

intended – the punitive recommendations, if passed into law, will drive tobacco growers out of business without offering economically viable alternative crops.

The four key proposals that the International Tobacco Growers' Association (ITGA) is calling into question relate to regulations governing when tobacco may be grown; limiting the land used for tobacco growing; restricting financial and technical support for tobacco growers; and enforcing a global co-operative move to compel tobacco growers to abandon their

reduce the environmental impact of tobacco growing – and of other crops.

Second, limiting and ultimately reducing the land on which tobacco can be grown will not reduce the demand for tobacco products. In this world economic crisis, artificially reducing tobacco production when there is still a strong global demand is illogical and inconceivable to most tobacco growers.

Third, any moves to “restrict or stop financial and technical support for tobacco growers”, whether from the government or

we are therefore calling on all governments to oppose the measures ahead of the COP5 meeting.

Articles 17 and 18, if passed, threaten to slash 30 million workers from a global economy that is already in dire straits.

Support our cause and help defend free enterprise by signing our online petition at protectfarmers.tobaccoleaf.org/join-our-fight.aspx

Francois van der Merwe is the chairman of International Tobacco Growers Association Africa.



PHOTO: BLOOMBERG

3MFuture's court victory sheds light on mystery shrouding patent issues

Elaine de Beer

HOT ON THE heels of the mighty \$1 billion (R8.3bn) damages award in the US patent case involving Apple and Samsung, comes the news that a South African judge has ruled in favour of 3MFuture in its patent case against Standard Bank and MTN.

The finding's got internet protocol lawyers abuzz, because the case deals with issues that have been shrouded in mystery. The full judgment has not yet been handed down, but the facts are well-known.

It's a story that's not uncommon: an inventor invents something that he thinks has commercial potential, has meetings with a company, no deal is done but the company then comes out with a product that the inventor feels has been copied.

In this case, the inventor was Wolfram Reiners, a German living in South Africa. Reiners is a serial inventor and he's won numerous awards for information and

communications technology inventions. In 2000, Reiners developed a transaction system that he called PSOCA. He believed it solved the problem of credit card fraud in the case of remote transactions. It allows the cardholder to activate the card through their cellphone for as long as it takes to complete the transaction, and then to deactivate it once the transaction is completed. Reiners filed a South African patent for the technology in early 2001.

He claims that he had numerous meetings with an Absa director and other staff members in 2001 to discuss his invention, and that he handed the Absa people a large amount of documentation that was marked “confidential”, and which referred to the fact that there was a patent pending.

The negotiations came to nothing and Reiners took it to Standard Bank. He claims that he attended between 20 to 30 meetings with various people at Standard Bank, including some senior executives.

The bank was very keen on his technology, and asked MasterCard to evaluate the product. He claims in May 2002 Standard Bank sent him a formal request for the full details and that he complied. The negotiations then came to a halt. He claims that a number of the people he spoke to at Standard Bank joined a joint venture between Standard Bank and MTN called MTN Banking, and that the Absa director he spoke to also joined MTN. In 2006, MTN Banking launched a product that was “a copy” of his invention, called MTN Mobile Banking.

So Reiners sued for infringement of the patent, which is in the name of a company called 3MFuture. He said that test transactions that had been done showed that the MTN Mobile Banking product delivered pretty much what his product would have delivered. He asked for an interdict and an enquiry into damages, which he felt could be in the order of R1bn.

Standard Bank and MTN, who had them-

selves filed patents for the technology used, raised the usual defence: invalidity of the patent due to lack of novelty and inventiveness. But they raised a further defence, saying the patent – which covers various things, including a transaction authorisation system, a computer programme and a method – was invalid as it was a computer programme and a method for doing business.

The issue of the patenting of computer programmes is a complex one. That's because the South African Patent Act states that a “program for a computer” cannot be patented. Yet, a large number of software patents exist. How's that possible? Well, the words “program for a computer” in the Patents Act are modified by the words “as such”. Which has led lawyers in jurisdictions like the UK (which has a similar exclusion) to argue that, although it may not be possible to patent a computer program, it is possible to patent an innovation or techni-

cal result that makes use of software. This argument has been accepted in the courts in the UK and the greater EU, but the issue has never been decided in South Africa.

Business methods are also controversial, as the act states that you cannot patent a “scheme, rule or method for doing business”, again subject to the “as such” modification. The US courts have considered the issue and in a recent Supreme Court decision of *Bilski v Kappos*, the court held that business methods can be patented provided they claim more than abstract ideas or mathematical algorithms. The court rejected a test that the US courts had applied in the past, the “machine or transformation test”, saying it was inappropriate in the information age. According to this test, a process was patentable if it worked with a specific machine or transformed a substance from one state to another.

Elaine de Beer is a patent attorney at ENS.

CONTACT

You can write, fax or e-mail a letter to: **The Editor, Business Report, PO Box 1014, Johannesburg 2000**
 Fax: (011) 838-2693
 e-mail: br.letters@inl.co.za
 Include daytime telephone numbers and full address.
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JHB NEWSDESK 011 633 2484
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 e-mail: br.editor@inl.co.za

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DIARY

Greek police nab Facebooker for pasta pastiche of monk

A MAN has been charged with blasphemy in Greece for lampooning a monk on Facebook.

Police allege the unnamed 27-year-old set up a Facebook page referring to the late Elder Paisios by the mocking name Geron Pastisios, which is a Greek pasta and beef dish.

In a screenshot of the Facebook page, which has now been removed from the social network, the monk is shown with a plate of pastisios in front of him.

The suspect was arrested on

the island of Evia after complaints were received by the police's cybercrime bureau.

Police confiscated the man's laptop and “determined that he was indeed the person who created and managed” the page, according to a police news release.

It said the page contained “blasphemy and insults against Elder Paisios and Orthodox Christianity” in general.

He could face a fine of up to €3 000 (R32 100) or two years in prison under Greece's strict

blasphemy laws.

The arrest sparked outrage across the internet, and the hashtag #FreeGeronPastisios trended for several hours on Twitter.

A petition addressed to the Greek parliament demanding the abolition of anti-blasphemy laws in the country already has more than 6 000 signatures.

Paisios lived in the monastic enclave of Mount Athos and died at 70 in 1994. He has a large cult following due to his alleged prophetic powers and teachings. – Sapa-AP

is much more arresting than the boring bogziness of irrelevant, like runs, tickets, vanances like runs, tickets, TKOs and photo finishes. Telling you the score? That's what television – the plastic trench of the talentless – is for. What the hell was I thinking? ing to let it all hang out. a fully clothed stripper preparing. 2010 Currie Cup campaign with ern Province's then-pristine goals, saves, tries, tackles, I'd rather have nothing to do with an ongoing balls-up). I SA (I'd rather have nothing to not going to work for Cricket attendance of a friend's bachelorette party, inspired by my the middle, inspired by my

(I don't have the balls). No, I am And that was the start of the Vice Squad. This is, if my SA (I'd rather have nothing to do with an ongoing balls-up). I enough, the 152nd edition of the madness. It will also be the unreal job writing sport for other unsuspecting editors. last. In the same way that dawn ends even the best parties, and even the finest metaphors are more powerful when they are

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