In the previous article, I introduced the California-based firm PanIP, LLC (<http://www.panip.com>), which owns many patents covering fundamental applications of information technology for e-commerce.

As of the end of November 2002, PanIP had so far sued a total of 50 small businesses for patent infringement since it was formed in March 2002. The lawsuits are based on PanIP’s control of patents governing much of the mechanics of e-commerce. The complete list of known defendants is available at <http://www.youmaybenext.com/list.html>. The lawsuits have been launched in batches of 10 defendants per group. None of the defendants is located in California, thus imposing an obligation on the small business owners to travel to California for legal proceedings or to appeal for a change of venue. Although I am not a lawyer (and nothing I write or say can be construed as legal advice), existing precedents on the determination of venue imply that anyone who does business in a jurisdiction can be judged to have a presence in that jurisdiction; it is therefore unlikely that a defendant could successfully argue that having to contest the suit in a California court is unjust.

The first companies to be sued were asked for payments ranging up to $30,000. I interviewed Timothy Beere, creator of the youmaybenext.com Web site about this situation. He said, “Most of the companies in the first batch managed to get the demands reduced to around $5,000. Subsequent batches were sued for $5,000 each.” As far as Mr Beere knows, PanIP practice has been to sue without first informing the victim of possible patent infringement. When Alan Dickson of Dickson Supply, one of the first victims, put up a Web site criticizing PanIP, he had to take down his Web site as part of his settlement agreement with PanIP. Tim Beere then registered the domain “panipdefendants.org” and promptly received a letter from PanIP’s attorney threatening another lawsuit. When Beere put up his current Web site, “youmaybenext.com,” he, his wife and the “PanIP Defense Group” were sued for trademark infringement, defamation and unfair competition. That lawsuit is still in process, but the judge rejected the plaintiffs’ demand for a temporary restraining order to get their Web site shut down. Beere and the Defense Group are in the process of filing an anti-SLAPP counter-suit (a SLAPP is a “strategic lawsuit against public participation”) against PanIP.

Based on questions framed by Tim Beere, I sent PanIP the following list of questions:

* Has PanIP ever discussed royalty payments with a company before suing it?

* Why has PanIP chosen to sue 50 small businesses instead of suing large businesses?

* Why has PanIP not sued any businesses in the state of California?

* Were the patents owned by PanIP ever used before March 2002 to establish royalty claims?
* Are there any e-commerce sites in the world that are not infringing PanIP’s patents?

* How do PanIP principals respond to claims their patents are overbroad and should be overturned?

I would have liked to summarize the company’s answers – and to send them the draft of this article to be sure that I was representing their answers accurately and completely – but regrettably, PanIP has never responded to any of my repeated attempts at communication despite my having sent them to PanIP using telephone messages, faxes, e-mail and U.S. Postal Service certified mail (which was received on December 21, 2002 according to the return card from the USPS). In the absence of their responses, readers will want to think about possible and plausible answers to these questions.

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In my next article, I’ll discuss the future of patent infringement litigation and why you should get involved.

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For an extensive list of news articles about PanIP’s activities, see <http://www.youmaybenext.com/news.html>.

For information about SLAPPs and how to fight them, see

* The California Anti-SLAPP Project <http://www.casp.net/>

* Operation SLAPP Back <http://www.ebic.org/pubs/slapp.html>

* SLAPP Suit Links <http://www.inventored.org/SLAPP/>

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