

Federal Court Rules on SuperVision Patent

The Federal Court for the Northern District of California (San Francisco division) has ruled that Tulsa-based SecureAgent.com, developer of software and systems to monitor, manage and automate large-scale mainframe computer systems, has proved patent infringement by Diversified Data Resources Inc. (DDR) of Novato, California with their ACE products.

“This is an important win for us,” says Brent Johnson, president and CEO of SecureAgent.com. “DDR and many other companies that are using our technology without compensation to us will now be required to pay licensing fees.” In November 1997, SecureAgent.com (then known as Global Interface Solutions) was granted a U.S. patent that was at issue in the California case. DDR has been ordered to pay a lump sum for its past use of the software since the patent was granted.

The ruling directly affects DDR and its client companies American Express, Federal Express, Visa, Bank of America and WorldSpan. WorldSpan is the computer reservation system for TWA, Delta and Northwest Airlines. Other companies using the patented technology but not named in a court case as yet include IBM, Computer Associates, and BMC Software. SecureAgent.com officials indicate that these companies will be required to obtain licensing as well. SuperVision is used to monitor TPF, as well as, OS390 and VM systems.

“We have notified several companies of the outcome of the case,” says Steve Harris of the Doyle & Harris law firm in Tulsa. Mr. Harris was lead trial counsel for SecureAgent.com in the San Francisco jury trial. “We have advised them that failure to obtain licensing for the product will be construed as willful infringement of the patent, and that the law provides for up to triple damages for those found to be willfully infringing the patent.”

Harris says most users received a notice of infringement shortly after the patent was issued, “and now that the court has ruled in our favor, we’ll be much more aggressive in seeking compensation from past and present users of the patented technology. We’re also asking the court to issue a permanent injunction against the defendant to prevent future infringement.”

IBM has made a licensing offer and negotiations are ongoing. Those who enter into a license agreement with SecureAgent.com will pay monthly or quarterly license fees, Harris adds, as well as a lump sum for any past use. The cost of licensing will depend on a company’s level of use. “The plaintiff has been losing a significant amount of money as a result of these infringements,” Harris notes. “It’s not uncommon for license fees paid by authorized end-users of the technology presently under license to SecureAgent.com to exceed \$100,000 per year per user. If a company is reselling the technology, a percentage of gross sales is assessed.”

“We expect the ruling to stand,” Harris continues. “The federal trial judge who presided over the case is experienced in complex patent cases involving highly sophisticated technology.” Harris notes that two other members of the plaintiff’s trial team, attorney Mike Davis and trial assistant Phyllis Peck (both of Doyle and Harris) provided crucial assistance in the court victory.

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