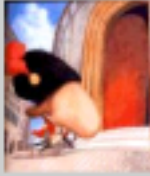


NOSE: Information Technology in Higher Education



Technology Changes. Economic Laws Do Not.

15 October 2006

BLACKBOARD'S PATENT SCOPE: A LEGAL SCHOLAR WEIGHS IN

John Mayer, Executive Director of CALI (Computer-Assisted Legal Instruction) and blogger at CALIopolis, has done a great service to the community by posting a pithy podcast interview (<http://caliopolis.classcaster.org/blog/blackboard/2006/10/12/chiapetta>) with Professor Vince Chiapetta, an expert on patent law at Willamette University College of Law. Chiapetta is graduate of MIT and University of Michigan Law School (magna cum laude).

I will comment on some of the key themes in future postings, but one item we can lay to rest once and for all is Blackboard's continuing deceptive claim that its patent scope is "limited".



Here is patent scholar and litigator who has read the patent, knows the distinction between independent and dependent claims, and concludes that "***the system and method claims are very broadly written. I was pretty amazed at first blush at what ended up in there.***" Admittedly, Professor Chiapetta's view is only one view but his expert reading of the patent is consistent with what a number of us have been saying all along, namely that the Blackboard patent strikes at the core of essentially all e-learning systems.

The next time Matthew Small, Blackboard's general counsel, says that the patent is "limited", don't believe him and don't be fooled. All he means is that the patent is finite and doesn't cover everything. In that sense every patent is limited because every patent is finite in scope.

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