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Did the DOJ Know About BlackBoard's Patent and Would They Have Approved the Merger with WebCT?

Posted by JohnPMayer under [Blackboard] August 2, 2006 19:29



The Inquirer had a story today about Rambus' run-in with the Federal Trade Commission.

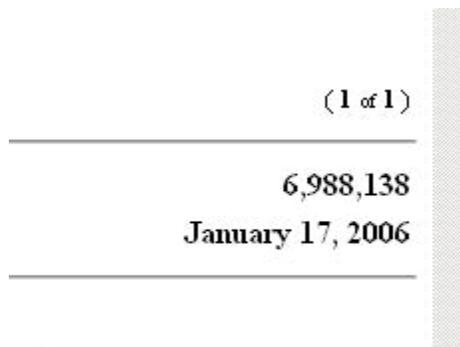
*"...THE US FEDERAL TRADE COMMISSION (FTC) is to file an antitrust case against Rambus Inc, a company which licenses its intellectual property to others. The basis of the case, according to commissioners, is that Rambus allegedly persuaded the JEDEC standards group to take up technology that it was filing patents for **without telling it...**"*

Emphasis mine.

What does this have to do with BlackBoard?

Probably nothing, but it made me think about the timing of BlackBoard's patent and the evaluation being done by the Department of Justice on the BlackBoard/WebCT merger.

From the patent, it looks like it was published on January 17, 2006.



From a press release on BlackBoard's website dated February 6, 2006 (three weeks later), they announced...

"...Blackboard Inc. (Nasdaq: BBBB), announced today that it has been given clearance by the U.S. Department of Justice to complete the merger of Blackboard and WebCT, Inc. The United States Department of Justice has terminated its review of Blackboard's proposed acquisition of WebCT, Inc. ..."

The merger between BlackBoard and WebCT deserved federal scrutiny because it was reported that it would result in a single company having up to 81% of the Course Management System market.

So my question is ... Did BlackBoard tell the DOJ about the patent that they got three weeks before the DOJ terminated its evaluation?

If not, then the story from the Inquirer which started this line of thought becomes rather relevant, I believe. The Feds don't like it when you forget to tell them something.

There is another aspect to this as well.

BlackBoard originally applied for their patent back in 1999, I assume the work they were doing before that went into the patent application.

On BlackBoard's website, under a description of the company's history, is this quote...

*"...Blackboard was founded in 1997 with a vision to transform the Internet into a powerful environment for the education experience. **Originally, the Company provided consulting services to the IMS Global Learning Consortium...**"*

Emphasis mine, again.

So, about the time they were consulting with IMS, they might also have been working on the software that they eventually came to patent.

Here's a description of IMS from their website...

*"...IMS/GLC is a global, nonprofit, member organization that provides leadership in shaping and growing the learning industry through community **development of standards**, promotion of high impact innovation, and research into best practices.*

... IMS includes more than 50 Contributing Members and affiliates..."

Emphasis mine, again.

According to the Inquirer story, Rambus was working with the JEDEC memory **standard** committees and applying for patents at the same time, but they never told the Federal Trade Commission about it.

BlackBoard was consulting with IMS, which "*...provides leadership ... through community development of standards,...*" at approximately the same time they were working on the software that they later patented.

Did they tell the DOJ?

I don't know.