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About Those 882 Novell Patents: This is Where OIN Comes In - Updated

Monday, December 06 2010 @ 10:58 PM EST

I have some important news for you. It's about those **882 Novell patents** that are being sold to a Microsoft-organized consortium in connection with the sale of Novell to Attachmate. I've been worrying about those patents, and I was wondering what happens to Novell's license to the Open Invention Network after the sale. So I took the time to find out. And it's very good news.

Here's how it works. The patents of OIN members and licensees are licensed to each other royalty-free **in perpetuity**. Even on a sale, the license remains in force for all pre-existing members/licensees. If you are a member/licensee of OIN prior to the closing on the Novell deal, then, you are covered. The **proposed closing date** is January 23rd, so you still have time to join OIN and get the benefit of the license to those patents. Then, if Microsoft shows up at your door, you can say, "Thanks, but no thanks. I already have a license." So here's what it all adds up to, by my reading: if ever you were thinking of joining the Open Invention Network, this is the sensible time to do it, as long as you get it done before this sale closes and that door shuts with respect to the Novell patents.

[**Update:** Here's the [license page](#) so you can read the agreement, see who is already a licensee, and find a better contact email, license@openinventionnetwork.com. Here's the [Linux Definitions](#) page.]

One can't assume that the Microsoft consortium has evil plans for these patents, but on the other hand, consider who we are talking about. Novell's license **to OIN members** can't be revoked, even on the sale, so what's the down side? Looking at it the other way, anyone who is not a **member or licensee** prior to the sale closing, even if it were to join OIN later, will have to deal with the Microsoft consortium regarding those patents. Let me repeat: if you are an OIN member or licensee *prior to the closing*, you are covered by the Novell license to OIN.

I *know*! IANAL, but even I can read these tea leaves.

I've learned also that not all of Novell's patents are going to the consortium. The two businesses, Novell and SUSE, retain all relevant patents, not just the UNIX copyrights. So that's the other good news. The bad news is that no one yet knows, that I could find out anyway, what the 882 patents are. So plan for the worst seems to be the idea.

It's free to join OIN, so long as you pledge you won't use your patents against Linux or the ecosystem, and so long as you let other members be protected too. The OIN people can explain it to you in detail, and your lawyer can advise you in your particular situation. But I mean, how hard is that? From OIN's [website](#):

Open Invention Network® is refining the intellectual property model so that important patents are openly shared in a collaborative environment. Patents owned by Open Invention Network® are available royalty-free to any company, institution or individual that agrees not to assert its patents against the Linux System. This enables companies to make significant corporate and capital expenditure investments in Linux — helping to fuel economic growth.

Open Invention Network® ensures the openness of the Linux source code, so that programmers, equipment vendors, ISVs and institutions can invest in and use Linux with less worry about intellectual property issues. Its licensees can use the company's patents to innovate freely. This makes it economically attractive for companies that want to repackage, embed and use Linux to host specialized services or create complementary products.

See? You can be a programmer, an equipment vendor, an ISV, or an institution, company or individual. Also [here](#):

Open Invention Network® believes that one of the keys to innovation in the Linux community is the ability to share software code and ideas. Open Invention Network® acquires patents and makes them available royalty-free to any company, institution or individual that agrees not to assert its patents against the Linux System. This enables companies to make significant corporate and capital expenditure investments in Linux — helping to promote collaboration and fuel economic growth.

You won't get a royalty-free offer from Microsoft, y'all, on those same patents after January, I don't think. Caprice?

You don't have to be an HP or a Dell, although I hope they are thinking about OIN too. You can be a project. Gnome is a member, and so is Mozilla. You don't have to currently own any patents. You can be a company

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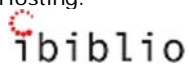
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that just uses Linux or develops with it or for it and wants protection from harassment. Think AutoZone. Remember what SCO put them through? Imagine if SCO had had patents. So think seriously about worst-case scenarios, please. You don't want to be the straggler that gets picked off from the group.

Spread the word, please, so everyone knows what is possible and can give it consideration. Don't assume you can't join. There is no USA-only requirement on OIN membership. If you are interested, ask OIN (info@openinventionnetwork.com). That's what I did.

No wonder Microsoft's minions have been trash-talking OIN recently. They surely knew this was going to happen for some time. They have lawyers. And they knew about this deal before we did. They likely realize that if you don't know about how OIN works, or imagine it's pointless, you won't sign up in time. So oily, the dark side. Did you read the [Telegraph story](#) today, "Dark forces gunning for Google", about Microsoft funding entities to attack Google and IBM in courts, via regulatory complaints, and by contacting journalists? The author has been getting messages:

ICOMP, acting through its secretariat, the public relations firm Burson Marsteller, is still sending unsolicited attacks on Google to journalists, aimed at discrediting the company by agitating the media and advertisers. This column has received a number of unsolicited messages from Burson Marsteller in the past year. Several have been striking in their language, and only the most recent declared ICOMP's financial ties to Microsoft. ...

That last message arrived after I had spoken at length to Jack Evans, Microsoft's Director of Public Relations (Legal and Policy) on the telephone about ICOMP. Although ICOMP's reports and website do state that the initiative is "funded by member contributions as well as sponsorship from Microsoft", until last week it was frequently omitting that information from its emails to journalists. Nor does the statement make clear that Microsoft is responsible for the majority of ICOMP's money: Microsoft is ICOMP's sole trustee and underwrites its funding - a fact confirmed by this PDF residing on ICOMP's own website. The document states that Microsoft, as trustee, both selects ICOMP's directors and guarantees its debts.

Earlier this year, we reported that UK search site Foundem, along with Microsoft-owned Ciao.co.uk, had made complaints to the EU about Google. Foundem is a member of ICOMP.

So this is how Microsoft spends its money, but the author has some advice for Microsoft:

Microsoft has recently begun to rehabilitate its reputation with some impressive software releases. But if it is to completely shake off the image of an evil corporate behemoth, it must stop this sort of lobbying. In the age of scarily thorough online transparency, you just can't get away with rubbish like this any more.

Especially if journalists tell. I can tell you, having been on the receiving end myself of such campaigns, it helps if everyone who gets these messages realizes what the game is and reveals it openly.

Anyway, Microsoft is Microsoft. It would be such a nice world if there was no Microsoft, but in the meantime, one must plan and strategize, because they do. I'm greatly relieved to learn that patents licensed to OIN members are rights in perpetuity. It means the community has time to take steps to protect itself from stupid patent lawsuits brought by Microsoft, its consortium, or any other loathsome proxies, and I hope you will think about this carefully and act in your own best interest.

Microsoft, it appears, wants to use patents to cause Linux to cost more so it can compete against it better, and it wants you to be a forced Microsoft "partner" if you sell or use Linux. And you know how well it works out when you partner with Microsoft. You end up road kill.

Just ask Novell.

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Authored by: [bugstomper](#) on Monday, December 06 2010 @ 11:05 PM EST

Please summarize in the Title box as in error->correction or s/error/correction to make it easy to scan to see if an error has already been mentioned.

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