
Market Roundup

January 13, 2006

EMC Strengthens Services with Internosis Purchase

Big Blue Seeks to Improve the Patent Process

Microsoft Wins: Free Software Foundation Gears Up



EMC Strengthens Services with Internosis Purchase

By *Joyce Tompsett Becknell*

This week EMC purchased Internosis, a North American professional services organization specializing in Microsoft integration. Internosis provides EMC with over 235 billable consultants focused on Microsoft environments which EMC can use for Microsoft and Exchange migration. According to EMC, Internosis's location in Washington, DC will provide them increased Federal business capabilities as well. EMC also believes that Internosis brings capabilities for additional Microsoft Messaging and Database services.

Most companies that have grown out of the storage space have begun moving away from a uniquely hardware focus to incorporating either enhanced software or new services. EMC is one of the organizations who have chosen to pursue both directions aggressively through a series of acquisitions and organic growth. Most of the press EMC has received has been for its acquisitions in software over the last few years as it has expanded the company's focus and capabilities. At the same time, EMC has been more quietly expanding its services focus to both meet customer needs and to give EMC a broader strategic positioning to meet corporate goals. EMC continues to see itself expand from being a storage company to an information infrastructure company. Bolstering the Microsoft focus and service offerings within EMC builds its credibility both as a services organization, and as an overall provider of evolving information infrastructure. This is also a necessary skills infusion to EMC. Evolving compliance and governance, tiered storage based on application needs, vertical industry requirements, and backup and disaster recovery implementations are making storage needs more specific company to company, and application to application. EMC needs to have specialists for different environments. By adding staff with Microsoft-specific capabilities, EMC is building its credibility. This is particularly important when competing with IBM, whose internal global services and partner services capabilities are extensive. EMC should be able to use these additional services offerings to attract new customers who may not have considered EMC in the past, or who may only be using them as a storage equipment provider.

The tricky bit of this movement is that about half of all Microsoft work right now is fulfilled by EMC's partners. This is a nice revenue stream for those partners, and could lead to channel conflict in theory. In practice, the consultants EMC has absorbed already have clients, about half of which are public sector. EMC has also worked out a go-to-market plan for overlapping accounts that should minimize any potential conflict. The net/net should be exposure of EMC to new accounts and a richer solution set for EMC's portfolio. Now if we can just get them to expand in Europe as well.

Big Blue Seeks to Improve the Patent Process

By *Clay Ryder*

IBM has announced an initiative it is undertaking with the U.S. Patent and Trademark Office (USPTO), Open Source Development Labs (OSDL), members of the open source software community, and academia that is focused on improving U.S. patent quality. The goal of this partnership is to improve patent quality and help accelerate innovation in the U.S. There are three elements of the initiative. First is the *Open Patent Review* program that seeks to establish an open, collaborative community review within the patenting process to

encourage communities to review pending patent applications and to provide feedback to the patent office on existing prior art that may not have been discovered by the applicant or examiner. Second is the *Open Source Software as Prior Art* project that will establish open source software as potential prior art against patent applications. OSDL, IBM, Novell, Red Hat, and VA Software's SourceForge.net will develop a system that stores source code in an electronically searchable format, satisfying legal requirements to qualify as prior art. Third is the *Patent Quality Index* (patentqualityindex.org) an initiative that will create a unified, numeric index to assess the quality of patent applications. The effort will be directed by the University of Pennsylvania with support from IBM and others in order to create an index constructed with extensive community input, backed by statistical research in order to become a dynamic, evolving tool with broad applicability for inventors, participants in the marketplace and the USPTO. The three initiatives are open to all who are interested, and broad participation is encouraged. The USPTO has planned a public meeting to further the projects at its offices in Alexandria, VA on February 16, 2006.

As the single largest generator of patents each year, IBM would certainly benefit from an enhanced patenting process. However, we believe that the initiatives proposed by the Armonk Company are more than self-serving and are genuinely in the best interest of developers, vendors, and the patent process as a whole. Back when innovation and thus patents were much simpler and more concrete, and akin to building the better mousetrap, the amount of time and expertise required in order to process patents was less. However, in today's reality the patent process has become burdened by an onslaught of new innovations, some mired in deep technological black magic, some contested, and some flat-out silly. (Remember BT trying to patent the hyperlink?) Patent Examiners, and the economy as whole, need new tools to assist in providing the valuable service of patent registration and examination.

We believe that the move to document open source code as prior art is one of the most important aspects of these initiatives. As the sheer amount of open source continues to grow, and businesses are increasingly being eager to deploy such code, the legal ownership and patentability of said code must be firmly understood. When recognized as prior art, patents descendent from innovation developed on top of open source can be clearly delineated from the works that have already been created. To us, this would simplify the process for patent examiners, especially when equipped with the ability to search existing open source code easily. In addition, encouraging the broader community to comment on the patent process could assist examiners when it comes to deeply technical or mind-numbing abstractions, and thus help move the process along. The Patent Quality Index likewise could provide a very valuable resource in helping prioritize the review process by separating the wheat from the chaff, as it were. Overall, we are quite pleased to see the discussion of the patenting process being championed by several key players in the IT space and will watch with keen interest as to how these initiatives unfold in the months to come.

Microsoft Wins: Free Software Foundation Gears Up

By *Susan Dietz*

Microsoft has won its case to enforce its patent of File Allocation Table software through the reversal of two non-final rulings. The FAT file system, originally developed for DOS, is employed in Windows as well as on removable storage memory cards such as those used in digital cameras and other devices. FAT is also supported by some Linux- and UNIX-related products in order to facilitate data exchange with Windows-based machines. The Patent Office had agreed to re-examine two patents covering the FAT system at the request of the Public Patent Foundation in April 2004 based on the organization's claim there was prior art that proved Microsoft was not the inventor. PPF also was concerned that Microsoft would seek royalties from Linux companies which could harm the free software community as the Free Software Foundation's General Public License prohibits distribution of software that requires royalty payments. Winning the patent case will enable Microsoft to require companies to either pay a licensing fee or quit using FAT in their works. Microsoft has previously licensed FAT, and indicates that it intends to continue doing so. Meanwhile, the Free Software Foundation has redrafted its General Public License for release next week. The GPL is aimed at protecting the interests of free software and open source distributors.

While we believe that the U.S. Patent Office has more legal precedent and authority than the Free Software Foundation, the GPL still has some clout, and it will be interesting to see how any skirmishes that may occur between the two change the current landscape.

As of press time, Microsoft had not posted any comments on its web site concerning the win. It may be that Microsoft is waiting for the release of the GPL and the results of any dust-ups between the Patent Office and Free Software Foundation before deciding whether to pursue any action. Some possible future moves by Microsoft could include enforcing its rights either on companies that were in direct competition while using FAT, companies that would be attractive to Microsoft in a mutual licensing agreement deal, or government organizations using FAT as part of their open-source software. Since the JDA (Japan Defense Agency) and the Japanese Cabinet are both currently looking at the way the United States government is using open source, any moves that Microsoft makes in that direction could have unintentional ripples of consequences that reach across the Pacific. If major government-backed open source initiatives ultimately decided to abandon FAT support, it would cause an unfortunate schism that could once again serve to separate as oppose to integrate computer systems. But perhaps a more likely outcome of all of this is that Microsoft was seeking to protect itself and its deep pockets from some other company in the future patenting FAT and then demanding steep payments from the Redmond Giant. We shall see.