

Experts divided on future of information highway

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The theme of the annual meeting of the Patent and Trade mark Institute of Canada in St. Andrews by the Sea in September was the internet.

The high point was when two hundred of us sat in a darkened room and watched fish on a screen. Why? It seems someone somewhere has put a fishtank on the net. Netizens can visit the site and check up on the fish anytime. *The Economist* called this idea “profound” in its recent special survey of the internet (I’m not making this up!).

Jim Carroll, author of the Canadian Internet Handbook, demonstrated net surfing to the assembled conference-attenders with the assistance of a notebook computer and an overhead screen, and took us to the celebrated fishtank site about which *The Economist* had rhapsodized. The image was a little fuzzy. So far as could be made out, the world-famous fish were doing fine.

Each of the following apparently opposite observations about the internet was made by one or more speakers at the conference:

- the “information highway” now exists;
- the “information highway” will not exist for several more years;
- The lack of encryption at present is a serious problem;
- The lack of encryption is a myth;
- The law of copyright has been rendered useless and obsolete by the internet;
- The law of copyright is become increasingly significant as a result of the internet;
- Searching (for patent prior art, trade-marks etc.) is becoming easier and cheaper as a result of the internet;

- Searching is becoming more complex and expensive because of the internet;
- Lawyers are frequently communicating with their clients over the internet;
- Lawyers are rarely or never communicating with their clients over the internet, due to concerns about loss of solicitor-client privilege and privacy;
- the internet will give us all greater independence from governments and large corporations;
- the internet will enable governments and marketers to keep tabs on us all, to an Orwellian extent previously undreamed of.

The following are brief summaries of the hot internet/IP topics of the moment, condensed from numerous lengthy discussions at the conference. (You may want to take this column with you to your next cocktail party as a handy reference.):

Copyright and the Net: It is obviously very easy to copy things in cyberspace. This has led some commentators to claim incorrectly that the law of copyright is now obsolete. Ease of copying through technology is nothing new; it has been easy to copy documents, tapes or software for decades. Small scale unauthorized copying will always go on without anyone knowing or caring much. New methods of encryption and electronic payment, rather than major changes in copyright law, will ensure that owners of valuable copyrights still make money from those copyrights in a wired world.

Enforcement: Although it is likely the basic law of copyright will remain much the same, internet or no internet, it is also true that enforcement is complicated by the international nature of the internet. An infringer may be located in Albania or at the South Pole, since internet sites anywhere in the world can communicate easily regardless of distance or national boundaries. This is one of the many reasons why international harmonization of intellectual property laws, including enforcement measures, is becoming more important. The world is making major strides in this area, through such international agreements as TRIPS (Agreement on Trade Related Aspects Of Intellectual Property Rights Including Trade in Counterfeit Goods), part of the GATT negotiations, which requires countries around the world to provide effective means of IP enforcement. But again, technological rather than legal safeguards will probably be the answer for well-capitalized owners of valuable copyrights.

Domain Names: As discussed in this column some months ago, the IP Issue From Hell arising out of the internet concerns "domain names" - the internet equivalent of your address and phone number. Any organization with a "site" on the net, that is, which is connected directly, rather than through a local service provider or a commercial on-line service, gets its own domain name, traditionally a condensed version of its actual name. The trouble is, anyone can register any domain name that's not taken, on a first-come, first-served basis. This has caused an unseemly gold-rush. InterNIC, the underfunded,

understaffed organization in Virginia that gives domain names out, doesn't check credentials or consider trade-mark issues (there's also a "domain registrar" at UBC in Vancouver for domain names ending in ".ca" for Canada, and presumably the same non-rules apply). "Coke.com", "mtv.com," and "mcdonalds.com" were all initially registered by persons other than the party one might expect. Some organizations are now grabbing all the juicy domain names they can, just so no one else gets them. Everyone agrees trade-mark laws should apply somehow, but no one knows how.

If I were more on the ball, I'd have grabbed something memorable such as "hore.org" by now. Instead, I've settled for the much less sexy 102403.1242@compuserve.com., at which comments on any of the above are welcome.