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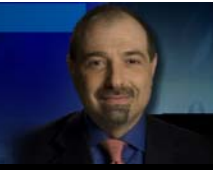
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Company News

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Sun, EBay, Rock & Republic, Troyer: Intellectual Property

By Victoria Slind-Flor

July 1 (Bloomberg) -- [Sun Microsystems Inc.](#) and [Motorola Inc.](#) are among a group of high tech companies that joined in a novel "catch-and-release" strategic alliance as a way of avoiding costly patent litigation.

Other members include [Hewlett-Packard Co.](#), [Verizon Communications Inc.](#), [Cisco Systems Inc.](#), [Google Inc.](#), and [Ericsson AB](#), said Brian Hinman, chief executive of the new venture. Known as the Allied Security Trust, the alliance will acquire patents, license them to members who opt in, then sell or donate the patents.

Member companies each put \$5 million in an interest-bearing escrow account. Companies that have an interest in a particular patent that reads on their technology can decide how much money from the escrow account can be used to buy that patent. Once the patent is acquired by the alliance, it's placed under a separate independent entity.

Other members of the alliance will then have a limited opportunity to take a license to that patent. Those that didn't opt in at the beginning will pay a premium for their license. That premium goes into the escrow accounts of the companies who originally put up the money to acquire the patent.

The price the newcomers "pay for admission is higher than the others pay," Hinman said. Hinman is the previous vice president of intellectual property and licensing for [International Business Machines Corp.](#) and the corporate director of business development and licensing at Westinghouse Corp.

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The "catch-and-release" part of the equation relates to what's done with the patent after all the members of the club who want one have licenses. The patent can then be sold or donated, said Hinman, who emphasized that the Poughkeepsie, New York-based Allied Security Trust isn't a patent holding company.

Allied Security "seems to have a complicated structure," said [Ron Epstein](#), chief executive officer of IPotential, a patent brokerage and consulting firm based in San Mateo, California. He said he sees "an execution challenge" for the new venture.

"The two issues from a patent buyer's perspective are if the patent is worth the money and if you can make the decision quickly enough," Epstein said.

Operating companies have been sued by some patent-holders that are known politely as "non-practicing entities" and, less affectionately, as "patent trolls."

[Acacia Research Corp.](#) of Newport Beach, California, is a non-practicing entity that has sued [Boston Scientific Corp.](#), Bidz.com and Screentone Systems Corp. in recent months.

"Every operating company is a target" for these kinds of patent-infringement suits, Hinman said. "We are not the entire solution to the problem. But we will be an arrow in the quiver."

The establishment of Allied Security Trust "is an acknowledgement" that a lot of companies are using unlicensed technologies, Acacia Chief Executive Officer Paul Ryan said. "Otherwise they wouldn't have any exposure."

Allied Security Trust may be trying to use the announcement to encourage patent holders to ask the trust for a bid, Ryan said.

From the patent owner's perspective, it doesn't matter whether the buyer is Allied Security Trust or any other. "All buyers are equal," Epstein said. "The only question is how many dollars."

Kerala Formulates Its Own IP Policy to Protect Traditions

India's Kerala state released its IP policy June 27, the Thaindian News Web site [reported](#).

The policy is designed to protect the state's traditional ayurvedic and herbal medicine, according to Thaindian News.

India's Patents Act and 2002 Biological Diversity Act specified that each Indian state should have a biodiversity board, Thaindian News reported.

"Now what we will do is prepare a list of items to be included," Law Minister M. Vijayakumar said and Thaindia News reported. He said protection for some areas and products was already lost before the policy was developed.

For more patent news from yesterday, [click here](#)

Trademark

EBay Loses Second French Luxury Goods Trademark Case

[EBay Inc.](#) was ordered by a French court to pay [LVMH Moet Hennessy Louis Vuitton SA](#) 40 million euros (\$63 million) in a lawsuit over claims it didn't do

enough to stop the sale of counterfeit goods.

The ruling also prohibits the sale of LVMH perfumes on EBay.

Another court ruled this month in a case filed by [Hermes International SA](#) that the San Jose, California-based company is a partner to its vendors and must take more steps to fight fakes.

[LVMH](#) claimed in the Paris lawsuit that EBay, the world's largest Internet auctioneer, has a heightened responsibility to prevent fraud.

``It's a groundbreaking decision that will help protect creativity," said [Pierre Gode](#), a member of LVMH's supervisory board and adviser to chairman [Bernard Arnault](#). ``It's an important precedent."

LVMH, the world's largest luxury-goods maker, said it found in 2006 that 90 percent of the Louis Vuitton and Dior-labeled perfumes, watches and handbags on EBay were fakes. Online sales of counterfeit clothes, bags and jewelry cost makers of original products about \$30 billion a year, Tiffany & Co. and other retailers claimed in a U.S. lawsuit.

EBay said in a statement that it would appeal.

The ruling `` is about an attempt by LVMH to protect uncompetitive commercial practices at the expense of consumer choice and the livelihood of law-abiding sellers that EBay empowers everyday," EBay said in an e-mailed statement. ``We will fight this ruling on their behalf."

Besides the fine, the court ordered EBay to post the ruling on all its Web sites in English and French for three weeks and to pay for its publication in three French or international publications of LVMH's choice. Yesterday, the EBay.com home page didn't contain any notice of the ruling, not did the site's general announcements section.

EBay already spends about \$20 million annually on ``trust and security" matters and has 2,000 employees around the world to fight counterfeits.

The court ruled that EBay isn't qualified to sell LVMH perfumes under the Christian Dior, Kenzo, Givenchy and Guerlain brands, which should be distributed only through selected retailers with trained staff.

``This decision lays down the rules for sale of specific merchandise such as perfumes whose sale is reserved for special places with appropriate presentation," Gode said. ``Online retailers will now be subject to the same rules as traditional retailers."

The cases in France, EBay's fourth-largest market, are attempts to raise the legal requirements for the company to sell famous-brand merchandise. The judge in the Hermes case said EBay should require certificates of authenticity and serial numbers for sales.

Rock & Republic Claims Fancy-Jeans Competitor Infringes

Rock & Republic Enterprises Inc., a maker of high-end jeans, sued competitor Rick & Skinny Inc. for trademark infringement.

Rich & Skinny's jeans infringe through the use of a stylized letter R on their jeans that copies Rock & Republic's trademark, according to the June 25 complaint filed in Los Angeles federal court.

Rock & Republic's fashion jeans sell for [as much as \\$330](#) a pair. They are "synonymous with edgy progressive design inspired by rock & roll and with an emphasis on modern silhouettes and a sleek fit," according to the Culver City, California-based company's [Web site](#).

Rich & Skinny, of Santa Monica, California, makes jeans that sell for \$145 to \$259, according to the RevolveClothing.com [Web site](#). The jeans are sold by such stores as Nordstrom Inc. and Macy's Inc.'s Bloomingdale's.

The Santa Monica jeans maker "willfully and intentionally copied Rock & Republic's trademarks," according to court papers.

The trademarks "are inherently distinctive and have acquired distinction from other marks through long, continuous, and exclusive use by Rock & Republic," the company said in its pleadings. Rock & Republic was founded in 2002.

Rock & Republic was sued in the U.K. April 24 by David & Victoria Beckham's licensing company Beckham Brand Ltd. In that suit, the soccer superstar and his Spice Girl wife claim Rock & Republic owe her more than 50 million British pounds (\$100 million) for "loss of earnings" relating to her line of jeans the company produced, according to the Evening Standard newspaper [Web site](#).

That case is Beckham Brand Ltd. v. Rock & Republic Services Ltd., HC01C1139, High Court of Justice, Chancery Division.

In the case against Rich & Skinny, Rock & Republic asked the court to order the company to stop infringing the trademarks, and for profits from the sale of the infringing products. It also seeks money damages and asks that they be tripled and that additional punitive damages be awarded to punish Rock & Republic for its conduct.

[Jessica J. Slusser](#) and [Jill M. Pietrini](#) of Los Angeles-based [Manatt Phelps & Phillips](#) represent Rock & Republic.

The case is Rock & Republic Enterprises Inc. v. Rich & Skinny Inc., 2:08-cv-04199-PSG-FMO, U.S. District Court, Central District of California (Los Angeles).

For more trademark news from yesterday, [click here](#)

Copyright

Verne Troyer Sues TMZ.Com for Unauthorized Sex Tape Release

Verne Troyer, the actor best known for his portrayal of the "Mini Me" character in Austin Powers movies, sued the proprietor of the TMZ.com for copyright infringement relating to a sex tape Troyer made with his girlfriend.

Troyer made a videotape in 2007 showing himself and his girlfriend "engaged in various explicit sexual and intimate relations together," he said in his June 26 complaint filed in Los Angeles federal court.

The tape was intended exclusively for his own personal and private use, according to court papers.

TMZ Products Inc., which, in addition to its celebrity tell-all Web site, also has a television entertainment program, obtained the tape and displayed part of it on the TMC.com Web site, "essentially throughout the world," Troyer said in his

pleadings.

Troyer's counsel sent TMZ a cease-and-desist letter June 25. TMZ's Web site ``continues to advertise, publish and display the tape," Troyer claimed. Troyer's request for a temporary restraining order was refused June 26, according to court files, because his lawyer hadn't fulfilled the court requirement to provide notice to the defendants.

Sugar DVD is codefendant with TMZ, as is Kevin Blatt of Oakland. Blatt, according to the TMZ Web site, ``brokered the deal for Paris (Hilton)'s sex tape." Blatt was ``entertaining a \$100,000 offer" from Sugar for the tape, according to TMZ.com.

Hilton's sex tape was shown on the pornography blog ``Fleshbot," and received 1 million hits the first week the tape was posted there.

Troyer asked the court for money damages of more than \$120 million and for an order requiring destruction of all copies of the tape, and any use of his name or likeness by the defendants.

[Traci B. Rane](#) and [Edwin F. McPherson](#) of Los Angeles-based [McPherson & Associates](#) represent Troyer.

The case is Verne Troyer V. TMZ Productions Inc., 2:08-cv- 04233-PSG-JWJ, U.S. District Court, Central District of California (Los Angeles).

Marvel May Decline on Rights Dispute, Barron's Says

[Marvel Entertainment Inc.](#) shares may decline should the comic-book publisher lose the rights to such billion-dollar character franchises as Spider-Man and the Hulk, Barron's reported, without citing anyone.

[Peter Paul](#), who co-founded [Stan Lee Media Inc.](#) with creator [Stan Lee](#), has sued Marvel, Lee and other defendants, seeking half the profit generated by the characters in movies such as ``Spider-Man" and ``The Incredible Hulk," the weekly newspaper said in its June 30 issue.

Paul, who pleaded guilty to stock manipulation in 2005, has raised questions about Marvel's ownership of the characters in court filings and Securities and Exchange Commission [documents](#), the newspaper said.

Marvel said Lee's agreement with Stan Lee Media never mentioned the characters controlled by Marvel, and that [Stan Lee](#)'s characters have always belonged to the publisher because they were ``works-for-hire," Barron's said. Lee declined to comment to Barron's.

``Marvel still firmly believes there is absolutely no merit to the suit; a view supported by Mr. Lee," wrote [David Collins](#), a Marvel spokesman who works for Jaffoni & Collins. Stan Lee didn't respond to a voice-mail message left by Bloomberg seeking comment, while a telephone listing for Paul couldn't be found.

Sri Lanka Politician Denies His Book Violated Copyrights

The head of Sri Lanka's National Freedom Front (Jathika Nidahas Peramuna) party denies allegations he violated copyright by publishing excerpts from the government's central committee documents, the Web site of Sri Lanka's Colombo Page newspaper [reported](#) June 29.

Wimal Weerwansa said his book ``Truth Instead of Sham" (Netta Wenuwata Etta) didn't contain the confidential material, according to Colombo Page.

Weerwansa claimed it was Rohana Wijeweera of the Marxist Janatha Vimukthi Peramuna party who published documents from the central committee, Columbo Page reported.

For more copyright news from yesterday, click here

IP Moves

[Davis Polk & Wardwell](#) named transactional IP specialist Frank J. Azzopardi to a partnership, the firm said in a June 30 statement.

Azzopardi is one of six new partners in the New York-based firm. Before he joined Davis Polk in 2001, he was an associate in Australia's [Allens Arthur Robinson](#).

He has done IP transactional work, including licensing, asset sales, mergers, joint ventures and other collaborations for clients in a wide range of industries, including bio- pharmaceutical, information technology, media and private equity. He has also done patent, trademark, copyright, cyber- squatting, personality merchandising and design-patent litigation.

He received a business degree and his law degree from the University of Melbourne.

For Bloomberg articles by lawyers on intellectual property Topics click here.

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