

**Internet New Zealand
Patent Advisory Group
Press Release
24th September 2003**

Background

InternetNZ (The Internet Society of New Zealand) has recently set up an Industry Group to look at the issues of emerging patents in the Internet space. The initiative was triggered by the issuing of an eCommerce patent in NZ to DE Technologies, a Canadian firm who have subsequently approached several NZ eCommerce Web site operators demanding royalties.

InternetNZ gave the group the following Terms of Reference:

- To share information amongst affected Internet users and organisations regarding the DET patent
- To investigate whether there are other patent applications pending which may be undesirable due to their wide scope and obviousness
- To consider the law reform and policy issues raised in the legal advice obtained by INZ and consult on a desired position (if any) for InternetNZ to take on the review of the patents act.

InternetNZ does not, however intend to get involved in any legal action with regard to such patents.

The Patent Advisory Group

The Group held its first face-to-face meeting in Wellington on the 24th September with a view to establishing its modus operandii and setting a series of initial tasks. Chairman of the Group Jim Higgins, pointed out that the Group should not be seen in any way as anti-patent and recognised that there are 'good' patents as well as 'bad' patents and that it was the latter which fall within the sphere of interest of the Group. 'Bad' patents might be those in which it is perceived that the patent owner has taken existing technologies and coupled them together in such a way as to be able to obtain some monetary gain from current users of those technologies.

The Group has been asked, in the short term, to examine the DET patent and comment on its impact in NZ. While the activities of the Company have caused much alarm amongst users of eCommerce technologies there is some evidence to suggest that the patent may well be difficult to enforce in this country. In addition, the way that the patent has been written it is highly unlikely that any NZ company is using the components in such a way that they are infringing. Mr Higgins commented that the fact that there has been little activity from DET since the initial approach would seem to indicate that this situation has not been lost on them.

The other patent which has been recently attracting much attention is the Amazon 'one click' patent which was used to great effect by Amazon against Barnes and Noble in the US. Amazon have filed in NZ and the last day for lodging an objection is Tuesday 30th of September.

Patent Watch

The Group has decided that it would approach the InternetNZ Council with a proposal to create a Patent Watch system which would allow InternetNZ members to access information on upcoming patents in areas which would be of interest to the industry. The system would be operated through the Net and will incorporate a registration module which would provide members with alert emails whenever a patent in a nominated interest area had been identified.

Legislation

The Group is of the opinion that current changes proposed to patent legislation will greatly assist most of the problems currently encountered with eCommerce patents but the problem of a patent owner being able to take out an injunction against an alleged infringer – even though the patent may not be enforceable still – exists. This problem has been solved in Japan where the Patent Office must testify to the validity of a patent before an injunction can be issued.

J A Higgins
Chairman, Patent advisory Group
InternetNZ