

OGC's column for June, 2003 GeoWorld

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Title: **Know Your Intellectual Property Rights, Public!**

We have entered a very interesting time with respect to intellectual property rights. Readers of this magazine have a big stake in what's happening.

Consider the following two situations regarding patents:

1) A MultiMap patent issued several years ago appears to claim original invention of Web mapping. OGC members helped document ten examples of publicly known Web mapping applications before August 1996. This documented work constitutes "prior art" that should have been cited in that patent application. Fortunately, this overwhelming evidence brings into question the patent's validity.

2) Last summer the Federal Trade Commission (FTC) filed a case against Rambus. In this case, Rambus is accused of deceiving the Joint Electronic Device Engineering Council (JEDEC), a standards body, for not revealing Rambus's work on several pending patents. These patents, now issued, would allow Rambus to extract royalties from anyone who implements certain JEDEC standards which Rambus helped develop. Rambus has sued several implementers who refused to pay royalties, and has already won an appeal affirming its right to profit from its undisclosed intellectual property rights. If the FTC also fails in its efforts to sanction Rambus, the integrity of the little appreciated standards infrastructure that underpins commerce will be seriously undermined.(1)

Both situations are reminders of how important it is to maintain open, royalty-free, and publicly available standards in so many technology areas - not just geospatial. If we did not, there would be no Internet and no Web as we have it today! Closed platforms tend to limit activity, enforce inefficiency, and stifle innovation. They are generally perceived to be unfair and unduly expensive. In information technology markets, it often seems that a single vendor or limited set of vendors is able to dominate a market and "set the standard." The dominant product is often not the best product, but the lack of an open platform enables it to "lock in" a large population of users.

Open systems and standards platforms support healthy markets in which customers are better served. In healthy markets, businesses compete on a level playing field. Patent abuse is one of the ways in which businesses sometimes tip the playing field in their favor.

How do you judge patent abuse? The infrequently acknowledged purpose of intellectual property rights is to serve the public. Since the 1474 Venetian patent law, governments have granted patent protection to stimulate innovation "for the sake of the commonwealth." Patents and copyrights stimulate innovation by giving the owner a temporary monopoly on the use of an invention or other creative work. The idea eventually becomes usable by anyone. Ownership of an idea is not an inalienable right. It is a limited right granted through a contract. Patent abuse occurs when the agency issuing patents and the legislators who make patent laws forget patents' first purpose.

The Worldwide Web Consortium (W3C) provides a wonderful example of how open specifications create a healthy market full of choice and innovation. Look at all the commerce that rides on the Web's interoperability infrastructure! Similarly, OGC's open and royalty-free specifications enable different vendors' software products to communicate in real time via open interfaces over the Web, across a LAN,

and between applications running on the same computer. In both consortia, technology providers cooperate to build specifications that enable interoperability. Both consortia, to defend their mission, have policies that require companies to fully disclose ownership or development of relevant patents prior to participating in specification development. This commitment to "royalty-free" specifications prevents patent owners from scuttling or seizing the interoperability platform.

The benefits of interoperability in the geospatial technologies market are extraordinary but not yet widely appreciated:

- Reduced data maintenance costs (maintain in one place for use by many – you don't keep a "stale" copy)
- Reduced information access times (real-time access via the Web versus bulk data conversion)
- Reduced software costs (buy best-in-class plug-and-play components instead of expensive soup-to-nuts systems)
- Reduced risk of "vendor lock-in" and "stranded" technologies (forward / backward / sideways compatibility)
- Reduced cost of entry and bigger market for innovators (for example, a third-party developer can build a product for use with any of the full-featured proprietary GIS platforms)
- Increased data value (because millions of people – anyone with a Web browser – can use it)
- Increased ease of integrating spatial capabilities into any software system

Aggressive business people work every angle they can to beat the competition. That's business, and I'm all for it. But we all have a stake in business outcomes. Thus we all have an interest in the rules of the game and the contours of the playing field. We shouldn't leave that up to business people alone. W3C's and OGC's platforms maximize benefits for both technology users and technology providers. In OGC, there are especially empowering roles for the users. I invite you to learn more.

1. Read about attorney Andy Updegrove's "friend of the court" brief:
<http://www.consortiuminfo.org/pressrelease/rambus.shtml>

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