

**NEW DIMENSIONS IN PATENT OFFICE COOPERATION
TRILATERAL CONFERENCE, NOVEMBER 8, 2007**

Bradford L. Smith
Microsoft Corporation

Thank you. It's a pleasure to be here this morning. I stand before you as a non-patent attorney. I stand and sit with a panel of respected patent experts, and I look out at an audience of patent experts. And I am drawn to one inescapable conclusion, the invitation was sent to the wrong Smith. But in fact, being a non-patent attorney, being a lawyer and, in effect, a business leader for a company, I think I have the opportunity to offer a perspective about the role and the changing nature of challenges for all of us who either work in or are touched by the patent system.

You know, certainly as a general counsel in a technology company, it is clear to me each and every day that the patent systems of the world play a fundamental role for those of us in business. They're fundamental to commerce and more broadly than that, they're fundamental to the creation of jobs and the generation of economic growth around the world. It is truly a stunning fact of life that I think, all too often, is not fully appreciated by those people who don't have the opportunity to work in or with people associated with the patent system every day.

In a sense, as I've seen it from my perspective, issues relating to patents continue to be fundamentally influenced by two things, changes in technology and changes relating to geography. But in a sense, there's nothing new about those facts. This was true in the 1980s. It was true in the 1880s. It was true in the 1780s. One reason we can stand here today is because my country, the United States, in effect, borrowed the patent concepts from the English patent system literally in the 1780s.

And did so because of the opportunities and challenges of technology in that day, the opportunity to harness steam and use that as the cornerstone for the first industrial revolution. A century later, literally in the 1880s, we saw the patent concepts in the United States borrowed, if you will, in the creation of the patent office in Japan, as the technological and business and governmental leaders of that era saw the opportunity to harness not one but two great technological opportunities.

One, the opportunity to harness electricity and the other, the opportunity to make use of oil, and it was those two things that propelled the world and the economies of Europe, North America and Japan into the 20th century. And we saw emerge three important places around the world that thankfully shared some common heritage when it came to the principles of patent law. It's interesting, standing here today, to think back to the world in 1983.

With the vantage point of 25 years, one can see a number of events in the news in that year that might not have been noticed in the same way that they stand out today. For example, in 1983, here in Washington, D.C., the Federal Communications Commission granted the first license for the testing of a cellular telephone system to Motorola in Chicago. And at the same time, Motorola's counterparts and government counterparts in Europe were working on the GSM standard.

Northeast of here and near Boston, a company called Lotus was bringing to market the first integrated electronic spreadsheet. And across the country an even smaller company called Microsoft was launching the first version of a new product called Microsoft Word. And in an event that almost surely went

unnoticed at the time that people were formulating this first meeting across town here in Washington, people at the Department Of Defense were unveiling a new technology for the ARPANET.

It was a new protocol called the Internet Protocol that has become obviously the cornerstone of the Internet as we know it. And yet obviously, those characteristics, those advantages have been fundamental in unleashing the information technology revolution that has transformed our economies, generated economic growth and both benefited from and impacted patent offices around the world. It so happens that in 1983, there was another significant development that at that time, I think, would seem far removed to anyone thinking about patents.

There were two gentlemen in Geneva who talked, who took a famous walk in the woods. One was the arms negotiator for the United States and the other was the arms negotiator for the Soviet Union. And in a way that no one could anticipate at that time, it was that walk in the woods that led governments on a much longer track, that six years later resulted in the dismantling of the Berlin Wall, and fundamentally led to the end of the Cold War era in a bipolar world and the first steps in the creation of a much more diverse multilateral, globalized economy that we have today.

And so, as we look back at the last 25 years, we've seen the information technology revolution and the globalization of our economy really fundamentally change the landscape, including the landscape for patent law, for patent applicants and for patent offices around the world. As we all gather in this room today, there is a great deal to celebrate. But I think the single most important question we can all ask ourselves is this; 25 years from now, when people look back at this point, what do we want them to remember?

What are the opportunities we hope people will look back and say, yes, those opportunities were seized and the world has gone to a much better place as a result? Certainly in my opinion, the next 25 years will be shaped again by changes in technology and changes in geography. The information technology revolution is far from over. There will come a day, there will come a year, when the information technology industry is as mature as the aerospace and automobile industries are today. But that won't happen this decade. It won't happen in the next decade. Maybe 25 years from now, we may be reaching that point, but it will probably take that long.

And at the same time, I think the world will continue to benefit from advances in the information technology. We'll see the continued growth of what people will look back at and regard as another revolution, the harnessing of biology. As we are able to seize advances in the sciences to unleash new advances in medical devices and information technology relating to human health, another source of fundamental economic growth that almost certainly will shape this century.

So, just as the first part of the 20th century and the first part of the 19th century were influenced by technology, it seems clear that the quarter century ahead will share that trait. But I think even more than that, we all recognized that we're living in a time that is just being reshaped in terms of geography as well. Now, interestingly in the last 25 years, global trade has grown fivefold. Global patent applications have grown by 78 percent. And so, while the 78 percent increase on the one hand is big, in some respects, it's not nearly as big as the impact in global trade.

And there's some good reasons for that, in part, because of changes in patent applications filings influenced by the opportunity for people to file a single application in the European Patent Office rather than in so many European countries. They were also influenced for a time by economic instability in the former Soviet Union. But I think as we look to the next 25 years, what we will see, I believe, is the surge in global patent applications influenced more than anything else by the globalization of research and development.

Although the last 25 years saw trade move around the world much more quickly than R&D, that is very clearly changing. We see that, in our industry, we see that as a business each and every day. One of the things that the Internet has made possible is the opportunity for smart people everywhere to do great things closer to home. And one of the things that the collapse of the Iron Curtain has made possible, that the liberalization of world trade has made possible is the adoption of the kinds of laws and policies around the world that are making it easier for inventors to stay at home.

Certainly, we see that in China. That's an obvious example, in part because of its size. But it's interesting, for example, to note that according to WIPO's data, the number of resident patent applications in China from 2004 to 2005 grew by 42 percent. That same year, the number of resident patent applications in the Republic Of Korea grew by 16 percent. You don't need a crystal ball of any great magnitude to predict, that in the decade ahead, we will see double-digit resident patent application growth in India, in China, in Korea and in probably, eventually, a dozen or more other countries.

One of the things that it's also doing is encouraging the rest of us to file patent applications in those countries, and encouraging the residents of those countries to file patent applications in the rest of the world. For example, from 2004 to 2005, the percentage growth in patents filed by the residents of China, the residents of India, the residents of Korea in other countries grew by over 20 percent. As we stand here today, the total percentage of patent applications in the world filed by non-residents is 38 percent.

And I think one question we should all ask ourselves is if we don't have a single filing system, what will that percentage be 25 years from now? I'll go out on a limb. It will easily exceed 75 percent. And if I'm wrong, you can invite a different Smith 25 years from now to talk. But that's just an inevitable consequence, it seems to me, of the globalization of trade and the globalization of R&D.

If patents are going to deliver the promise they offer to inventors around the world, and if the patent offices and patent applicants of the world are going to keep their heads above water, clearly, everyone is going to have to adapt. And so, when we think about what this meeting might look like 25 years from now, I'd offer three possible goals to think about, the first in some ways is the most obvious. There will be many more patent offices in the room. There will be many more inventors from many more countries in the room.

It will be a trilateral meeting only if the composition of each of the three entities is probably substantially different from what it is today. In all probability, they'll look back at that vision of 50, what will then be 50 years ago, and they'll say the vision was right but it stopped at some point using the word trilateral. But clearly, there needs to be an expansion and an integration of more and more collaboration among more and more patent offices around the world.

The second worthy goal in my view is for patent offices to use information technology to automate and drive productivity gains into routine and redundant tasks. You know, it's worth pausing for a moment and think back to one of the prior centuries, in the 1880s, there was a huge debate in Washington, D.C. around patents. The focus on electricity and the combustion engine, not yet in their midst but starting to come together, was driving a huge upsurge in patenting. The patent office was drowning. They were hiring more patent examiners.

There was a patent reform debate in Congress. The Supreme Court stepped in and addressed issues. One of the things the patent office did, not surprisingly, was move from the quill pen to the typewriter. And they abandoned their kerosene lamps and installed electric light bulbs, and found it easier to work after the sun had set. In fact, it would just seem almost odd, bizarre, insane to us today if they had done anything else. And yet almost certainly, 25 years from now, 50 years from now, people will look back at the challenges that we are talking about today.

And they'll look at the opportunities created by information technology, and they'll say, of course, it's perfectly obvious that everyone would have done that. If you look at the advances that we have, the opportunity to pursue in translation technology, in search technology, those two technical advances alone bring with them the opportunity to improve productivity and speed in managing patent applications, especially when it comes to routine and redundant tasks.

The third worthy goal, in my view, is to think about this, because patent law is territorial, I think every patent office needs to have its own front office. But there is an opportunity for patent offices around the world to share a virtual back office. That is where the world is going in the way people are working with information, and working together on collaborative tasks. There is an opportunity to create a virtual workspace to use the technologies of the Internet to enable patent examiners to access a common database of information, and to share their observations with each other.

And simply because the front office needs to remain national, we don't need to do the same thing with the back office. We have the opportunity to create that kind of collaboration. Already, we're seeing major strides. We were very fortunate, in my view, to be the first successful user, for example, of the Patent Prosecution Highway in Japan. And what we found, when we took our first two patent applications, was that a process that previously would have taken 32 months, instead, it took only two.

That was a first step, if you will, towards this kind of creation of a more collaborative virtual back office for patent offices to share. As those of you who work in patent offices think about these things, I hope you will ask; I think you should feel more than entitled to ask those of us who create these information technology tools. Ask us, what is it that we can do to help, because there is a lot we can do. And frankly, there is a lot that we should do because we are one of the bigger industries in terms of adding to your workload.

Certainly at Microsoft, we are prepared to step forward, to work in close collaboration with others in our industry and with people in government around the world. It will take a collaborative effort of the public and private sectors together to create the kind of collaborative, virtual back office that will move the global patent system forward. If we seize these three goals and pursue them, then I believe that when the 50th meeting or at least the 50th year arrives, there really is an opportunity for people to look back.

To look back not only at what we all hope will be another 25 years of quite substantial economic growth, and improvement in standards of living around the world. But I would hope an even far broader appreciation by all societies around the world that the fundamental role that the patent system is playing in making all of those advances possible. Thank you.