

Elan moves to block iPad imports



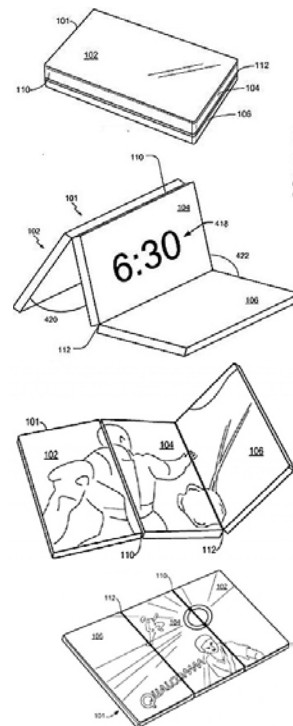
Taiwan-based Elan Microelectronics, which makes touch pads, has filed a complaint with the US International Trade Commission (ITC) against American computer giant Apple. Elan Microelectronics claims Apple used its technology in the Apple iPad without its permission.

iPhone and iPod Touch also targeted

Elan's complaint isn't restricted to the iPad but also includes the iPhone, iPod Touch and Macbook. The Taiwanese company has asked the ITC to investigate and, if it finds evidence of infringement, to block the import of the Apple products to the US. The contested patent is US patent no. 5,825,352, as seen right above.

Future mobile phone?

New patent applications often provide us with an interesting glimpse into the future. For example, the technology company Qualcomm recently applied for a patent for a 'multi-fold mobile device with a configurable interface'. Could this be the mobile phone of the future?



Absurd patents

A patent affords the patent holder exclusive rights to commercially exploit the invention that has been patented.

What can be patent protected?

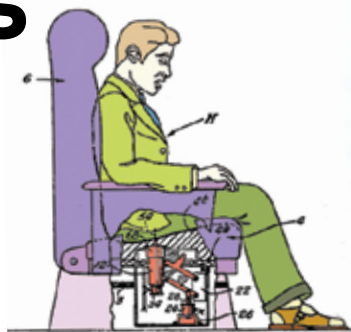
In theory, a patent can be obtained for any technological invention provided it is new and inventive. The invention need not represent a major scientific breakthrough in order to qualify for a patent.

Patents are issued on a daily basis for both major and minor improvements.

Senseless, absurd and ridiculous

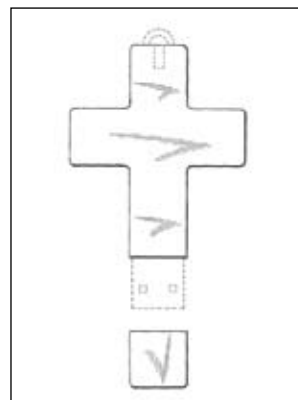
However, not all patented inventions will be the money-spinners their inventors are hoping for. Patent registers also contain many examples of senseless, absurd and occasionally even downright silly patents.

The Zacco newsletter will show you two such examples each quarter.



1. Hijacker killer

A design for which a patent was applied for in 1974, when passenger aircraft were being regularly hijacked. It's based on a needle built into aircraft seats - but who's expected to operate the system?



2. Holy USB-stick

A USB-stick has the shape of a holy cross. One reader of the Patently Silly website drily remarked: Because Jesus Saves (limited to 512 KB).

About Zacco

Zacco is a leading European intellectual property consultancy with offices in Denmark, Sweden (Albihns.Zacco), Norway, Germany (Albihns.Zacco) and the Netherlands.

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- Legal advice and litigation
- Patent drafting and prosecution
- Trademarks registration
- Design registration
- Domain name registration
- Portfolio management

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Brief News



Dyson vs Vax

Vacuum cleaner manufacturer Dyson is taking legal action against its rival Vax. Dyson claims that Vax's Mach Zen model is a copy of its own familiar 'bagless' vacuum cleaner. Vax denies copying the Dyson design and is confident about the outcome of the court hearing.



Crocs triumph

At long last: another triumph for the frequently assailed, frequently copied Crocs clogs. A US court has now overturned a previous ruling against the company in the case of Crocs vs the International Trade Commission, and upheld the legality of its design registration. This gives Crocs a powerful weapon in the fight against its imitators.

No Red Dog

The CTM registration of the energy drink Red Dog has been cancelled. According to the Board of Appeal, the Red Dog trade mark dilutes the distinctive character of the well-known Red Bull brand.



Mega domain name case in Belgium

EURid, the European Registry of Internet Domain Names, is embroiled in a legal battle involving more than 10,000 .eu domain names. EURid wants to withdraw the names, which it claims have been registered in bad faith.

www.bentleymotors.eu

In April 2006, a London resident, Qingying Zengh, registered 10,200 .eu domain names. Many incorporate well-known trademark names, such as bentleymotors.eu, thomascooktravel.eu, arcelorprojects.eu and andrewlloydwebber.eu.

€ 30,000

Zengh then approached the trademark owners and



offered to sell them the names. Several accepted her terms, which were tough to say the least: for example, she wanted € 30,000 for the name ericpol.eu (an offer which was turned down by



One of the domainnames involved is bentleymotors.eu



the Belgian company Ericpol Telecom).

Domain name hijacker

On 10 September 2009, the District Court in Brussels ruled that EURid can withdraw the 10,000-plus names. According to the court, they were registered in bad faith and Zengh must be regarded as a "cybersquatter".

Court of Appeal

Zengh has now lodged an appeal with the Belgian Court of Appeal to have the ruling quashed and is claiming damages from EURid. The judgement will be issued in June 2010, in what is surely the biggest domain name case of all time.

Dispute over Marmite



Consumer brand manufacturer Unilever is unhappy about an ad produced by the British National Party (BNP) featuring a jar of Marmite, a trademark marketed by the Anglo-Dutch firm.

Legal action

In an article which appeared on the BBC website, Unilever announced it was considering legal action against the far right-wing party. The ad shows a jar of Marmite at the top-left of the screen while

BNP leader Nick Griffin addresses the camera.

Hate party

Griffin claimed that the ad was a response to a recent commercial for Marmite depicting two political parties, the Love Party and the Hate Party. According to Griffin, the Hate Party was clearly based on the BNP. 'Quite simply, if you start a spoof, you should expect to get spoofed', Griffin added.

Political association

In its statement, Unilever said it did not want Marmite or any other Unilever trademark to be associated with a political



party, and accused the BNP of infringing its trademark rights. Shortly afterwards, the BNP removed the ad from its website.

Domain Names



2 x Marlboro

Domain name hijackers are always coming up with new tricks. Since marlboro.com was no longer available, the Latvian company yfmg simply decided to register the name marlboromarlboro.com. But on 2 March 2010, Marlboro successfully reclaimed the name.



Realmadrid.org

Italian Michele Dionia has been ordered to relinquish the domain name realmadrid.org to the well-known football club Real Madrid, which owns the trademark rights to the name Real Madrid. A WIPO arbitration panelist concluded that the name had been registered in bad faith.

Coca-Cola.eu.com

Great new political party! In 2009, the UK Independence Party registered the domain name coca-cola.eu.com. It then approached Coca Cola and offered to sell the name to the global drinks company. Coca Cola rejected the offer and successfully took legal action against the party.



Apple bites HTC in patent suit

Apple has filed a lawsuit against the Taiwanese High Tech Computer Corp (HTC), maker of Google's Nexus One Phone. Apple is claiming that HTC has infringed 20 of its US patents.

Shift movement

The patents cover the technology used in the finger-swipe unlocking mechanisms for mobile phones (activated by a shift movement on the screen)

and in its zoom functions. The HTC phones that use Google's Android Operating System are also coming under fire.



Above: Google's Nexus One. Below: Apple's iPhone.

No cribbing

'We think competition is healthy, but competitors should create their own original technology, not steal ours,' Apple's CEO Steve Jobs said in an interview with MIP magazine.

Infringement Yellow Pages

The Dutch-based company Yellow Page Marketing (YPM) has been banned from using its name and logo in the UK. The ruling was issued on 5 March 2010 by the District Court in The Hague.

Trademark rights

According to the ruling, YPM had infringed the trademark rights of the UK firm Yell Group, which acquired the rights to Yellow Pages from British Telecom roughly a decade ago.



Own directory

Via the website Yellowpage-UK.com, YPM had tried to interest

firms in buying space in its own directory, which had nothing to do with the original Yellow Pages.

Walking fingers

The court concluded that YPM had infringed the word and device marks of the Yell Group. The fact that YPM had shown the famous 'walking fingers' in reverse did not make it sufficiently distinctive from the Yell Group trademarks.

iPad trade mark transferred to Apple

Electronics giant Fujitsu has transferred its rights to the wordmark iPad to Apple. The transfer took place on 17 March 2010 and was published in the US trade mark register.

Serious problem

Shortly after Apple announced the launch of its iPad, reports began to appear in the press that



Fujitsu already owned the US trademark rights to the name iPad. The existing trademark registration

posed a serious threat to Apple's use of the name.

How much?

Apple has now clearly reached some kind of deal with Fujitsu. Doubtless it will have had to dig deep into its pockets. Precisely how much it has paid is something we're never likely to know, as both parties have chosen to remain silent on the matter.

Coca Cola and First Choice strike a deal

Soft drinks manufacturer Coca Cola and retail purchasing organisation Superunie have resolved their dispute over the design of First Choice cola. A joint press statement announced that Superunie had agreed to modify the shape of its First Choice bottle.



No lengthy court case

The amicable settlement avoids a lengthy and expensive legal dispute. According to the two companies, consumers will soon be able to see at a glance which brand of cola they are buying.

Coca Cola triumphs

Zacco's view is that the settlement can be seen as a triumph for Coca Cola, which has thus managed to preserve the unique design of its familiar Coca Cola bottle.



No paris.tv for Paris

The city of Paris has suffered a serious setback in its struggle to gain control of the domain name www.paris.tv. On 17 February 2010, an arbitration panel overturned its claim.

No claim on Paris

The arbitration panellists found against the city council in all respects. First, they concluded that the trademark registration to the combined word/device mark Paris, which the city owns,



Above: the word "Paris" can be used by everyone. Below right: registration for the word/device Paris.

does not afford rights to the word Paris alone. The city's rights are limited to the device elements in the registration. The word 'Paris' is a geographical descriptor which everyone is free to use.

No bad faith

The arbitration panel also concluded that the counterparty, a media company, had a valid reason for choosing the name. Nor had the name been registered in bad faith, the panel said.

Letter quiz extra

We omitted to include the following correct entry to our 2009 letter quiz:

Mr. Mikas Miniotas (LL.M.)
AAA Legal Services

Congratulations and apologies!

Dispute over Granny Awards

The organisers of the Grammy Awards, the well-known US music industry awards festival, are objecting to the use of the name Granny Awards by Kimberly ten Hulsen, a 20-year-old student from the Dutch town of Almere. Kimberly is using the name Granny Awards to scout for talent among older people.



Trademark infringement

The US organisers are claiming that Ten Hulsen has infringed their trademark rights. The Dutch student's counterargument is that there is absolutely no risk of confusion. The target groups

are completely different and the logo bears no resemblance to Grammy's. A lawyer has now reportedly offered to advise Ten Hulsen free of charge.

Sexy Shrek

Dreamworks Animation, the company behind the popular Shrek films, now regrets giving fashion magazine VMan permission to do a Shrek-inspired photo-shoot.



Copyright

The hint of eroticism in the resulting photos is especially controversial since the makers of children's films always do their utmost to prevent their 'characters' from being shown in inappropriate contexts. And if anyone does try, they often flex their copyright muscles to obtain a ban.

Snow White love triangle

But in this case, Dreamworks actually agreed

to the shoot. New York Post film critic Kyle Smith is as surprised as anyone: 'I don't think Walt Disney would have allowed Snow White and Cinderella to appear in a magazine spread that made it look like they were about to participate in a ménage à trois.'

UBS angered by parody

Swiss bank UBS is considering taking legal action against the maker of a DVD entitled *USB Unsere Schweizer Bank*. The film recounts the adventures of a bank director and his secretary.

Too dry

Despite the fact that the DVD transposes the letters to form USB, it is unmistakably based on UBS. One telling detail is that the filmmaker, Thomas Schreurer, is a former employee of the bank. Scheurer left his employer after only a year because he found the work 'too dry' as he recounted to the Swiss news site Blick.

Record damages in patent dispute

Trademark and patent disputes in the Netherlands allow the winner to recoup his legal costs (such as attorney's fees) from the loser.

Record?

In our previous newsletter, we reported on a new record for damages awarded in a

ruling on legal costs. Pharmaceuticals firm Medinol was ordered to pay € 387,264 in legal costs when it lost its case.

Record: € 708,144.68

That certainly was an eye-watering sum, but it turned out not to be a record. One of our readers



drew our attention to a 2009 patent dispute between Alfred Tiefenbacher GmbH

and Centrpharm Services versus Lundbeck A/S. Loser Lundbeck was ordered to pay legal costs totalling € 708,144.68. If nobody contradicts this claim, we'll assume this now stands as the record.

