

Investor's Business Daily

April 10, 2012 Tuesday
NATIONAL EDITION

Microsoft Buys More Patent Ammo Vs. Internet Rivals

BY PATRICK SEITZ

[Microsoft](#) added to its extensive patent portfolio Monday, buying more than 800 patents from struggling AOL for nearly \$1.1 billion.

The deal is the latest in a series of moves by tech leaders looking for patents to provide ammunition against rivals.

The AOL patents that [Microsoft](#) is acquiring cover a host of online technologies and businesses including advertising, search and multimedia.

AOL will continue to hold more than 300 patents and patent applications covering technologies it considers core and strategic, in such areas as advertising, search, content generation and management, social networking, mapping, multimedia and streaming, and security. AOL will license its remaining patents to [Microsoft](#) and, in return, [Microsoft](#) will license to AOL the patents it is buying.

AOL shares jumped more than 43% to 26.40 on the news Monday, to a 17-month high. [Microsoft](#) shares fell 1.3% to 31.10.

Social networking leader [Facebook](#) is a likely beneficiary of the deal, says Florian Mueller, a principal with Florian Mueller Consulting and founder of the FOSS Patents blog.

"A big winner here is [Facebook](#), because if you think who else might have bought (the AOL patents), those other potential buyers would not exactly have been [Facebook](#) friends," Mueller said. Other buyers could have included [Facebook](#) rivals [Google and Yahoo](#) or a patent-monetization company out to extort the money from [Facebook](#).

But [Microsoft](#) and [Facebook](#) are allies, having teamed on advertising and search. [Microsoft](#) also owns a small stake in [Facebook](#).

[Microsoft](#) is a logical buyer for the AOL patents. It has online services with hundreds of millions of users, such as Windows Live, that can take advantage of the patents.

"It appears that [Microsoft](#) really intends to make use of some of those patented inventions or maybe already is making use of some of them in its own online services," Mueller said.

[Microsoft's](#) traditional patent strategy has been focused on exacting revenue from other companies, says Timothy Lee, an adjunct scholar at the **Cato Institute**. Other companies, like Apple, have used their patents to try to stop other companies from infringing on them, he says.

[Microsoft's](#) purchase of the AOL patents is part of a broader trend toward stockpiling patents as a legal strategy, Lee says.

"The analogy people use is that this is like nuclear (weapons) stockpiling, where companies have been acquiring patents to deter each other from attacking," Lee said. "Now we've gone from a cold war to an actual war where companies are suing each other."

Many high-profile patent-infringement lawsuits are currently wending their way through court systems worldwide. Those cases involve the technologies underpinning smartphones and social networks. Some of the biggest cases have pitted Apple vs. Samsung, Oracle vs. [Google, and Yahoo](#) vs. [Facebook](#).

[Microsoft](#) teamed with Apple, EMC and Oracle to buy 882 patents and patent applications from software firm Novell for \$450 million in November 2010.

And [Microsoft](#) was part of an alliance that spent \$4.5 billion to buy more than 6,000 patents from defunct Canadian telecom gear maker Nortel, in July 2011. Other members of the alliance included Apple, EMC, Sony, Ericsson and BlackBerry maker Research In Motion.

[Google's](#) pending \$12.5 billion purchase of Motorola Mobility was largely to get its hands on the mobile phone maker's wireless patents. [Google](#) will get 25,000 patents in the deal, which could protect its Android operating system from legal challenges.

"When companies fall on hard times . . . they start selling off their assets -- and patents are valuable assets," Lee said. "Certainly there are other companies out there on the decline and when they finally kick the bucket or really need money, you'll see these types of sales."

Eastman Kodak is trying to follow the path of Novell and Nortel in selling its patents. Kodak is trying to sell its 1,100 digital imaging patents to raise money to help restructure the company. Kodak's patent portfolio could be worth as much as \$2.6 billion, according to reports.

AOL said it plans to return a significant portion of the patent sale proceeds to shareholders. With the sale, it will have about \$15 per share of cash on hand.

"The combined sale and licensing arrangement unlocks current dollar value for our shareholders and enables AOL to continue to aggressively execute on our strategy to create long-term shareholder value," AOL CEO Tim Armstrong said in a statement.

The deal is expected to close by year-end, pending regulatory approvals.