TechRadium, a little known Texas-based player in the emergency mass-notification field, didn’t just wake up this month and decide to sue Twitter for patent infringement.

The company says it didn’t care about Twitter when the Twitterati was watching the tweets of NBA superstars, musicians, politicians and news outlets. But then TechRadium began seeing promotional materials and news accounts of companies, school districts and local governments using, or considering adopting, the microblogging service as their emergency notification system – muscling into TechRadium’s wheelhouse.

“Honestly, that’s what got us the attention of Twitter,” said Shawn Staples, TechRadium’s attorney. “We don’t really give a damn about social networking. TechRadium is concerned that it developed these patents by extending a lot of time and money and is protecting its market.”
Now the lawsuit, filed August 5 in a Texas federal court, could become a financial thorn in Twitter’s side. Heavily venture-funded, the free three-year-old microblogging service is working to find a business model.

Patent law is complex, and legal experts interviewed by Threat Level declined to predict the outcome of the lawsuit, but they agreed it’s not a frivolous claim. TechRadium appears to have some legal legs to stand on in the nation’s first lawsuit attacking Twitter’s tweeting protocol.

In fact, TechRadium has already used its patents to win a licensing agreement in a separate infringement case.

That case, also in Texas, targeted rival mass-notification company Blackboard of California. The lawsuit was dropped after Blackboard agreed to license the same three patents (.pdf) at issue in the Twitter case.

Blackboard at first claimed that the patents, dating to 2006, were invalid. But Blackboard did not produce evidence of “prior art,” or demonstrate that the patents were obvious. Now, experts say, the Blackboard settlement bolsters TechRadium’s case against Twitter. (.pdf)

“That settlement becomes evidence of some weight of the non-obviousness of the patent,” said Jordan Sigale, a patent attorney and partner with Loeb & Loeb in Chicago.

Blackboard’s general counsel, Matthew Small, confirmed that the company licensed TechRadium’s patents as part of a June out-of-court settlement. He added that TechRadium also licensed a patent (.pdf) from Blackboard. “We cross licensed one another,” he said.

Because of a confidentiality agreement, terms were not disclosed. The case was settled in the Eastern District of Texas, a patent-friendly court and magnet for patent infringement cases.

That said, patent attorneys caution that, sometimes, patents become invalidated, even after their owners have received licensing fees from them. So even with the licensing agreement with Blackboard, TechRadium’s patents could still be attacked. And it’s unsettled whether they even apply to Twitter.

The stakes are high, not just for Twitter, but for its vast and growing user base.

Twitter has about 20 million users, and to true fans, a world without the 140-character microblogging service is akin to a world without oxygen. And while Twitter may not be making money, it has given rise to a cottage industry around it — from URL shorteners and makers of background skins, to iPhone apps that can feed a Twitter junkie’s habit on the go. This fledgling industry piggybacks on Twitter’s allegedly infringing protocol.

Twitter, based in San Francisco, did not respond to repeated e-mail and phone messages for comment. It must respond to TechRadium’s complaint by month’s end.
Patent attorney Sigale says he thinks TechRadium isn’t seeking to put the unprofitable Twitter out of business. He said the lawsuit amounts to “asking for a license agreement.”

Win or lose, Twitter has an expensive legal battle ahead of it. But its popularity could give it an edge that Blackboard didn’t have; the company has already obtained some free, outside counsel of sorts. Two weeks ago, Article One Partners of New York, an online community of lawyers, scholars, scientists and others, began scouring for evidence that TechRadium’s intellectual property was not as unique as the Sugar Land, Texas company claims.

Cheryl Milone, Article One’s chief executive, said its community has forwarded more than 100 submissions in the study’s first week alone — all in an effort to debunk the patents. The submissions have yet to be reviewed.

“We select studies that we think will be of interest to our community,” Milone said. “Because we are a crowdsourcing community, there’s a clear synergy between the Article One community and the Twitter community.”

TechRadium’s patents concern its emergency notification system IRIS, the Immediate Response Information System, which has dozens of paying clients. The system, TechRadium claims, “simultaneously delivers uniform, reliable and verifiable emergency messages to an unlimited number of contacts within seconds, across all means and devices of communication.”

Its customers include the military, schools, utilities and local governments. Among them are the U.S. Army, Littleton Police Department, QWest Communications, Lincoln University, San Antonio School District, American Red Cross, United Way and others.

Twitter breaches the patents, according to TechRadium, because Twitter’s messaging system also is carried across various “means and devices of communication” — including texting, websites, cellphones and RSS feeds.

At first glance, the similarities between IRIS and Twitter are clear: They each allow a messenger to send a single message to a select group via multiple technological platforms. But that also seems like a ridiculously obvious use of modern technology. Apparently it was novel when TechRadium began applying for its patents ahead of its first one granted in 2006 — novel enough for patent examiners, anyway.

Some of the specific claims in TechRadium’s patents are less Twitter-like. According to TechRadium’s patents, message recipients prioritize where their messages should be sent, so an alert might first be sent as a mobile text message, and then, if unacknowledged, transmitted in a voice phone call.

The patents also describe the chosen device sending a response back automatically to the sender to confirm that a message was received.

None of that squarely applies to Twitter.

“That’s going to be a big deal as to whether or not there’s infringement,” Sigale said. “Who’s side would I rather have here? Boy. I think there’s arguments to be made on both sides.”

Staples, TechRadium’s lawyer, countered that the company must prove that one of the elements in its patents apply to Twitter. “Every claim in a patent stands on its own. To infringe the patent, you only have to infringe one claim.”
George Borkowski, chairman of the intellectual property practice at Venable LLP in Los Angeles, suspects TechRadium has plenty of other litigation targets in its sights.

That’s because mass-notification companies now number in the dozens. Their ranks began increasing in the wake of the Virginia Tech shootings, which left the student gunman and 32 others dead in 2007.

“It’s part of the patent-enforcement strategy: You see who is possibly infringing and you make a list of people to go after,” Borkowski said. “I’m sure they’ve made an assessment.”

Staples, when asked if more companies are likely to fall into TechRadium’s legal crosshair, replied: “I think there are some out there.”

See Also:

- [Lawsuit: Twitter Method Infringes Patents](#)
- [Weak Password Brings ‘Happiness’ to Twitter Hacker](#)
- [Oklahoma Man Arrested for Twittering Tea Party Death Threats](#)
- [AP Issues Strict Facebook, Twitter Guidelines to Staff](#)
- [Britney, Obama Twitter Feeds Hijacked Following Phishing Attack](#)

**Comments (11)**

Posted by: sqlrob | 08/17/09 | 4:41 pm |

Not obvious in 2006?

When did wall start shipping with Unix systems? Early 70s?

—

Posted by: PluckyDucky | 08/17/09 | 5:19 pm |

Woots down with twitter! I hated the service once news networks started to use it as a live feed. Who cares that my latest BM was 20 katie courics? And i don’t want to hear about ashton kutcher discovering a new form of herpies. But the thing i hate the most, is all the people who think they’re techno-elites because they use the service extensively.

—

Posted by: LandShark | 08/17/09 | 7:45 pm |

Twitter=Oxygen. Hahahaha.

—

Posted by: slave138 | 08/17/09 | 8:39 pm |

As much as I hate Twitter, I think I hate conceptual process patents more. It’s vertical communication (turn the diagram on it’s side) where each level can communicate above and below it, but not with others on the same level. A certain Deathstar-logo’d phone company had something similar around 2001-2003 which they used to
send emails, text pages and voicemails to a large group of users. I don’t think it was developed in-house but I
can’t remember the name, either.

Posted by: webwidejosh | 08/17/09 | 9:15 pm |

We have an email [group] address at work that I can send to from various devices and within seconds it can
“broadcast” it to various types of clients who exist in the the “group”.


Posted by: Count_Zero_Interrupt | 08/18/09 | 10:31 am |

Not a fan of twitter. And not a patent lawyer. But it seems ridiculous that someone can patent the act of sending
a message across multiple platforms simultaneously. Talk about an obvious use of modern technology.

Posted by: Al_ | 08/18/09 | 10:32 am |

Pegasus Mail (ran on a Novell server in conjunction with UNIX sendmail) was around in the 90’s and allowed
you to send an email to a specific account that would then be reflected to others (in our case around the world).
Reflectors were a big part of the UNIX and standards development groups before there ever was a WEB. It
was the best way keep everybody in the same page when you were spread across the world.

Posted by: MplsChris | 08/18/09 | 10:43 am |

Yeah, sorry Mr. Staples. In order to infringe on a claim, you have to infringe on every part of the claim. Typically
claims are broken in to several parts, and while every claim stands on its own, you can’t infringe “only kind of.” If
the first part of the claim says something like: “We claim a novel prioritization protocol that does…” b, and c, and
d. And Twitter also does b, and c, and d, but isn’t the same type of protocol as a, then they don’t infringe.

Then again, it is Texas.

Posted by: ShadoeKnight | 08/18/09 | 11:12 am |

So by the logic that every claim stands on its own, then to invalidate a patent you only have to invalidate one of
the clauses. Messenging to multiple platforms is definitely obvious use of modern technology as is allowing multiple
devices to recieve said messages. Patent refuted, invalidated. Do not pass go, do not collect $2 million. Lose all
your clients to extremely bad press and frivilous lawsuits.

That’s how it should work, but this is the USA where the dollar is king. They’ll win again no doubt.

Posted by: VJ | 08/18/09 | 2:23 pm |

Looks like a specific form of CORBA notification and/or event services. Or how about IBM’s message queuing
systems? Any textbook on distributed systems should nullify TechRadium’s arguments. If not, they may go after
wired.com/.../patent-lawsuit-threatens...
multicasting systems next.

Posted by: daemonbarber | 08/19/09 | 1:27 pm |

Someone correct me if I’m wrong, but this seems pretty damn straightforward.

Twitter is micro blogging – you post a 140 char message and your followers access the twitter server to view it. Twitter does not transmit the message out, the readers go an access it.

IRIS is the exact opposite, it transmits directly to a device that receives the messages and can confirm receipt. With IRIS you need a recipient list.

Am I missing something?