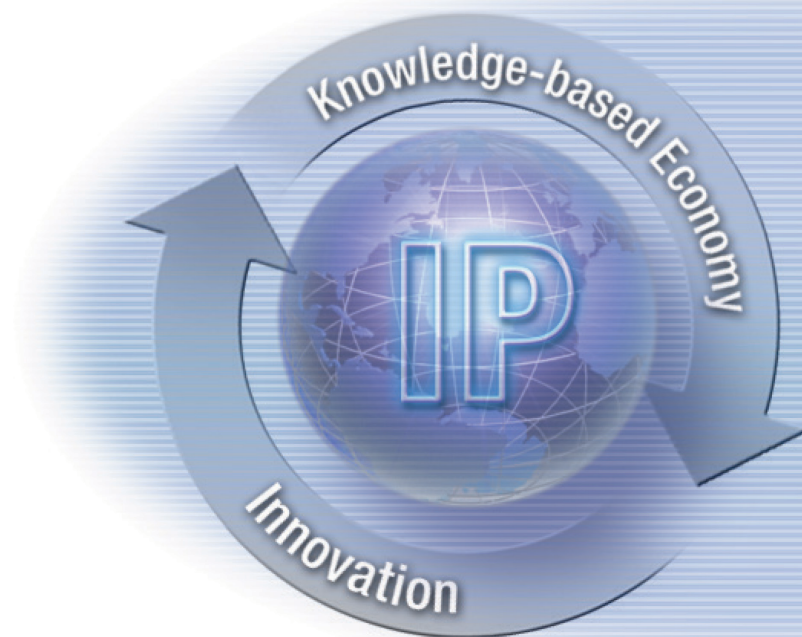




ITIF- Community Patent Review and Patent Reform

Marc Williams
IBM Corporation

March 26, 2007

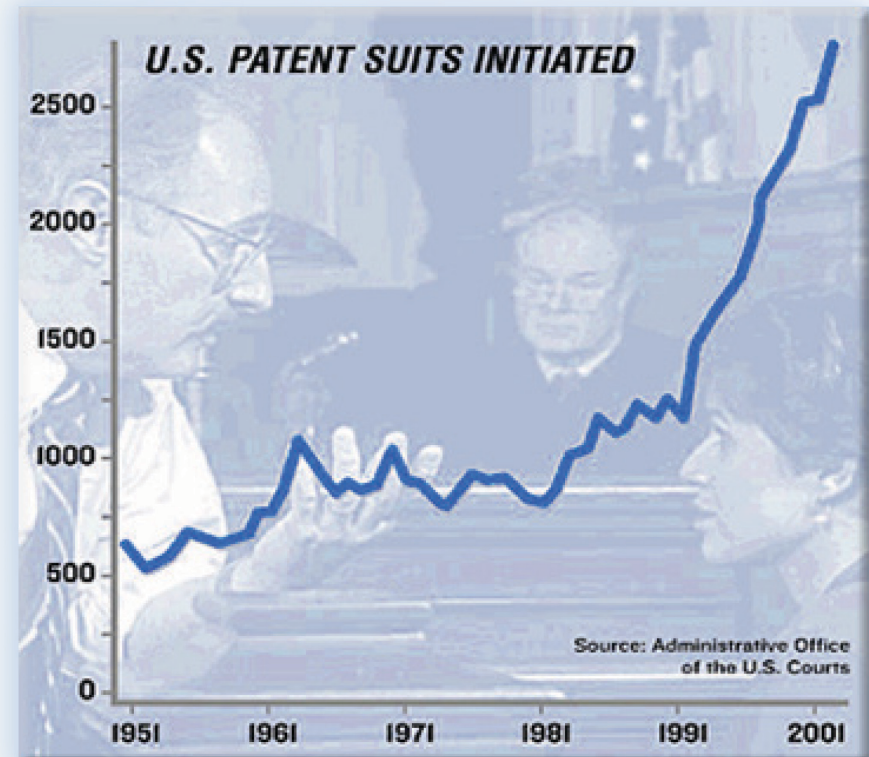
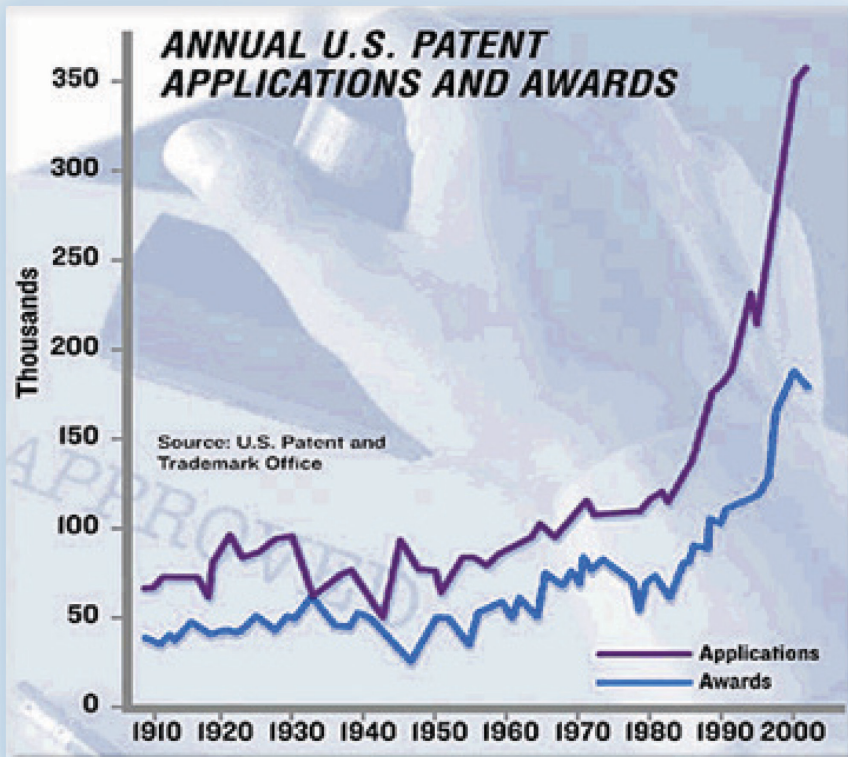


Patent System Is Suffering

- **The patent system is complex**
- **Meritless patents tax innovation and diminish the integrity of the patent system**
- **USPTO is attempting to address problems, but:**
 - Not enough examiners
 - Expanded scope of patentable subject matter
 - Fields with hard-to-find prior art
 - Poor applicant behavior

The Changing IP Landscape

Increasing Volume and Complexity



The Improvements Needed

- **Address problems before patent issuance**
- **Allow issuance only if:**
 - Truly worthy
 - Unambiguous
- **For former, which is focus of Community Patent Review, assist by ensuring examiner:**
 - Has best prior art
 - Appreciates best prior art

Open Call From the Patent Office

Agency Web Site Will Solicit Advice

By Alan Sipress

Washington Post Staff Writer

Monday, March 5, 2007; A01

"For the first time in history, it allows the patent-office examiners to open up their cubicles and get access to a whole world of technical experts," said David J. Kappos, vice president and assistant general counsel at IBM."

IBM Leads in U.S. Patents for Thirteenth Consecutive Year

Introduces Initiatives for Improved Patent Quality

Armonk, NY - 10 Jan 2006: The United States Patent and Trademark Office (USPTO) today released its annual list of the top patentees. With 2,941, IBM earned more U.S. patents than any other company for the thirteenth consecutive year.

IBM also announced an initiative it is undertaking with the 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 unprecedented partnership between these parties to improve patent quality will help accelerate innovation in the United States.

The initiative has three elements:

- Open Patent Review - a program that seeks to establish an open, collaborative community review within the patenting process to improve the quality of patent examination. This program will allow anyone who visits the USPTO web site to submit search criteria and subscribe to receive regularly scheduled emails with links to newly published patent applications in requested areas. Established in conjunction with the USPTO, this program will 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. Professor Beth Noveck of New York Law School will lead a series of workshops on the subject. For more information, visit Professor Noveck's project website at <http://dotank.nyls.edu/communitypatent>.
- Open Source Software as Prior Art - a project that will establish open

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IBM Establishes Worldwide Patent Policy to Promote Innovation

Pledges Thousands of Hours to Community Review of Patent Applications; Reduction in Business Method Patents

ARMONK, NY - 26 Sep 2006: Inspired by a two-month, online forum involving dozens of experts, IBM (NYSE: IBM) today formalized a new, groundbreaking corporate policy governing the creation and management of patents.

The worldwide policy, built on IBM's long-standing practices of high quality patents and transparency of ownership, is designed to foster integrity, a healthier environment for innovation, and mutual respect for intellectual property rights. IBM encouraged others in the patent community to adopt similar policies and practices, more stringent than currently required by law.

The tenets of the new policy, which applies everywhere IBM does business, are:

- Patent applicants are responsible for the quality and clarity of their patent applications.
- Patent applications should be available for public examination.
- Patent ownership should be transparent and easily discernable.
- Pure business methods without technical merit should not be patentable.

Additional detail on the policy can be found below. IBM also announced several actions it will undertake immediately to implement and support this new policy.

- IBM's technical experts will spend thousands of hours annually

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Community Patent Review and Patent Law Reform

Patent reform legislation (109th Congress) would have

- Required all applications to be published after 18 months
- required third party to provide commentary to examiner along with prior art references
- required notice of infringement or deliberate copying before willful infringement can be asserted



Community Patent Review and Patent Reform

- **Back up Charts**

Third Party Submissions of Prior Art Today

- **Rare because:**
 - Lack of awareness of published patent applications
 - Lack of awareness of ability to submit prior art
- **And also:**
 - Cannot submit comments with prior art
 - Presumption of validity if patent issues anyway
- **Opportunity presented by convergence of:**
 - Publication of patent applications
 - Internet communications
 - Emergence of collaborative communities

Accelerating Innovation...Through Collaboration

- IBM Corporate IP Policy
 - In Sept. 2006, IBM forged rigorous patent policy to promote innovation; **pledges thousand of hours for community review of patent application**, and urges industry collaboration on raising standards
 - Share responsibility for patent quality
 - Provide transparency of patent ownership
 - Operate with integrity in all relationships

