

PUBLIC PATENT FOUNDATION
Representing the Public's Interests in the Patent System

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Scott McNealy
Chairman and CEO
Sun Microsystems, Inc.
4150 Network Circle
Santa Clara, CA 95054

Re: Sun's Patent Grant to Open Source Community

Dear Mr. McNealy:


As Executive Director of the Public Patent Foundation ("PUBPAT"), a not-for-profit legal services organization representing the public's interests in the patent system, I was pleased to hear Sun's announcement this week that it was granting the open source community access to more than 1,600 patents. However, the announcement was so broad in comparison to the related legal documents, that serious questions now exist regarding what rights the public has to Sun's patents.

In particular, free and open source software developers need to know:

1. Is Sun's patent grant limited to only software licensed under Sun's newly released Common Development and Distribution License (the "CDDL")?
2. Is Sun's patent grant also limited to only software distributed directly by Sun?
3. Has Sun retained the right to make patent infringement claims against anyone modifying software licensed by Sun under the CDDL?
4. Did Sun use or attempt to use its agreements with Microsoft in an effort to protect free and open source software from Microsoft's patents? If not, why not?

Free and open source software developers must have clear answers to these questions so that they can understand what rights they have to Sun's patents. I encourage you to provide those answers as soon as possible.

Sincerely,



Daniel B. Ravicher