

# **Redhat and Novell lose on less bad patents**

## **IP litigation companies lose even more**

Hartmut PILCH

<http://eupat.ffii.org/10/05/redhat>

May 14, 2010

Two American patent litigation companies, IP Innovation, L.L.C. (a subsidiary of Acacia Technologies) and Technology Licensing Corporation, sued the open source software companies Red Hat and Novell for alleged infringement of four claims from U.S. Patents 5,072,412, 5,394,521, and 5,533,183. The patents share a common disclosure and are all titled titled "User interface with multiple workspaces for sharing display system objects." The court found that these patents were neither infringed nor valid. In its victory report, Redhat says that the plaintiffs are "in the business of acquiring bad software patents to coerce payments or bring lawsuits".

Redhat and Novell were lucky this time because the plaintiffs had failed to acquire really bad patents. Bad software patents are those software patents that meet today's bad statutory requirements. By contrast, those software patents that can be invalidated in court are called bogus software patents. Of course even when you are attacked with bogus software patents you lose time and money, even more so in the US, where the loser doesn't pay for lawyer fees of the winner.

Typically, as a professional with experience in this area told me these days, winning a lawsuit of this scale is said to cost about 1 million USD. Often companies will prefer to pay license fees 250,000 USD to the owner of a bogus patent.

No matter whether the weapons of attack are bad or bogus, opensource software companies always find themselves on the losing end of the patent game. If this time Redhat and Novell can claim victory, that merely means that they are losing less than anticipated because the patents they had to deal with turned out to be less bad than they pretended to be.