

## NOSE: Information Technology in Higher Education



Technology Changes. Economic Laws Do Not.

11 October 2006

### Sakai Needs to Clarify its Position and Soon

It's been nearly two months since the Sakai Project announced with great fan fare that it was retaining legal counsel on the elearning patents threat. The clock is ticking and the silence is palpable.

Some of us are concerned that Sakai will cut a separate deal with Blackboard to protect its own narrow interests while leaving Desire2Learn and other commercial entities twisting in the wind. Desire2Learn has chosen not to take the easy route and is admirably fighting on behalf of the entire software industry. Sakai needs to take a similar principled stand and use its clout to do the right thing and not fall prey to Blackboard's divide and conquer strategy. If Sakai intends to wait and see how the Desire2Learn case plays itself out, then say so.

**Note:** If Sakai's legal strategy is to open up a patent re-examination through the US Patent office, then it should coordinate those efforts with D2L's legal team. Otherwise, D2L's legal case could be severely compromised. (In the event that a patent re-examination fails, D2L's court battle will become much harder.) I am also not sure if other entities are considering opening up the patent re-examination front. If so, I would urge the different parties to coordinate their efforts.

Sakai has an important leadership in the higher education software community. In order for open source projects to thrive we need to develop together an ecosystem that gives room to fair competition among all players, including commercial software providers such as D2L, Angel, and eCollege.

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