

Washington in 5 minutes

Patent case goes to Supreme Court

By JOELLE TESSLER
ASSOCIATED PRESS

With the technology industry looking on, the Supreme Court on Monday will explore what types of inventions should be eligible for a patent in a pivotal case that could undermine such legal protections for software.

A ruling that sides with the U.S. Patent and Trademark Office could bar patents on processes and methods of doing business, such as online shopping techniques, medical diagnostic tests and procedures for executing trades on Wall Street. And it might even undercut patents on software.

In a worst-case scenario for the high-tech industry, the ruling could invalidate many existing software patents or at least make them more difficult to defend in lawsuits. And it could make such patents harder to obtain in the future because software is generally patented as a process for doing something rather than as a physical invention.

"Technology companies care about this case because it will define what you can and cannot get a patent on," said Emery Simon, counselor to the Business Software Alliance, which represents large technology companies including Microsoft Corp. and Intel Corp. "The scope of patentability could have ramifications for the path that technology takes."

It's impossible to know what products might never have come to market without patent protection for software. But tech companies say these patents have played a critical role in keeping the United States at the cutting edge by giving people control over their inventions for nearly 20 years.

"The software industry



WeatherWise CEO Rand Warsaw of Pittsburgh will have his patent case heard by the Supreme Court on Monday. He and a business partner tried to patent a method in 1997.

would lose an important incentive to innovate if the government ceased issuing software patents," said patent lawyer James Carmichael, a former judge on the Patent Office board of appeals.

Although technology companies insist they'll keep innovating no matter how the high court rules, an unfavorable outcome might force them to write patent applications in a different way or rely more on copyright and trade secret protections. And it might even draw Congress into the debate.

The actual facts of the case

are not about software.

The roots of the dispute go back to 1997, when inventors Bernard Bilski and Rand Warsaw tried to patent a method of hedging weather-related risk in energy prices. That process, which powers energy billing services offered by a Pittsburgh company called WeatherWise USA, can be used to lock in energy prices, even during an unusually cold winter.

The Patent Office concluded the process was too abstract and denied the application. So Mr. Bilski and Mr. Warsaw took their claim the

U.S. Court of Appeals for the Federal Circuit, which upheld the Patent Office decision last year and said a process is eligible for a patent only if it is "tied to a particular machine or apparatus" or if it "transforms a particular article into a different state or thing."

The Bilski filing, the court found, did not meet the test.

Now, the question facing the Supreme Court is whether that "machine-or-transformation" test is the right standard.

The answer should settle a long-running debate over whether business methods should be eligible for patents.

AFGHANISTAN

Gorbachev calls for troop pullout

Former Soviet leader Mikhail Gorbachev on Sunday advised the United States against sending additional troops to Afghanistan, instead urging renewed diplomacy and ultimately a complete withdrawal of U.S. forces.

"I think that what's needed is not additional forces," Mr. Gorbachev told CNN, adding that "withdrawal from Afghanistan should be the goal."

Mr. Gorbachev, the Soviet Union's last leader, who governed from 1985 until its breakup in 1991, presided over the pullout of Soviet troops from Afghanistan.

Although the Soviet occupation in Afghanistan has been viewed by many historians as a defeat for Soviet imperialism, Mr. Gorbachev urged the United States to follow his country's model, as Washington mulls the way forward in violence-ridden Afghanistan.

He told CNN that Washington should focus on "dialogue" in Afghanistan to bring to an end "the long suffering of that people."

IRAN

Vigils mark plight of captive hikers

Friends and relatives of three Americans detained by Iran held vigils across the United States and around the world on Sunday to call for their immediate release.

The vigils came as Shane Bauer, 27; Sarah Shourd, 31; and Josh Fattal, 27, spent their 100th day in detention after being taken into custody by Iranian border guards July 31.

Josh Fattal's brother Alex said he expected thousands of people to participate in the vigils, which were being held in various locations, including the home states of the three hikers — California, Pennsylvania and Minnesota — and as far away as India and China.

"It's a very simple message, and that is, a hundred days in detention is way too long, and Sarah, Shane and Josh need to be released immediately," Mr. Fattal said.

The Sunday vigils, coordinated through the Web site www.freethethehikers.org, were scheduled to be held in 10 U.S. states and eight countries.

HOMELAND SECURITY

Officials fear fake flu vaccine

Federal law enforcement and

national security authorities are on alert for counterfeit doses of H1N1 vaccine and anti-viral medications that they expect to surface in the United States, particularly as shortages of both continue to grow.

Officials from the Department of Homeland Security said they have not yet found any hard evidence of illicit production or distribution of bogus vaccine or Tamiflu, according to testimony recently submitted to the House Committee on Homeland Security.

But the officials told the panel they aren't just waiting around. Instead, they have "proactively initiated undercover activity" to find anyone trying to peddle fake or uninspected vaccines or pharmaceuticals, particularly on the Internet, according to Government Security News, a trade publication that broke the story.

FINANCIAL DISCLOSURE

Lawmakers see decline in wealth

An analysis of recent financial-disclosure reports filed by lawmakers shows that the median wealth of members of Congress dropped by nearly 5 percent when compared with the prior year, according to the Center for Responsive Politics, a watchdog group.

U.S. senators had a median reportable worth of \$1.79 million for 2008, compared to \$2.27 million in 2007.

In the House, the median income last year was \$622,200, down from \$724,200 in 2007.

The hardest hit were Sens. John McCain, Arizona Republican; John Kerry, Massachusetts Democrat; Dianne Feinstein, California Democrat; and Mark Warner, Virginia Democrat. All suffered double-digit percentage declines.

SCIENCE

Dying languages worry linguists

Linguists supported by the National Science Foundation will meet at the University of Utah this week, hoping to lay the groundwork for an international online catalogue of endangered and dying languages.

Native tongues have long gone extinct — perhaps half of all existing languages in the last 500 years. But specialists say the march of civilization and globalization — and communication systems — puts nearly 90 percent of the world's approximately 7,000 languages at risk.

From wire dispatches and staff reports

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Veterans, history-buffs, and patriotic Americans are invited to attend a very special sneak preview of the upcoming **HISOTRY** documentary series, **WWII in HD**, premiering on November 15. The series, narrated by Emmy Award winner **Gary Sinise**, follows 12 Americans through their experiences during World War II.

The series draws upon thousands of hours of color WWII footage, presenting the war as never seen before. On hand will be three of the men portrayed in the series, who will share their stories, including **Jimmie Kanaya** of the Japanese American 442nd RCT, **Shelby Westbrook** of the legendary Tuskegee Airmen, and **Jack Yusen**, Navy veteran of the Pacific Theater.

The preview screening will be preceded by a reception, open to attendees.

Event is free, but space is limited

To reserve a seat, call 703-302-1012 ext. 218 or e-mail RSVP@americanveteranscenter.org

Part of the American Veterans Center's 12th Annual Conference, November 12-14. To learn more, visit:

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