

Patent Assertion Entity Activities Workshop
Transcript
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9:00 AM

Session 2

NOTE: This transcript was generated from the live captioning of the original webcast and is intended to be temporary. A corrected clean version will be posted as soon as possible.

>> OKAY.
WELCOME BACK.
WE'RE GOING TO START WITH OUR
FIRST PANEL DISCUSSION.
THIS IS OUR REALITIES OF
LICENSING AND LITIGATION
PRACTICES.
THIS PANEL WILL BE MODERATED BY
SUZANNE FROM THE FTC AND ERICA
FROM DOJ.
TAKE IT AWAY, LADIES.
>> THANK YOU, FRANCIS.
THANK YOU TO OUR PANELISTS FOR
COMING AND PROFESSOR SHAPIRO AND
CHIEN FOR THE GREAT MORNING.
WANT TO THANK SUZANNE IT'S BEEN
GREAT WORKING WITH HER.
I WANT TO POINT OUT IMPORTANT
FACTS ABOUT SUZANNE YOU MAY NOT
KNOW.
SLEAZE A COSTCO MEMBER AND A HE
RESPONSIBLE FOR THE COFFEE OUT
THERE.
AS OUR ACTING ATTORNEY GENERAL
SAID A CONFERENCE WITHOUT COFFEE
IS A SAD THING.
WE HAVE SUZANNE TO THANKS FOR
THAT.
WE'RE SHORT ONE PANELIST BECAUSE
THE TO BE, JOHN DESMARAIS WAS
UNABLE TO COME.
THERE WAS A DEBT BAIT OVER
SPLITTING UP THE TIME.
INSTEAD WE'RE HOPING TO COMPRESS
THE HOUR PANEL BY ABOUT TEN

MINUTES THAT HE WAS GOING TO SPEAK.

>> THANK YOU, ERIC.

>>Anthony: IT'S BEEN WONDERFUL WORKING TOGETHER.

WHAT WE WANT TO DO WITH THIS PANEL IS START OUT BY LOOKING AT THE REALITIES FOR THE PARTICIPANTS IN THIS PHASE.

THE IDEA IS RIGHT NOW WE ARE ASKING QUESTIONS ABOUT THESE COMPANIES SPECIFIC EXPERIENCES. LATER IN THE AFTER WHEN WE DO THEY FISH SENT SEE AND HARMS PANEL IT WILL RELATE BACK UP TO THE PANELS AND WHEN WE LOOK AT THE ANTITRUST ISSUES ON THE LAST PANEL.

WE'RE GRATEFUL FOR OUR PANELISTS.

THEY HAVE WORKED QUITE HARD TO PREPARE.

I WOULD LIKE TO GIVE EACH A 2-MINUTE INTRODUCTION OF THEIR COMPANY.

WE WILL ASK THEM ABOUT THEIR EXPERIENCES IN THIS PHASE.

I HOPE THIS IS INFORMATIVE.

I HAVE BEEN LOOKING FORWARD TO THIS AND LOOKING TO GET STARTED. THANK YOU.

>> I'M CYNTHIA BRIGHT, I'M LEADING THE TEAM THAT HANDLES IP LITIGATION FOR HEWLETT-PACKARD. WE HAVE 325,000 EMPLOYEES WORLDWIDE.

ONE OF THE LARGEST PORTFOLIO PALLENTS IN THE COMPANY.

85,000 EMPLOYEES IN THE UNITED STATES.

WE MAKE DESK TOP COMPUTERS, A ASSEMBLED IN INDIANAPOLIS, SERVERS IN HOUSTON.

WE HAVE A WIDE VARIETY OF PRODUCTS FOR THE EN TER PRICE PAYS WE HELP BUILD DATA CENTERS.

THINGS TO RUN STOCK EXCHANGES,
HEALTHCARE SYSTEMS AND I COULD
GO ON BUT I WILL STOP.

THERE.

>> I WILL TAKE THE REST OF HER
TIME.

MY NAME IS PETER DETKIN.
MY BACKGROUND IS PROSECUTING
PATENTS IN NEW YORK CITY A LONG
TIME AGO.

I MOVED TO SILICON VALLEY IN THE
LATE 80s WHEN WAS WILSON'S
FIRST PATENT LAWYER WHERE I
REPRESENTED COMPANIES BIG AND
SMALL.

I MOVED TO INTEL WHERE I BECAME
SRAOEUT PRESIDENT.

I WAS THERE FOR BETTER PART OF A
DECADE AND MET KHARL SHAPIRO.
LAUNCHED HIM ON THE BRILLIANT
CAREER HE HAS.

TEN YEARS AGO I JOINED TO FIND
INTELLECTUAL VENTURES.

A COMPANY THAT INVESTS IN
INVENTIONS.

WE HAVE RAISED OVER \$5 BILLION.

WE BUY, BUILD AND PARTNER.

WE BYE INVENTIONS, BUILD
INVENTIONS.

WE HAVE A LAB IN SEATTLE AND
PARTNER WITH INSTITUTIONS
WORLDWIDE.

WHATEVER I DO IN MY LIFE I'M
CERTAIN MY EPITAPH WILL HAVE
"PATENT TROLL" AND LAUNCHING
CARL SHAPIRO.

WHAT I WAS SEEING AS PROBLEMS AS
PROBLEMS IN THE MARKET WHICH HE
IDENTIFIED.

FLAWS IN THE PATENT SYSTEM.

THE MARKET HAS CHANGED A LOT
SINCE THEN.

A LOT OF BUSINESS MODELS HAVE
COME UP.

INCLUDING OUR OWN AND SOME ON
THE PANEL HERE.

I NEVER INVENTIONED THEM BACK IN THE DAY.

THE TKPHRAUS ARE THE SAME AND THOSE ARE THE ISSUES I THINK WE SHOULD FOCUS ON.

WE WILL HEAR ABOUT ACADEMIC STUDIES GOING BOTH WAYS.

CARL MENTIONED.

SOME WE HAVE A ONE PAGER OUT THERE.

COUNTERING WHAT COMMISSIONER LEIBOWITZ, EXCUSE ME CHAIRMAN LEIBOWITZ.

WE WILL HEAR ABOUT SMALL COMPANIES GOING UNDER BECAUSE OF PATENT ASSERTIONS.

I CAN TELL YOU INVENTERS THAT COULD NEVER BE PAID WITHOUT THIS.

THERE ARE BAD ACTORS IN THIS MARKET, EVERY MARKET, THERE ARE AMBULANCE CHASERS, THOSE COMMITTING SECURITY FRAUD DOESN'T MEAN WE SHOULD DO AWAY WITH THE SECURITIES MARKET. WE NEED TO FOCUS ON THE FLAW THAT'S ALLOW THE BAD ACTORS TO EXIST.

LET'S FOCUS ON THE PATENTS AND NOT THE OWNERS THE PATENTS.

WE NEED TO FOCUS ON QUALITY.

LET'S HOPE THIS CONTINUES.

WE NEED TO FOCUS ON REMEDIES.

THAT'S AN AREA WHERE DISCUSSIONS LIKE THIS, AGENCIES, DOJ AND FDC HAVE A ROLE TO PLAY AS WELL AS THE COURTS.

THIS IS SOMETHING JUDGE RAIDER IS FOCUSING ON SIGNIFICANTLY AND OTHERS.

THERE IS A LOT OF SWIRL AND RED HERRINGS.

LET'S NOT FOCUS ON THOSE TRAILS BUT FOCUS ON WHAT NODES TO BE FIXED.

>> I'M SARAH GUICHARD.

I WORK FOR RESEARCH IN MOTION,
MAKER OF THE BLACKBERRY.
I CAME TO WORK FOR THEM BECAUSE
OF NTE.
RIM AND NTP ALWAYS COMING UP.
IT WAS DURING NTP THAT RIM
DECIDED TO BEEF UP THE IN HOUSE
PATENT COUNCIL STAFFING BECAUSE
OF THE CHALLENGE AND THE
CONTINUED CHALLENGE WE HAVE SEEN
TO OUR BUSINESS AS A RESULT.

>> OKAY.

PAUL MELIN FROM NOKIA.
NOKIA IS THE FIRST MOBILE PHONE
COMPANY WITH SMARTPHONES.
WE HAVE SROEUPBT VENTURE WITH
NETWORKS, A SUBSTANTIAL WIN
STKOE OF INFRASTRUCTURE.
NOKIA HAS SEEN A VERY UNIQUELY
BALANCED POSITION IN THIS
DEBATE.
WE'RE BOTH A FREQUENT TARGET OF
PAE ASSERTIONS.
NOKIA HAS BEEN SUED NEARLY 100
TIMES SINCE 2007.
MOST OF THE LAWSUITS HAVE
SETTLED.
WE HAVE ONLY A HANDFUL OF
LONGSTANDING DISPUTES.
THAT'S OKAY BECAUSE WE TAKE THE
VIEW THAT, THAT THIS IS JUST A
SIGN OF THE PATENT SYSTEM
WORKING AS IT'S INTENDED TO.
WE RESPECT THE LICENSING FEE.
WE PAY WHEN WE NEED TO.
SOMETHING WE NEED TO IMPROVE THE
EFFICIENCY OF THE SYSTEM, OF
COURSE.
IN TOO MANY CASES WE GET THE
LAWSUIT OUT OF THE BLUE BEING
THE FIRST CONTACT.
WE WOULD LIKE TO NEGOTIATE WITH
THE COMPANIES AHEAD OF THE TIME
WHEN THE LAWSUITS ARE FILED.
IF INCENTIVES CAN CHANGE TO
REDUCE THAT BEHAVIOR IT WOULD BE

GREAT.

IS THERE FUNDAMENTAL REFORM
NEEDED ? ABSOLUTELY NOT.

EARLIER TODAY I TOTALLY NOT
MATCHING UP TO OUR EXPERIENCE IN
THE INHOUSEWORK AT ALL.

ON THE OTHER SIDE OF THE COIN
NOKIA HAS LARGE PORTFOLIO OF
APPROXIMATELY 10,000 PATENT
FAMILIES AND 30,000 PATENTS
WORLDWIDE.

WE NEED TO MONITORRIZE IN AT
ASSET WITH NEAR HEE 50 BILLION
U.S. DOLLARS.

WE OFTEN DON'T HAVE THE
RESOURCES OR BEST POSITIONS OR
SELVES TO EXPLOIT THIS YOU THIS
OUR PRODUCTS AND LICENSING
ACTIVITIES.

AS A RESULT THE INVESTMENTS OF
PATENTS ARE A IMPORTANT CHANNEL
TO MONITORRIZE AND ANALYZE OUR
SEARCH.

OVER THE PAST FIVE YEARS WE HAVE
TKPHAOETED MORE THAN 20 PATENT
INVESTMENTS.

WE SEE THIS IS A VERY IMPORTANT
CHANNEL AND SOURCE OF LOW QUIZ
IT.

IT'S NOT A LEAKY BUCKET.

BASED ON OUR EXPERIENCE WHEN WE
TALK ABOUT HIGH QUALITY ASSETS

WE EXPECT 65% TO 10% OF THE
GROSS REV NOW EVENTUALLY
COLLECTED ON THOSE ASSETS.

THAT ALL GOES BACK INTO RESEARCH
AND DEVELOPMENT.

SO, IT'S, IT'S, FROM OUR POINT
OF VIEW IT'S VERY IMPORTANT
CHANNEL.

I WOULD LIKE TO POINT OUT THERE
IS, IN THIS DEBATE, IN THE SENSE
OF EN TOIT WILL.

AND PEOPLE TEND TO FORGET YOU'RE
NOT TO INFRINGE PATENTS.

MANY MANY COMPANIES IT'S A

CRIME.

IT'S, OF COURSE POSSIBLE IN
COMPLEX TECHNOLOGY GO AREAS TO
INADVERTENTLY INFRINGE PATENTS.
IN THOSE AREAS WHEN IT HAPPENS
WE TRY TO SETTLE THOSE THINGS
AND PAY OUR DO YOU.

THE REALITY OF PATENT LICENSING
IS THERE IS INCREDIBLE AMOUNT OF
CYNICISM ON THE MARKET FOR SENSE
OF ENTITLEMENT.

THE VAST MAJORITY OF COMPANIES
WE TRY TO NEGOTIATE LICENSES
WITH REFUSE TO OFFER ANYTHING AB
SEPTEMBER LITIGATION.

EVEN WHEN THE PATENT ITSELF IS
NOT IN QUESTION BECAUSE OF THE
ECONOMICS ON THE DEFENDANT'S
SIDE TAKE INTO THE

ACCOUNTABILITY OF GETTING SUED.
IF YOU FACE ON THE LARGE PATENT
HOLDER WITH A LOT OF ACTIVITIES
ESPECIALLY THE SMALLER COMPANIES
AND THE SMALL COMPANIES ARE ON
LARGE MARKET IN THE FAR EAST
RATHER TAKE THEIR CHANCES AND
ENGAGE IN NEGOTIATIONS.

IN THESE CIRCUMSTANCES HAVING
THE ABILITY TO -- RELY THE VALUE
WITH INVESTORS TAKING THE RISK
UP FRONT ON OUR BE HALF OR
BASICALLY SHARE THE RISK WITH US
GOING FORWARD.

IT'S ABSOLUTELY CRITICAL FOR US
TO REALIZE THE VAL YOU.

>> THANK YOU.

WE ARE LOOKING FORWARD TO ASKING
YOU ABOUT THAT LATER.

YES.

>> GOOD MORNING MY NAME IS NEAL
RUBIN.

I'M FROM CISCO SYSTEMS IN
CALIFORNIA.

CISSCO HAS APPROXIMATELY 70,000
EMPLOYEES AND \$50 BILLION IN
REVENUE.

THAT'S CONTEXT TO THE COMPANY
SPENDING OF BILLION DOLLARS A
YEAR INNER ARE SEARCH AND
DEVELOPMENT.

DESIGNED TO MAKE THE FUTURE OF
THE INTERNET FASTER, MORE SECURE
AND RELIABLE.

WE HAVE MORE THAN 3700 PATENTS
AND PENDING OBLIGATIONS.

WE FILE A THOUSAND PATENTS A
YEAR GLOBALLY.

ALL OF CISCO LITIGATION IS
BROUGHT BY PAEs.

WE'RE SPENDING TWICE AS MUCH
MONEY DEFENDING THE CASES AS WE
ARE PROSECUTING AND FILING THE
THOUSAND PLUS PATENTS WE HAVE
ACROSS THE GLOBE.

INDEED WE HAVE REDUCED OUR PAT
ENT FILLINGS TO COMPENSATE FOR
THE COSTS OF PAE LITIGATION.

WE'RE GRATEFUL THE FDC AND
JUSTICE DEPARTMENT AND THESE
DIFFERENT VIEWS ARE COMING HERE
TODAY TO DISCUSS IMPROVING THE
SYSTEM.

>> HELLO I'M MARY STICH I'M I'M
FROM RACK SPACE HOSTING IN AN
ANTONIO, TEXAS.

WE APPRECIATE BEING INCLUDE
TODAY TO TALK ABOUT OUR MOST
PRESSING LEGAL ISSUE.

WE'RE AN OPEN CLOUD COMPANY.

WE'RE HERE FOR TWO PRIMARY
REASONS.

FIRST WE WOULD LIKE TO PROVIDE A
PERSPECTIVE ON HOW PAE ACTIVITY
IS HARMING SMALLER MORE PORE
BEGAN I CANNILY GROWING
BUSINESSES.

SECONDLY WE WANT TO DISCUSS HOW
PAE ACTIVITY THAET EVENS OPEN
SOURCE DEVELOPMENT AND IN
OVATION.

ATTRACTSPACE WE'RE ONLY A
FRACTION OF THE SIZE OF HP OR

CISCO.

WE HAVE A SHORTER HISTORY.
WITHIN THE LAST THREE TO FOUR
YEARS WE HAVE COME INTO OUR OWN
AS A LEADING PROVIDER IN CLOUD
COMPUTING SERVICES.

OUR OLDER PRODUCTS AND SERVICES
STILL PROVIDE THE BULK OF OUR
REVENUE OUR CLOUD COMPUTING
BUSINESS IS GROWING YEAR OVER
YEAR.

THIS IS WHERE WE SEE OUR FUTURE.
RACKSPACE IS GROWING IN HEAD
COUNT, R & D SPENDING, AND THE
TECHNOLOGY WE DEVELOP AND
PROVIDE.

PAE ACTIVITY, WE BELIEVE, IS A
DIRECT OBSTACLE TO OUR GROWTH.
OUR FASTER GROWING EXPENSE CAT
FORE.

FASTER THAN SALARIES AND R & D
IS PAE LITIGATION DEFENSE.

LIKE OTHER SMALLER COMPANIES WE
SEE A EXPLOSION IN PAE
INFRINGEMENT SAOUPBTS.

SMALLER COMPANIES ARE FORCED TO
DELIVER MORE TIME AND RESOURCES
TO THESE DAYSES.

THE NUMBER OF PAE CASES FILED IN
2011 -P DOUBLES FROM 2007.

MOST OF THE COMPANIES BEING SUED
ARE SMALLER.

COMPANIES WITH UNDER ONE BILLION
IN REVENUE ACCOUNT FOR 60% OF
PAE CASES IN 2011.

SMALLER COMPANIES ARE PAYING
1.5 MILLION PER CASE TO RESOLVE
THEM IN FEES OR SETTLE PHEPBTS
OR THEY'RE MAKING OPERATIONAL
DECISIONS PUTTING THEM AT A
COMPETITIVE DISADVANTAGE.

IN OUR BRIEF THESE SUITS ARE
POISON TO ORDER MAYORY BUSINESS.

THE ROOT CAUSE OF THE PROBLEM
ARE FLAWS IN THE PATENT SYSTEM.

WE BELIEVE THE FLAWS ARE

EXPLOITED BY PAEs.

THE FLAWS IN THE SYSTEM HAS A DISPROPORTIONNESS ON SMALL BUSINESS.

HE WE DON'T THINK THIS SOME SH +* WAIT.

WE THINK THE PAEPBT SYSTEM SHOULD BE A LEVELED PLAYING FIELD.

>> GOOD MORNING MY NAME IS SCOTT BURT.

I'M FROM MOSSY TECHNOLOGIES. I WOULD LIKE TO THANK SUZANNE AND ERIC A FOR THE INTONATION AND CHAIRMAN LEIBOWITZ FOR YOUR KIND WORDS.

IT'S MOSSAID.

NOBODY SAYS OUR NAME CORRECTLY.

WE'RE A 37-YEAR-OLD TECHNOLOGY COMPANY FOUNDED IN 1975 AS I FOUNDER OF D-RAM MEMORY CHIPS.

BY THE LATE THE 0s WE FOUND OUR TECHNOLOGY WAS BEING USED THROUGH THE D-RAM INDUSTRY WITHOUT OUR PERMISSION.

WE RESPONDED BY ACTIVITILY AND SUCCESSFULLY LICENSING OUR D-RAM PORTFOLIO.

OVERTIME WE FOCUSED ON AN IP MANAGEMENT AS A WAY TO CAPITALIZE ON OUR EXPERTISE. WE CONTINUE TO OBTAIN PATENTS FROM OUR RESEARCH AND DEVELOPMENT.

LATELY OUR PORTFOLIO OF ABOUT 5500 PATENTS HAVE COME FROM ACQUISITION.

WE REQUIRE PATENTS FROM A LARGE SPECTRUM BUT MOST COME FROM A SEMI CONDUCTOR AND COMMUNICATION COMPANIES THAT FOR YEARS DEVELOPED IN RESEARCH AND DEVELOP AND SEEK TO VALUE FROM THE RESULTING PATENT PORTFOLIOS. THERE IS NO TYPICAL TRANSACTION IN OUR DEALS BUT WE BUY A

COMPANY HOLDING THE PORTFOLIO
OUT RIGHT.

WE LICENSE OR SELL OUR PATENT
PORTFOLIOS TO LEADING,
ESTABLISHED COMPANIES IN THE
RELEVANT TECHNOLOGIES.
IN SOME CASES WE SHARE OUR
STRENGTH WITH THE ORIGINAL PATENT
INNOVATORS.

AS AN EXAMPLE I WOULD LIKE TO
OUTLINE A TRANSITION AT THE TOP
OF THIS ROUND TABLE DISCUSSION.
IN DECEMBER 2011 WE PURCHASED
FROM NOKIA CORE WIRELESS.
NOKIA SPENT MANY BILLIONS OF
DOLLARS IN RESEARCH AND
DEVELOPMENT TO BUILD A
SUBSTANTIAL PATENT PORTFOLIO.
CORE WIRELESS IS USING OUR
SPECIAL IP MAPPING.

AND PROVE LICENSING MODEL TO
OBTAIN THE VALUE OF THE CORE
WIRELESS VALUE.

UNDER THE AGREEMENT WITH NOKIA
CORE WIRELESS CONDUCTS PATENTING
AND SHARES PART OF THE REVENUE.

AS YOU CAN SEE FROM THE CORE
WIRELESS EXAMPLE WE'RE A
LICENSING COMPANY.

OUR GOAL IS TO LICENSE OUR
PATENTS TO COMPANIES WHO ARE NOT
COMPETITORS AND NOT TO RESTRICT
ACCESS TO THOSE PATENTS.
WE SUCCEED AND INNOVATORS
SUCCEED WHEN THE TECHNOLOGY WE
LICENSE IS VALUED AND ADOPTED BY
LICENSEES AND OUR LICENSEES
SUCCEED.

>> SCOTT, IF YOU KEEP GOING I
WON'T HAVE ANYTHING TO ASK YOU
LATER ON.

THANK YOU.

>> I'M MALLUN YEN WITH RPX.
RPX WAS STARTED FOUR YEARS AGO
TO HELP COMPANIES TO REDUCE RISK
OF NPEs AND PAEs.

WE PROVIDE PATENT AGGREGATION.
COMBINING RESOURCES FROM MORE
THAN 125 COMPANIES TO BUY
PATENTS BEFORE THEY FALL INTO
THE BANDS OF PAE.
IN SHORT IT'S BUYING PATENTS
BEFORE THE PROBLEM STARTS AND
THE HIGH TRANSACTION COSTS OF
LITIGATION KICK IN.
SINCE RPX CAN'T BUY ALL OF THE
RISKY PATENTS SOME END UP IN THE
HANDS OF PAE AND THEN ARE
LITIGATED.
WHEN THAT HAPPENS WE CAN RESOLVE
THE CASE COLLECTIVELY BY OUR
MEMBERS MORE EFFICIENCY THAN ON
A DEFENDANT BY DEFENDANT BASIS.
TO DATE WE HAVE SPEND ABOUT
\$500 MILLION ON PATENTS.
THESE ARE FROM LARGE COMPANIES
TO SMALL START UPS.
OUR SUCCESS IS THE DIRECT
RESULTS OF COMPANIES REALIZING
WITH RESPECT TO PATENTS ONE
COMPANY ALONE CAN'T MAKE A
DIFFERENCE.
IT TAKES A INDUSTRY WORKING
TOGETHER TO SHIFT THE UNEVEN
PLAYING FIELD AND DRIVE CHANGE.
ONE KEY TO OUR BUSINESS MODEL IS
ALIGNED INTEREST.
WE PROACTIVELY IDENTIFY AND BUY
PATENTS THAT COULD BE A PROBLEM.
EVERY MEMBER GETS A LICENSE TO
EVERY PAT EPT WE BUY AND WE DO
NOT A CERTIFICATE OUR PATENTS.
WE CONTINUOUSLY MONITOR ALL
LITIGATION ACTIVITY, OPEN MARKET
TRANSACTIONS AND TRACK ALL
PATENTS MARKETED, SOLD OR
ASSIGNED.
AS A RESULT.
YOU HAVE SEEN A SLIVER TODAY.
EARLIER THIS YEAR WE LAUNCHED A
SMALL INSURANCE COMPANY INSURING
COMPANIES FROM DEFENSE COSTS.

WE HAVE A MORE VESTED INTEREST
IN REDUCING PATENT RISK AND
COST.

ULTIMATELY OUR GOAL IS TO MAKE
PATENTS A PREDICTABLE MANAGEABLE
RISK FOR COMPANIES BY USING
TYPICAL MARKET BASED --

>> THANK YOU, MILLION KNEE.

CYNTHIA, I WOULD LIKE TO START
WITH YOU.

ONE OF THE GOALS OF THE PANELS
IS TO UNDERSTAND THE REALITY OF
PAEs FOR OUR BROAD RANGE OF
MARKET PARTICIPANTS.

AS A LARGE MARKETING COMPANY.
I WOULD LIKE TO ASK YOU HOW THIS
AFFECTS HP.

>> CERTAINLY WE CURRENTLY HAVE A
DOCKET OF 50 PATENT CASES IN THE
UNITED STATES.

THOSE ARE DEFENSIVE CASES.
WE HAVE AN ADDITIONAL THREE
CASES WHERE WE'RE A PLAINTIFF
SEEKING TO ENFORCE OUR IP
AGAINST FOLKS CLONING OUR
PRODUCTS.

THAT HAS RANGED SINCE 2008
ANYWHERE FROM 50 TO 70 OR 7
2-RBGS SOMETHING LIKE THAT.

IT'S BEEN PRETTY STEADY.

CASES COME AND GO.

THEY TURN OVER 25 OR 30 A YEAR,
GET SETTLED.

IT'S PRETTY AVERAGE.

CASES LAST 12 MONTHS, 24 MONTHS
OR LONGER.

I WENT BACK AND LOOKED AT WHAT
PERCENTAGE WOULD FALL INTO THE
DEFINITION USED THIS MORNING OF
PAE.

THAT WOULD COMPRISE 60% OF OUR
DOCKET.

WE HAVE ONE EXHIBIT CASE.

ONE UNIVERSITY CASE.

THE REMAINDER IN THE 30
SOMETHING PERCENT ARE EITHER A

OPERATING COMPANY.

WE DON'T CREDIT THEM A
COMPETITOR.

A FAILED OPERATING COMPANY.

IT MAY INCLUDE SOME INDIVIDUALS.

A COUPLE MORE THINGS WOULD I
CALL OUT.

MOST OF THE PATENTS WE SEW NOW
ARE OLD FROM THE 1990s.

WE SAW THE STUDY THAT PROFESSOR
SHAPIRO SITED THE AVERAGE AGE OF

PATENTS A CERTIFICATED IS

APPROXIMATELY 8 YEARS FROM THE

PRIORITY DATE AND THE TIME OF

THE ISSUE APBS OF THE PATENT.

WE DID OUR OWN INFORMAL STUDY ON
OUR DOCKET.

THE AVERAGE AGE WAS 12 YEARS

FROM THE PRIORITY DATE TO THE

PATENT ISSUED.

IN CONNECTION WE SEE A LOT OF

WHAT I CALL CONTINUATION ABUSE.

PATENTS ARE WRITTEN OUT ON

PRODUCTS IN THE MARKET OR

WRITTEN ONTO STANDARDS.

>> THANK YOU.

YOU MENTIONED ABOUT 60% OF YOUR

DOCKET IS PAE ACTIVITY.

HAS THAT TREND CHANGED OVERTIME.

>> I THINK IT DEPENDS ON WHEN

YOU ARE LOOKING BACK IN TIME AND

WHEN YOU START.

THERE IS ALSO THE DEBATE BEING

MORE SOPHISTICATED SEPARATED

NPA's TO PAE's.

I THINK IT'S GROWING.

THE REAL UP TAKE FOR US IS

AROUND 2008.

>> WHAT HAS HB DONE ARE N.

RESPONSE TO PAE LICENSING --

EFFORTS?

>> WE ARE LOOKING AT THE CASES

ON THE MERITS.

WE HAVE DONE A VARIETY OF

THINGS.

WE'RE MANAGING THEM FROM IN

HOUSE.

WE ARE ALSO TALKING ABOUT WHAT WE SEE AS ISSUES IN THE SPACE. PARTICULARLY AROUND PATENT HOLDUP ISSUES.

PAEs MORE SOPHISTICATED AND GOING TO THE INTERNATIONAL TRADE COMMISSION AS WELL AS, AS WELL AS WHAT THE RIGHT PRICE SHOULD BE IN THESE CASES.

REMEDIES AND DAMAGES.

>> ONE OF THE THINGS WE'RE TRYING TO FIGURE OUT TODAY IS THE RIGHT ROLE FOR THE AGENCIES TO PLAY IN THIS AREA.

DO YOU HAVE THOUGHTS ON THIS?

>> I DO.

I THINK THERE IS A INCREDIBLE AMOUNT OF THOUGHT LEADERSHIP.

I THINK I DO APPRECIATE THE PTOs FOCUS ON PAT EPT QUALITY.

THAT'S A ISSUE WE SEE, LET ME CIRCLE BACK TO ONE POINT.

ONE OF THE ASSUMPTIONS IN THE PRESENTATION THIS MORNING IS THERE IS A STRONG QUALITY OF PATENTS.

YOU HAVE A PATENT IF YOU READ THE SPECIFICATION IT'S TIGHTLY LINKED TO CLAIMS AND INNOVATION OR INVENTION THAT CAN BE USED IN INNOVATION.

THAT'S WHERE WE SEE A GREAT DEAL OF SLIPPAGE.

HAVING THE PTO FOCUS ON QUALITY IS PARTICULARLY IMPORTANT.

WE SEE A LOT OF PATENTS STRETCHED FROM A GEE WHIZ IDEA TO SOMETHING DIFFERENT.

WE SEE PATENTS WHERE THE MOST VALUABLE PAT THE TO A NPE IS A BROAD LOOSELY WORDED PATENT.

WHERE IT'S ARTRAGING OF COST OF DEFENSE, GETTING TO A TRIAL -- I THINK THERE ARE DIFFERENT CAMPS OUT THERE SETTING THE PRICE

DIFFERENTLY.

LOW SETTLEMENT AMOUNTS TO BEGIN WITH AND THEN MORE SOPHISTICATED WITH LARGER DEMANDS.

OFTEN RELYING ON A ENTIRE MARKET VALUE RULE EVEN IF THE PATENT THEY'RE FOCUSING ON IS A FEATURE.

>> HOW OFTEN DO YOU SEE PAEs WITH SMALLER DEMANDS OPPOSE TODAY PAE REQUEST BASED ON THE NBR?

>> I DON'T KNOW IF I HAVE A EXACT NUMBER ON THAT.

THINK THERE ARE A HANDFUL OF SOPHISTICATED PATENT ASSERTION ENTITIES.

I THINK THERE ARE MORE THAT ARE SMALLER THAT COME FROM THE GET GO WITH A DEMAND THAT'S \$500,000 OR LESS.

THE MESSAGE WE DON'T WANT TO LIT GATE.

WE WANT YOU TO SETTLE.

WHAT THE SETTLEMENT PRICE IS YOU CAN NEGOTIATE FROM THERE.

AT MOST THEY'RE STAFFED UP TO TAKE THE MATTER THROUGH CLAIM CONSTRUCTION IF THEY TRY TO GET IT THAT FAR.

WE HAVE EVEN A NEW PHENOMENON GOING AFTER CUSTOMERS FOR TINIER AMOUNTS OF \$50,000 OR LESS.

>> OKAY.

I THINK CISCO MAY ADDRESS THAT TOO.

IS THERE A POINT YOU WOULD LIKE TO MAKE WITH RESPECT TO THAT.

>> NO I THINK NEAL HAS COMMENTS. THERE I WON'T COMMENT ON THAT ONE.

>> THIS MAYBE A GREAT TIME TO TRANSITION INTO CISCO UNLESS THERE ARE OTHER POINTS TO MAKE.

>> I WANT TO FOCUS ON TWO OTHER THINGS.

THE PATENT GOING TO THE ITC AND THE ISSUE OF HOLDUP.
IF YOU DO NOT MAKE A PROD -P
UBGT AND YOU GO TO THE ITC AND ASK THEM, THE TRADE COMMISSION, AND ASK THEM FOR AN EXCLUSION ORDER THAT MAKES NO SENSE. YOU DON'T WANT AN EXCLUSION ORDER YOU WANT A LICENSING ZEAL. YOU'RE LOOKING FOR LEVERAGE. THE THREAT THAT YOU WILL EXCLUDE EITHER A HUNDRED PERCENT OF THE MARKET IF YOU'RE HEAVILY FOCUSED ON THE UNITED STATES OR 30% OF THE MARKET. DEPENDING ON THE WAORLD WIDE RESAERP FROM COMPANYING TO THE UNITED STATES. IT'S A OPPORTUNITY FOR SOMEONE TO GAIN HOLDUP LEVERAGE. WHATEVER THE PATENT FOCUSES ON THE ENTIRE PRODUCT IS EXCLUDED. I THINK THAT ABUSE IS NOT LIMITED TO PATENT ASSERTION ENTITIES. T-B ABUSED BY OPERATING COMPANIES AS WELL. IT'S PARTICULARLY DANGEROUS IN THE STANDARD & SETTING, CONTEXT OF STANDARD CENTRAL PATENTS. I APPRECIATE THE FTCs LEAST EVER SHIP AND COMMENTS TO THE IT TKR-RBGS ON THIS MATTER. UNFORTUNATELY I DON'T SEE THE ITC REFORMING ITSELF. ALTHOUGH IT COULD AND SHOULD. IT'S AN AREA HP HAS MADE A LOT OF COMMENTS AND WILL CONTINUE TO FOCUS WITH. THAT AND A MORE RAPID DAMAGEABLE SYSTEM WHERE THE COURTS FOCUS ON THE COURT LEAD REFORMS FROM THE FEDERAL CIRCUIT THROUGH GATE KEEPER FUNCTION, I THINK WOULD HELP, ALL OF THE ABUSES WE SEE IN THE PATENT SYSTEM.

>> CYNTHIA, THANK YOU FOR YOUR TIME.

>> THANK YOU.

>> CYNTHIA TEE THAT UP NICELY FOR YOU NEAL.

IF WE COULD START OUT WITH A DISCUSSION OF THE MOST SIGNIFICANT TRENDS YOU SEE AT CISCO AND THE IMPACT FROM THE PATENT ASSERTION ACTIVITY.

>> SURE.

I THINK THE ATTENTION SHOULD BE ON THREE EMERGING TRENDS WE THINK ARE HAVING ANTICOMPETITIVE IMPLICATIONS AND RESULT IN A SIGNIFICANT OVER EVALUATION OF PATENT RIGHTS.

THE FIRST IS ONE THAT PROFESSIONER CHIEN COMMENTED ON THIS MORNING.

PAEs WHOSE BUSINESS MODEL IS TO FOCUS ON THREATENING OR SUING HUNDREDS, IF NOT IN SOME CASES THOUSANDS OF END ZEUSERS. COMPANIES USING THE ACCUSED PRODUCT.

THERE IS NOTHING ABOUT UNLAWFUL ABOUT SUING A END USER.

WE THINK IT'S ANTICOMPETITIVE IN TWO WAYS.

ONE IS HIGH TRANSACTION COSTS. UNFORTUNATELY IT'S OFTEN THE WISER CHOICE FOR THEM GIVEN THE HIGH TRANSACTION COST IS TO SETTLE THE CASE.

YOU END UP GETTING, REWARDING THE WEAKER PATENTS BECAUSE IT'S EASIER TO SETTLE.

THE SECOND RELATED PROBLEM THOUGH ASK IN THESE SUITS AGAINST A END USER THE PAE IS SEEKING A DAMAGE MODEL RELATE TODAY DIFFERENT LEVEL OR DIFFERENT BUSINESS MODEL AND DIFFERENT REVENUE STREAM THEN IF THEY WENT AFTER THE MAN AOU

FANNING TOUR WHO HAS A COMPETING PRODUCT.

SO, THAT'S ONE AREA WHICH IS LOOKING AT LARGE LAWSUITS AGAINST END USERS.

THE SECOND ONE IS, SECOND AREA IS WHEN A PAE MODEL MASSES A SIGNIFICANT PATENT PORTFOLIO AND SEEK OR THREATEN TO SUE A WIDE LICENSE UNDER THE THEORY I HAVE A THOUSAND PATENTS AND I'M SURE YOU'RE INFRINGING A FEW.

THESE ARE THE FIRST THREE OR FIVE TO LOOK AT.

NOW YOU CAN'T, IT'S NOT LIKE YOU CAN INVALIDATE THE THOUSAND PATENTS.

WOULD YOU GO BROKE TRYING.

YOU'RE LOOKING AT THE THREAT OF LAWSUITS, EVEN IF YOU DEFEND AGAINST THE FIRST FEW YOU WILL HAVE MORE COMING.

I THINK THE PROBLEM IS PARTICULARLY A PROBLEM WHEN THEY'RE RANDOM IN CUMBERED AND NON RANDOM INCUMBERED PATENTS IN THE PORTFOLIO.

IF YOU TAKE A PORTFOLIO WIDE LICENSE YOU'RE NOT SURE OF THE EFFECT FOR PATENTS.

THAT'S A WAY TO CAMOUFLAGE THE ISSUE AND NOT ALLOW THEM TO BE LICENSED.

THERE ARE PATENTS THAT ARE NOT EVEN INCLUDED IN THE POSSIBILITY THAT IS RESERVED TO SUE A END USER LATER.

THE THIRD IS A DECEPTIVE PRACTICE OF NOT DISCLOSING THE PATENTS THE PAE OWNS.

YOU DON'T KNOW THE TRUE OWNERSHIP THERE.

THERE IS A HIDDEN STRUCTURE OF MULTIPLE AFFILIATED ORGANIZATIONS ASK ENTITIES.

THAT'S THE PROBLEM OF A TARGETED

THREAT OR LAWSUIT.
YOU DON'T KNOW WHAT YOU'RE
GETTING IN A LICENSE IS WHAT YOU
NEED OR WHETHER IT'S TOO BROAD
AND ARE YOU GETTING AS MUCH AS
YOU NEED.

IF YOU WANT TO TAKE, IN THOSE
INSTANCES WHERE IT'S COST
EFFECTIVE TO TAKE A PORTFOLIO
WIDE LICENSE.

YOU'RE NOT SURE IF IN DOING THAT
YOU GET THE PAT EPT PIECE YOU
WANT TO MAKE PRODUCTS WITHOUT
THE RISK OF PATENT INFRINGEMENT.
CISCO HAS IDENTIFIED ALL OF
THESE THINGS.

GROWING TRENDS THAT ARE
PREVALENT TODAY, AND
ANTICOMPETITIVE IMPACTS ON THE
MARKETPLACE.

>> WHEN YOU TALK ABOUT THE
UNCERTAINTY WITH PATENT PIECE,
THERE IS NOT A DISCLOSURE OF
EVERYTHING OPBD BY THE ENTITY
YOU'RE SETTling WITH AT THE TIME
OF SETTLEMENT?

>> YOU HOPE IT IS.

IT LEADS TO A COMPLICATED PART
OF THE LICENSE.

OUR VIEW IS THERE SHOULD BE
ENOUGH TRANSPARENCY.

IF YOU TAKE A LICENSE FROM THE
ENTITY AND YOU LICENSE WHAT IT
IS THAT IT OWNS YOU WON'T FIND
OUT LATER WE HAD AN AFFILIATE
AND IT DOESN'T MEET THE
DEFINITION OF AFFILIATE.

YOU WANT TO HAVE TRANSPARENCY TO
MAKE EFFECTIVE DECISIONS IN THE
MARKETPLACE AND ALLOCATE
CAPITOL.

>> YOU HAVE IDENTIFIED CONCERNS
AND PROBLEMS YOU SEE WITH THE
SYSTEM.

IN YOUR INTRODUCTORY MARK YOU
DISCUSSED ABOUT THIS BEING A

FORUM FOR IDENTIFYING POSSIBLE SOLUTIONS.

WHAT RECOMMENDATION DOZEN YOU HAVE FOR THE FTC AND STK-RBGS OJ.

>> THERE ARE A LOT OF WAYS TO ATTACK THE PROBLEM.

ONE POTENTIAL SOLUTION IS TO HAVE THE FTC HAVE A FINAL REQUIREMENT FOR A DEBATE WHAT HAD IS MATERIAL AND NOT MATERIAL.

THAT WOULD BE A HEALTHY F.T.C. TO ENQUIRE AS-TO-WHY IS THIS ENTITY SELLING THIS PATENT OR GROUP OF PATENTS AND WHAT IS THE P.A.E. ACQUIRING IT FOR AND WHAT IMPACT -- LET'S ASSESS WHAT IMPACT THAT'S LIKELY TO HAVE ON THE MARKET ON THE FRONT END.

IT GOES A LITTLE TO THE POINT THAT PROFESSOR SHAPIRO MADE ABOUT LET'S FOLLOW THE MONEY. MY POINT ISN'T TO SAY THAT THIS FILING REQUIREMENT IS GOING TO PROHIBIT THESE TRANSACTIONS.

IT'S JUST TO SAY THAT MORE INFORMATION IS BETTER THAN LESS. WE'VE TALKED ABOUT THE PROBLEMS OF NOT HAVING GOOD INFORMATION IN THIS.

AND OUR SENSE IS THAT IF REGULATORY AGENCIES CAN UNDERSTAND ON THE FRONT END THE IMPACT TO COMPETITION OF THESE KIND OF LARGER PATENT TRANSACTIONS, IT WOULD PROBABLY BE IN EVERYONE'S BEST INTEREST.

>> THEN FOR THE SYSTEM MORE GENERALLY ARE THERE SPECIFIC AREAS THAT YOU THINK ARE PARTICULARLY OPEN FOR EXPLOITATION THAT THE COURTS ARE ADDRESSING ADEQUATELY?

>> WELL, I THINK THE FEDERAL CIRCUIT AN COURTS ARE DOING A

GREAT JOB AT LOOKING AT THE DAMAGES ISSUE.

AGAIN, IT WAS ANOTHER ONE OF THE ISSUES BROUGHT UP THIS MORNING.

IS A PATENT OWNER -- WHEN HE OR SHE IS LITIGATING, ARE THEY GETTING VALUE AND DAMAGES THAT'S COMMENSURATE WITH THE CONTRIBUTION THAT THAT PATENT MAKES IN THE MARKETPLACE ABOVE THE NEXT AVAILABLE ALTERNATIVE. IF THE ANSWER TO THAT QUESTION IS YES, THEN I THINK YOU DISCOURAGE THIS KIND OF OVERINVESTMENT IN PATENTS AND YOU DISCOURAGE OPERATING COMPANIES WHO MAYBE -- MAYBE EVEN SUCCESSFUL OPERATING COMPANIES FROM SEEKING TO DIVEST THEIR PATENTS.

IF AN OPERATING COMPANY THINKS IT CAN MAKE MORE MONEY SELLING ITS PATENTS THAN IT CAN PRACTICING THE PATENTED INVENTION, THAN THAT SUGGESTIONS THAT DAMAGE AWARDS ARE HIGH ENOUGH THAT THAT WOULD NOT BE TRUE IF DAMAGE AWARDS REALLY GAVE VALUE WITH THE PATENTED TECHNOLOGY.

>> YOU MADE A STATEMENT ABOUT REVENUE DRIVEN LICENSES ACTIVITIES AND PRODUCTION DRIVEN LICENSES ACTIVITIES AND WE HEARD ABOUT THE EFFECTS OF EX-POST-LICENSING.

I WANTED TO SEE IF YOU COULD EXPLAIN THE RELEVANCE AND SIGNIFICANCE OF THOSE DISTINCTIONS?

>> I THINK WE NEED TO TAKE INTO DIFFERENCE BETWEEN EXANNTY AND EXPOST.

IF EXANTIIS HELPING TO CONTRIBUTE TO NEW PRODUCTS TO

COME TO OPERATING COMPANIES
SAYING WE HAVE A GREAT INVENTION
YOU SHOULD LICENSE IT, COMPANIES
LIKE OURS SPEND A LOT OF MONEY
ON THAT.

IT DRIVES AND SEEDS NEW
BUSINESSES AND INDUSTRIES.
THE FLIP SIDE, THOUGH, IS TO
WAIT IN THE WINGS IN EX-POST SAY
AND I'M GOING TO WAIT UNTIL A
COMPANY HAS ITS FIRST BILLION
DOLLARS OF REVENUE THEN BRING A
LAWSUIT.

TO OUR MIND THAT'S A TAX ON AN
EXISTING PRODUCT.

THESE TWO DIFFERENT THINGS AND
WHEN WE'RE SEEKING TO GIVE A
REMEDY I THINK WE HAVE TO TAKE
THAT DISTINCTION INTO ACCOUNT.

>> I WOULD JUST ASK IF THERE'S
ANYTHING THAT YOU HAVEN'T
ADDRESS THAT YOU'D LIKE TO
ADDRESS AS I'M WATCHING THE
CLOCK CLOSELY.

>> I THINK THERE ARE LOTS OF
PEOPLE ON THE PANEL THAT HAVE
IMPORTANT THINGS TO SAY.
I'LL BE HAPPY TO DEFER TO THEM.
THANK YOU, THOUGH, ERICA.

>> THANKS.

>> IF WE COULD TURN TO PETER
DETKIN.

I READ WITH INTEREST YOUR BLOG
ON FRIDAY.

I DON'T KNOW HOW MANY PEOPLE GOT
A CHANCE-TO-SEE IT WHERE PETER
WAS ADDRESSING THESE ISSUES OF
TRANSPARENCY OF PATENT OWNERSHIP
AND I THOUGHT IF YOU COULD JUST
TALK A BIT ABOUT THAT

>> SURE, THANK YOU.

THAT'S OBVIOUSLY A QUESTION ON A
LOT OF PEOPLE'S MINDS THIS
MORNING.

THIS IS AN EXAMPLE OF WHAT I
MEAN BY IT'S A RED HERRING OF AN

ISSUE.

I WAS RESPONDING -- WELL, IT'S COME UP IN A COUPLE DIFFERENT CONTEXTS.

MOST RECENTLY FROM A BLOG POST FROM AN EFFORT THAT CLAIMED-- AND I'M QUOTING HERE-- THAT WE USE THOUSANDS OF SHELBY ISTYS TO HIDE OUR ASSETS FROM OUR LICENSEES AND TO FILE A BUNCH OF LAWSUITS IN AN ANONYMOUS NAMES. LET ME STATE RIGHT HERE RIGHT NOW IN FRONT OF THE ASSEMBLED MASSES, THE OVERFLOW ROOM AND THE SHIPS AT SEA.

WE HAVE NEVER FILED A LAWSUIT INTO ANY OTHER NAME OTHER THAN INTELLECTUAL VENTURES.

GOT IT?

SORRY, THAT SOUNDED VERY DEFENSIVE.

(LAUGHTER)

WE FILED ABOUT SIX LAWSUITS IN OUR TEN-YEAR HISTORY.

ONLY ONE OF THOSE COULD EVEN BE CALLED SOFTWARE RELATED.

IT WASN'T E-COMMERCE OR METHOD OF DOING BUSINESS.

IT WAS A COMPLICATED SECURITY PRODUCT.

BUT THE FACT IS WE'VE NEVER SUED IN ANY NAME OTHER THAN OUR OWN.

ARE WE USING IT TO HIDE PATENTS FROM OUR LICENSEES?

THAT'S ABSURD.

WE'VE DONE OVER \$2 BILLION WORTH OF LICENSING AND EVERY ONE OF THOSE DEALS HAS BEEN WITH SOPHISTICATED COMPANIES WHO'VE ASKED US LOTS OF QUESTIONS ABOUT WHAT ASSETS WE HAVE.

LOTS OF NEGOTIATIONS ABOUT AFFILIATES TO MAKE SURE THEY CAPTURED EVERYTHING.

A NUMBER OF OUR LICENSEES ARE HERE ON THE PANEL.

A LOT OF OUR LICENSE SEES ARE
HERE IN THE ROOM.
ANYBODY HAVE A DOUBT ABOUT WHAT
THEY'RE GETTING WHEN THEY DO OUR
LICENSE WITH US?
OKAY, I SEE NO HANDS, LET'S MOVE
ON.
(LAUGHTER)
WHY DO WE DO IT?
IT'S NOT AS INTERESTING AS YOU
MIGHT THINK.
THE REASON WE HAVE DIFFERENT
ACQUISITION FEES IS PURELY
LOGISTICAL.
WE HAVE A NUMBER OF DIFFERENT
INVESTORS, BOTH FINANCIAL
INVESTORS AND STRATEGIC
INVESTORS.
WE HAVE TWO ON THE PANEL HERE.
BUT NOT ALL INVESTORS ARE
INVESTORS IN EACH I.P. GROUP WE
BUY AND WE HAVE TO CAREFULLY
TRACK WHO OWNS WHAT, AND WE HAVE
TO CAREFULLY TRACK OUR REVENUE
AND EXPENSES ON AN I.P. GROUP
BASIS.
THE WAY TO DO THAT IS TO KEEP
THEM IN A SEPARATE ENTITY SO WE
HAVE COSTS ASSOCIATED,
ACCOUNTANTS THAT KEEP TRACK OF
IT ALL.
REVENUES ASSOCIATED WITH IT SO
WE CAN TRACK IT.
>> WHY DO YOU HAVE ALL THOSE
NAMES?
LAST I HEARD WAS I WAS ASKING
DEPOSITION ABOUT OUR RANDOM NAME
GENERATOR.
AGAIN, ALL SHIPS AT SEA, THERE
IS NO SUCH THING.
PLEASE STOP ASKING ME.
THAT YOU CAN SAVE YOURSELF 15
MINUTES IN DEPOSITION.
WE KEEP IT CONFIDENTIAL FOR THE
SAME REASON WARREN BUFFETT KEEPS
HIS INFORMATION CONFIDENTIAL.

WE SPEND A LOT OF MONEY AND EFFORT FIGURING OUT WHERE TO INVEST.

AND WE DON'T FEEL LIKE TIPPING OUR HANDS ON OUR INVESTMENT POLICIES AND INTENTIONS TO OUR COMPETITORS.

BUFFETT DOESN'T TELL PEOPLE WHERE HE'S INVESTING UNTIL HE'S FORCED TO WHEN HE'S READY TO TAKE OVER A COMPANY.

DISNEY DOESN'T TELL PEOPLE WHEN IT'S BUYING SWAMP LAND IN FLORIDA THAT, HEY, WE'RE PLANNING TO BUILD A THEME PARK. I OFTEN HESITATE TO USE THE REAL ESTATE ANALOGY BECAUSE I KNOW IT BREAKS DOWN IN MANY LEVELS BUT IT WORKS.

REAL ESTATE IS OFTEN HELD IN THE NAME OF A TRUST.

IT'S OFTEN HELD IN THE NAME OF A HOLDING COMPANY.

NOBODY THINKS TWICE ABOUT THAT WHY ALL OF A SUDDEN ARE WE MAKING A BIG DEAL OUT OF IT HERE?

I WOULD ARGUE IT'S HAVING SOMETHING OTHER TO DO OTHER THAN WITH THE ACTUAL PATENT SYSTEM ITSELF.

>> CAN I JUMP IN WITH A COUPLE QUESTIONS?

>> SURE.

>> I'M ON A ROLL.

THE ONLY THING I DISAGREE WITH CARL SHAPIRO ON IS ONE THING BUT GO ON.

>> TWO THINGS.

I KNOW YOU INDICATED THAT I.V. HAS NEVER FILED A SUIT IN ANYONE'S NAME BUT ITSELF. HAS INTELLECTUAL VENTURES RETAINED A STAKE IN ANY LITIGATION PROCEEDINGS OR ROYALTY GENERATIONS FOR SALES OF

PATENTS THAT IT MAY HAVE ENGAGED?

>> YES, WE HAVE SOLD SOME PATENTS.

WE ACTUALLY SOLD A LOT OF PATENTS AND SOME OF THE PATENTS WE'VE SOLD HAVE ENDED UP IN LITIGATION AND FOR SOME OF THOSE NOT FOR ALL BUT FOR SOME, WE HAVE WHAT YOU MIGHT CALL A BACK END.

BUT WE HAVE NO CONTROL OVER WHAT HAPPENS IN THAT LITIGATION.

WE HAVE NO ABILITY TO INDICATE WHETHER THEY SHOULD SETTLE, WHETHER -- WITH WHOM AND ON WHAT TERMS.

WE SIMPLY, LIKE NOKIA DOES, AS CARL WAS JUST DESCRIBING WITH SOME OF HIS DEALS, WE HAVE A SHARE OF REVENUE.

>> HOW IMPORTANT IS CONTROL IF THE INCENTIVES ARE ALIGNED IN A CERTAIN DIRECTION?

>> I WOULD ARGUE IT'S EXTREMELY IMPORTANT.

IF YOU DON'T HAVE CONTROL IT DOESN'T MATTER WHAT THE INCENTIVES ARE.

IF I SOLD TO PAUL AND HE'S ASSERTING I CAN'T CONTROL WHAT PAUL DOES, I MAY CHOOSE TO SELL TO PAUL ASSUMING HE'S GOOD AT MONETIZING -- SORRY, I DON'T MEAN TO PICK ON YOU.

I MAY CHOOSE TO SELL TO PAUL BECAUSE I THINK HE'S GOOD AT WHAT HE DOES BUT THEN IT'S COMPLETELY HANDS OFF.

>> THEN IF WE COULD GO TO THE REAL ESTATE ANALOGY.

WE HEARD SOME QUESTIONING THIS MORNING ABOUT HOW LUCKY IS THE BUCKET.

>> YES.

>> SO IF YOU'RE TALKING ABOUT

DISNEY IN THAT SITUATION.
ISN'T IT -- DISNEY DOESN'T WANT
TO LET ANYONE KNOW THEY'RE
BUYING SWAMPLAND BECAUSE THEY
KNOW HOW MUCH VALUE CAN COME OUT
OF IT.

ARE THEY BEING UNDERCOMPENSATED,
THAT HOLDER OF THAT PROPERTY,
AND DO YOU SEE AN ISSUE AS TO
WHAT VALUE THE INVENTOR MIGHT BE
GETTING VIS-A-VIS DISNEY
INVENTIONS?

>> THAT QUESTION I THINK IS
ABOVE MY PAY GRADE.

ALL I CAN TELL YOU IS WHAT WE
THINK WE ARE FAIRLY COMPENSATING
INVENTORS.

WE ARE PUMPING BILLIONS OF
DOLLARS INTO THE INVENTION
ECONOMY WE ARE BUYING FROM
INVENTORS BIG AND SMALL.

WE HAVEN'T HEARD COMPLAINTS FROM
INVENTORS THEY THAT FEEL LIKE WE
HAVE UNFAIRLY CAPITALIZED UPON
THEIR INVENTIONS.

BUT YOU'RE ASKING A QUESTION
THAT'S BETTER ANSWERED BY
ECONOMISTS, FRANKLY.

CAN I DO ONE MORE --

>> YEAH, I WAS GOING TO TURN
BACK TO YOU.

>> ACTUALLY I HAVE A QUESTION
ABOUT INVENTORS.

DO YOU HAVE DATA THAT REPRESENTS
HOW MUCH MONEY THE INVENTORS ARE
RECEIVING?

>> THAT'S A TOUGH QUESTION.
I CAN ANSWER THE FIRST PART
WHICH IS, AS I'VE SAID, WE ARE
-- WE HAVE PAID OUT -- I CAN'T
GIVE EXACT NUMBERS BUT WELL OVER
A BILLION DOLLARS IN TERMS OF
TWO INVENTIVE ENTITIES WHEN WE
PURCHASE THEIR RIGHTS.

A GOOD PORTION OF THAT HAS GONE
TO INDIVIDUAL INVENTORS.

OUR LAST NUMBER -- WE LOOKED THAT THE A COUPLE YEARS AGO, WE DON'T TRACK THIS KIND OF DATA WHICH IS WHY WE DON'T HAVE IT FOR YOU.

>> THANK YOU, I'LL TURN THIS BACK REALLY FAST.

ONE OF THE THINGS WE'RE LOOKING FOR IN THE PUBLIC COMMENTS IS MORE EMPIRICAL EVIDENCE, IF POSSIBLE, OF THE (INAUDIBLE)

>> I WANT TO MAKE SURE YOU GET TO MAKE THE POINTS YOU WANTED TO MAKE.

>> OKAY, I WANTED TO MAKE ONE LAST POINT SINCE I WAS ON A ROLL.

THE LAST CRITICISM I'VE HEARD OF THE LACK OF TRANSPARENCY IS THAT PEOPLE LOOKING TO TAKE A LICENSE DON'T KNOW WHO TO CONTACT. THAT IS, WITH ALL DUE RESPECT, SOMETHING AN ACADEMIC CAN ONLY THINK OF.

ANYBODY IN THIS ROOM EVER TRIED TO TAKE A LICENSE BUT DIDN'T KNOW WHO TO CONTACT?

NOT A SINGLE HAND WENT UP.

I'VE NEVER HEARD OF THAT BEHAVIOR IN THE REAL WORLD.

I DON'T THINK IT WOULD BE HARD TO FIND OUT WHO IT IS.

IN FACT, ACCORDING TO THIS ENTITY THAT WAS TRYING TO RAISE MONEY IT WOULD COST \$80,000 TO DO ANALYSIS OF OUR PORTFOLIO.

OUR PORTFOLIO IS OVER 40,000 PER PATENT.

SO I THINK PEEK CAN FIGURE IT OUT IF THEY REALLY WANTED TO. BUT THIS IS A SOLUTION IN SEARCH OF A PROBLEM.

I'LL STOP.

>> THANK YOU VERY MUCH.

>> THANK YOU VERY MUCH.

>> SO NOW WE'RE GOING TO SHIFT

GEARS SLIGHTLY AND TALK TO MARY STICH.

MARY, YOU'RE RACKSPACE.
AND THAT'S A SMALLER COMPANY.
FOR EXAMPLE, YOU DON'T HAVE
INDEPENDENT I.P. COUNSEL.
AND I'D LIKE TO ASK YOU IN
REALITIES FOR P.A.E. ACTIVITIES
IN SMALLER COMPANIES.
IN PARTICULAR, IF YOU HAVE
EXAMPLES -- WE'VE TALKED ABOUT
NUISANCE SUITS SO IF YOU COULD
ADDRESS THAT AS WELL.

>> YES, THANK YOU.

I MENTIONED EARLIER OUR FASTEST
GROWING EXPENSE IS DEFENDING
P.A.E. PATENT CASES.

WE'VE BEEN SUED EIGHT TIMES IN
THE LAST THREE YEARS, ALL THE
CASES ARE P.A.E. CASES.

AND FOR US, AS A SMALLER
COMPANY, THAT'S A LOT.

TRIAL BUDGETS FOR EACH CASE ARE
IN THE MILLIONS, AS MOST OF YOU
KNOW.

90% OF OUR LEGAL SPEND ON
DEFENSE COSTS IN 2012 WAS ON
P.A.E. CASES.

90% OF OUR LEGAL SPEND ON
DEFENSE COSTS IN 2012 WAS ON
P.A.E. CASES.

SINCE 2010, WE'VE SEEN A 500%
INCREASE IN OUR LEGAL SPEND ON
DEFENSE CASES BECAUSE OF P.A.E.
CASES.

A 500% INCREASE.

WE BELIEVE THE COST TO LITIGATE
IS BEING USED AS A CLUB TO FORCE
SETTLEMENTS.

QUITE OFTEN WE AND OTHER SMALL
COMPANIES ARE PRESENTED WITH
THIS SCENARIO: A DAMAGE CLAIM IN
THE MILLIONS, BUDGETS IN THE
MILLIONS, AND A VERY EARLY
OPPORTUNITY TO SETTLE IN THE LOW
SIX FIGURES.

SUBPOENA A SMALL BUSINESS GOING TO GO TO TRIAL AT A COST OF OVER \$2 MILLION OR SETTLE FOR, SAY, \$100,000?

MANY OF YOU IN THE ROOM ARE PROBABLY PRIVATE PRACTITIONERS. DO WE HAVE ANY PRIVATE PRACTICE LAWYERS IN THE ROOM?

RAISE YOUR HANDS PROUDLY.

DO ANY OF YOU -- HAVE ANY OF YOU HEARD OR EXPERIENCED CLIENTS SAY YOU KNOW, "I KNOW THE COST TO DEFEND IS REASONABLY SET FORTH BY YOU IN YOUR BUDGET, I GET THAT, IT'S NOT ABOUT YOU IT'S ABOUT A FLAWED SYSTEM.

BUT THE COST TO DEFEND CAUSES US TO THINK WE PROBABLY OUGHT TO CONSIDER AN EARLY SETTLEMENT."

ANYBODY HAVE A CLIENT THAT SAYS -- OKAY, RAISE YOUR HANDS.

THIS IS HAPPENING OVER AND OVER AGAIN FOR SMALLER BUSINESSES.

THESE CASES ACTUALLY REMIND ME AT TIMES ABOUT WHAT THE COURT IN THE EON NET CASE SAID THIS IS OW IT FEELS TO US.

IT'S NOT ABOUT THE MERITS OF THE CASE, THE VALUE OF THE INVENTION OR PATENT IT'S ABOUT EXPLOITING THE COST OF DEFENSE.

IT'S HAPPENING OVER AND OVER AND OVER AGAIN.

FOR SMALLER COMPANIES, THESE LITIGATION DOLLARS ARE A REAL HARDSHIP AND THEY DIVERT RESOURCES AWAY FROM INNOVATION AND ADVANCEMENTS FOR CONSUMERS.

MY COLLEAGUES AT SMALLER COMPANIES ARE EXPERIENCING THE SAME TYPE OF HOLD UP OR EXPLOITATION OF THE FLAWS IN THE SYSTEM LAST WEEK I PARTICIPATED ON A ROUND TABLE IN SAN ANTONIO. MOST MEMBERS ARE IN HOUSE LAWYERS AT SMALLER COMPANIES

LIKE ME WE DON'T HAVE LARGE LITIGATION BUDGETS, WE DON'T HAVE I.T. SPECIALIZED LAWYERS DEFENDING THE CASES AND MY COLLEAGUES SHARED EXPERIENCES VERY MUCH LIKE MINE.

ONE COLLEAGUE SAID "JUST HOLD YOUR NOSE, SETTLE EARLY, GET OUT CHEAP, YOU'LL SAVE A LOT OF MONEY IF YOU DO."

ANOTHER COLLEAGUE TALKED ABOUT OPERATIONAL DECISIONS THAT HIS COMPANY MADE BECAUSE OF P.A.E. THREATS.

THEY DIDN'T PUT WI-FI IN THEIR STORES AND THEY DIDN'T IMPLEMENT A CALORIE COUNTER ON THEIR WEB SITE BECAUSE THE RISKS AND THE THREATS WERE TOO HIGH.

THEIR COMPETITORS, HOWEVER, DID TAKE THE ADVANTAGE OF A NUISANCE VALUE SETTLEMENT AND PUT MY COLLEAGUE'S COMPANY AT A COMPETITIVE DISADVANTAGE A SMALLER COMPANY IS SIMPLY NOT BIG ENOUGH TO FIGHT IN MOST CASES.

WE BELIEVE THE FLAWS IN THE SYSTEM HAVE A DISPROPORTIONATE IMPACT ON SMALL BUSINESS AND WE BELIEVE THAT RECENT STUDIES HAVE SHOWN THAT EARLY SETTLEMENTS ARE THE LEAST EXPENSIVE WAYS FOR SMALLER COMPANIES TO DEFEND THEMSELVES AND DO NOT NECESSARILY LEAD TO BIGGER EXPENSE DOWN THE ROAD.

>> THANK YOU.

AND I HAVE A QUICK QUESTION ON THIS POINT BEFORE I MOVE ON TO YOUR OPEN SOURCE EXPERIENCE AND THAT IS HOW OFTEN DO YOU CHALLENGE NUISANCE SUITS?

>> WELL, IT DEPENDS ON HOW YOU DEFINE "CHALLENGE" AND --

>> LITIGATE.

>> WELL, WE HAVE NEVER LITIGATED A NUISANCE CASE TO TRIAL. WE'VE NEVER GONE TO A MARKETING HEARING.

WE'VE NEVER GONE THAT FAR BECAUSE THE COST OF DEFENSE IS ALWAYS MUCH HIGHER THAN OUR OPPORTUNITY TO SETTLE.

>> SO RACKSPACE IS ALSO HEAVILY INVOLVED WITH NONPROPRIETARY OPEN SOURCE TECHNOLOGY AND AS SORT OF ONE OF THE OPEN SOURCE REPRESENTATIVES OF THE PANEL I'D LIKE TO HEAR YOUR OPINIONS ON HOW P.A.E. ACTIVITY IMPACTS OPEN SOURCE TECHNOLOGY IN INNOVATION.

>> AS THE OPEN CLOUD COMPANY, WE'RE ESPECIALLY CONCERNED ABOUT THE IMPACT OF P.A.E. ACTIVITY ON OPEN SOURCE INNOVATION.

WE COLLABORATE WITH DEVELOPERS FROM DOZENS OF OTHER COMPANIES TO CREATE OPEN SOURCE SOFTWARE TO POWER CLOUD COMPUTING.

THIS IS THE FUTURE OF TECHNOLOGY AND THE INTERNET IN OUR VIEW.

MOST OF THE INNOVATION AROUND COMPUTER SYSTEMS AND SOFTWARE NOW HAPPENS IN THE OPEN SOURCE COMMUNITY.

OPEN SOURCE PROJECTS ALLOW LARGE NUMBERS OF SOFTWARE DEVELOPERS TO COLLABORATE ON WAYS TO IMPROVE THE INTERNET AND HOW

BUSINESSES AND GOVERNMENTS WORK. OPEN SOURCE IS IMPORTANT TO THIS DISCUSSION FOR SEVERAL REASONS. OPEN SOURCE DEVELOPMENT TOUCHES ALMOST EVERY COMPANY IN AMERICA, LARGE OR SMALL.

RACKSPACE IS BEST KNOWN FOR OUR DEVELOPMENT WITH OPEN STACK, A CLOUD COMPUTING SYSTEM THAT WE CREATED, OPEN SOURCED, AND NOW HAVE SPUN OFF INTO ITS OWN FOUNDATION.

THIS ONE OPEN SOURCE PROJECT IS CREATING VALUE, PROVIDING JOBS AND DRIVING INNOVATION IN HUNDREDS OF COMPANIES, NOT JUST HOURS.

TODAY'S LARGEST AND MOST IMPORTANT SOFTWARE PROJECTS ARE OPEN SOURCE.

LINUX, ANDROID, OPEN STACK ARE JUST A FEW OF THE PROJECTS THAT ARE ENABLING SMALL AND LARGE ENTERPRISES TO INNOVATE, CREATE AND GROW.

P.A.E. THREATS AND LAWSUITS ARE THE SINGLE BIGGEST THREAT TO OPEN SOURCE INNOVATION.

THERE IS NO EFFECTIVE WAY FOR A TECHNOLOGY INNOVATOR TO DISCOVER IF THEY'RE INFRINGING PATENTS THAT ARE SIMPLY TOO NUMEROUS IN A PATENT ARGUMENT THAT'S ACCESSIBLE ONLY TO PATENT PROFESSIONALS.

THE FLAWED PATENT SYSTEM IS A DISINCENTIVE TO PUBLICATION OF INNOVATIONS.

OPEN DEVELOPMENT IS ALSO AN EASIER TARGET FOR P.A.E.s.

THERE'S LESS EFFORT NEEDED TO DISCOVER POTENTIAL INFRINGEMENT. WE'VE HEARD HEARD SUSPICIONS OF P.A.E.'S ATTENDING DEVELOPMENT SESSIONS.

THIS IS A COMPLETE DISTORTION OF THE GOALS OF THE PATENT SYSTEM. OPEN INNOVATION MODELS LEND THEMSELVES TO RAPID INNOVATION, EXACERBATING THE DISPARITY BETWEEN THE PACE OF INNOVATION AND THE LIFE CYCLE OF A PATENT. THE PACE OF INNOVATION IN THE TECHNOLOGY INDUSTRY BEARS NO RELATIONSHIP TO THE 20 YEAR LIFE OF A PATENT.

LARGE DISTRIBUTORS OF CLOSED TECHNOLOGY HAVE THE INCENTIVE

AND MEANS TO ADDRESS PATENT RISK FOR THEIR USER BASE AND PERHAPS ACHIEVE MORE EFFICIENT RESOLUTION OF DISPUTES BUT THERE'S NO SINGLE RIGHTS HOLDER IN AN OPEN SOURCE COMMUNITY. SO EACH USER IS LEFT TO DEFEND ITSELF MULTIPLYING THE AGGREGATE COST OF DEFENDING A PATENT ASSERTION.

WE CAN THINK OF OPEN SOURCE DEVELOPERS AS THE ULTIMATE SMALL BUSINESS OPEN SOURCE HAS DEVELOPED INTO A SURPRISING FONT OF INNOVATION.

FOR EXAMPLE, MUCH OF THE BIG DATA DRIVING INVESTMENT RIGHT NOW CAME ABOUT BECAUSE OF AN OPEN SOURCE PROJECT.

MANY OF THE PEOPLE WHO THAT WORK ON OPEN STACK OR ANY OTHER OPEN SOURCE PROJECT ARE INDIVIDUAL DEVELOPERS THAT DO THIS WORK MOSTLY IN THEIR SPARE TIME AND FOR THE LOVE OF THE ART.

THESE DEVELOPERS HAVE NO LEGAL TEAM AND NO SUPPORT STRUCTURE.

THE MERE EXISTENCE OF PATENT ASSERTIONS IN THIS AREA OF TECHNOLOGY HAS BEEN SUFFICIENT TO INDUCE DEVELOPERS TO PULL PROJECTS, LIMIT FEATURES AND REDIRECT THEIR EFFORTS.

GOOD EXAMPLES ARE THE GIVE AND JPEG PATENTS.

THESE COVER IMAGE FORMATS USED EXTENSIVELY ON THE INTERNET.

AT THE TIME THE PATENTS WERE BEING ASSERTED AND LITIGATED A NUMBER OF OPEN SOURCE PROJECTS MODIFIED THEIR PROJECTS TO PULL OUT SUPPORT OF THE FORMATS.

THIS WAS A PURE LOSS TO SOCIETY. CONSUMERS WOULD HAVE HAD THE OPTION OF USING THE OPEN SOURCE CODE FOR FREE.

INSTEAD THEY GOT NOTHING AND THERE WASN'T A PATENT HOLDER OR INNOVATER ANYWHERE BETTER OFF BECAUSE OF IT.

>> THANK YOU VERY MUCH.

SARAH, YOU MENTIONED YOU WERE BROUGHT TO RIM BECAUSE OF (INAUDIBLE) SO YOU'VE BEEN IN SINCE DAY ONE.

TELL US ABOUT THE TRENDS YOU'RE SEEING LAND YOU THINK THIS ACTIVITY IS IMPACTING COMPETITION.

>> I JOINED RIM RIGHT AFTER N.T.P. AND WE HAVE ONLY SEEN INCREASES WE'VE SEEN INCREASES IN SETTLEMENT COSTS AND LITIGATION COSTS SO IT DEFINITELY HAS AN IMPACT.

LARGE PORTIONS OF THE BUDGET ARE DEVOTED TO FIGHTING SPECIALLY WE'VE STAFFED UP -- I GUESS IT'S GOOD FOR LAWYERS, ALL OF THESE ACTIVITIES SEEM TO BE GOOD FOR LAWYERS.

WE'VE STAFFED UP INTERNALLY TO SUPPORT THE FIGHT.

AT THE END OF THE DAY THE PATENT ASSERTION ENERGIES, THEY JUST HAVE A DIFFERENT LEVERAGE.

THEY'RE NOT SUBJECT TO COUNTERSUITS AND WE CAN ARGUE ABOUT WHETHER OR NOT IF A PRACTICING ENTITY HAS DIVESTED THEIR PATENTS AND YOU KNOW THAT THAT PRACTICING ENTITY DID THAT WHAT YOU CAN DO, BUT AT THE END OF THE DAY EVEN IF YOU FILE A SUIT AGAINST THE PRACTICING ENTITY WHO OWN THE PATENTS BEFORE THEY INVESTED IT, YOU'RE STILL IN A LITIGATION, YOU'RE IN ANOTHER LITIGATION WITH DISCOVERY, WITH ALL THE COSTS ASSOCIATED WITH THAT.

SO BASICALLY THE TRANSFER OF

PATENTS TO THESE NON-PRACTICING ENTITIES BECAUSE THEY HAVE THE ABILITY TO BRING SUITS WITHOUT THE COUNTERWEIGHT OF HAVING TO THINK ABOUT WHAT AN ENTITY THAT MANUFACTURE MANUFACTURES HAS TO THINK ABOUT.

WE HAVE TO THINK ABOUT THE INJUNCTION.

WE HAVE TO THINK ABOUT THE EFFECT OF THE SETTLEMENT THINK ABOUT THE EFFECT OF A JURY'S VERDICT.

ALL OF THOSE THINGS THAT THE P.A.E. DOESN'T HAVE TO WORRY ABOUT A LOT OF THAT.

AND SO WE'RE SEEING -- IT'S AN IMBALANCE TO MY COLLEAGUES' POINT ABOUT A RIGHT TO INFRINGE PEOPLE'S PATENTS.

RIM ABSOLUTELY RESPECTS THE RIGHT OF THIRD PARTIES.

ONE OF THE THINGS WE'RE SEEING ARE A LOT OF THESE SUITS ARE STRETCHES OF WHAT THE ACTUAL INVENTION WAS ONE OF OUR CASES THE LAWYERS USED THE CONCEPT OF A CHOCOLATE CHIP COOKIE AND I LIKE THAT ONE BECAUSE I'VE GOT YOUNG CHILDREN AND IT'S A WAY TO EXPLAIN IT TO THEM.

DID YOU INVENT THE CHOCOLATE CHIP COOKIE OR DO YOU HAVE A NEW RECIPE WHERE YOU ADDED A NEW INGREDIENT TO THE COOKIE?

AND I FEEL LIKE A LOT OF P.A.E.s WANT THE JURIES TO BELIEVE THAT THEY INVENTED THE CHOCOLATE CHIP COOKIE WHEN, IN FACT, THEY DIDN'T INVENT IT.

THEY MAY HAVE TWEAKED THE RECIPE LIGHTLY IS THE RIM DOESN'T FOLLOW THE RECIPE, THE TWEAK, THE SLIGHT TWEAK THIS ASSERTION ENTITY HAS BUT THEY'VE TAKEN THIS PATENT THAT MAY NOT HAVE

BEEN WRITTEN AS CLEAR AS IT SHOULD HAVE BEEN, THE CLAIMS MAY BE BROADER THAN THEY SHOULD BE, WE'VE TALKED ABOUT QUALITY ISSUES AND YET THEY HAVE DECIDED THAT THEY INVENTED THE CHOCOLATE CHIP COOKIE AND I THINK THAT THAT'S ONE OF THE PROBLEMS WE'RE SEEING IS THAT THESE PATENTS THAT ARE IN THEIR HANDS HAVE BEEN TWEAKED OR CHANGED OR ART HAS BEEN WASHES OR HOWEVER YOU WANT TO THINK ABOUT IT TO READ ON PRODUCT THAT WAS NOT INTENDED.

IT WASN'T WHAT THEY WERE INVENTING, IT'S NOT WHAT THEY WERE DOING.

IT'S NOT THE SPACE THEY WERE WORKING IN BUT SOMEONE'S THOUGHT IF I JUST DO THIS IT WILL REAL ON THIS MASS MARKET THAT'S DEVELOPED INDEPENDENT OF THE PATENT.

I DO THINK PATENT ASSERTION ENTITIES BRING HIGHER PRICES. THEY DO REDUCE THE SPACE OF INNOVATION.

THEY REDUCE CONSUMER CHOICE.

WE THROW AROUND -- IT CAN BE USED TO RAISE RIVAL'S COST.

WE THROW AROUND THIS CONCEPT OF 250,000 PATENTS THAT MIGHT COVER SMART PHONE AND EVEN IF WE SAID ONLY 10% OF THEM WERE LITIGATED, THAT'S

25,000 PATENTS EVEN-- AND NOT EVERY PATENT IS EQUAL, NOT AT ALL-- BUT EVEN IF YOU WANTED TO GO WITH THAT ASSUMPTION AND IT WAS ONE CENT PER PATENT.

NOW WE'RE AT \$25,000.

THERE AREN'T A LOT OF THINGS I'LL BUY FOR \$25,000 THAT INCLUDE ELECTRONICS SO I THINK

THE FACT THAT WE LOOK AT PATENTS
IN A VACUUM, RIGHT?

WHEN A COMPANY IS LOOKING AT THE
PATENT SAYING OKAY IN A COURT
CASE DID YOU INFRINGE THIS ONE
PATENT INSTEAD OF WHAT FACTOR IS
IT AS AN OVERALL PART OF THE
PRODUCT, HOW MANY OTHER PATENTS
ARE OUT THERE IN THAT SPACE SO
THAT GOES TO THE DAMAGES
THEORIES.

BUT THE P.A.E.s DON'T HAVE
INCENTIVE TO PUT FORTH A
REASONABLE DAMAGE ARGUMENT IF
YOU TAKE TWO OPERATING COMPANIES
YOU'LL BE DISINCENTIVIZED TO PUT
TOGETHER A CRAZY DAMAGE ARGUMENT
BECAUSE YOU WILL HAVE TO FOLLOW
THAT WHEN THE SIDES ARE FLIPPED
BUT WITH P.A.E.s THAT'S NOT THE
CASE THEY DON'T HAVE TO SUFFER
THE CONSEQUENCES OF ANY CASE LAW
THEY'VE DEVELOPED IN THIS SPACE.

>> YOU MENTIONED P.A.E.s
ASSERTING ONE PATENT.
DO YOU SEE A DIFFERENCE IN
STRATEGIES AND IN HOW THE
OPERATING COMPANIES MAY REACT TO
A P.A.E. BASED ON THE DIFFERENT
SIZES?

>> I DO.

I DO.

I THINK WITH THE SERIAL
LITIGATION YOU DO HAVE TO -- IF
YOU KNOW THERE'S GOING TO BE
PATENT AFTER PATENT AFTER PATENT
BUT NOT EVERY PATENT IS CREATED
THE SAME.

THERE ARE PATENTS THAT YOU TAKE
A LICENSE TO BECAUSE THAT'S WHAT
THE PATENT IS AND YOU KNOW THAT
THAT'S WHAT THEY INVENTED AND
YOU CAN FEEL GOOD ABOUT IT.

A LOT OF THE TIMES IT'S MORE
LIKE MY COLLEAGUE FROM RACKSPACE
WAS SAYING THAT THEY -- IT'S SO

EXPENSIVE TO LITIGATE IT IT'S CHEAPER TO PAY THEM TO SET IT. AND EVEN IF YOU DON'T THINK YOU INFRINGE IT, EVEN IF YOU THINK THE PATENT IS WILDLY INVALID THE PROOF OF THAT AND THE AMOUNT OF TIME AND EFFORT AND RESOURCES AND DISTRACTION IT'S GOING TO TAKE GREATLY EXCEEDS GOING DOWN THAT PATH.

>> (INAUDIBLE) INTERNALLY TO MONOIZE IF THEIR PATENTS JUST BASED ON THE MARKETPLACE THAT'S DEVELOPD?

>> I DO, I THINK SO.

MY COLLEAGUE FROM NOKIA, YOU KNOW, HAS SAID THAT THAT'S PART OF THEIR -- THAT'S ONE OF THE THINGS THEY DO AND I THINK WE SEE COMPANIES BEING PRESSURED, BEING INCREASINGLY PRESSURED TO SAY WELL IF EVERYONE ELSE IS DOING IT WHY AREN'T YOU DOING IT?

YOUR BOARDS MAY BE SAYING IF WE'RE PAYING OUT ALL OF THIS MONEY IN SETTLEMENT COSTS AND ALL OF THIS MONEY IN LITIGATION COSTS WHY AREN'T WE GETTING THE SAME RETURN OF VALUE ON OUR PORTFOLIO.

WHY AREN'T YOU TAKING ADVANTAGE OF THESE SYSTEMS AND EFFORTS AND BEING A PATENT ATTORNEY AND HAVING BEEN IN THIS INDUSTRY AND WATCHING -- I CAN REMEMBER THE FIRST TIME BACK IN 2000 WHEN A FIRM CAME IN AND SAID, HEY, THERE'S THIS GREAT COURT CALLED THE I.T.C., A GREAT PLACE TO DO PATENT LITIGATION, YOU SHOULD LOOK INTO IT.

WATCHING ALL OF THESE CHANGES I DO THINK THAT COMPANIES ARE BEING -- IF YOU'RE GOING TO SPEND THE MONEY YOU SHOULD BE

MAKING THE MONEY.
AND WE SPENT ALL THIS MONEY TO
DEVELOP PATENT PORTFOLIOS, WHAT
ARE YOU DOING ABOUT IT?
WE'RE IN THE SAME POSITION AS
CISCO.
THE AMOUNT OF MONEY WE SPEND
DEFENDING OURSELVES AGAINST
PATENT ASSERTIONS IS -- WAY
OUTPACES THE AMOUNT OF MONEY WE
SPEND INTERNALLY.
>> I HAVE MORE QUESTIONINGS BUT
DON'T HAVE TIMES.
THANK YOU VERY MUCH.
APPRECIATE IT.
MALL MALLUN, IN YOUR OPENING
REMARKS YOU WERE TALKING ABOUT
P.A.E.s AND.
AREP.X.
>> THERE'S MANY REASONS WE'RE
NOT A P.A.E.
SO FOR COLLEEN AND FOR THE
F.T.C., A P.A.E. IS A COMPANY
THAT ASSERTS PATENTS AGAINST
EXISTING COMPANIES.
R.P.X.'S ENTIRE BUSINESS MODEL
IS BASED ON THE OPPOSITE.
FIRST BOY DEFINITION WE'RE NOT
AN N.P. BECAUSE WE NEVER ASSERT
OR LITIGATE THE PATENT WES
BOUGHT.
SECOND OUR MISSION IS TO REDUCE
OUR CLIENTS' COSTS AND RISKS
FROM P.A.E.s.
CLIENTS DON'T JOIN R.P.X. TO
AVOID BEING SUED BY US.
THEY KNOW WE WON'T SUE.
IT'S WORTH NOTING A NUMBER OF
COMPANIES JOIN R.P.X. EVEN
THOUGH WE MAY NOT HAVE A SINGLE
PATENT IN OUR PORTFOLIO.
IT'S THE IDEA OF PRO ACTIVELY
COMING TOGETHER EFFICIENTLY WITH
THE NUMBER OF OTHER COMPANIES TO
REDUCE THE RISK FROM PATENTS.
SO, IN FACT, IF A CLIENT

DETERMINES THAT WE'RE NOT CLEARING THE RISK AND WE'RE NOT REDUCING THEIR COSTS WE ASSUME THEY'RE GOING TO RENEW THEIR MEMBERSHIP.

YOU CAN SEE THE OUR INTERESTS ARE ALIGNED.

OUR BUSINESS MODEL AND BUSINESS IS ONLY SUCCESSFUL AND WE CAN ONLY GROW OUR BUSINESS IF WE HOPE OUR CLIENTS BEING SUCCESSFUL IN REDUCING THEIR COSTS AND RISKS FROM.

INP.E.s.

THIRD, P.A.E.s DON'T HAVE A RELATIONSHIP OF TRUST WITH THEIR LICENSEES.

ONE OF THE BENEFITS OF HAVING A LINED INTEREST IS YOU CAN DEVELOP TRUST.

WE CAN BE TRANSPARENT AND WE ARE.

ANYONE CAN VISIT OUR WEB SITE, CALCULATE OUR RATES.

ALL OF OUR ASSIGNMENTS ARE RECORDED WITH THE PETE OWE IN OUR OWN NAME.

EVERY CLIENT GETS A LICENSE TO EVERY PATENT THAT WE OWN.

WE HAVE -- EVERY CLIENT CAN CHOOSE TO, IF THEY WANT TO LOOK AT ALL OF THE PATENTS THAT WE'RE LOOKING AT ACQUIRING AND WE HAVE A CLIENT PORTAL WHERE WE PUT THIS INFORMATION THAT COLLEEN HAS REFERENCED AND OTHERWISE ON A SELF-SERVE BASIS.

ANYTHING WE CAN DO IN SHARING THIS MARKET INTELLIGENCE AND INFORMATION TO HELP OUR CLIENTS IN THIS BATTLE, WE DO SO THE

ANSWER IS NO, WE'RE NOT A P.A.E.

BY DEFINITION, MIST AND ALIGNMENT OF INTERESTS WE'RE NOT A P.A.E.

>> DOES R.P.X. SELL OFF OF OF

ITS PATENTS?

>> SO R.P.X. DOES PERIODICALLY
SELL OFF ITS PATENTS.

IN FACT, OUR CLIENTS ENCOURAGE
AND PREFER THAT WE DO SO
PERIODICALLY.

SO R.P.X. IS A FOR-PROFIT
COMPANY AND OUR DUTY IS TO OUR
MEMBERS.

HOW CAN WE MAXIMIZE THE AMOUNT
OF CAPITAL THAT WE DEFLECT CLEAR
RISK FROM PATENTS FOR OUR
MEMBERS.

BUT THEN WE CAN ACTUALLY RECYCLE
THAT CAPITAL AND BUY MORE RISKY
PATENTS AND CLEAR THE REFERENCE FROM
THOSE.

BECAUSE WE SELL THE PATENTS
SUBJECT TO ALL THE LICENSES WE
GRANTED IN THE CASE OF CURRENTLY
OVER 125 LICENSES THE PATENTS --
NO MATTER WHAT HAPPENS TO THE
PATENT IN THE FUTURE OUR CLIENTS
ARE COVERED.

SO WHETHER WE HOLD A PATENT OR
SELL IT OUR CLIENTS ARE
PROTECTED.

SOME PEOPLE CALL THIS THE
CATCH-AND-RELEASE MODEL.

ONE OTHER POINT TO MAKE HERE IS
THAT WE OFFER THE PATENTS FIRST
TO OUR OPERATING COMPANIES AND
TO DATE WE'VE SOLD NINE
PORTFOLIOS AND EIGHT OF THOSE
PORTFOLIOS HAVE BEEN BOUGHT BY
OPERATING COMPANIES AND ONE OF
THOSE PORTFOLIOS WAS BOUGHT BY A
TRUST.

>> AND HOW DO YOU RESPOND THEM
TO SOME WHO MAY ARGUE THIS
CATCH-AND-RELEASE -- HOW DO YOU
DISTINGUISH THAT FROM THREAT OF
ASSERTION?

>> LIKE I SAID, WE'RE A
FOR-PROFIT COMPANY, NOT A PUBLIC
SERVICE ORGANIZATION.

THE IDEA OF DEFENSIVE PATENT AGGREGATION ONLY WORKS IF THERE'S A NETWORK EFFECT. IF THERE'S THERE'S ENOUGH COMPANY TO JOIN TOGETHER TO DEFEND THEMSELVES SIMILAR TOLL WHAT COLLEEN TALKED ABOUT, ALTHOUGH WE NEVER TELL PEOPLE NOT TO SETTLE IS IS IF PEOPLE THOUGHT WHEN WE BOUGHT THE PATENTS THEY WOULD NEVER SEE THE LIGHT OF DAY THIS BUSINESS MODEL WOULD HAVE NEVER GOTTEN OFF THE GROUND SO EVERYONE HAS THE OPPORTUNITY TO JOIN THE R.P.X.. IT'S A PRE-SET RATE CARD BASED ON YOUR -- A PORTION OF YOUR NET OPERATING INCOME, SO SIMILAR TO WHAT CARL SAID IN TERMS OF WHAT YOU NEED FOR ECONOMIC EFFICIENCY THIS ONLY WORKS AS A DEFENSIVE TOOL BECAUSE OF THE FACT THAT WE DO PERIODICALLY SELL OFF THE PATENTS.

>> YOU'VE BOTH BEEN AT AN OPERATING COMPANY AT R.P.X., WE'VE GOT INSIGHTS INTO THE TRANSACTION COSTS OF THE P.A.E. ACTIVITY.

>> YES.
YES.

THE HIGH TRANSACTION COST THAT WE ARE ALL PAINFULLY AWARE OF. SO WE ESTIMATE THAT AT R.P.X. THAT IN THE MOST CASES LESS THAN 10% TO 30% OF WHAT OPERATING COMPANIES SPENT RESOLVING IN P.A.E. MATTERS FLOWS INTO THE HANDS OF INVENTORS SO LET ME GIVE YOU AN EXAMPLE OF THAT IS INDICATIVE OF A NUMBER OF TRANSACTIONS.

THE MOSAID CATEGORY AS WE'VE HEARD TODAY.

LET ME WALK THROUGH THIS EXAMPLE.

A YEAR AGO A PROMINENT P.A.E. ADVISORY FIRM WAS RAISING MONEY FOR A PATENT ASSERTION CAMPAIGN. HERE'S THE ECONOMICS THEY PITCHED WHICH IS CONSISTENT WITH WHAT WE'RE SEEING.

THERE'S A PORTFOLIO, THEY ESTIMATED THAT THEY WOULD BRING IN \$40 MILLION OF REVENUE BY SUING 40 COMPANIES.

THEY ESTIMATED THEY WOULD COLLECT A MILLION DOLLARS EACH FROM EACH.

SO OF THAT 40 MILLION LAID OUT IN THIS CHART, OF THAT 40 MILLION, FIVE MILLION WOULD GO TO PAY FOR PLAINTIFF'S ATTORNEYS AND \$27 MILLION WOULD GO TO THE ADVISORY FIRM, INVESTORS AND OTHER COSTS LIKE EXPERT FEES, ET CETERA.

SO WHEN YOU DO THE MATH, IF YOU'VE DONE THE MATH, ONLY EIGHT MILLION OF THAT \$40 MILLION WAS GOING TO THE INVENTOR.

DON'T EVEN STOP THERE BECAUSE GIVE THAT BASED ON OUR EXPERIENCE DEFENDANTS OF THIS SIZE AND MAGNITUDE AND TYPES OF CASES WOULD SPEND AN AVERAGE OF A MILLION DOLLARS DEFENDING THEMSELVES PER CASE SO THAT'S \$40 MILLION OF DEFENSE COSTS PLUS \$40 MILLION IN SETTLEMENT COSTS WHICH IS ROUGHLY THE SAME SPLIT WE'RE SEEING AS COLLEEN MENTIONED SO IT'S \$8 MILLION OF TRANSACTION COSTS TO NET -- SORRY, \$8 MILLION OF TOTAL SPEND BY OPERATING COMPANIES TO NET THE PATENT HOLDER OR INVENTOR \$8 MILLION.

SO THAT IS A 90% TRANSACTION COST WHICH I THINK NO ONE WOULD ARGUE IS AN EFFICIENT MARKET. I CAN'T STOP -- JUST MAKE THIS

POINT.

THINK OF HOW MUCH BETTER OFF WE WOULD BE IF THAT \$72 MILLION THAT DID NOT GO TO THE PATENT HOLDER OR -- SORRY, TO THE PATENT HOLDER OR INVENTOR, WHAT IF THAT \$70 MILLION COULD BE SPENT ON OPERATING COMPANIES LIKE INNOVATION, R&D AND BRINGING NEW PRODUCTS TO MARKET? JUST ONE MORE POINT ON THIS BECAUSE I FEEL SO STRONGLY ABOUT THIS THIS DOESN'T TAKE INTO ACCOUNT THE DISTRACTION FROM SENIOR MANAGEMENT.

THE HOURS OF YOUR ENGINEERS HAVING TO GO TO FAR AWAY JURISDICTIONS OR READING THROUGH THE PATENTS OR THE DIVERSION OF RESOURCES FROM YOUR OWN R&D BUDGET, YOUR OWN FILING OF PATENTS, ET CETERA.

THIS IS JUST ONE LITTLE EXAMPLE I THOUGHT I'D SHARE.

>> ONE LAST QUESTION.

YOU MENTIONED AS PART OF YOUR BUSINESS YOUR MONITOR THE MARKETPLACE AND PATENT LITIGATION.

CAN YOU TELL US ABOUT WHAT YOU'RE SEEING IN TERMS OF TRENDS HERE?

>> SURE.

JUST A NOTE ON THE DATA FIRST BECAUSE AS EVERYONE'S TALKED ABOUT THERE'S A LACK OF TRANSPARENCY IT'S HARD TO GET CLEAN DATA AND SO WE METICULOUSLY TRACK EVERY PATENT LITIGATION, EVERY P.A.E. PLAINTIFF, EVERY COMPANY, EVERY LITIGATED PATENT, OVER PORTFOLIO PUT UP FOR SALE, EVERY ASSIGNMENT.

THERE'S OTHERWISE NO MARKETPLACE OR DATA SOURCE YOU CAN GO TO.

THEN YOU NEED TO CLEAN THIS AND ANALYZE IT.
I DON'T KNOW IF YOU'RE AWARE UNLESS YOU CLEAN THIS DATA IS THAT THERE'S 244,000 WAYS THAT SAMSUNG SUBPOENA IN THE DOCKET SO WHEN WE TALK ABOUT UNIQUE DEFENDANTS, THAT'S COUNTED AS JUST ONE. SO IT'S INCREDIBLY CHALLENGING TO CLEAN THE DATA BECAUSE WE'RE USING THIS DATA EVERYDAY IN OUR BUSINESS WE'RE METICULOUSLY CLEANING IT EVERYDAY.
SO JUST A FEW TRENDS.
P.A.E.s REMAIN A SIGNIFICANT ISSUE FOR MANY COMPANIES SO IN 2011 WE TRACKED 1,509 P.A.E. CASES AGAINST \$2,995 DISTINCT COMPANIES IN U.S. DISTRICT COURT. THAT'S UP FROM 453 CASES AGAINST 933 DISTINCT COMPANIES IN 2005.
SO 221% INCREASE IN NUMBER OF COMPANIES SUED IN THE PAST SIX YEARS.
SECOND, EVERYONE IS FEELING THE PAIN AS WE'VE HEARD HERE. IT'S NOT JUST THE BIGGEST COMPANIES, IT'S THE SMALL COMPANIES.
THE BIG TECH COMPANYS ARE FEELING THE BRUNT OF IT. APPLE WAS SUED 48 TIMES BY P.A.E.s LAST YEAR. ALMOST ONCE A WEEK AND HAS 74 P.A.E. CASES PENDING AGAINST IT. HOWEVER, A SURPRISING NUMBER OF SMALLER -- MAYBE NOT SURPRISING GIVEN THE PANEL. A NUMBER OF SMALLER COMPANIES AND NON-TECH COMPANIES ARE IMPACTED.
COMPANIES UNDER A BILLION

DOLLARS OF REVENUE AS MARY MENTIONED ACCOUNT FOR 63% OF THE UNIQUE P.A.E. DEFENDANTS IN 2011 AND PRIVATE COMPANIES ACCOUNT FOR 76% OF THE CASES.

COMPANIES THAT USE TECHNOLOGY ARE ALSO BEING TAKED.

BUILD-A-BEAR, DUKD, IHOP, -- DUNKIN' DONUTS, BURBERRY, ET CETERA.

THEY'VE ALL BEEN TARGETED.

MUCH OF THE P.A.E. ACTIVITY COMES FROM A HANDFUL OF VERY PROLIFIC P.A.E.s.

ONE P.A.E. WE TRACKED BROUGHT 1, 780 DIFFERENT ACTIONS AND ANOTHER BROUGHT 1,872.

WHAT WE CONSIDER SERIAL OR PROGRAMMATIC P.A.E.s ACCOUNT FOR 25% OF THE DEFENDANTS IN WE HAVE THE.

COLLEEN HAD NOTES ON THIS.

THIS FINAL POINT-- I COULD GO ON AND ON-- IS THAT THE MARKETPLACE FOR PATENTS REMAINS VIBRANT ARE WE JUST AT THE BEGINNING IN IS IT GOING TO TRICKLE OUT?

NO, THERE'S LOTS OF ACTIVITY.

SO WE SEE VIRTUALLY EVERY BROKER TRANSACTION IN THE MARKET AND TRACKED 3,213 BROKERED

PORTFOLIOS, MULTIPLE PATENTS IN THE PORTFOLIOS SINCE 2008 ON

AVERAGE WE SEE ABOUT 70 SUCH BROKERED PORTFOLIOS FOR SALE EVERY MONTH AND WHEN THEY

TRANSACT WE ESTIMATE 50% TO 60% OF THEM TRANSACT WITH P.A.E.s.

SO THE MARKET ACTIVITY FOR THE HERE IS NUMBER OF PORTFOLIOS HAS REMAINED ABOUT CONSTANT ALTHOUGH THE ABSOLUTE NUMBER OF PATENTS WITHIN THOSE PORTFOLIOS HAS INCREASED

>> THANK YOU SO MUCH.

SOT WE'RE GOING TO END THIS

PANEL BY TALKING TO NOKIA AND MOSAID.

AND ONE OF THE REASONS WHY I WANTED TO DO THIS IS BECAUSE NOKIA, YOU HAVE BEEN A TARGETED OF P.A.E. SUITS AND THEN YOU ALSO DECIDE TO TRANSFER YOUR I.P. TO A P.A.E.

SO HONESTLY I THINK WE COULD DO AN ENTIRE PANEL WITH THE TWO OF YOU SO I APOLOGIZE FOR THE SHORT AMOUNT OF TIME.

IS BUT I'D LIKE TO SPEND A COUPLE MINUTES TALKING ABOUT YOUR EXPERIENCE OF A TARGET OF P.A.E.s.

IF YOU COULD EXPLAIN THAT TO US.

>> YEAH, SO WE ARE A VERY FREQUENT TARGET.

WE HAVE BEEN ACCORDING TO SOME STATISTICS AMONG THE TOP TEN MOST SUED COMPANIES IN THE U.S.

AND I HAVE TO SAY I AGREE WITH THINGS THAT GENERALLY HAVE HAD DIFFERENT POINTS OF VIEW THAN WE ARE REPRESENTING HERE TODAY SO WE WOULD WELCOME CLARIFICATION IN THE STANDARD FOR DOMESTIC INDUSTRY AND I.P.C., FOR EXAMPLE ISSUES LIKE WORKING ON -- RAISING SOME OF THE BARRIER FOR FINDING ALSO QUESTIONABLE (INAUDIBLE) AS WELL AS REDUCING THE COST OF DISCOVERY.

AND A LOT OF THESE THINGS ARE BEING WORKED ON BY THE RESPECTIVE AUTHORITIES AND THAT'S ALL VERY GOOD AND WELCOME

>> YOU MENTIONED YOU EAR ONE OF THE TOP TEN MOST SUED IN THE UNITED STATES.

HAS THIS TREND CHANGED OVER TIME OR HAS IT BEEN CONSISTENT?

>> I HAVEN'T SEEN ANY TIME SERIES ON THAT.

THAT WAS JUST KIND OF AN --

R.P.X., THANK YOU FOR YOUR STATISTICS.

(LAUGHTER)

>> ALSO I WANT TO TALK TO YOU ABOUT THE TRANSFER TO MOST SAD BUT I WANT TO GIVE YOU ANYTHING ELSE YOU'D LIKE AS A TARGET. MOSAID.

>> THE POINT OF VIEW THAT HAS BEEN RAISED IN THE PANEL THAT THIS IMBALANCE BETWEEN A NON-PRACTICING ENTITY AND OPERATING COMPANY HOLDING PATENTS.

(INAUDIBLE) AND WE OFTEN SEE NEGOTIATIONS, THIS KIND OF ARGUMENT THAT WE ARE OFFERING LICENSE UNDER THOUSANDS OF PAT AT NO TIMES WITH BILLIONS OF DOLLARS OF INVESTMENT BEHIND THEM AND ON THE OTHER SIDE IS A MID-SIZED COMPETITORS WHO HAS TEN PATENTS AND THEIR ARGUMENTS IS S THAT WE ARE EVEN, RIGHT? IS THAT FAIR TOWARDS OUR PAYING LICENSEE TOWARDS OUR SHAREHOLDERS TO EXPECT TO GET FOR FREE SUCH SUBSTANTIAL LICENSES?

OF COURSE NOT.

AND THE FACT THAT WE HAVE BEEN ABLE TO TAP INTO THIS LIQUID EFFECTIVE LAYER OF MONETIZERS TO CERTAIN EXTENT HAS NOT ONLY DIRECTLY ENABLED US TO REALIZE SOME OF THAT VALUE IN OUR OWN INVESTMENT IT HAS ALSO SUPPORTED THE DISCUSSIONS THAT WE HAVE BASED ON THE REST OF OUR PORTFOLIO.

IN FACT, WE HAVE BEEN ABLE TO SAVE SUBSTANTIAL LITIGATION COSTS BY NOT HAVING TO ENFORCE OUR OWN PATENTS BECAUSE SOME OF THEIR PROSPECTIVE LICENSES RECOGNIZE THERE IS VALUE BEHIND

THE LARGER PORTFOLIO THAT WE ARE
ABLE TO BRING TO THEM.

THERE ARE STATISTICS THAT WE
DON'T SEE ANYWHERE.

IT'S NEVER FILED BECAUSE OF THE
MORE EFFICIENT MARKET.

>> HOW DID NOKIA DECIDE TO
ENGAGE IN THE TRANSFER TO
MOSAID?

DID YOU CHOOSE WHICH
INTELLECTUAL PROPERTY YOU WERE
GOING TO TRANSFER OUT?

>> SO WE DECIDED QUITE SOME TIME
AGO THAT 10,000 PATENT FAMILIES
IS A BIG ENOUGH PORTFOLIO.

WE ARE NOT ABLE TO MANAGE A
LARGER PORTFOLIO EFFECTIVELY.
THAT PROVIDES A LARGE ENOUGH
ASSET BASE FOR US TO PRO EXPECT
OUR PRY PRY TEAR TECHNOLOGIES.
IT PROVIDES US TO HAVE A STRONG
PORTFOLIO IN THE CORPORATE AREAS
WHERE WE CAN OPERATE OUR OWN
LICENSING AND IT'S -- REQUIRES
SUBSTANTIAL INVESTMENT.

SO THE COST OF GROWING THE
PORTFOLIO BEYOND 10,000 PATENT
FAMILIES WE HAVE DECIDED WE'RE
NOT GOING TO DO.

HOWEVER WE HAVE A RELATIVELY
YOUNG PORTFOLIO SO NOT MUCH OF
THE PATENTS ARE EXPIRING SO WE
WANT TO EXPECT MORE AND RENEW
THE PORTFOLIO AND PROTECT THE
NEW INFORMATION THAT NOKIA IS
ENGAGING SON WE FILE ABOUT 1,000
NEW PATENT PRIORITY APPLICATIONS
EACH YEAR SO KEEPING THE
PORTFOLIO STABLE WHILE
CONTINUING TO FILE MORE WITHIN
THESE COST CONSTRAINTS MEANS
THAT WE HAVE THE CAPACITY OR
IMPERATIVE TO DIVEST OR
OTHERWISE GET RID OF SOMEWHERE
BETWEEN 600 TO 800 PATENT
FAMILIES PER YEAR.

AND THAT'S WHAT WE DO.
IN THE CASE OF MOSAID, THAT WAS
AN EXAMPLE OF WHERE WE
IDENTIFIED A CERTAIN FOCUSED
PORTFOLIO FROM OUR PORTFOLIO
WHICH WE THOUGHT WOULD BE
SUITABLE FOR OTHER INVESTORS WE
WERE LUCKY ENOUGH TO FIND A
PASSIVE INVESTOR WHO WANTED TO
TAKEN A ECONOMIC SHARE IN THAT
PORTFOLIO AND PROVIDE US CERTAIN
GUARANTEES RETURN.

IT'S BEEN PUBLICLY SAID AT MOF
THAT THEY ARE A PASSIVE INVESTOR
AT THIS PORTFOLIO AND THEN
THEY'RE AFTER THROUGH A
COMPETITIVE PROCESS WE FOUND A
GOOD BUYER IN MOSAID WHO WERE
ABLE TO TAKE ON THE PORTFOLIO
AND CARRY THE RISK FROM THERE
ON.

>> THANK YOU, COULD YOU FURTHER
EXPLAIN MICROSOFT'S ROLE IN THE
TRANSACTION?

HOW DOES NOKIA MONETIZE THE
TRANSFER TO MOSAID?

HOW DOES THE MONEY COME BACK TO
NOKIA?

>> AS I SAID WHEN WE DIVEST
PATENT WES TRULY DIVEST THEM.
SO WE HAVE ABSOLUTELY NO
OPERATIONAL INVOLVEMENT OR ANY
LEVEL OF CONTROL IN THIS.

THE PATENTS HAVE BEEN SOLD.

SO WE ARE -- A PASSIVE ECONOMIC
INTEREST IN THOSE PATENTS.

IT WAS NOT ENTIRELY PAID UP
FRONT SO WE DO HAVE A DELAYED
PAYMENT FOR THE ASSETS AND IT'S
EQUALLY PASSIVE.

THEY JUST FUNDED PART OF THE
TRANSACTIONS FROM THAT.

>> HOW DOES THE DELAYED PAYMENT
WORK

>> WELL, MAYBE MOST SAD CAN ASK
FOR THIS BETTER BECAUSE IT HAS

BEEN PUBLISHED IN THEIR SECURITIES REPORT BUT I DON'T WANT TO STEP OVER WHAT HAS BEEN SAID.

>> YOU SAID WE HAVE LITIGATION IN THE U.S. AND NOKIA BEING THE TOP TARGET.

I WAS WONDERING IF YOU'VE SEEN DIFFERENT THINGS (INAUDIBLE)

>> WELL, WE DO HAVE A SIGNIFICANT AMOUNT OF PATENT LITIGATION ALSO IN EUROPE AND IN GERMANY IN PARTICULAR AND IN VARIOUS COUNTRIES SUCH AS CHINA BUT IN TERMS OF THE NUMBER OF CASES, IN TERMS OF THE INTENSITY AND THE COSTS, THE U.S. IS UNPARALLELED.

>> WHAT ABOUT THE PLAINTIFFS BEING OPERATING COMPANIES OR WHAT WE CALL PATENT ASSERTION ENTITIES?

>> NOT MUCH DIFFERENCES.

>> THE INTELLECTUAL PROPERTY THAT YOU TRANSFERRED OUT, IS THERE AN AVERAGE AGE OF THAT TRANSFERRING APPLICATIONS OR OLDER I.P. --

>> WELL, WE RARELY TRANSFER OUT PATENTS IN THE EARLY APPLICATION PHASE FOR TWO REASONS.

IF THE TECHNOLOGY ISN'T PROVEN WE MAY NOT YET KNOW WHAT IS THE ACTUAL VALUE.

WE MAY WANT TO KEEP THOSE TECHNOLOGIES PROPRIETARY.

AND THAT'S RUN ONE OF THE REASONS WE CAN'T -- WE WANT TO RETAIN THE OPTION TO PROTECT PROPRIETARY FEATURES AS WELL. IT'S MUCH EASIER TO MAKE THE DETERMINATION AT A LATER STAGE WHEN THE PORTFOLIO AND THE TECHNOLOGY IS EITHER PROVEN OR AT LEAST THE RISKS ARE MORE CONTAINED SO WE WOULD DIVEST

OLDER TECHNOLOGIES.

>> ONE FINAL QUESTION -- I COULD TALK TO YOU ALL DAY.

WHY ARE YOU CHOOSING TO DIVEST PROVEN TECHNOLOGIES.

WOULDN'T THAT BE BRINGING MONEY BACK TO NOKIA?

WE DON'T DIVEST PATENTS THAT WE WANT TO DIFFERENTIATE SO THAT THOSE ARE TECHNOLOGIES THAT HAVE BEEN BROADLY TAKEN INTO USE OR TECHNOLOGIES WHERE SOMEBODY SELLS WILLING TO TAKE THE INVESTMENT SO THINGS THAT WE WANT TO KEEP PROPRIETARY WE KEEP FOR OURSELVES.

>> IS THERE ANYTHING YOU THINK THE AGENCY SHOULD BE DOING AS A FINAL WRAPUP BEFORE I MOVE ON TO THAT?

>> AS I SAID EARLIER I DON'T THINK THERE'S NEED FOR A GRAND REFORM BY THE VARIOUS THINGS. AND JUST ONE FINAL COMMENT. THERE'S BEEN SEVERAL TIMES MENTIONED TODAY THAT THE NUMBER OF PATENTS IN THE SMART PHONE INDUSTRY COULD BE 250,000.

THAT'S AN ABSURD NUMBER AND JUST AN EXAMPLE THAT WAS MENTIONED THAT IF YOU TAKE ONE CENT FOR EACH SUCH PATENT YOU WOULD END UP WITH \$2,500 PER PHONE. NOBODY'S PAYING THAT KIND OF AMOUNTS.

AND THAT KIND OF PROVES THE POINT SO YOU SEE FIG YOUR COMPETITION AND PATENTS ARE NOT PREVENTING ANYBODY'S ENTRY INTO MOBILE PHONES.

>> THANK YOU VERY MUCH. SCOTT?

SAVED THE BEST FOR LAST.

>> SO I'M BETWEEN EVERYBODY AND LUNCH?

(LAUGHTER)

>> THAT'S WHAT I'M SAYING.
I CUT YOU OFF EARLIER WHEN YOU
WERE TALKING ABOUT CORE WIRELESS
BUT I WANTED TO GET EVERYONE TO
LUNCH.

IS THERE ANY OTHER POINT YOU
WANT TO MAKE ON THAT BECAUSE I
DID CUT YOU OFF.

>> I THINK'S A LARGE TRANSACTION
BUT TYPICAL.

WE HAVE AN ARRANGEMENT WITH
TECHNOLOGY LEADERS AND HAS DONE
A LOT OF WORK AS A PORTFOLIO TO
PROVE IT AND THEN WE TAKE THAT
PORTFOLIO AND WE MONETIZE IT
RETURN A SUBSTANTIAL AMOUNT OF
MONEY ON THE BACK END.

>> SO ONE OF THE THINGS WE'LL
LOOK AT IS THE POTENTIAL
EFFICIENCIES OF THE P.A.E. MODEL
AND ONE OF THE THINGS YOU SHEAR
THAT IT FACILE TAKES TECH
TRANSFER AND I WANTED TO GET
YOUR OPINION ON THAT.

>> WELL, I THINK IT REPRESENTS
TECH TRANSFER.

WE HAVE OUR OWN RESEARCH AND
DEVELOPMENT WHERE WE'RE WORKING
IN THE FLASH MEMORY FIELD RIGHT
NOW AND WE'RE DEVELOPING A
SUBSTANTIAL PORTFOLIO OF THAT
AND WE ARE LICENSING THAT
PORTFOLIO BUT WE HOPE TO DO SOME
SORT OF TECH TRANSFER AS WELL
INTO A FULL-FLEDGED BUSINESS
BECAUSE WE'RE A SMALL COMPANY.
SO THAT'S AN EXAMPLE OF WHERE
WE'RE DOING IT DIRECTLY.

I THINK OTHERWISE WHAT IT --
WHAT WE'RE DOING REPRESENTS A
TRANSFER OF THE VALUE FROM THE
PEOPLE WHO CREATED THE MARKET,
CREATED THE TECHNOLOGY TO THE
PEOPLE WHO ARE IMPLEMENTING AND
USING THE TECHNOLOGY.

>> AND WE ASK THIS BEFORE ONE OF THE THINGS WE'RE INTERESTED IN COLLECTING ARE EVIDENCES AND EXPERIENCES OF INVENTORS WHO MAY HAVE MADE MORE MONEY BY WORKING WITH A P.A.E. THAN THEY WOULD HAVE BEEN ABLE TO DO BY THEMSELVES.

I'M NOT SURE THAT'S SOMETHING YOU HAVE TODAY, BUT IF IT'S SOMETHING YOU'RE ABLE TO PROVIDE GOING FORWARD THAT WOULD BE --

>> BUT I THINK IN A SENSE THE PROOF IS IN THE PUDDING BECAUSE THE PEOPLE THAT WE WORK WITH TEND TO BE PRETTY LARGE SOPHISTICATED COMPANIES THAT HAVE THEIR OWN PORTFOLIOS VERY OFTEN THEIR OWN LICENSING PROGRAMS AND SO THEY RECOGNIZE THE EFFICIENCIES.

THEY WOULDN'T COME TO US IF THEY DIDN'T THINK WE COULD DO IT BETTER OR AT LEAST AS WELL.

>> BEFORE WE TURN THE NOKIA ISSUES, I WAS WONDERING IF THERE WERE OTHER EFFICIENCIES YOU THINK WE SHOULD BE THINKING ABOUT IN THE AFTERNOON?

>> NO, I DON'T THINK SO.

I THINK I GENERALLY AGREE WITH PAUL, I THINK I'M IN THE CAMP THAT THINK THE PATENT MARKET IS WORKING PRETTY WELL.

>> AND SO I APOLOGIZE.

ONE FOR QUESTION I WANTED TO ASK YOU BEFORE I GET TO MOSAID.

-- BEFORE MOVING INTO NOKIA.

DOES MOSAID PUBLICIZE ITS PARTIES AND INTERESTS?

ONE OF THE QUESTIONS WE'RE LOOKING AT IS TRANSPARENCY OF P.A.E.s.

>> OF COURSE WE DO.

ONE OF THE THINGS WE WANT EVERYONE TO KNOW IS WHAT IS IN

OUR PORTFOLIO, THE SIZE OF THE PORTFOLIO.

BUT REALLY THE VALUE OF THE PORTFOLIO.

SO WITH SOME EXCEPTIONS-- CORE WIRELESS BEING A NOTABLE ONE-- THE PATENTS THAT WE OWN ARE HELD IN THE NAME OF MOSAID AND SO YOU CAN GO TO THE U.S. PETE OWE WEB SITE AND DO A SEARCH.

>> DO YOU EVER EVER SELL INTELLECTUAL PROPERTY THAT YOU OWN AND HOW DO YOU DECIDE TO DO THAT?

>> IT'S NOT A LARGE PART OF OUR BUSINESS BUT IT IS A CONSISTENT PART OF OUR BUSINESS.

WE DO IT IN TWO INSTANCES.

ONE IS WHERE PERHAPS WE HAVE BOUGHT A LARGER PORTFOLIO THAT FITS WITH OUR STRATEGIC INTEREST 6-AND THERE'S PART OF THAT PORTFOLIO THAT DOESN'T FIT AND WE MAY SELL THAT OFF OR WE HAVE A PORTFOLIO THAT FOR WHATEVER REASON ISN'T SOMETHING WE WANT TO PURSUE.

THEN THE OTHER REASON IS WHERE PEOPLE COME TO US AND SAY "WE'RE LOOKING FOR PORTFOLIO."

MAYBE WE'RE GOING INTO A NEW TECHNOLOGY FIELD OR WE DON'T HAVE ANY PATENTS BECAUSE WE HAVEN'T BEEN IN THIS FIELD BEFORE BUT WE NEED PATENTS AND WHAT DO YOU HAVE?

THAT GOES TO THE TRANSPARENCY. THEY CAN FIND OUT WHAT WE'VE GOT IN OUR PORTFOLIO.

>> HOW OFTEN DOES THAT HAPPEN?

>> IT HAPPENS -- WHICH ONE?

YOU MEAN JUST GENERAL SALE OR -- \$BOTH GENERAL SALE AND COMPANIES ASKING FOR SPECIFIC I.P..

>> I WOULD BE SURPRISED IF WE DIDN'T DO AT LEAST ONE SALES

TRANSACTION OF SOME SIZE EVERY MONTH OR TWO.

IT'S NOT A BIG PART OF OUR BUSINESS BUT IT IS A STEADY PART.

>> DO YOU HAVE LIMITATIONS ON THE PARTIES TO WHOM YOU WILL ASSIGN INTELLECTUAL NOT HAVE
>> ABSOLUTELY NOT.

>> WHY IS THAT?

>> WE'RE TRYING TO BE EFFICIENT IN THE MARKETPLACE AND WE'RE -- WE WANT PATENTS TO BE WHERE PEOPLE VALUE THEM SO WE HAVE NO RESTRICTIONS ON WHAT THEY DO AND WE DON'T WANT RESTRICTIONS ON WHAT WE DO WHEN WE BUY PATENTS.

>> ONE OF THE POINTS PAUL MADE WAS ON THE MONETIZATION OF THE NOKIA I.P.O.

I WAS WONDERING IF YOU COULD ANSWER THE QUESTION I ASKED HIM OF HIM.

HOW THE MONETIZATION WORKED.

>> WELL, IT'S -- FROM OUR PERSPECTIVE IT'S PRETTY STRAIGHTFORWARD.

CORE WIRELESS, THE ENTITY THAT OWNS THIS PORTFOLIO MOSAID HELPS CORE WIRELESS DO THAT.

WE HAVE A DEDICATED TEAM THAT WORKS VERY MUCH ON THAT PORTFOLIO AND WE, CORE WIRELESS OR MOSAID, WE'VE PUT UP THE UP FRONT.

WE GO TO THE MEETINGS, MEET WITH PEOPLE, FLY TO ASIA.

WE DO EVERYTHING TO MONOSIZE THAT IDEALLY THROUGH A LICENSE AGREEMENTS AND THEN WHEREVER WE GET REVENUE THE SPLIT IS WE KEEP A THIRD.

TWO-THIRDS GOES BACK TO NOKIA AND THEN THEY DO WHAT THEY WILL WITH IT.

>> YOU MENTIONED LICENSE

AGREEMENT.

HOW OFTEN ARE YOU ABLE TO SORT OF ACHIEVE LICENSE AGREEMENTS VERSUS MOVING INTO LITIGATION?

>> I THINK THAT'S AN IMPORTANT POINT HERE BECAUSE WE ARE A LICENSING COMPANY.

WE'RE AN I.P. MANAGEMENT COMPANY WHICH MEANS WE TAKE PATENTS. WE TAKE PATENT APPLICATIONS, WITH WE THINK WE IMPROVE UPON WHATEVER COMES INTO OUR COMPANY WE'RE NOT A PATENT LITIGATION COMPANY.

FOR US LITIGATION IS WHAT HAPPENS WHEN YOU HAVE A LICENSE NEGOTIATION THAT HASN'T COME TO AN AGREEMENT SO TYPICALLY THAT CAN BE AFTER YEARS OF LICENSE NEGOTIATION WITH THE COMPANY.

>> AS I MENTIONED, I COULD TALK TO YOU ALL DAY AND I'VE GOT ABOUT 100 OTHER QUESTIONS BUT WE'RE ALSO STANDING BETWEEN THESE GUY'S LUNCH.

IS THERE ANYTHING ELSE YOU THINK THE AGENCY SHOULD BE DOING ON THIS SCORE?

>> WELL, I JUST REALLY APPRECIATE THE OPPORTUNITY TO -- THAT YOU HAVE WORKSHOPS AND YOU HAVE INVITED US TO THE PANEL. THERE'S A LOT OF DIFFERENT PEOPLE DOING A LOT OF DIFFERENT THINGS IN THIS AREA AND THE MORE WE UNDERSTAND THE MORE WE UNDERSTAND THERE AREN'T CARTOON HEROES.

THAT THERE'S A LOT OF DIFFERENT PEOPLE DOING A LOT OF THINGS. THERE'S NOT A ONE SIZE FITS ALL SOLUTION TO THIS AND I APPRECIATE THE OPPORTUNITY JUST TO EDUCATE EVERYONE INCLUDING YOURSELVES ABOUT WHAT'S GOING ON

>> I'D LIKE TO THANK EVERYONE ON

THE PANEL.

>> I'D LIKE TO THANK EVERYONE AS WELL.

I KNOW TIME WAS SHORT SO PLEASE TAKE ADVANTAGE OF THE PUBLIC COMMENT PERIOD WE'LL HAVE UNTIL MARCH 10.

>> WE'RE HOLDING IT LONGER THAN USUAL BECAUSE WE WANT TO HEAR FROM ALL OF YOU.

SO WE'RE RUNNING BEHIND.

WHY DON'T WE COME BACK FROM LUNCH IN AN HOUR SO THAT WOULD PUT US AT 1:25.

NOW, THE MOST IMPORTANT THING IS THAT YOU DON'T LOSE YOUR BADGE DAWES WE CANNOT BE RESPONSIBLE FOR WHAT HAPPENS TO YOU IF YOU LOSE YOUR BADGE.

SERIOUSLY.

(LAUGHTER)

I'M NOT KIDDING SO HOLD ON TO THOSE AND GET SOMETHING GOOD TO SEAT AND WE'LL SEE YOU IN AN HOUR.

THANK YOU VERY MUCH.

(APPLAUSE)