breast and ovarian cancer. In the letter the laboratories were given seven days to confirm in writing that they would “cease using the patents” and “refer the performance of all BRCA1 and BRCA2 testing to Genetic Technologies”.

Genetic Technologies had acquired the Australian patent rights from Myriad in 2002 and, after trying to assert its patent rights at the time, subsequently retreated; supposedly making a gift of them to the Australian people after the Howard government ordered the Australian Law Reform Commission to undertake an inquiry into gene patents.

After 18 months, in June 2004, the commission delivered its report to the government. Though it made a number of recommendations, strangely it did not recommend that gene patents be banned. In any event, the Howard government never responded to the report and the Rudd Government, so far, hasn’t either.

Government inaction is probably the reason why Genetic Technologies, forgetting about its gift, tried once again to assert its patent rights over the BRCA1 and 2 genes in July last year.

This time, the Senate has acted. Of course, no matter what the Senate’s report recommends it will ultimately be up to the Rudd Government to take the next step.

In the meantime, it will be another six years before the American Civil Liberties Union’s attempt to invalidate Myriad’s US BRCA patents will be definitely decided by the US Supreme Court.
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