Patent Points ☑

750K$ / Patent

Patents have become an important battlefield in the Smartphone wars. Apple and Google have bid up the price of patents to arm themselves.

In August, Google bought Motorola Mobility for 12.5 B$. Reports said that Google was not interested in the hardware business, but the patents were the important asset. If you value the real business at zero, 12.5 B$ divided by 17,000 patents = **735K/patent**, plus phone biz for free.

Analysts speculated that Google needed the patents to fight a lawsuit by Oracle. The new patents may help Google to indemnify other android handset makers against Apple lawsuits.

Interestingly, the 735K$ price per patent of the Motorola Acquisition almost exactly matches (2%) the 750K$ price per patent paid by the Apple consortium for the Nortel patents. Indeed, Google got a much better deal, paying a little less per patent, but getting a real phone biz for free.

Earlier in the year, Apple led a consortium to out-bid rival Google for a cache of 6,000 patents from bankrupt Nortel. The 4.5 Billion winning bid works out to be **750 K$ per patent**.

In the past, patents have often sold for around 200-250K$ each, so this is triple the going rate.

Following the auction, another rival, HTC, bought S3 Graphics for $ 300 Million. HTC's CFO cited the 235 patents as justification for the high price. S3 had just won a ruling at the ITC against Apple. The ITC ruled that Apple had infringed 2 of S3's patents. The additional patents

should give HTC more leverage in a legal dispute with Apple. Interestingly, the deal works out to be **1.25 M$ per patent**, near the .75 M$ per patent paid by Apple et al.

The new arms race in cell phone patents should increase the overall value of all patents, even in other technologies.

Microsoft Ruling Good for Small Companies, VC's

The U.S. Supreme Court let stand a lower court ruling that Microsoft Word infringed an XML editing tool covered by a patent held by a small Canada-Based company, i4i. Microsoft will pay about $ 300 Million in damages.

Microsoft and other large companies had argued that the current standard to invalidate a patent should be reduced. Currently, there needs to be "clear and convincing" proof rather than the lower "preponderance of evidence standard. The preponderance of evidence standard can be met if the evidence is 51% vs. 49% in favor - the "clear and convincing" standard is perhaps 75%-25%.

The Supreme Court did not buy Microsoft's argument. Since a Patent Examiner, who is a specialist in patent law, has already ruled that the patent is valid (otherwise the patent would not have been issued), invalidating a patent requires a higher "clear and convincing" standard. The court will assume that the expert (Patent Examiner) is correct unless there is clear and convincing proof otherwise.

Although courts are often divided on complex patent issues, this ruling by the highest court in the U.S. was unanimous. Thus the decision is extremely strong.

Smaller companies who wisely patented their enabling technologies will benefit from this ruling, since their patents will be perceived as stronger and more likely to survive a challenge in court. Big companies with large legal budgets are unlikely to convince a court to invalidate patents of small companies.

VC's will also benefit from the ruling, since their start-ups will fetch a higher price from the big fish. Small companies are also likely to obtain favorable licensing deals with large companies. It may be cheaper for the large company to buy out smaller companies rather than fight them in court. Thus the market values of small companies may be bid up to higher levels as a result of the ruling.

New Patent Law

In September, President Obama signed into law the America Invents Act. This is the first major change to patent law in years.

The new law switches the US from a first-to-invent to a first-to-file system. Most other countries are on the first-to-file system, so the new US law is harmonized with international laws.

The new law also adds a post-grant review process of issued patents. It is uncertain what effect this will have, but large companies could use this review process to weaken smaller companies with smaller financial resources.

Early Filing Critical

Under the new first-to-file law, being the first inventor is no longer enough. You must file before your competitor does. Getting the patent filed early is more important than ever.

Being able to quickly get a first draft of the patent to the inventor is now critical. Rapidly turning edits and revisions can reduce the delay to filing. Fortunately, we have in place a work-flow that emphasizes rapid understanding of the invention

by first developing the drawings, then writing the patent text. My goal is to turn edits within one working day. I have written several patents in the last year that were filed within a month of starting. A special thanks to the inventors for making review of patent drafts a high priority !

Secrecy Before Filing

Another result of the new patent law is that keeping the patent secret until it is filed is more important than ever. In the past, inventors could disclose their idea to customers and others using a NDA, and still have a year to file the patent. Under the first-to-invent system, the inventor could prove that he was the first inventor using his notebook or emails.

Now under the first-to-file system, an inventor could lose his patent if a competitor is faster to write-up and file the patent application. A competitor could find out about an invention through a mutual customer, despite the NDA, and the competitor could file quickly and beat the inventor to the patent.

Claim Diagramming

Claims are easier to understand if you diagram them. A picture is worth a thousand words.

Look at the first 3-6 words in each claim element (usually each paragraph in a claim is an element). Write these words on a piece of paper and draw a circle around them. Do the same for the next elements/paragraphs.

You will see the main elements being claimed. Then go back and look at the remaining words in each paragraph, and draw any connections between elements as lines connecting the circles in your diagram.

Do this for each independent claim. Then add in the additional features from each dependent claim. You will then have a picture of your claims that is easier to understand than the original text.

Moving Motherboard Tester

My informal "Patent of the Year" is shown on page 3. Memory Modules are tested in Motherboards that are moved by a conveyor and an elevator.

(12) **United States Patent**
Co et al.

(10) **Patent No.:** **US 7,884,631 B2**
(45) **Date of Patent:** **Feb. 8, 2011**

(54) **PARKING STRUCTURE MEMORY-MODULE TESTER THAT MOVES TEST MOTHERBOARDS ALONG A HIGHWAY FOR REMOTE LOADING/UNLOADING**

(75) Inventors: **Ramon S. Co**, Trabuco Canyon, CA (US); **Kevin J. Sun**, Irvine, CA (US)

(73) Assignee: **Kingston Technology Corp.**, Fountain Valley, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 179 days.

(21) Appl. No.: **12/392,401**

(22) Filed: **Feb. 25, 2009**

(65) **Prior Publication Data**

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(51) **Int. Cl.**
G01R 31/02 (2006.01)
(52) **U.S. Cl.** **324/757.01**; 324/757.04
(58) **Field of Classification Search** .... None
See application file for complete search history.

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(57) **ABSTRACT**

A parking-structure test system has motherboards that test memory modules. The motherboards are not stationary but are placed inside movable trays that move along conveyors. An unloader removes tested memory modules from test sockets on the motherboards, and a loader inserts untested memory modules into the motherboards using a robotic arm. A conveyor carries the motherboards from the loader to a parking and testing structure. An elevator raises or lowers the motherboards to different parking levels in the parking and testing structure. The motherboards move from the elevator to test stations on the parking level. A retractable connector from the test station makes contact with a motherboard connector to power up the motherboard, which then tests the memory modules. Test results are communicated from the test station to a host controller, which instructs the loader-unloader to sort the tested memory modules once the motherboard returns via the elevator and conveyors.

20 Claims, 16 Drawing Sheets
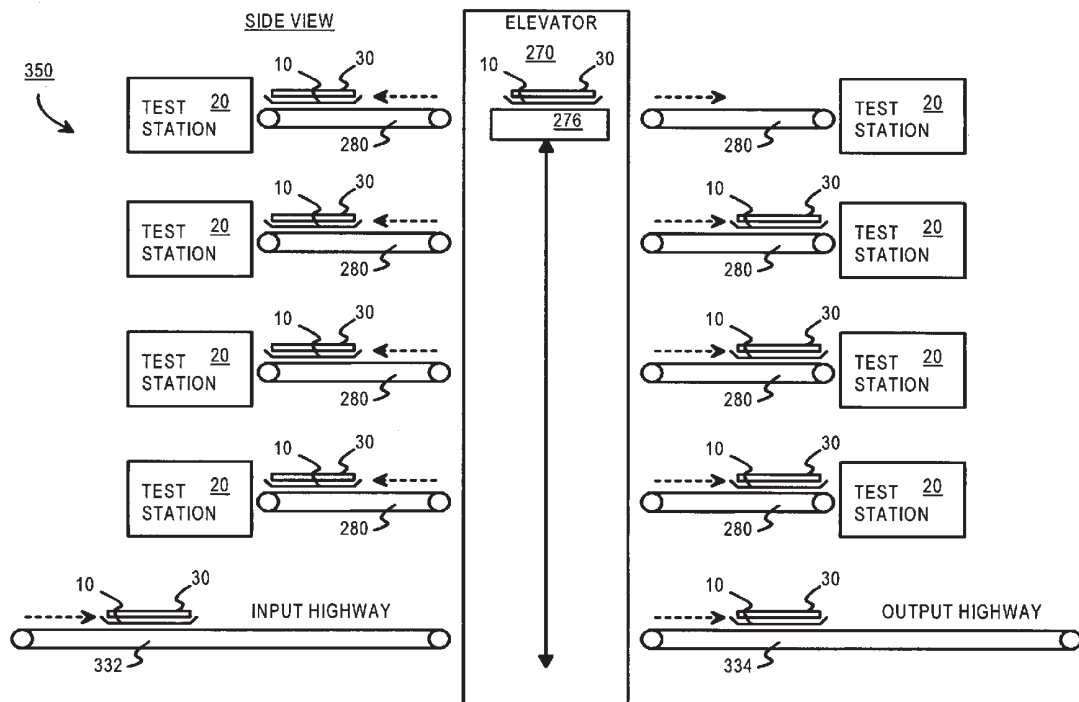
Easy-to-Remember Gmail Address:

Gpatent @ Gmail.com

420 Patents Issued

After 18 years of writing patents as a full-time Patent Agent, 420 applications that I've written have now issued as patents. Congratulations inventors!

You can view the 420 issued patents I've written at:

www.gpatent.com

Rates Set for 2012

My hourly rate for 2012 will be $240 per hour, billed in quarter-hour increments. Fixed-price quotes are available for patent applications to facilitate budgeting and avoid expensive surprises.

Prosecution work such as amendments and other paperwork is billed at the hourly rate. Litigation-support work is billed at a higher rate.

Patent searches are billed at a flat $500 for U.S. abstract searches. Patents can be viewed on-line.

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Address Correction Requested