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Intellectual Property Analysis Sharing Sound LLC's Online Music Distribution Patent referenced in Eastern District of Texas
Civil Action No. 2:10-cv-00155-DF, Sharing Sound LLC v. Apple Inc., et al.

June 11, 2010

Patently Obvious™: A Brief Primer on the Patent System

When most people consider the patent system, they often think of a structure in which large corporations make money selling products based on proprietary knowledge, licensing the technology to others, or suing others who infringe on the patent rights behind their most cutting-edge products. In recent years, the importance of patents and intellectual property rights as an important variable in the marketplace has come to the forefront of the public consciousness as world leaders declare their country's lead in the innovation race. In the market, knowledge is power. Patently Obvious increases visibility and introduces other information into the market and public discourse that can be important in making decisions in the innovation spaces discussed. This information includes innovations precedent and concurrent with the patents being discussed. In some cases, potentially interesting innovations may actually lie in the public domain.

A vast amount of precedent innovation is unconsidered by patent-granting authorities in the creation of new IP rights. Patent granting authorities including the United States Patent and Trademark Office (USPTO), European Patent Office (EPO), Japanese Patent Office (JPO), Chinese State Intellectual Property Office (SIPO), Korean Intellectual Property Office (KIPO) and many others are constrained by the use of patent classification systems which are routinely circumvented by patent applicants.

There is a two-way social contract underlying the patent system. In the United States, patent terms are generally limited to 20 years from the date of application. A social contract is implicit in the granting of intellectual property rights; the public good is served when there is complete disclosure of the information or knowledge necessary to practice an invention or granted innovation. In return, the public has been willing to allow the grant of time-limited exclusionary zones, which have anti-competitive effects, to those who have fully disclosed their innovations. By statutory intention, once a patent has expired, the patent holder loses the right to exclude others from fully utilizing any innovation described in the patent.

A large number of patents enter the public domain when they are "abandoned" – when owners discontinue paying patent maintenance fees. Patents also only provide an exclusionary right in the country for which the patent is filed. As demonstrated by the Global Innovation Commons¹ (G.I.C.), using intellectual property available in the public domain eliminates the need to pay licensing fees on those innovations in countries where the patent was never registered, or worldwide, if abandoned.

Patently Obvious™ is a weekly report focusing on select groups of patents in order to increase transparency in markets, addressing information asymmetries, and providing a more level playing field for all parties.

¹ <http://www.globalinnovationcommons.org/>

Patent Information

In a May 18, 2010 lawsuit with Apple Inc., Sony Corporation of America, Rhapsody International Inc., Napster LLC and others, Sharing Sound LLC alleged that the named defendants infringed Sharing Sound LLC's patent on distributing musical products by a web site vendor over the internet.

DownUnder Wireless U.S. Patent Holdings related to Online Music Distribution:

<u>Document #</u>	<u>Title</u>	<u>Assignee Name</u>	<u>Priority</u>	<u>File</u>	<u>Issue</u>
US 6,247,130	Distribution of musical products by a web site vendor over the internet	FRITSCH BERNHARD	22-Jan-99	18-Jan-00	12-Jun-01

M-CAM analytics have identified other documents in the innovation space that may contain critical elements of enabling technologies that predate key aspects of the innovations described in the claims of the Sharing Sound patent. These documents include innovations both precedent to and concurrent with the highlighted Sharing Sound patent, samples of which are included in the tables below. Please note that the assignee shown is the assignee to which the patent was originally granted.

Samples of Precedent Innovation:

<u>Document #</u>	<u>Title</u>	<u>Assignee Name</u>	<u>Priority</u>	<u>File</u>	<u>Issue</u>
US 5,892,900	Systems and methods for secure transaction management and electronic rights protection	InterTrust Technologies Corp.	30-Aug-96	30-Aug-96	6-Apr-99
US 5,809,145	System for distributing digital information	Paradata Systems Inc.	28-Jun-96	28-Jun-96	15-Sep-98
US 6,006,332	Rights management system for digital media	Case Western Reserve University	21-Oct-97	21-Oct-97	21-Dec-99
US 6,005,938	Preventing replay attacks on digital information distributed by network service providers	Scientific-Atlanta, Inc.	16-Dec-96	16-Dec-96	21-Dec-99
US 5,960,411	Method and system for placing a purchase order via a communications network	Amazon.com, Inc.	12-Sep-97	12-Sep-97	28-Sep-99
US 5,987,429	Computer-based fee processing for electronic commerce	Sun Microsystems, Inc.	16-Dec-97	16-Dec-97	16-Nov-99
US 5,983,199	On-line shopping system	Fujitsu Limited	8-Jan-97	30-Jun-97	9-Nov-99
US 5,983,176	Evaluation of media content in media files	Magnifi, Inc.	30-Apr-97	30-Apr-97	9-Nov-99
US 5,982,891	Systems and methods for secure transaction management and electronic rights protection	InterTrust Technologies Corp.	13-Feb-95	4-Nov-97	9-Nov-99
US 5,970,471	Virtual catalog and product presentation method and apparatus	Charles E. Hill & Associates, Inc.	22-Mar-96	22-Mar-96	19-Oct-99
US 5,966,697	System and method for secure transaction order management processing	ClearCommerce Corporation	30-Oct-97	30-Oct-97	12-Oct-99
US 5,966,440	System and method for transmitting desired digital video or digital audio signals	Parsec Sight/Sound, Inc.	13-Jun-88	6-Jun-95	12-Oct-99
US 5,963,916	Network apparatus and method for preview of music products and compilation of market data	Intouch Group, Inc.	13-Sep-90	31-Oct-96	5-Oct-99
US 5,961,603	Access system and method for providing interactive access to an information source through a networked distribution system	WorldGate Communications, Inc.	10-Apr-96	22-Sep-97	5-Oct-99

Samples of Concurrent Innovation:

<u>Document #</u>	<u>Title</u>	<u>Assignee Name</u>	<u>Priority</u>	<u>File</u>	<u>Issue</u>
US 6,741,980	System and method for automatic, real-time delivery of personalized informational and transactional data to users via content delivery device	MicroStrategy Inc.	23-Mar-99	21-Jan-00	25-May-04
US 6,550,011	Media content protection utilizing public key cryptography	Hewlett Packard Development Company, L.P.	5-Aug-98	7-Oct-99	15-Apr-03
US 6,529,949	System, method and article of manufacture for remote unlocking of local content located on a client device	Interactual Technologies, Inc.	7-Feb-00	7-Feb-00	4-Mar-03
US 6,418,421	Multimedia player for an electronic content delivery system	International Business Machines Corporation	13-Aug-98	10-Dec-98	9-Jul-02
US 6,226,618	Electronic content delivery system	International Business Machines Corporation	13-Aug-98	13-Aug-98	1-May-01
US 7,702,541	Targeted e-commerce system	Yahoo! Inc.	1-Aug-00	15-Dec-00	20-Apr-10
US 7,657,910	Distributed electronic entertainment method and apparatus	e-cast Inc.	26-Jul-99	3-Mar-00	2-Feb-10
US 7,620,601	Internet charging system	Panasonic Corporation	16-May-00	16-May-01	17-Nov-09
US 7,505,922	Method and apparatus for utilizing a unique transaction code to update a magazine subscription over the internet	LV Partners, L.P.	11-Sep-98	9-May-00	17-Mar-09
US 7,500,258	Advertisement subgroups for digital streams	Prime Research Alliance E., Inc.	10-May-00	10-May-00	3-Mar-09
US 7,493,486	Method and apparatus for supporting cryptographic-related activities in a public key infrastructure	Verizon Laboratories, Inc.	9-Jun-00	9-Jun-00	17-Feb-09
US 7,493,283	Performing an e-commerce transaction from credit card account information retrieved from a credit card company web site	RPX-LV Acquisition LLC	11-Sep-98	11-Sep-00	17-Feb-09
US 7,466,823	Digital media distribution method and system	Not Available	3-Mar-00	5-Mar-01	16-Dec-08
US 7,458,091	System, method and article of manufacture for a business layer component in a multimedia synchronization framework	Sonic Solutions, A California Corporation	20-Jan-00	20-Jan-00	25-Nov-08
US 7,448,021	Software engine for combining video or audio content with programmatic content	Sonic Solutions, a California corporation	24-Jul-00	28-Aug-00	4-Nov-08
US 7,440,993	Method and apparatus for launching a web browser in response to scanning of product information	LV Partners, L.P.	11-Sep-98	24-Aug-99	21-Oct-08
US 7,428,500	Automatically identifying similar purchasing opportunities	Amazon. com, Inc.	30-Mar-00	30-Mar-00	23-Sep-08
US 7,392,945	Portable scanner for enabling automatic commerce transactions	LV Partners, L.P.	11-Sep-98	20-Jun-00	1-Jul-08
US 7,379,901	Accessing a vendor web site using personal account information retrieved from a credit card company web site	LV Partners, L.P.	11-Sep-98	11-Sep-00	27-May-08
US 7,308,485	Method and system for accessing web pages based on playback of recordings	Gracernote, Inc.	15-Apr-97	30-Mar-01	11-Dec-07
US 7,305,355	Universal shopping cart and order injection system	American Express Travel Related Services Company, Inc.	12-Jun-00	12-Jun-01	4-Dec-07
US 7,281,272	Method and system for copyright protection of digital images	Finjan Software Ltd.	17-May-99	13-Dec-99	9-Oct-07
US 7,277,955	Streaming content	Verizon Corporate Services Group Inc.	22-Dec-00	22-Dec-00	2-Oct-07
US 7,272,645	Method of improving the reliability of peer-to-peer network downloads	SBC Technology Resources, Inc.	25-May-01	25-May-01	18-Sep-07

In addition, certain innovations of interest have been identified that reside in the public domain due to abandonment or expiration. A sampling of these patent holdings is included in the table below.

Sample of Public Domain Patent Holdings related to Online Music Distribution:

<u>Document #</u>	<u>Title</u>	<u>Assignee Name</u>	<u>Priority</u>	<u>File</u>	<u>Issue</u>
US6975835	Method and apparatus for an interactive Web Radio system that broadcasts a digital markup language	Sonigistix Corporation	8-Sep-98	7-Sep-99	13-Dec-05
US6769019	Method of background downloading of information from a computer network	Xavier Ferguson	10-Dec-97	10-Dec-97	27-Jul-04
US6363240	Method for transmitting/receiving portions of an audio signal based on a priority of each portion	Sony Corporation	6-Aug-96	20-Jan-99	26-Mar-02
US6360206	Electronic shopping system	Oki Electric Industry Co, Ltd.	27-Apr-98	31-Mar-99	19-Mar-02
US6236832	Music-related information transmitted over mobile telephone network to a requesting user	Sony Corporation	6-Aug-96	14-Jan-00	22-May-01
US6041411	Method for defining and verifying user access rights to a computer information	Stuart Alan Wyatt	28-Mar-97	28-Mar-97	21-Mar-00
US6032130	Multimedia product catalog and electronic purchasing system	Video Road Digital Inc.	22-Oct-97	22-Oct-97	29-Feb-00
US6026439	File transfers using playlists	International Business Machines Corporation	28-Oct-97	28-Oct-97	15-Feb-00
US6006332	Rights management system for digital media	Case Western Reserve University	21-Oct-97	21-Oct-97	21-Dec-99
US5970472	Performing electronic commerce on the internet providing links from product manufacturers to authorized dealers where the authorized dealer provides a custom order interface for the manufacturer\'s products	Fogdog Sports	13-May-97	13-May-97	19-Oct-99
US5781734	System for providing audio and video services on demand	NEC Corporation	28-Sep-94	27-Sep-95	14-Jul-98
US5692132	System and method for conducting cashless transactions on a computer network	MasterCard International, Inc.	7-Jun-95	7-Jun-95	25-Nov-97
US5664018	Watermarking process resilient to collusion attacks	Frank Thomson Leighton	12-Mar-96	12-Mar-96	2-Sep-97
US5465291	Apparatus for ordering from remote locations	John Barrus	16-Apr-91	6-Jan-95	7-Nov-95
US4788675	Music delivery system	Markley L. Jones	3-Oct-83	10-Oct-86	29-Nov-88
EP1550930	A method for restraining the re-distribution of licensed data in a digital mobile environment	Mobile Integrated Solutions Limited	15-Dec-03	15-Dec-03	1-Aug-07
EP0975111	Copyright management apparatus, copyrighted-work distribution apparatus, and copyrighted-work distribution and receiving system	SONY CORPORATION	17-Jul-98	15-Jul-99	26-Jan-00

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