



US Patent Office affirms i4i patent – rejects Microsoft challenge

Toronto, May 11, 2010 – i4i is pleased to announce that the United States Patent and Trademark Office (PTO) has confirmed the patentability of all claims of the U.S. Patent 5,787,449 ('449) that had been put into a reexamination proceeding by Microsoft.

Loudon Owen, Chairman of i4i, says, “This is a very material step in our litigation against Microsoft. Put simply: i4i’s patent is clearly and unequivocally valid. Even though Microsoft attacked i4i’s patent claims with its full arsenal, the Patent Office agreed with i4i and confirmed the validity of our ‘449 patent.” Mr. Owen adds, “The protection of patents and intellectual property is vital to small inventors and pioneers, like i4i, especially when confronted by giant industry competitors like Microsoft.”

Michel Vulpe, founder of i4i and co-inventor, says, “i4i is naturally very pleased with the decision of the PTO. The ‘449 patent application was filed in 1994, and this has now been a 16 year journey.” Mr. Vulpe adds, “Our patent claims were put under intense scrutiny by the PTO during its reexamination and this decision is a resounding confirmation and a further validation of the ‘449 patent.”

Mr. Owen says, “i4i’s ‘449 patented invention infuses life into the use of Extensible Mark Up Language (XML) and dramatically enhances the ability to structure what was previously unstructured data. As the magnitude of data grows exponentially, this is a critical technological bridge to controlling and managing this sprawling octopus of data and converting it into useful information.”

BACKGROUND

In March 2007, i4i sued Microsoft for willful infringement of its ‘449 patent. Awaiting trial, in late 2008, Microsoft filed an ex parte application with the PTO seeking a reexamination of certain claims of the ‘449 patent. Based on Microsoft’s representations, the PTO agreed to reexamine the patent. As a matter of procedure, any patent claim subjected to reexamination should be viewed as only ‘provisionally invalid’ until the reexamination is complete. While defendants often tout an interim finding of ‘provisional invalidity’ as being profoundly important, what it simply means is the PTO is conducting a serious and detailed review of an existing patent and that the onus is placed back on the shoulders of the patent owner to prove the patentability of the contested claims.

On May 20, 2009, Microsoft was determined to have willfully infringed i4i’s ‘449 patent. On August 11, 2009, i4i was granted a Final Judgment against Microsoft that included both an award of damages to i4i and a permanent injunction. Microsoft unsuccessfully appealed the decision to the Court of Appeals for the Federal Circuit late last year, and also unsuccessfully sought a rehearing of the decision of the Court of Appeals earlier this year. Throughout the process, defendant Microsoft has made extensive reference to the concept that the patent was ‘provisionally invalidated by the PTO’. Confirmation of the validity of i4i’s ‘449 patent should put this matter to rest. An NIRC (Notice of Intent to Issue Ex Parte Reexamination Certificate) was issued April 28, 2010, and a Reexamination Certificate will be issued in due course by the PTO which will formally conclude the reexamination proceeding favorably for i4i.

The successful i4i reexamination team was lead by Rob Sterne and Lori Gordon of Sterne, Kessler, Goldstein & Fox, and supported by i4i’s trial team at McKool Smith and its Court of Appeals team at Finnegan.



i4i is a global technology company headquartered in Toronto, Canada. For more information on i4i v. Microsoft, selected court documents can be found on www.i4ilp.com.

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