

WPI Venture Forum

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WPI VENTURE FORUM CALENDAR OF EVENTS

- March 16, 1999 – Creating A Corporate Image
- April 20, 1999 – Finding The Funds
- May 13, 1999 – “Breakfast with Ken Olsen”
- May 18, 1999 – Getting Real Customers to Pay Real Money for Your Product
- June 15, 1999 – Business Plan Contest

Directions to WPI Campus, Salisbury Labs, Kinnicutt Hall, Room 115

From The East:

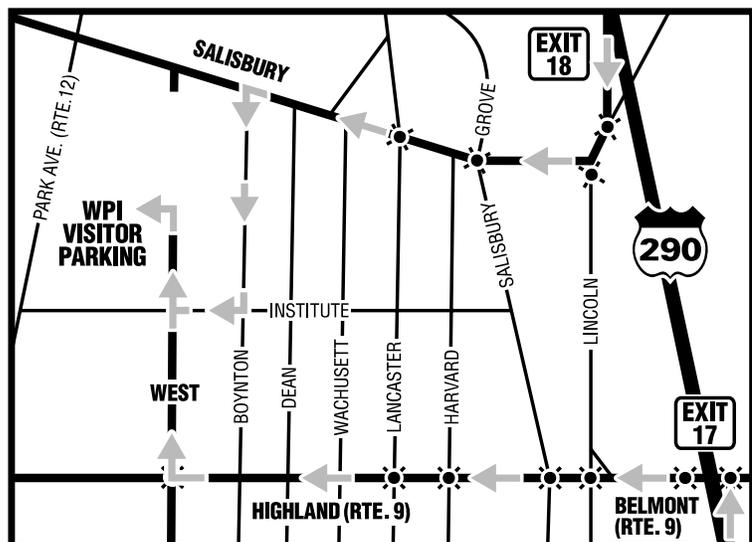
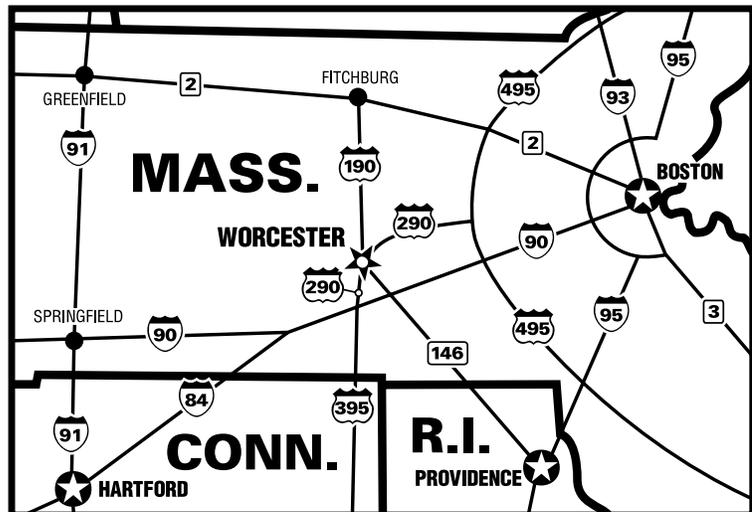
Take Mass. Turnpike (I-90) to Exit 11A (I-495). Proceed north to I-290, then west into Worcester. Take Exit 18, turn right at end of ramp, then an immediate right before next traffic light. At next light, proceed straight through, bearing to the right on Salisbury St., At the WPI sign, turn left onto Boynton St. There is parking in the large lot on the right behind Gordon Library or continue on Boynton St. then right onto Institute Rd., then right onto West St. Visitor parking is on the left after footbridge.

From The North:

Take I-495 south to I-290. Follow directions as from east.

From The South And West:

Take Mass. Turnpike I-90 to Exit 10 - Auburn. Proceed east on I-209 into Worcester. Take Exit 17, turn left at end of ramp, follow Route 9 west through Lincoln Square, straight onto Highland St. then right at light onto West St. Through first intersection of West and Institute Rd. Visitor parking is on the left after footbridge. Additional parking on Boynton St. behind Gordon Library.





Venture

VENTURE FORUM NEWS

Promoting and serving technology-based entrepreneurial activity
www.wpiventureforum.org

Volume 8 No. 7
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Creating a Corporate Image

Tuesday, March 16, 1999

WPI Campus, Salisbury Labs

Registration: 6:00 pm

Meeting: 6:30 pm

Admission Fee: \$5.00 members

\$10.00 non members

“There is never a second chance to present a great first impression!” This is a philosophy we have heard and perhaps lived by. In business, attracting potential clients often begins with the initial image that is conveyed. What service does your company provide? Who is your target client? Does your company name clearly communicate your specific talents to those who need them, or could your company name be interpreted as d/b/a “We Do Everything, Inc.,” or, “Obscure, Inc.?” Is your company mission statement, credo, or philosophy properly expressed by your logo, letterhead, marketing tag line, presentation packet, or even the quality of paper upon which your presentation is printed?

Creating the optimal logo, precise tag line, or even reviewing an advertisement or presentation material can be time consuming and grueling when there are so many other things which need immediate attention.



Jan Robert Horsfall, vice president of marketing, Lycos

The business owner is drawn in so many directions, it is no wonder that “corporate image” barely fits at the bottom of the priority list. Isn’t making a sales call, or following up on current orders more important? And what about business plan revisions, article submissions to the trade magazines, trade shows, and refined marketing strategies? Yes, they are all important. However, taking a little time to define or redefine your business, target markets, strategy, and image makes many of the other tasks easier.

Once the framework of the image is determined, logos and timesteps are developed to depict that image. Letterhead is chosen in line with the image. Collateral material may pick up the same colors, packaging and promotional materials carry the same theme, and trade show booths reflect the style, philosophy, and messages you convey through other channels. Something else magical happens, too. People inside and outside of your organization suddenly “get it!” and, “this is who we are, what we do, and what

we stand for!” The messages are clear, and are reflected by articles in selected publications, advertising, packaging, presentations, and even by co-workers and colleagues. It makes sense, it fits together, and it allows all of the elements of your business to express your message – in harmony.

Reflect for a moment on the images conveyed by IBM, LL Bean, BASF, ADM, or any other well known “brand name” companies. When you reach for a tissue, do you think Kleenex? Ads, product, packaging, annual reports, and even the architectural style of their corporate office all reflects their images. Every channel of communication effectively conveys what they believe to be important. And every well known company logo and brand started with a decision to create a particular image.

As they say, “there is never a second chance to create a great first impression!”

The Speaker

The WPI Venture Forum is pleased to have Mr. Jan Robert Horsfall, vice president of marketing of Lycos to share with us his expertise and ▶

Continued on page 8

CONTENTS

Letter from the Chair	2
Sponsor’s Corner	3
Past Meeting Summary	4
Managing Change	8
Legislative Changes	9

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WPI VENTURE FORUM

The mission of the WPI Venture Forum is to promote and serve technology-based entrepreneurial activity and economic growth in the region by increasing the business and financial knowledge of the participants through sharing experiences with entrepreneurs as well as area business, financial and educational leaders.

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Letter From the Chair

Patents for Small Companies

Brian Dingman



As a patent attorney, I am exposed daily to the considerations of small companies concerning protection and exploitation of their intellectual property. I am constantly surprised at the number of technology business entrepreneurs who are not fully informed of an alternative means of beginning the process of obtaining a US patent, called a Provisional Patent application. Although Provisional Patent applications are very clearly not appropriate in every situation, they can be an effective tool for the entrepreneur. Thus, all those involved with intellectual property should be aware of the Provisional Patent application system, so that it may be considered in an overall intellectual property protection strategy.

What is a Provisional Patent Application?

Prior to June, 1995, applicants for patents were required to file a complete patent application in order to obtain a patent application filing date. The preparation and filing of such a patent application can take quite a bit of time, and cost thousands of dollars. Patent applications must include an enabling disclosure, a best mode disclosure, and must have claims to the property right. Patent attorneys almost always are engaged to draft and prosecute patent applications.

Effective in June, 1995, Congress enacted legislation creating the provisional patent application system. Under this system, an applicant can obtain a patent application filing date by filing a written disclosure of the invention, including any drawings necessary to understand the invention. The provisional application does not have to be in any particular format, and does not require claims. The provisional application filing fee is \$150.00, and is reduced to \$75.00 for individuals and small companies.

The provisional patent application is never examined for patentability, as would be a full patent application. Within one year of the provisional filing date, the applicant must still file a full patent application. If this is not done, the provisional filing date is lost.

The full patent application, when filed within the one year deadline, is accorded an effective

filing date of the provisional application filing date, for the subject matter which the two applications share. And, the full patent application may be based on more than one provisional application filed within one year prior to the full patent application filing date.

Important Considerations

This provisional patent application procedure thus presents an opportunity for increased frequency of patent filings. For very little money, and minimal effort, an invention disclosure can receive a patent application filing date. The patent application filing date may be important, or critical, for a number of reasons, most of which I won't get into here.

The provisional patent application, however, should not be considered a panacea. It is important to remember that a filing date is obtained only for information disclosed in the provisional patent application. Thus, as the technology evolves, it may be necessary to file more than one provisional application. Also, the provisional application often is not as thoroughly reviewed and analyzed as would be a full patent application, which can lead to errors.

An important consideration in deciding whether to file a provisional application relates to foreign patent filings. In order to obtain the U.S. filing date for a foreign filing, the foreign filing must be accomplished within one year of the U.S. filing date (although in many countries the one year foreign filing deadline can be extended for up to an additional eighteen months by filing a Patent Cooperation Treaty application). This one year deadline also applies to the filing of the full patent application based on a provisional application. Thus, often times, the filing of a provisional application will establish a firm deadline for filing both in the U.S. and overseas. Foreign filing is often extremely expensive, and thus for individuals and small companies is usually a decision which such parties would like to delay as long as possible.

Accordingly, filing a provisional application ►

Continued on page 8

Supreme Court Decides On Sale Bar In Patent Case

By Kirk Teska, Patent Attorney, Iandorio & Teska

There are numerous “traps for the unwary” in patenting a new product. Most people know that if the product lacks novelty (newness), no patent can be obtained; an obvious invention is similarly not patentable.

“Bar” To Patentability

Publishing the details of an invention more than one year before the patent application is filed with the United States Patent and Trademark Office is a case of a “bar” to patentability. And, in the United States, the inventor also has only one year from the date the invention is offered for sale or sold in which to file an application for a patent. Thereafter, no patent is possible or, as is more often the case, if an infringer can prove the patented invention was sold more than one year after the patent application was filed, the patent will be declared invalid by the court. The “infringer” will then be free to sell the invention without a license and without any liability to the original inventor.

Test

When an actual product is sold, the test is easy to apply: if the product was sold more than one year before the patent was applied for, the patent covering the product is invalid and everyone is free to copy the product. This “on-sale” bar rule has been around for a long time. Unclear, however, was the case where orders for a product were taken at a time when the product has not yet been manufactured. Is the invention then “on-sale” and does the one-year period for filing a patent application begin?

Previously, the Court’s answer was an unsatisfactory “it depends” - it depended on the stage of development and the nature of the invention.

So, when Wayne Pfaff took an order for numerous units of his new invention on April 8, 1981 but didn’t file the patent application until April 19, 1982 – more than one year after accepting the orders – he asserted his invention was not “on-sale” because it had not yet been manufactured. In fact, the invention was not actually manufactured until July 1981, less than one year before the patent application was filed.

Mr. Pfaff lost his patent.

Ready To Patent

The reason, said the United States Supreme Court in a recent decision, was that although the invention had not yet been manufactured, it was “ready for patenting”. In other words, Mr. Pfaff, when he accepted orders for ultimate product, had detailed drawings and specifications explaining the invention and those details could have been used to prepare and file a patent application.

The new two-part test now articulated by the highest court is: first, was there an offer to sell the invention on commercial terms and, second, was the invention described in sufficient detail such that a patent application could have been prepared?

If, as in Mr. Pfaff’s case, both parts of the test are true one year before the patent application is filed, any patent covering the invention is ultimately invalid.

Typical Scenario

What usually happens, at least in the reported cases, is that a patent owner sues a company for patent infringement and that company’s attorney tries to find ways to invalidate the patent. During discovery conducted before the trial, the infringer’s attorney will inquire as to whether the patented invention was ever offered for sale or sold.

In Mr. Pfaff’s case, the opposing attorney, having established the date of the offer to sell the invention, asked Mr. Pfaff if there were any pro-

totypes of the invention more than one year before the application was filed. The answer was no. So far, so good. But, Mr. Pfaff admitted he had drawings of the invention by that date and almost bragged that his drawings were good enough to go right into production.

Those drawings, said the Supreme Court, could have been used to prepare the patent application and since no application was filed until over a year later, the resulting patent was found invalid.

Lesson Learned

The broad lesson is to file early and often for patent protection. Any time orders are taken for a product – whether or not the product is fully designed or actually manufactured, a determination should be made whether to protect the product against copying by a patent. A conservative view is that when the first order is placed, the patent application should be filed within a year thereafter.

Mr. Pfaff missed the date by eleven days and as a result had his patent declared invalid after spending a substantial amount of money, initially winning at trial and then spending additional money to ultimately lose on appeal.

Prototype Not Needed

Some people wrongly believe that a model or prototype of the invention is required in order to file a patent application. That has never been ►

Continued on page 9

Up-Front Exit Strategies: The Journey's Summit

“The time to formulate your exit strategy is right after you come up with your idea for a business.”

These words of Eliot D. Weinman's, President and CEO of the Intermedia Group and founder of Software Productivity Group (SPG), opened the discussion of up-front exit strategies for the January 19th WPI Venture Forum meeting. Weinman is well aware of the issues involved in selling a business entity since he experienced the procedure in March 1996 with the sale of SPG, an integrated publishing, consulting and analyst services firm specializing in the software and application development markets to a privately held company.

He learned that your planning strategies need to begin with the birth of the idea for a company. Foresight avoids problems later on. Personal financial requirements need to be considered along with an overview of the financial or strategic condition of your company. Lucrative times may be offset by unfavorable times. Periods of investment serve to keep the company on an even keel. “The industry you serve is always changing,” Weinman said. “You need to make sure that the owner, any investors, and the shareholders all have the same concerns in mind before taking action.” The state of the economy, as well as current tax structures, also plays a key role in formulating your exit strategy.

Once an acquisition becomes imminent, there are a few important factors to remember. First of all, the welfare of the entire company — owner(s), shareholders, investors, employees, and customers — should be uppermost in your mind. If at the beginning stages you laid a solid foundation, your decisions now will be in accordance with your initial business plan and mission statement. The acquisition offer terms should include the price, post acquisition employment plan, and a stock or asset deal.

Weinman advises that you review the market conditions at the time of the sale and the impact that taxes will have on this business endeavor. Your own personal post-acquisition desires are important as well. Where do you see yourself after the deal is completed? What about fiscal family goals and plans? Will there exist opportunities with the new owner?

Weinman emphasized the importance of coordinating your expectations as the seller with those of the buyer. Open communication will facilitate a smooth changeover. It is vital to understand what existing management's role will be in the new company, if any. Weinman told of an instance where an entire management team was dismissed once the new owners had taken over. An action like this can spell disaster for a company. You must understand what the buyer expects from you regarding shareholders and employees as well.

Your role in the new company involves legal implications whether you remain or terminate your relationship. Should the acquisition provide for your remaining with the company, you must sign an employment agreement. If the terms of the acquisition include resignation, you must sign a long-term non-compete agreement. Weinman repeated that the legal ramifications of both of these documents are of paramount concern to a successful business transaction and to avoiding future headaches.

Weinman placed added emphasis on employment agreements. He feels that employment contracts are integrally linked to any transactions that take place. A good contract will have an exit strategy built into it. Effective employment agreements contain nine key sections: specific responsibilities, reporting structure, compensation, bonuses, length of agreement, non-competition agreement, non-solicitation clauses, benefits, and termination rights. Specific responsibilities for seller and buyer must be clearly stated so as to avoid any misunderstandings in the post-acquisition period. Comprehending accountability where appropriate will prevent future problems.

The reporting structure of the new company should be clearly defined. How is the chain of command configured? Does every employee and member of the management team understand the new hierarchical shape? Will the reporting structure remained the same? Who do you report to - the CEO, the new president, the chairman?

The area of compensation is a straightforward issue, but it can be complicated by bonuses, additional cash, and stock. Your initial com-



Eliot Weinman explains options of “cashing out”.

Ron Bouley

pensation is usually integrally linked to the sale of the business. The matter of bonuses must be analyzed in light of various factors in order to arrive at an agreed upon amount. According to Weinman, the stock question is one of the most misunderstood and overlooked areas in an acquisition process. “The class stock option is important to know. If you don't know, ask. Corporate documents will give you the answer,” he said. Once you understand the details of the bonus options, you need to determine with the new owner when they will be paid and in what form. If any of these bonuses impact your non-compete agreement, that, too, should be made clear.

When Weinman sold SPG in 1996 he negotiated for the stockholder value of the company. He had a strong commitment and loyalty to his employees. In his role as seller he helped the new owner to understand the competencies of the present staff.

A specific time frame should be designated for the agreement to avert misunderstandings down the road, according to Weinman.

Non-compete agreements can be broken down into specific areas similar to the employment agreements. For legal purposes an exact duration of the non-compete is expected. The agreement should specify any off-limits areas or other questionable territories. How enforceable or legally binding is the non-compete? Who

could you or could you not work for after selling the company? Are you free to advise remaining employees after the agreement? Weinman suggested that a non-compete agreement could be built into a purchase agreement with the entity being sold as well as the individual.

Non-solicitation clauses affect both employees and customers. You should be aware of the legal implications of enticing workers and business associates from the new owner. Your customers and former employees should also respect the terms of the agreement.

Your exit strategy should provide for medical benefits, vacation time, expense reimbursement, and other allowances for yourself and your employees. These issues should have been addressed in your business plan when the company launched.

You or the new owner also have termination rights of the contract if for some reason the arrangement is unsatisfactory. Weinman reiterated that careful thinking through of every issue involved will ensure a smooth cashing out process.

Weinman was asked the best way for a small company to sell in the question and answer period. He responded that the company should find a Mergers and Acquisitions (M & A) company with a good track record and references in the company's industry. After paying a fixed fee and commission, the company can relax while the M & A company does all the legwork. A small company does not have the time to waste on tracking down prospective buyers; the M & A company's job is to locate bidders for its clients.

In closing, Weinman underscored the importance of knowing your buyer's expectations as well as having employment agreements in place. He stated that you should know your industry and the market and carefully assess how fast your company is growing. Before entering into a cashing out position, factor in what you want and need regarding the company. Whatever the future holds for your company, Weinman had one last bit of advice: "Be decisive."

Case Presentation

Explaining that his product offers a "simple, intuitive, Windows look and feel," Donald R. Byrne, CEO of Kx Multimedia Software, LLC, launched into a computer-assisted presentation of his Kx Media Processor Suite". This new program is touted as the first in a new class of desktop applications.



Donald Byrne of Kx Multimedia Software, LLC.

The system is comprised of a Kx Media Presenter", Kx Builder", and Kx Session Server". The Presenter" offers a media player that allows users to view video productions, search and find selected portions of the video, add notes and references, and link to others' references and notes. The Builder" is a server application that creates logical multimedia objects and provides automation aids including task wizards, key frame grabbers, and audio clip selector. A patent-pending utility for automatic scene detection and annotation as well as a real-time recording option is available. The Session Server" handles statistical reporting, user authentication, and other management functions.

Byrne claims that Kx has found the "missing piece" to the multimedia systems presently in existence. Since multimedia drives the Internet, Kx's new tool is part of the cutting edge in technology. Development of the product was based on a survey that was given to 400 high technology companies regarding how their businesses use multimedia systems.

The Kx Media Processor Suite can be used in presentations, teleconferences, conference calls, and multimedia training and publishing programs. Information is captured in tape format, processed through the software and annotated, published, and deployed. Byrne emphasized the "magnetic property of knowledge," i.e., knowledge leads to more knowledge. He termed his product a "knowledge nugget."

Using capability as the keyword, Byrne placed the focus of the Kx Media Processor Suite" on communicating content to its users.

Since the product can be customized, it serves the needs of various types of businesses. Human Resource management is accomplished by automating and consolidating information for employees. He sees the software package as important for legal use in transmitting depositions. Weather information, roadmaps, victim and witness statements, and interviews can be linked to produce concise and accurate data. Sales and marketing departments can offer training programs via this system. The dual purpose CD-ROM can be played in a vehicle, thus adding to the value of the product.

Even though recorded information is, technically-speaking, stored, sometimes this data can be logically lost. Introducing the 3 R's - Recover, Re-purpose, and Re-use,- Byrne explained that this system can recover valuable stored information, redesign and update the data for new uses and applications, and re-use the material in creative ways. All of these functions can be performed from any desktop machine. He then added a fourth R: return on investment. Lowered production costs enable new classes of applications to be created inexpensively while the applied value of knowledge is increased. ►

Continued on page 10

Managing Change: New Strategies For Selling Overseas

By Julia Dvorko, Ph. D, Program Director, Mass. Small Business Development Center, Central Mass. International Trade Program

Just two years ago most foreign markets were buoyant, the world was moving towards a global market economy and selling overseas seemed the next logical step in a company's expansion. With the recent collapse of several emerging markets, and the ongoing concerns about the economic situation in several others, the mood has noticeably changed. "Wait and see" is the most optimistic attitude these days, at least where most of Asia, Eastern Europe and Latin America are concerned. Exports to Japan, which is still struggling with its' own banking crisis, are significantly down; and although the European Union is doing rather well these days, the introduction of the single currency in January 1999 adds some uncertainty to the otherwise stable future.

Steps To Take

In these times of trouble, managing change becomes especially challenging. Smart companies should use recent events to analyze their situation and act on the new developments in foreign markets. Here are the steps that your company could take to stay in business overseas.

1. Re-Assess Risks and Take Measures to Mitigate Them. For a start, review your credit policy and evaluate your buyers' credit risk. This is the risk that you can control, and even in the best of times, each buyer's payment history should be periodically checked. Order a new credit report from Department of Commerce or private sources, see if there were any significant delays and discuss the situation with the buyers - consider changing your credit terms if necessary. Though few companies do it on a regular basis, it is also important to analyze country risk for the most "unpredictable" emerging markets. There are services that provide such analysis on a scientific basis, but in most cases, staying informed of the recent developments and maintaining a regular relationship with the in-country contacts (which every exporter should cultivate) will be sufficient. If after the analysis of the situation you feel concerned about any of these risks, get foreign credit insurance. Through the Export-Import Bank of the United States and a number of private insurance companies, you will be able to cover most of the com-

mercial (buyer's) and political (country) risks, though for many politically unstable countries, EXIM is still the only available source. Insurance is also a must if you plan to use your foreign receivables as a collateral for a working capital loan or to sell them to a factor (see next section). One other risk to consider, especially these days, is foreign exchange risk. That is, of course, if you accept or make payments in foreign currencies. Various hedging instruments will help you to mitigate this type of risk. The most popular one is a forward contract (an arrangement with a bank to sell or buy currency at a fixed exchange rate for a delivery at some specified date or a range of dates in the future). One thing to remember is that most banks will not even talk to you if the amount you are looking to hedge is under \$50,000 (\$100,000 for larger banks). It is also not worth it with the smaller sums.

Assess Risks

In general, when assessing the risks, think about Risk Vs Return trade-off. This concept is commonly used to evaluate financial investments, but it is also an excellent tool for risk management in trade and foreign direct investment. A company should ask itself how much it is willing to bear, and whether the return is adequate for the given level of risk. In a nutshell, the level of risk is a probability of being paid, and paid on time. Of course, risk is not the only factor in foreign market selection, but it is an important one (especially for a small company).

2. Enhance Foreign Receivables Management. In the current situation, you may be willing to extend credit terms to some of your customers, or, as discussed above, insure some of your foreign receivables to alleviate risks. Besides, you may also run into collection ►

Continues

problems, even with the customers who have a good credit rating. As a result, your cash flow may suffer, and you might want to consider new instruments for foreign receivables management. **Factoring** is one of the options that has been common in European countries for some time, and is now spreading to the US. Typically, a factor will purchase exporter's receivables at a discount and will collect the money from a buyer when payment is due. In this way, buyer's risk is transferred to the factor, and the exporter gets paid promptly (usually there is an advance of 80% with the remaining 20% due when payment is collected). Another possibility is **forfeiting**, which usually involves getting a promissory note from the buyer (with a guarantee, or aval, from a bank in the buyer's country). The exporter then sells the note to a forfaiter. These days, it may pay to monitor new instruments for buyer financing and to review alternative payment options. While **barter** is off-limits for most, it may be the best option in some (critical) situations. Corporate barter companies, which specialize in handling barter/offset transactions, have become active in the US market in the last several years.

3. Review Agreements With Suppliers and Distributors. Negotiate on price, performance, credit terms, termination conditions, exclusivity. From your suppliers, you may get more favorable prices or add-ons. Your distributors may need some hand-holding, additional training or financing. In the larger markets, they may also agree to the revised definition of exclusivity or to shorter-term contracts. This may be a good time for finding new suppliers and representatives overseas. However, when you are considering a new candidate, always try to get a referral. In fact, one of the safest and easiest ways to find an overseas representative is getting a referral from the exporters of complimentary products.

4. Focus on Fostering Your Long-standing Relationships and Developing the New Ones. This is an advice that one often hears from the veterans of foreign trade these days, and it is hard to underestimate it. Your business is built on relationships (with your customers, suppliers, distributors, shippers, freight forwarders, bankers and other members of your export network) that help you make money. Cultivating these relationships is an essential principle of doing business overseas, and in many countries it is a precondition for entering the market. Communicate with your partners and visit them on a regular basis. Try to build a personal rapport with your customers and distributors. Also, search for new contacts whenever possible. Having access to local well-informed sources will help you in many foreign markets where little reliable information is available. Maintaining good relationships with government officials is a good idea in the countries where transparency leaves much to be desired. If you are selling to a few large clients, monitor your relationships constantly. Your customers are probably going through a revision of their strategic plans at the moment. Make sure that you understand their concerns and offer solutions.

5. Re-consider Your Pricing Strategy. Due to the devaluation of many foreign currencies, American products and services have recently become less affordable in the overseas markets. However, lowering prices is definitely not an option in most situations. It is, more likely, the worst possible solution: by slashing what you charge overseas, you may erode brand equity. Instead, emphasize quality or do some bundling (throw in extras, such as extended warranty, technical support, training, free samples, or other services, for the same price). Pricing issues will also loom large during the transition to the new European currency: prices differ significantly across the markets, and it will become harder to sustain the difference when it becomes possible to make direct comparisons. In this situation, it may even be advisable to raise prices in some markets, in order to position your company on a higher end, rather than on a lower one.

6. Step Up Advertising and Public Relations. Recently, advertising rates plummeted in many markets (such as Russia and Hong Kong). This may be the time to increase your advertising exposure at bargain prices. A public relations campaign will be even cheaper, and will certainly generate goodwill now, when many foreign companies are pulling out of the troubled countries. When the boom returns, the

reputation of your company will be enhanced, and your foreign customers may be willing to give you a much higher percentage of their business. Work with your foreign partners to design and implement your promotion programs overseas.

7. Check Out Multilateral International Organizations and US Government Agencies. World Bank, United Nations, United States Agency for International Development (USAID) and Overseas Private Investment Corporation (OPIC), to name only a few, can all be excellent sources of new business opportunities. In general, all these organizations provide financing for goods, equipment and services for the approved projects in emerging markets. American and, in the case of international organizations, other foreign companies are then requested to submit bids or present proposals. Though the actual process may be time-consuming and involve a significant amount of paperwork, these opportunities are worth checking out.

8. Team Up with Other Companies for Joint Marketing and Contact Search Overseas. Setting up a co-op or a network with the companies in your industry or locality is often a cost-effective way of reaching foreign markets. The most important issue in such an organization is to have a clear-cut agenda, understanding of common goals and a leader who will keep the process moving. Participants also should be willing to contribute resources or to apply for funding. In Massachusetts, there is some funding available for networks set up to benefit participating companies in any way, including foreign trade facilitation.

9. Use Subsidized Programs Offered by the State and Federal Government. The state of Massachusetts (as most of the other states) has a number of free or low-cost, sub-

Continued on page 11

Creating a Corporate Image

Continued from front page

experience in what goes into creating your corporate image. Jan has served as vice president of marketing for Lycos since October 1996. At Lycos, Mr. Horsfall is responsible for the corporate strategic direction including product marketing, advertising, public relations and promotion. His first significant move in his mission to station Lycos as a premier worldwide brand was to pioneer the company's first mainstream consumer advertising campaign. The groundbreaking creative, which launched in April 1997 in key markets across the country, featured the now popular Lycos Sherpa and the edgy theme line "get Lycos or get lost." Mr. Horsfall's commitment to a new breed of research – combining traditional packaged goods research solutions with those fast-enough-for-the-'net – positions Lycos in a faster and more resilient mode than its rivals. The user-based brand positioning and placement has enabled Lycos to educate users and bolster customer satisfaction. Lycos has enjoyed a 400% increase in traffic during his tenure.

Mr. Horsfall's background includes consumer product marketing as well. Prior to joining Lycos, Mr. Horsfall was vice president of brand strategy at Valvoline, where he was responsible for all marketing functions relating to the consumer brands of Valvoline automotive products, Zerex antifreeze/coolant and Pyroil automotive chemicals. Mr. Horsfall holds a bachelor's of science in marketing from Colorado State University and completed the executive development program for senior management at the university of Indiana.

Please join us at our march's meeting to learn more about this very important topic for all companies, new and old, large and small.

Case presentation

Click2commerce, Inc.

The WPI venture forum is pleased to have Click2commerce, Inc., present their plan to become the small business vertical portal. Click2commerce, Inc., is focused and driven to acquire a customer base of small businesses by providing e-commerce service and content for free. By acquiring business customers using the free concept, Click2commerce, Inc., will generate revenue through 4 channels: e-commerce upgrades and customizations, office supplies and service sales to members, banner ads in web pages, and affiliate programs for members.

The click2commerce, Inc. team consists of three key members. Ravi K. Agarwal, is the CEO and recently worked for General Electric, where he was a part of an executive training program in their marketing organization. As a participant in this program, he assessed customer needs to drive growth for the company by developing new markets and helping customers compose marketing strategies to create opportunities for GE. He developed relationships with customers which led to several million dollars worth of new business. Mr. Agarwal is an honors graduate from the University of Massachusetts at Lowell. J. Alex Coisman, president, also worked for GE as part of their executive training program. As a participant in this program, he managed software development efforts, systems implementations, and data driven process improvements in diverse workplaces including Indiana, Singapore, and Hong Kong. Mr. Coisman is an honors graduate from the U. Mass. at Amherst. Rounding out the team is Hari Ravichandran the Chief Technology Officer. He has worked at Sun Microsystems for two years in the area of microprocessor design, parallel computing design, Internet technologies and operating systems design. Mr. Ravichandran has eight patents pending, and a dozen publications in major journals. He is a graduate from the masters program in electrical engineering at Stanford University, and has put his MBA at Harvard Business School on hold to dedicate more time to Click2commerce, Inc.

Click2commerce will present their business plan to the Forum and will be critiqued by a panel of industry experts. The panel will address the issues facing the company, which are financing, market identity, and long term strategy – issues that face many new companies. The audience will also be able to state their comments and ask questions. **VF**

Letter from the Chair

Continued from page 2

can result in the need to commit substantial resources to foreign patent filings earlier than may be desirable.

Summary

Provisional patent application filings are an option which should be considered by those with potentially patentable technologies. The provisional patent application system is an inexpensive and relatively simple means of obtaining a patent application filing date, and also serves as an independent, third-party, verification of the development of an invention. However, because of the important deadlines established by the filing of a provisional patent application, this action should not be taken without due consideration.

For the forms required as part of a Provisional Application, go to www.uspto.gov.



*Brian Dingman is a partner in the Westborough intellectual property law firm Niels, Lemack and Dingman. Brian can be reached at (508) 898-1818, or by email at NLDlaw@aol.com. **VF***

Harbor Law Group
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Supreme Court Decides

Continued from page 3

the case – in fact, Alexander Graham Bell filed his patent application for the telephone before he actually constructed the first working telephone! The test for applying for a patent is this: can the invention be described in sufficient detail such that those skilled in the art can “practice” (make) the invention? If so, and if the invention has been offered for sale, you have one year to file the patent application. After that, no patent!

Kirk Teska is a partner in the intellectual property law firm of landiorio & Teska, Waltham, Massachusetts. He can be reached at 781-890-5678 or admin@ian-diorio.com. VF

Sponsor Spotlight

landiorio and Teska, a specialty Intellectual Property Law firm, was founded in 1967. Our practice of law includes licensing, litigation and counseling related to intellectual property assets such as Patents, Trademarks and Service Marks, Copyrights, Trade Secrets and employment, consultant, confidential disclosure and non-competition agreements. The firm's attorneys have science or engineering degrees as well as law degrees and a wide array of business and legal experience.

Most of our attorneys worked in industry and/or in the United States Patent and Trademark Office before going into practice and every member of the firm volunteers his time at many of the small business and entrepreneurial associations in New England. The firm represents clients who are just beginning a business venture as well as those who are publicly traded companies.

The firm has developed numerous brochures to assist high, low and no technology companies. Since 1980, the firm has published a bimonthly newsletter, entitled Decisions & Developments, which reports recent developments in court decisions, laws and regulations relating to intellectual property.

CALENDAR OF EVENTS

April 20, 1999 - Finding The Funds

May 13, 1999 - Breakfast with Ken Olsen

May 18, 1999 - Getting Real Customers To Pay Real Money For Your Product

June 15, 1999 - Business Plan Contest

Legislative Changes Impact Employers

By Richard Dacri, President, Dacri & Associates

There have been a number of legislative changes and advisories put forth by the Office of the Attorney General that have immediate impact upon Massachusetts' employers.

Wage Payment Law

On November 5, 1998, the Attorney General was given the authority to impose civil penalties upon employers who violate certain wage related statutes, including provisions governing overtime pay, non-payment of wages, minimum wages and the prevailing wage law. For first offenses, employers who violate this law face fines of up to \$25,000 for each offense and possible criminal penalties of up to one year. In addition, the new penalty structure includes amendments to the anti-retaliation provisions of the law to include severe penalties where an employer penalizes his or her employees for making a wage-related complaint or cooperating in a wage enforcement investigation. In view of the high maximum penalties of the statute, employers are urged to review their wage payment practices to ensure maximum compliance with the law.

Massachusetts Personnel Record Law

Beginning November 4, 1998, employers were required to grant employees the right to review and/or make copies of their personnel records within five (5) days of their written request. Previously the law did not provide a specified time requirement.

Massachusetts Small Necessities Leave Act

Under the Act, employers currently covered under the FMLA must provide its eligible employees 24 hours of unpaid leave per year for the following reasons:

- To participate in an employee's child's school activities;
- To accompany a child to a routine medical or dentist appointment;
- To accompany an elderly relative to a routine medical or dentist appointment or appointments for other professional services related to the elder's care.

The Attorney General has issued **Advisory 98/1** regarding the requirements of the Act. Included in the Advisory is a sample certification form that employers may use. The Advisory encourages covered employers to notify employees about the provisions of the Act and has developed a poster that will serve that purpose.

Reprinted with permission from the Dacri Report, Your Human Resource Update, December 1998, Volume 3.09. Richard Dacri is President of Dacri & Associates which is located in Westboro, Massachusetts. The firm specializes in Human Resource Management services. Richard can be reached at 800-892-9828 or by email at Dacriassoc@aol.com. VF

Up-Front Exit Strategies

Continued from page 5

Byrne sees the Kx Media Processor Suite" as key to corporate expansion for use as a digital suite, while home and desktop users will be able to produce practical and business-like documentation. The complementary products provide post-production capabilities, real-time annotation for documenting events, and a three-tier client/server computing model that integrates easily with corporate LAN or Web environments.

Channels of distribution include leveraged sales, partnering, and worldwide market possibilities. Byrne and his associates are pursuing the retail market and OEM channel in parallel.

To emphasize the power of his product, Byrne wrapped up his presentation by asking the audience, "If a picture is worth 1,000 words, then what is a movie worth?"

Panel Review

Darius A. Grala of Tracer Research, Inc. began his critique with lavish praise for Mr. Byrne's presentation. However, he quickly shifted to the full-color brochure that had been offered to attendees and discoursed on the lack of focus that this marketing tool provided. Grala was not clear whether the brochure attempted to sell the product or the company. He also found the naming of the product inconsistent and the information too technical. "You need to grab people with the front page," he said. The target audience, whether average or power users, was also unclear.

Grala did admit that deeper reading of the material led him to a better understanding of the product being offered. However, many questions still remained in his mind. Why are certain words in boldface? What is sold separately? Why is there duplication? What do you mean by "Other Functions?"

In addition, Grala felt that the CD-ROM should be an auto run function to simplify usage. He voiced concerns over Microsoft buying Kx Multimedia out in the future. Basically he thought that Byrne should present the problem and offer his product as the answer to that problem.

Echoing Grala, featured speaker, Eliot D. Weinman of InterMedia Group, Inc., added his own comments. Weinman dismissed the Microsoft threat as almost nonexistent. He did focus on the need for accurate identification of the target market to ensure success. "In the past few years multimedia has gone through waves of acceptance and rejection," Weinman said. "There are multiple industries and multiple market segments."

Besides a clear idea of audience, Weinman stressed the need for a strong mission and vision. He thought that Byrne did not have realistic gross margin projections for his product. He, too, felt that there was too much confusion regarding the product itself.

Weinman mentioned the importance of the Internet interaction with any new software that is developed. Internet outsourcing should become a goal rather than desktop application. "Today all software products must have Internet capability or it's a death knell," Weinman said.

Clarity regarding product and company seemed to be the basic sentiment that Weinman issued. He had many questions for Byrne as to the technological aspects of both. Are they a software company or a solution provider? Do they build the product? Sell the product? License the product?

Weinman felt there that many questions were raised that needed clear, focused answers in order for the company to make any headway in the market.

Apparently all three panelists were "on the same page" since Robert J. Creeden of MTDC

reiterated many of the same points that Grala and Weinman had discussed. Some of his comments though were directed toward the business plan.

Overall, Creeden felt that the presentation was good and "made me feel like I wanted to learn more." The business plan, however, gave him the opposite feeling. He mentioned the omission of an executive summary but Byrne quickly indicated that he had prepared a three-page "teaser" that he had neglected to bring. Byrne added that he had a 75-page detailed operation plan as well.

Creeden suggested that Byrne use graphs and charts in his business plan. The overhead that he used in his presentation was very impressive since it compared Kx Multimedia to six other companies.

Despite the interest that Creeden had in the product, he felt that there were too many conflicting and unclear issues with the business plan. He felt that a channel or market plan would produce better results than the existing three-market strategy. A specific dollar amount was not readily available to the reader. Creeden did find the figures on the balance sheet but he added that this financial information should be on just one page, not two, as in this plan.

After hearing Byrne's presentation, Creeden felt there was more valuable information that could be inserted into his business plan to make it a more viable bargaining tool.

The audience sought information on installation and follow-up once the product has been purchased. Byrne explained a variety of options available to customers. The product's customization feature makes it user-friendly and, Byrne hopes, much in demand.

Phyllis Hanlon, a freelance writer, writes for magazines as well as the corporate world. VF

WPI Venture Forum

1998/99 Membership Application and Renewal

The membership year runs from July 1, 1998 through June 30, 1999. Please send the form and a check for \$20. to: WPI Venture Forum, WPI, 100 Institute Road, Worcester, MA 01609

The membership benefits include: half price attendance fees to WPI Venture Forum monthly meetings, free subscription to the WPI Venture Forum Newsletter and notification of WPI Venture Forum events.

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Managing Change

Continued from page 7

sized programs for small and medium-sized businesses. They include one-on-one counseling, export readiness assessment, foreign market research, training, trade mission and trade show participation, matchmaking meetings with incoming delegations from overseas and networking events. Massachusetts maintains offices or reps in Germany, UK, Brazil, Mexico, China, Singapore, Korea and Israel. On the federal level, similar programs help exporters to sell in the overseas markets.

10. Re-align Your Overseas Strategy. Look hard at your long-term expansion plans and analyze the profitability of your current target markets. Ask yourself which markets are the most promising at this point, and which should be avoided. Where is the company losing money and where is it turning out a profit? You may

want to revise your projections, forecasts, growth targets, and your country/market mix. Prioritize the markets and focus on the ones that have the best potential.

Another possibility worth considering is outsourcing some of the components/services or setting up an operation overseas. Recent devaluations and the strength of the dollar significantly cut costs of operating in many countries. Buying some inputs in the foreign market can provide "natural hedging" against currency fluctuations. Assembling the product in an overseas facility will decrease costs. This is also one of the best times for acquisitions: in Asia especially, bargains are plentiful. These days, multinationals and small companies alike are busy buying foreign businesses. Sound companies, strapped for cash, are looking to foreign investors for capital and know-how. Needless to say, you should be very careful and conduct a thorough due diligence process before making an acquisition.

Whether you are selecting a country or a partner overseas, look for:

- commitment to the relationship and to the obligations that come with it
- pro-foreign-business attitude
- minimal level of corruption
- understanding of the basic market economy principles
- facilitation of your company's entry into the market
- enforceable legal guarantees
- solvency and sound financial management
- a history of stability

*Julia Dvorko is the Program Director of the Massachusetts Small Business Development Center, Central Massachusetts International Trade Program located at the Massachusetts Office of Business Development located on 340 Main Street in Worcester, Massachusetts. The Small Business Development Centers offer free and confidential counseling to small business people. Julia can be reached at 508-792-7506 or email jdvorko@umassp.edu. **VF***