

18th and 19th of February 2012

Moot Court problem

PXL

Versus

GHL & C

1. Bogo, a developed country follows laws similar to Indian laws but also encourages patenting on anything and everything under the sun. The Bogo Patent Office in 2006 amended Bogo Patent Act and allowed expressway patent grant i.e grant in 6 months whereas a normal patent is granted in 15- 20 months.
2. GHL is a Fedian multinational technology and a consulting corporation headquartered in Salvo, Fedia with operations in over 170 countries including India and Bogo. GHL's business involves manufacturing and sale of electronic and telecom products, it also provides infrastructure, hosting and consulting services in various sectors like telecom, electronics and allied industries.
3. GHL wishes to launch a new mobile phone with plethora of inbuilt software applications like online retail services for selling products of different companies and providing information in relation to the same.

4. C is a leading software developer company based in Bogo. GHJ awards a contract to with C to exclusively provide them with the software for online retail store and information services.
5. Young, Edward and Yann now under the employment of C developed a new software which collects the data related to various products being offered for sale available on internet, filters, stores and also provides the said products for sale under one roof within the said software application to the user. The said software application was similar to online software application like travel information by changing the application specific to online retail store and information service. They develop online software application having first few steps similar to travel information and which are the basic essential steps required to develop any kind of software and the last few steps cater to providing online retail store and information service. C then filed for a patent in February 2011 for the same software application through an expressway examination.
6. Myco Corp., an emerging software company, provides software applications, solutions to needs of the industries and it has number of patents in their portfolio.
7. In 2010 Young, Edward & Yann were with Myco Corp., they had then developed various software applications for mobile phones like providing weather information, travel information, etc. Myco Corp. filed for a patent in August 2010 for providing travel information in Bogo. The patent application contained 20 step process software application for collecting, arranging and providing online travel information to mobile users. Due to certain employment issues with Myco Corp., Young, Edward & Yann after working for four years, quit Myco Corp. and joined C in January 2011.

8. In September 2011, C was granted a patent 213942 for the said online retail store and service software. C then incorporated the said patented software to develop an online retail store and information service application. They further licensed the same to GH L under the above mentioned contract. The license is recorded with Bogo's patent office
9. GH L developed this software which now provided online retail store and information services for application in its new mobile phone named CXS-2300. To acknowledge its developers - Young, Edward & Yann, GH L named the said software application as YEDY. One of the USP of CXS-2300 is the said software application YEDY which provides online retail store service and information on various products (in the manner set out above) to the users through their mobile phones. GH L then launched the product across the world in December 2011.
10. PXL is one of the leading online retail service providers in Bogo, with registered office in Burunga (Capital of Bogo). In November 2011, they acquired Myco Corp. which included both their IP and non-IP assets. PXL's online information service named "YEDY" is in existence for few years in Bogo. In December 2011, Myco Corp. is granted a patent (no. 218762) for online software application which provides travel information.
11. Few members from the PXL group happen to buy CXS-2300 owing to its huge commercial success. To their surprise they find that the retail application "YEDY" in CXS- 2300 is similar to their application providing travel information for which a patent has been granted to Myco Corp. (now owned by PXL).

12. As a result of this, PXL invokes the Burunga High court's jurisdiction against GHL and C on the issues of patent infringement, passing off and copyright infringement.
13. GHL and C contend that a patent infringement action does not lie against C's granted patent and that Myco Corp. should have been diligent in opposing C's patent. Further, Myco Corp. should have first filed a revocation action against C's patent. GHL also contends that its software application under the mark YEDY is used for online retail stores and information service whereas Myco Corp.'s patented software application for travel information is not provided under any trademark. Moreover, although PXL and Myco Corp. belong to the PXL group, the patent and the trademark are held by two distinct entities i.e the trademark YEDY is owned by PXL whereas the patented software application for travel information is owned by Myco Corp. GHL has also taken a defence of ISP against copyright infringement. The issues pertaining to patent and trademark cannot be combined.
14. Burunga High Court has the jurisdiction to decide all IP and related issues.