



## Sakai Newsletter

November 30, 2006

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### 1. Press Release: Sakai Foundation Statement on the Blackboard Patent Reexamination

The Software Freedom Law Center (SFLC) today announced ([softwarefreedom.org/news/20061130a.html](http://softwarefreedom.org/news/20061130a.html)) that it has formally asked the Patent Office to reexamine and ultimately cancel all 44 claims of Blackboard's patent on e-learning systems. The SFLC filed the request for reexamination on behalf of the Sakai Foundation ([sakaiproject.org](http://sakaiproject.org)), the Moodle Community ([moodle.org](http://moodle.org)), and the ATutor Community ([atutor.ca](http://atutor.ca)), three open source software projects which develop online educational systems.

We, the Sakai Foundation, consider the Blackboard patent to be a prime example of a bad patent in the area of educational software. It is a threat to open source developers, providers and users of educational software.

The Sakai Foundation sees the Blackboard patent and the surrounding fear, uncertainty and doubt (FUD) being spread by Blackboard as interfering with adoption of Sakai by new users who are uncertain about the application of such a broad set of patent claims. Sakai Commercial Partners have been particularly concerned about the ongoing market distortions caused by the patent and the litigation that Blackboard has brought to try and enforce it.

Chris Coppola, Sakai Commercial Affiliate and Board member, says: "It's clear that Blackboard is trying to use this dubious patent to restrict the growth of open source solutions in the market by scaring potential adopters. We need to have this resolved as quickly as we can to restore an even playing field for competition. We believe that the patent is very weak, and that its claims will not stand up to review in the face of the incredible amount of clear prior art."

We are also deeply concerned that this very broad patent could stifle innovation in educational software. The patent covers any online educational system that provides different file access levels to users based on the roles of instructor, student, or administrator—technology that long predates the filing of the Blackboard patent, and that touches many if not all systems developed to support teaching, learning and research in our institutions of higher education.

We encourage the Patent Office to review and revoke the Blackboard patent.

Joseph Hardin, Sakai Foundation Board Chairman, says: "Blackboard would have done well to heed the recent recommendations of the Educause Board by placing the patent in the public domain and dropping all litigation. Since Blackboard has refused to follow these recommendations, we have taken steps to render this patent toothless."

See "Blackboard Patent Re-examination Filing FAQ" below, or under "Latest News" on [sakaiproject.org](http://sakaiproject.org) for more detail.

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## 2. Blackboard Patent Re-examination Filing FAQ

### 1) What has happened?

The SFLC has filed a formal request to have the USPTO re-examine the BB patent with the goal of revoking its claims on the basis of prior art. Prior art here consists

of patents that predate the purported BB invention or other kinds of documents published before BB filed the patent, describing everything that BB claims in the patent; in other words, clear cases that show the claim is unoriginal and thus should not have been granted the protection of a patent.

## 2) Why does the SFLC think the Patent Office will revoke the patent?

The examples of prior art in this case are extremely, convincingly, strong. There were many software systems out before the filing of the BB patent that assigned roles to users and used those roles to determine access to files in the system. The examples the SFLC chose to use are some of the best examples of this and should make clear the unoriginality of the patent claims. It is interesting to note that in a re-examination there is no presumption of validity of the patent, unlike in a court proceeding.

## 3) What comes next?

We see if the USPTO grants the re-examination. They must say yes or no within 90 days. Often they rule sooner than that. If they do undertake the re-examination, then they will consider the arguments and prior art presented by the SFLC and either let the patent stand or invalidate the patent as a whole or parts of it.

In detail: If the USPTO does order the reexamination, Blackboard is first given an opportunity to file a statement; if it chooses to do so, SFLC then has an opportunity to file a reply. At that point, what happens is that the USPTO begins to examine the Blackboard patent all over again, just as it did when Blackboard initially filed for the patent, but this time in an expedited manner. The USPTO will hopefully use the prior art cited in the reexamination request to formally "reject" Blackboard's claims as being unpatentable. Blackboard must then cancel its claims, amend them to make them narrower in scope, or make arguments to distinguish its claims over the cited prior art (which will also have the effect of narrowing the scope of the claims). Ultimately the USPTO will decide whether to cancel some or all of the claims, possibly narrowed by Blackboard's own amendments, and will issue a certificate containing the results of that determination.

## 4) Why is this patent so important?

a) It's a bad patent and should not have been granted. Bad patents should not be allowed to stand. The patent system in the US is seriously broken and this patent was obtained in a fashion that is becoming all too familiar to those concerned

about runaway patents in the software field. Little or no prior art was presented to the patent examiners. Indeed, from looking at the file wrapper (the record of the prosecution history of the patent at the USPTO), it appears BB submitted no prior art other than a few news articles discussing e-learning on a non-technical and superficial level. The only prior art that the patent examiner considered were prior patents (patents that the examiner uncovered in his own search), leaving a huge amount of real, existing practice (i.e., art) unexposed to the patent examiner in this case. The actual case for prior art here is overwhelming. See the immense amount of relevant material at [noedupatents.com](http://noedupatents.com) and the Wikipedia site:

[http://en.wikipedia.org/wiki/History\\_of\\_virtual\\_learning\\_environments](http://en.wikipedia.org/wiki/History_of_virtual_learning_environments)

The Computer and Communications Industry Association (CCIA) has recently released a paper on what they call the current “patent crisis” in the US. See <http://www.cci.net.org/modules.php?op=modload&name=News&file=article&sid=646&mode=thread&order=0&thold=0>

b) It is distorting the market and harming our community. Patents like this are used to FUD, to spread fear, uncertainty and doubt, in a community in order to keep people from adopting alternative software solutions. This distorts the open and free market that supports innovations in software, in its features and business models, and especially harms open source communities, which are founded on the amazing transparency and communication capabilities of the web and the various forms of trust it engenders. We are being hurt and need to remedy that. While BB claims that it will not pursue the Sakai Foundation itself, a not-for-profit corporation that is responsible for the open source Sakai software release, BB has explicitly said that it would pursue commercial entities in the field of educational software. All of the Sakai Commercial Affiliates fit into this category; they are all commercial vendors of open source software, and key components of the Sakai Community ecology. When confronted with this directly, BB responds with the irrelevant, or simply misleading, statements that it would not pursue the Sakai Foundation, and that it is a friend of open source, and follows with the non sequitur that it uses open source itself (which has no bearing on this at all). We have decided that this is all FUD. BB’s patent poses a clear and present danger to our community and we are taking the steps necessary to remove that danger as quickly and completely as possible.

With the CCIA we are concerned that the whole patent system in the US is broken, and interfering with the natural development of open source communities worldwide. We have to fix the system, or find ways to stop it from harming us. Revoking BB’s patent is a good first step, both in obtaining immediate relief from the onerously broad patent claims of this patent, and in signaling to others that we

will aggressively fight similar efforts to distort both the patent process and the free flow of ideas and innovation in the open source educational software community.

5) What else is important about this for the future?

This is an educational opportunity for the community. This will not be the last patent that threatens the free flow of communication, innovation and development of educational software. The emergence of the open web sites noedupatents.org and the prior art wiki at

[http://en.wikipedia.org/wiki/History\\_of\\_virtual\\_learning\\_environments](http://en.wikipedia.org/wiki/History_of_virtual_learning_environments) are clear examples of education in action, and the development of front-line defense mechanisms for the open source and educational software communities.

Understanding more about the actual revocation or invalidation of a bad patent can only help overall understanding of the difficult position we are in with regards to software patents and, on the other hand, the emerging effective methods for combating patent distortion of our activities.

So, this allows us to exercise emerging community defense mechanisms, like the SFLC, and to discuss further routes to protecting the community from a patent system that is seriously broken. Once a patent is granted, no matter how poorly the patent process was followed or how clearly it was manipulated, the patent holder has the advantage that courts, which must be appealed to for both enforcement or relief from the patent, assume the patent is valid. This places the burden of proof on those claiming the patent is invalid or was obtained in an unfair fashion. The open source software community, in particular, and the educational software community in general, must develop methods that other sectors of the software industry have found helpful in mitigating the damage caused by the dysfunctions of the patent system. Donation of a patent to the public domain, or a patent commons, is one way to alleviate the uncertainty surrounding the granting if a patent considered a threat to further innovation and development. BB has refused to do this in this case, even though encouraged to do so by individuals and by organizations such as the Sakai Foundation and EDUCAUSE. Still, other patent holding organizations have contributed significant patents to the community, as IBM has done, and more should be encouraged to do so. Other deterrents, such as community defense funds, patent trusts that hold patents for defensive/offensive use, and efforts to change the patent process and patent law in the US, such as the efforts before Congress, should be discussed openly and urgently in the wider community, as they were at a conference recently (Nov 16-17, 2006) at MIT and Boston University (<http://www.researchoninnovation.org/swconf/home.htm>).

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### 3. Sakai Conference Updates

#### \* Volunteers Needed!

We are asking conference attendees to help convene sessions that they plan on attending at the conference. Convener responsibilities include:

- Introductions - Introduce the presenters for each session. You can use the short bio printed in the program.
- Timekeeping - Attempt to start the session they are convening on time. It is also the responsibility of the Session Convener to end the session on time. (It often works well to signal the presenter(s) when they have 5 minutes left and then assertively end the session on time.)
- Evaluations - Distribute session evaluations to attendees at the beginning of the session and encourage attendees to put their completed evaluations in the Evaluation Collection Boxes at the door. The convener should pick up any completed session evaluations from the box and bring them to the registration table after the session is over.

If you're planning on attending a session, why not convene it too? The job's not hard and We Need You!

See the schedule at <https://sakaiproject.org/conference/admin/schedule.php> or [https://sakaiproject.org/conference/admin/schedule\\_details.php](https://sakaiproject.org/conference/admin/schedule_details.php), then go to <https://sakaiproject.org/conference/volunteer.php> to sign up.

Thank you,  
Brigid Cassidy, Program Chair

#### \* Don't Forget to Register Online

If you are planning on attending the conference, please don't forget to register online at <http://sakaiproject.org/conference/register.html>

#### \* OSP 2.4 Planning BOF

There will be an OSP 2.4 Planning BOF (Birds of a Feature meeting) next Wednesday at 4:45. The gracious conference organizers are getting us a room, but we don't know it yet, so watch your email next week.

Hopefully everyone who has 2.4 responsibility can commit to being at this meeting. Next steps for 2.4 development will be discussed and assigned.

Thanks,  
Wende Morgaine  
Faculty, University Studies  
Portland State University  
[wendemm@gmail.com](mailto:wendemm@gmail.com)

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#### 4. From Charles Severance's Blog: Report from Kuali Days

I attended the Kuali Days event (November 14 and 15) in Tucson, AZ this week. The event was hosted by the University of Arizona and it was a wonderful meeting location. The hotel is carved out of a mountain covered in Saguaro cactus.

The view from the hotel onto the Tucson valley:

[http://www.dr-chuck.com/images/2006/11/index.php?img=14-11-06\\_110743\\_01.jpg](http://www.dr-chuck.com/images/2006/11/index.php?img=14-11-06_110743_01.jpg)

The meeting had sessions that ranged from overviews of Kuali Foundation and governance, a demo of Kuali 1.0 functionality, announcement of the Kuali appliance from rSmart, as well as technical sessions talking about the Kuali Architecture and Technologies.

This meeting marks the end of the Kuali project and its movement into its Foundation phase, much like Sakai's transition from project to Foundation at the end of 2005. So in many ways this was a meeting to present Kuali to prospective Foundation members.

The overwhelming impression that I walked away with from all of the sessions I attended was one of excitement. All the attendees were very engaged and interested in all of the details about Kuali. I will admit that the conversations about the finer points of cross-unit sub-chart code link associations were a bit dry for my taste -- people engaged in the conversations with gusto.

To see the rest of the blog entry, please go to:

<http://www.dr-chuck.com/csev-blog/000235.html>

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## 5. Article by Alan Berg in the Unix Review: A Survey of Learning Management Systems

This two-part article is a brief survey of Learning Management Systems and associated infrastructure. This first part will explore the value of Yale CAS, uPortal, Sakai, and Open Source Portfolio (OSP). The second article will expand the list of viable tools to include Moodle and other great products within the range.

A growing and obvious trend for complex open source software, applied as a supporting Web application within educational institutes, is a binary distribution with out-of-the-box demonstration that works immediately after unpacking. Within the educational sphere lie many positive examples of this approach. In this article, I will example a number of such products, providing an overview of their potential and ease of use. You will discover that these products are ready for more mass-market use, and I would not be surprised if a number of commercial variations evolve from the core code bases. This survey split into two parts, is by no means complete, and its purpose is purely to introduce you to the dynamic force of change that these examples represent.

As a developer, I have had previous contact with the CAS, uPortal Sakai, and OSP products, being involved with teams that deployed or are deploying to a target University environment ( Universiteit van Amsterdam via the Central Computing services). Therefore, I am writing about products with which I have experience. I am certain that there are other wonderful products with excellent community support out there in the wild. The second installment of this article will introduce Moodle, Atutor, Bodington, Claroline, Lams, Dspace, and Fedora (for your Enterprise content repositories).

### Worldview changers

On July 26, 2006, Blackboard was awarded a significant and broad patent associated with e-learning. If the legal system upholds the patent to its current broad extent and Blackboard applies the law vigorously to its open and closed source competitors, then innovation within the Learning Management System field will probably be stifled with the associated risks of rising costs and limiting options. I hope this significant issue will be resolved soon.

To read the rest of this article, please go to:

<http://www.unixreview.com/documents/s=10104/ur0611i/ur0611i.htm>

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## 6. Dutch Sakai News and Opinions Blog Entry: Sakai SIG NL at the Podium

Friday, November 24, 2006 -- Today I have presented for the Podium group of ICT experts of 7 different institutions in The Netherlands (University of Utrecht, University of Maastricht, Wageningen University and Research Centre, Free University of Amsterdam, Leiden University, University of Groningen, University of Twente). There were very relevant questions by the audience. One of the most prominent ones, "How do you go about with migration from Blackboard to Sakai (or any other VLE)?" I have referred to Confluence:

<http://bugs.sakaiproject.org/confluence/display/MIG/Vendor-specific+migration>

Check out the attachment (in English) at "Sakai op het Podium," if you are interested:

[http://elearning.surf.nl/sakai\\_nl/sakai\\_in\\_nl/3821](http://elearning.surf.nl/sakai_nl/sakai_in_nl/3821)

Next Monday I will be doing a reprise, based on the same presentation, at the Tilburg University.

-- posted by Wytze Koopal

This blog entry can be found on Dutch Sakai News and Opinions (<http://sakai-nl.blogspot.com/>), a weblog by and for Dutch professionals in Higher Education, interested in Sakai. This blog was started by the University of Amsterdam and the University of Twente to inform the Dutch colleagues interested in Sakai and e-learning. With this weblog (and associated website) we want to facilitate the exchange of knowledge and information around Sakai. This weblog is brought to you by the SURF Foundation in The Netherlands, and is maintained by the Dutch Sakai community.

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## 7. Job Openings

### \* Learning Systems Manager at Claremont Colleges

The Claremont Colleges are looking for a Learning Systems Manager to oversee and develop our Sakai system. We are in production with Sakai 2.2 this semester and plan to migrate to 2.3 for next semester. Currently we peak at over 250 simultaneous users and anticipate that number will grow substantially over the next year as we begin migration of our WebCT and Moodle users. We expect the person in this position to develop modules for Sakai and OSP, and to contribute these back to the community.

Please visit:

<http://www.hmc.edu/admin/bao/humres/jobs.html>

for a complete job description. If you have any questions about the position or our implementation, please feel free to contact me directly. Thanks.

Richard Parker, Ph.D.  
909-621-8613  
[Richard\\_Parker@hmc.edu](mailto:Richard_Parker@hmc.edu)

\* CourseWork (Sakai at Stanford) Support Specialist

If you or anyone you know is possibly interested in our open support position, CourseWork (Sakai at Stanford) Support Specialist, please pass this URL along:

<https://recruit.trovix.com/stanford/view/viewJob.do?Fox1l0UHNLwOoQPXsBoUc6r8F9BQExIeHz2mwv4BwSc>

\* Web Designer and Programmer at University of Virginia

The Arts & Sciences Center for Instructional Technologies has an open position, as listed below. If you know of anyone who might be interested, please give them a heads up and refer them to me. Thank you.

Rachel Mann  
[res4n@virginia.edu](mailto:res4n@virginia.edu)  
434-924-6847

Job Title: Information Technology Specialist II (Programmer/Analyst)

Working Title: Web Designer & Programmer

Posting #: AS CINT J05CC 002

Salary Range: \$ 37,869 to \$ 77,720

Closing Date: Open Until Filled

Criteria: This position supports faculty development initiatives on the part of ASCIT and helps faculty integrate the use of new technologies into their teaching and research. This position develops and maintains all center websites, programs internal tools for inventory management and customer service delivery, programs and designs web-based course tools, consults on the College Technology Practicum (CTP), provides training workshops and presentations on web development to College faculty and interns in the TTSP and CTP program, and collaborates with other digital centers and groups on the development and normalization of teaching and research web tools. This position requires knowledge of Windows operating systems, html, CSS, pHP, mySQLand, xml, Flash, and javascript. A demonstrated ability to learn other programming languages as needed, such as Cold Fusion and perl is required. Knowledge of Adobe Photoshop, Illustrator, and scanning technologies is preferred, as is graphic and web design experience. Experience working with client group in development of web sites, knowledge of instructional design, and

good interpersonal and communication skills are also required. A Bachelor's degree is preferred. Experience designing and developing and programming websites using pHP, mySQL, javascript, xml, Flash, and CSS. Experience implementing technology in an educational setting a plus.

Description: Design, develop, maintain and enhance computer and related manual systems. Confer with users to define needs. Perform full range of systems development life cycle tasks. To be competitive, applicants should have Bachelor's degree in Computer Science or equivalent and significant programming experience.

Develop Web Pages, Multimedia Applications; Perform Web Site Design, Graphic Design; Write HTML, Javascript, PHP, XML; Develop, Use Flash

\* Technology Training Coordinator, ETUDES Consortium Project, Foothill College

Please note: This job opening closes on Friday, December 1.

Technology Training Coordinator ETUDES Consortium Project, Foothill College  
\$5,147.38/month, N-58, 12 Months

See: <http://fhdafiles.fhda.edu/downloads/employment/07074.pdf> and  
<http://hr.fhda.edu/employment/staff>

\* Project Director at Indiana University

Indiana University is currently accepting applications for an academic specialist position as a project director in the Teaching and Learning Information Technologies (TLIT) division of University Information Technology Services (UITS).

Description & Requirements: The project director will communicate the process of application development and timelines and participate in the development of functional requirements for ongoing enhancement of Oncourse CL (Sakai) and the ePortfolio (OSP). The project director will actively participate in the Sakai open source community to advance the development of pedagogically sound tools for teaching and learning. The academic specialist (project director) will negotiate and facilitate problem solving with faculty and administrators by working with all divisions of UITS to ensure timely response to faculty technology needs. Working closely with the centers for teaching and learning on each campus, the project director will also develop and lead a faculty outreach program to communicate UITS strategic technology initiatives supporting technology-enhanced pedagogy. The project director will represent TLIT at academic conferences and working groups regarding course management systems standards and best practices developments. The project director will be based on the Indianapolis campus and will report directly to the Associate Dean for Teaching

and Learning Information Technologies (TLIT) in the Office of the Vice President for Information Technology and CIO at Indiana University.

For more information and to see the qualifications, please go to:

<http://www.indiana.edu/%7Euitshr/services/jobs/AcadSpec.html>

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## 8. Events

6th Sakai Conference

December 5 - 8, 2006

Atlanta Marriott Marquis

Atlanta, Georgia

[http://www.sakaiproject.org/index.php?option=com\\_content&task=view&id=418&Itemid=567](http://www.sakaiproject.org/index.php?option=com_content&task=view&id=418&Itemid=567)

LAMS Conference 2006

First International Learning Activity Management System (LAMS)

Conference December 6 - 8, 2006

Conservatorium of Music

University of Sydney

<http://lamsfoundation.org/lams2006/index.htm>

eLearning Africa 2007

KICC - The Kenyatta International Conference Centre

May 28 - 30, 2007

Nairobi, Kenya

<http://www.elearning-africa.com>

Sakai Amsterdam Conference

Movenpick Hotel Amsterdam City Center

June 12 - 14, 2007

Amsterdam, The Netherlands

[www.sakaiproject.org](http://www.sakaiproject.org)