



PATENT ISSUES: Patent-holding company NTP Inc. has sued six major smartphone companies, including Apple Inc., which makes the new iPhone 4, for patent infringement over certain wireless e-mail technologies. SPENCER PLATT/GETTY IMAGES

## Smartphone makers sued for patent infringement

By ANTONIO PEREZ  
Epoch Times Staff

NEW YORK—Patent-holding company NTP Inc. is suing six major smartphone companies for patent infringement.

NTP, which received a US\$612 million settlement after a similar lawsuit against BlackBerry maker Research In Motion, Ltd. (RIM), has filed lawsuits against Microsoft Corp., Apple Inc., Google Inc., HTC Corp., Motorola Inc., and South Korea's LG Electronics Inc.

NTP, which does not commercially manufacture any communications devices, sued RIM in 2000 over several wireless e-mail technologies. RIM settled the suit in 2006 and is paying certain royalties to use the technology.

Microsoft and Google do not manufacture smartphones, but make the operating system software for phones running Windows Mobile and Android, respectively.

"Use of NTP's intellectual property without a license is

just plain unfair to NTP and its licensees," said Donald Stout, NTP's cofounder in a statement.

A report by the Wall Street Journal said NTP's new lawsuits allege similar offenses to its RIM lawsuit. NTP's patents over wireless communication expire in 2012.

Na Ju-yeong, a spokesperson at LG, said, "We have yet to receive a written complaint," reported Korean news media JoongAng Daily. According to LG, sales of Optimus Q, its An-

droid-based smartphone, has exceeded the company's sales expectations.

HTC, the Taiwan-based smartphone maker, is a leading manufacturer of Android-based devices. It currently manufactures Nexus One, Sprint's EVO 4G, and T-Mobile's myTouch 3G. Motorola makes the "Droid" series of Android phones for Verizon Wireless in the United States.

NTP was founded by inventor Thomas Campana.

## China's leading search engine embraces censorship

News  
Analysis

By GARY FEUERBERG  
Epoch Times Staff

Google's decision to cease self-censorship in China in January and route searches through Hong Kong has altered the competitive landscape for China's leading search engine, Baidu, which has received a financial boon from investors and is likely to reap an increase in market share.

While Baidu's financial good fortune is good news to its investors—including many American investors—its rise is a setback to those hoping to see China move toward a free and open Internet.

To examine Baidu's role in China's Internet, the U.S.-China Economic and Security Review Commission (USCC)—a bipartisan congressional commission—invited two experts on the Internet in China, Rebecca MacKinnon and Rebecca Fannin, to testify at a hearing on Capitol Hill on June 30.

USCC Commissioner Jeffrey Fiedler, co-chair, said representatives from Baidu were invited but "declined to appear."

### ORIGINS OF BAIDU

Baidu was started by two Chinese citizens—Robin Li and Eric Xu—who obtained U.S. graduate degrees and owe much to their familiarity with the Silicon Valley culture of entrepreneurship and venture investments, said Rebecca Fannin, author of "Silicon Dragon" and a Forbes columnist.

When Baidu was founded in late 1999, China was on its way to becoming the world's largest market for Internet and mobile users, which today comprises 384 million online users and nearly 800 million cell phone users, Fannin said.

"Baidu was developed as a Chinese version of Google customized for local users."

Two of Baidu's five current board directors are American. Much of the start-up capital is from U.S. investors. Baidu went public on NASDAQ in August 2005. At one point, even Google was an investor

in Baidu of US\$5 million, a 2.6 percent stake. In June 2006, "Google sold its shares in Baidu for more than \$60 million and began competing with the Chinese search engine," said Fannin.

Fannin said Baidu was more adept than Google at appealing to the local Chinese market. One key factor is how Baidu's "search technology was considered superior to Google's in the Mandarin language."

Fannin contends that Google's retreat from China was "primarily a business decision" and not out of idealistic concerns for censoring its customers. She said Google knew it would never overtake Baidu, which has 64 percent of the China search market.

MacKinnon, a Fellow from Princeton University's Center for Information Technology Policy, disagreed.

"[Google] is not number one [in China], but 35 percent is nontrivial business of 400 million Internet users," MacKinnon said.

Both Fannin and MacKinnon agreed that Google's decision to withdraw its Chinese search engine from China has been a boon to Baidu. Baidu's stock price has been trading steadily upward and reached a high of \$82 in mid-May, more than double the price at the beginning of the year, and first quarter net profits more than doubled to \$70 million, Fannin said.

### EAGER TO PLEASE COMMUNIST PARTY

MacKinnon said she attended an Internet conference in November in Beijing where "CEO Robin Li and 19 other Chinese Internet company executives received the government's 'China Internet Self-Discipline Award' for fostering 'harmonious and healthy Internet development.'"

"Harmonious" is the term commonly used by the communist regime as the basis for suppression of free expression. MacKinnon said the "Self-Discipline Award" is actually China's annual censorship award for companies.

A South China Morning Post report, cited by MacKinnon, said that Bo Xilai, Communist Party Secretary of Chongqing, hosted an event where "Robin Li was one of 24 Internet executives who sang revolution-

ary songs and pledged to promote 'red culture.'"

MacKinnon said the Chinese regime has had to adapt in its control of information and perspectives the Chinese people are allowed to receive and discuss. She coined the term "networked authoritarianism" to describe the regime's "pioneering,"—deploying "targeted censorship" and manipulating "online discourse about domestic and international events."

"Chinese companies are fully expected to support and reinforce domestic political stability, and to ensure that Internet and communications will not be used in a manner that threatens Communist Party rule," said MacKinnon.

'Google sold its shares in Baidu for more than \$60 million and began competing with the Chinese search engine.'—  
Rebecca Fannin

This policy means that private Internet companies, such as Baidu, "have entire departments of employees whose sole job is to police users and censor content around the clock."

All Internet companies operating in China are liable for everything on their search engines, blogging, and social network services. The same liability applies to anything their users discuss through chat clients and messaging services. Private Internet companies—both domestic and foreign—are being incorporated in the regime's censorship and monitoring program.

### AGGRESSIVE CENSORSHIP

MacKinnon described some information that has emerged about Baidu's monitoring and censorship department.

An anonymous Baidu employee

has leaked documents which list the topics and words to be censored. Also revealed were the guidelines for searching for information that the regime orders "to be deleted, blocked, or banned."

Besides the standard keywords related to Falun Gong, Tibetan independence, and the Tiananmen massacre, the list included "clashes with the police," "AIDS," names of jailed dissidents, and names of cities where unrest had recently occurred, MacKinnon said.

MacKinnon compared Baidu with other Chinese blog-hosting services and found it to be China's third most aggressive blog censor among the fifteen examined.

She said Baidu employees are writing the software and doing the censorship work with the aid of instructions from state regulators. If Baidu doesn't please the authorities, its annual business licence may not be renewed, or it may be unable to secure licences needed to expand its business.

As for whether investors should be told in a prospectus about the risks involved in investing in a company subject to state control, MacKinnon said "If I were an investor, I would like to know how much of the company's overhead is going toward controlling speech of users as opposed to innovation."

Commissioner Patrick A. Malloy said some highly wealthy American investors are putting large sums in Chinese Internet companies, and that "all kinds of people are profiting from the most aggressive censorship system going."

Noting that some people are imprisoned because of this system, he asked, "Is it acceptable that Americans are underwriting this enterprise [Baidu] and continually profiting from it?"

One answer came from Rep. Chris Smith who testified earlier in the day: "If we accept these business practices as 'normal,' we'll become desensitized, shrug our shoulders at violations of a basic right—freedom of expression—that has always been a hallmark of who we are as a people."

## The practical entrepreneur: Calculating cost

By MANNY DRUKIER

There is no 100 percent sure way of arriving at the true cost of products or services that you are selling. An accountant will tell you at what price you should sell in order to make a reasonable markup, but can't help you get it.

If your price is calculated by the "cost plus" method, you will soon discover that something is amiss when your customers let you know that you are high on items (but never when you're too low). You may find yourself selling low-margin items only.

You'll wonder, what is wrong? It's simple: The competition has been merchandising. It is wise to carefully investigate their pricing and fall into line. Until you develop a line of goods that is in some way unique, your best bet is to price your merchandise based on accepted practice. You may earn little on some items but you will make it up on others. The only thing that matters is volume and your bottom line.

What do I mean by bottom line? Is it the month's profit, net per-unit profit, or gross margin? Let me answer this with an all-encompassing statement—you are in business to do business. Whether you're in real estate, manufacturing a product, contracting, providing a service, or buying and selling—to stay in business, you must do business. Waiting for the "right offer," the right profit margin, refusing to budge unless your parameters are met, sidelines you.

If you are the type of person who must stick to rules, I sincerely wish you the best of luck. If my experience taught me anything it is that in order to stay in business one needs to churn out volume. Volume means to be run off your feet.

Doing a steady business is a dynamic that carries the day. There is some truth to the story of the haberdasher who told each of his customers that he was losing money on every shirt and tie he sold—but made it up in volume. The reality is, people like to make their purchases, or have work done, in establishments that are busy. Think how often you have side-stepped a restaurant that was deserted for one that was crowded, even if it meant a long wait to be seated.

In the current environment, accurately calculating the cost of doing business is a monumental task. (Not that it has ever been easy.) The new school of accounting tells us that "activity-based costing" (ABC) is the way to go. It helps the company get a better bottom line and still be competitive.

ABC zealots insist that we must pay attention to our accountant when he zeros in on the gray area of a product's cost. We are told that an ABC exercise nets us a more flexible cost allocation. Managers can turn their attention to profit makers and cull weak performers from

product lines or services. There are software programs available that can help people learn ABC. Direct pricing of products is apparently out the window, but we'll see in due time.

### CUT COSTS IN YOUR OVERHEAD

At one time, I discovered a niche that was just waiting to be exploited—a huge demand by the nouveau riche for art.

Quickly, I established a plant churning out "genuine fake" works of art by the thousands. This was possible due to the perfection of continuous casting of urethane (the same material used to manufacture the dashboard of your car). Antique picture frames were duplicated and finished in antique hues, prints of old masters were worked over to simulate brush strokes, and engraved brass plates were affixed.

All this made for a wide appeal of our products. For a time we could not keep up with demand. Then, fashion trends shifted to thin, metal frames. The dealers we were selling to upgraded to displaying signed and numbered reproductions. The margin held as we had little competition, but our sales fell off dramatically. The reduced volume couldn't support the fixed overhead of Craftique Originals Inc.

I have manufactured a variety of products and talked to hundreds of businessmen, but none have found a substitute for volume. Juggling figures will not improve the bottom line. Often, a company will not be able to eliminate a break-even item from its product line, as it may well carry a good portion of the overhead. It may also help you sell other products where the markup is better.

No amount of ABC accounting can make an outdated product line profitable. Your job is to make sure the product or service meets market demand.

The place to cut costs first is in your overhead. This area may include some of the fancy accounting and computer work. Often, management will go to great lengths to streamline production—install expensive automated machinery (which sits idle a good part of the time), but leave non-productive overhead untouched.

The duty of a management team is to make sure the business functions. If your computer crashes, a hurricane tears the roof off, half the staff is at home with the flu, a fire guts your warehouse, picket lines are at the gate—your accountant is having a quadruple bypass, but your company must still function. I have not read anything written by a CPA, lawyer, or consultant that mentions functioning, day in and day out, as the preeminent factor in the success of an enterprise.

*Manny Drukier has been in business, from manufacturing to publishing, retail to real estate, stocks to stockpots for the past 60 years. He is the author of two books and resides in Toronto, Canada.*

## NTDTV awarded court inquiry in lawsuit against Eutelsat

NTDTV

On June 16, 2008, New Tang Dynasty TV's broadcast over China was suddenly cut off. At the time, the French satellite company Eutelsat blamed the termination on a "power anomaly."

Later however, Reporters Without Borders revealed that the interruption was in fact a politically-motivated move by Eutelsat to appease the Chinese communist regime.

Now two years later, the Paris Court of Appeals has ruled that it will appoint an expert to find out what was really behind the termination.

Joseph Brehm, attorney for NTDTV, explained the significance of the decision.

"This decision will act as a possible counter balance against totalitarian regimes, both now and in the future. If those satellite companies bow before pressure, justice will await them. In order to protect the interest of consumers, [the satellite companies] will face economic, legal, political, and ethical sanctions," he said.

The Court of Appeal's decision overturns an earlier judgment by the Paris Commercial Court. It had declined to hear the case because Eutelsat argued NTDTV did not have a direct contractual relationship with it when the service terminated.

Judge Marcel Foulon of the Court of Appeals did not accept that argument, however.

"The judge rejected the argument put forward by Eutelsat, and reached the opposite conclusion. He ruled that as long as Eutelsat was an indispensable part to the execution of NTDTV's satellite broadcast contract, then it needs to be held responsible for its poor performance," Foulon said.

Vincent Brossel, Asia Director of Reporters Without Borders, said the decision was a win for NTDTV.

"This is a very important legal precedent, because Eutelsat will directly face its political and technical responsibility. This is a win for NTDTV, and a loss for Eutelsat's public relations strategy."

Francoise Hostalier, member of the National Assembly of France, wants the investigation to progress quickly, so that NTDTV's broadcast over China will resume.

"I feel very happy for NTDTV. Right now my wish is that the investigation can progress rapidly, and that the expert can obtain all the relevant information and prepare a report in the shortest time. In the end, I hope Eutelsat can follow the rules and allow NTDTV's programs to resume broadcasting over China as soon as possible."

Aside from finding out the true cause of the broadcast termination, the court-appointed expert will also determine whether NTDTV suffered any economic damage as a result of Eutelsat's actions.