

## Waleed Hanafi

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**From:** Waleed Hanafi [whanafi@globalrefund.com]  
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**To:** waleed@whanafi.com  
**Subject:** Users in Asia fear for quality of open-source codes



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### Users in Asia fear for quality of open-source codes

**By Jonathan Hopfner and Elizabeth Montalbano**  
**ComputerWorld Singapore**

Microsoft's recent threat to seek royalties from users and distributors on 235 patents it holds for open-source software has unnerved users in Asia, but supporters in the US are thumbing their noses at the claim.

Woraphon Watunyuta, senior vice-president of IT at Thailand's Siam City Bank, fears alliances between open-source and proprietary players could pave the way for commercial vendors to "touch" open-source codes and then "resell modified versions as their own product".

About 15 per cent of the platforms and applications, mainly in email and firewalls, at the bank are based on open-source technologies.

"If this is what's happening, we have to be concerned as it will impact the core competency of the open-source community as a whole," Watunyuta told Computerworld Singapore.

Waleed Hanafi, the Singapore-based CIO of the Global Refund Group, said he sees the heated discussion of patents in the software arena as a "troubling trend".

Hanafi said he is a supporter of the open-source movement "as a counter balance against the increasing monoculture of proprietary software".

"I do think software patents are out of control. They are often used to prevent competitors from bringing products to market.

"Since software is the embodiment and codification of ideas and processes, it seems odd that a patent should be issued rather than a copyright, as would be applicable for the same ideas and processes described in a book. Anything that restricts innovation and evolution is bad for those of us who use software to run our businesses."

Others see the situation as a "catch 22" where proprietary vendors and open-source developers have a genuine need for each other, especially for enterprise customers.

Companies "like a certain degree of assurance" and will often elect to buy packaged solutions from major open-source vendors like Novell or Sun Microsystems, said Deny Rahardjo, Singapore-based senior IT director at semiconductor manufacturer Vishay Intertechnology Asia.



But the decision to go with mainstream vendors "comes with a certain price tag" that can defeat the rationale for open-source especially if cost is an enterprise's only criteria, he added.

SPT Krishnan, a Singapore Red Cross volunteer who runs the non-profit organisation's Donorweb website, concurred, saying: "A single proprietary technology company is unable to offer the same level of innovation to customers."

Donorweb runs on Red Hat Enterprise Linux.

"In the most unpleasant situation, we are certain that our vendor will defend a customer and pay damages if there is an intellectual property lawsuit," he said, referring to protection offered by Red Hat that is aimed at ensuring users get uninterrupted use of its open-source software.

Such protection involves replacing or modifying infringing portions of the software and obtaining the necessary rights for continued use.

Several other open-source software users contacted by Computerworld Singapore would not comment on the record.

## **JEER, NOT CHEER**

Outside Asia, users and distributors maintain that they are not worried about being the target of litigation. The general consensus is that the software giant's threats of litigation—outlined in statements Microsoft executives including CEO Steve Ballmer made to Fortune magazine on May 14—prove it's the software giant who is afraid of the competitive threat Linux and open-source software pose to its business.

Joe Lindsay, chief information officer of Los Angeles-area mortgage company Secured Funding, said that Microsoft's attempt to cause fear, confusion and doubt may scare some users away from open-source software and Linux in the short term, but ultimately will not stop the momentum the open-source business model has.

"It's like saying I have a big baseball bat, and I'm going to hit somebody," he said of the company's claim it will recover fees from open-source users and companies that have violated patents. "Everyone runs away."

But in the long term, Microsoft is the one that will suffer from its actions, since the company should be more focused on providing more valuable and innovative products than threatening to sue companies that have outsmarted them.

## **POT CALLING THE KETTLE BLACK**

Linux distributors too were non-plussed by Microsoft's claims, and Novell—which struck a broad licensing deal that included paying royalties on Linux to Microsoft last year—even seemed annoyed.

In comments made Monday, Horacio Gutierrez, Microsoft's vice-president of intellectual property and licensing, compared the deal with Novell as a model for how Microsoft wants to settle patent-infringement differences. However, Novell never admitted it was infringing on patents, a point reiterated by company spokesman Bruce Lowry on a company blog in mid-May.

Red Hat also weighed in on the battle, saying it is not worried about Microsoft's threats because it has a solid programme that indemnifies Red Hat Linux users against patent litigation. "Our confidence in our technology and protection for customers remains strong and has not wavered," the company said in a statement.

Some users suggested that the same threat of patent litigation Microsoft is holding over open-source users' heads could be turned on the software giant, which itself has used open-source or freely available technology to develop its own commercial products.

In fact, there is just as much potential patent infringement in Windows than there is in open source, said Jim Zemlin, executive director of the Linux Foundation, a San Francisco-based non-profit consortium aimed at promoting the use of the open-source operating system.

"Microsoft is certainly not the only owner of patents in this area, and perhaps not even the owner of the largest number of patents in these areas," he said. "Microsoft will need to be careful what it starts, given that it cannot know where this will end."

## **EMPTY THREATS**

Secured Funding's Lindsay said that Microsoft's reluctance to publicly disclose which patents are being violated shows it may not have as strong a case as it would like the industry to believe.

He said since the Unix code on which Linux is based preceded Windows, Microsoft may have actually patented

technologies in Linux that previously existed, and so those patents would be deemed invalid by the courts.

Lindsay, Zemlin and others also said they believe Microsoft is exploiting the patent system in the US to buy time as it tries to compete in an industry where it is no longer a thought leader.

The company has held on to its traditional business model of selling software licences too long as new, more successful business models—such as providing software for free and earning revenue on services, and selling ads to support online services—have emerged, they said

Now the company is scrambling to catch up and hopes collecting licence fees on patented technology will be a successful business model in the interim.

Lindsay cited open-source projects and companies such as Google as the most innovative in the last several years, and said Microsoft has been too slow to adopt new business models that other companies have used to move the technology industry forward.

“Their business model is fundamentally changing and Microsoft is using the courthouse to extend their old way of doing business,” he said.

Zemlin was more blunt, calling Microsoft’s “posturing” as “empty threats from a scared giant whose monopoly is being challenged.”

Charles Merriam, an independent consultant and entrepreneur in California, US, who uses OpenOffice.org and Open Source Linux Desktop rather than Microsoft Office and Windows, also suggested that Microsoft is feeling the pressure from more nimble competitors, and is trying to cover its own inability to compete by attacking competitors.

“It’s just like with SCO Group—when they no longer had a product to sell, it started suing people,” he said. “It looks like Microsoft is throwing in the towel on trying to be innovative.”

However, Merriam said that while larger companies are less likely to worry about Microsoft’s threats, some startups might be afraid that the company could sink their businesses by suing for patents, and may consider moving offshore to escape possible litigation.

## **DAMAGE CONTROL?**

Microsoft’s general manager of platform strategy and director of open source projects, Bill Hilf, spoke up recently against the Fortune article, saying it “spins [the story] on the attack.”

“The Fortune article does not correctly represent our strategy. That’s what has people so inflamed....

“So we have no plans to litigate. You can never say we’ll never do anything in the future, but that’s not our strategy.” **CW**

*Victoria Ho in Singapore, and China Martens and Robert Mullins in the US, contributed to this article.*