# Patents Kill

Tony Mobily

On the third of September 2005, I was diagnosed with cancer—testicular cancer. The pain started during a party (Dave Guard, our Senior Editor, was there as well). In just one night, I went through a sudden and unexpected change: from being a young healthy person, full of life, and enjoying hanging out with his friends, to the ER of Fremantle Hospital being told that I may have cancer and I needed to be operated on immediately.

I am fine now. I've just been told that the tumour seems to have gone. On the 14 of November I will have the final answer which will determine whether I will need to go through the ill-famed chemotherapy. In any case, my prognosis is encouraging; I promise you won't get rid of your favourite Editor In Chief that easily!

People say that cancer is a life changing disease, regardless of what its outcome is. I can confirm it, without a shadow of a doubt. Cancer changes you deeply, it makes you realise that we are here, in this world, only for a short ride—a ride that might stop any moment and without warning.

For people with cancer, CT scans are a life-saver. They tell you if your lymph nodes are too big or if they are changing, and make accurate diagnosis possible. The same applies to the PET scanning technique, which promises to be the new generation of full body scanning.

At the moment, there is only one PET scanner in Western Australia (a rather rich state). The cost of such a machine is insane (I have no other word for it); at the hospital, they are already thinking about upgrading it because only three years after the purchase, it's already obsolete.

Apart from injecting radioactive material in my body, a PET scan would confirm for sure whether the lymph node near my kidney (the big suspect in my case) has been attacked by the tumour, or if it's just simply large.

The problem is that there are 20 people every day who need a PET scan, while the hospital can only complete 13 scans a day. The government is saying that they cannot afford another PET scanner, and I am not considered a high-risk patient. For the diagnosis, I will have to trust the good old tumour markers and CT scans.

Why?

Because software and medical patents make PET scanners ridiculously expensive (and also because Philip Davies, from the Department of Health and Ageing in Australia, has decided that Australia needs to take its time (http://www.mja.com.au/public/issues/180_12_210604/dav10271_fm.html) before adopting PET scans. Fortunately though, there have been some interesting responses (http://www.mja.com.au/public/issues/181_09_011104/letters_011104-4.html) to his decision, which might speed up this process).

First of all, I have to admit that my research wasn't very thorough. In fact, I stopped researching half way through, because I started to feel sick from what I was finding out (and because right now, for me, avoiding stress is an absolute priority). Also, please beware that I am biased: I am very wary of medical patents, and I consider software patents to be a ridiculous idea. So, I find software patents applied to medical equipment particularly disturbing.

Searching for "PET AND SCAN AND ALGORYTHM" from the patents office in the US returns 869 (yes, eight hundred and sixty-nine) patents released. A skilled body imaging technician I interviewed confirmed that when a new imaging technique comes out, a new gold rush starts—where gold is represented by patents. He also confirmed that these new machines become affordable only after a few years (normally, around seven), when the patents related to those machines start expiring. Apparently, the same thing happened with the MRI. In ten years, when the PET gold rush is over, PET scans will be as common as CT scans are today.

To me, it's absurd that governments allow pharmaceutical patents that last more than 7 years—especially if the same governments find themselves, because of those patents, in the position of not being able to afford the medical equipment used to keep their citizens healthy.

It's absurd that a scanning technique turns into a gold rush, rather than an attempt to help people with illnesses to improve their health.

It's absurd that one third of patents around PET are on software-techniques which improve the representation of the information collected by the scanner.

If the world made sense, the world's governments wouldn't allow medical patents which last more than two years, and would only allow pharmaceutical companies to charge *very* reasonable rates to other companies willing to use patented methods. They wouldn't allow the enforcement of patents against third world countries (which is, incidentally, exactly what the United States government is allowing right now with their "Free" Trade Agreements, which are a nice way to rip off all those third world countries. They wouldn't allow software patents, which often look like bad jokes (one click shopping, anyone?).

Why not?

Because patents—especially patents related to medical research—can kill. They turn legitimate life-saving research into another way to make a quick buck; they make this world—the only one we have—less liveable, especially for those people who aren't lucky enough to be rich and healthy. Ironically, patents were invented for the opposite goal: to guarantee that everybody could make use of everybody else's inventions, paying a little share to the original inventor. Because software patents turn from financially expensive jokes into a life threatening stranglehold, when they relate to medical equipment.

If I sound too radical, imagine yourself (or a person you love) not having access to a vital technology because a pharmaceutical company director's wife "needs" to go shopping in a more expensive four wheel drive, or "needs" to go on holiday in a bigger boat. It's a disturbing thought, unfortunately it's reality.

We must say "no" to software patents, and (even more importantly) set definite limits to current patent systems; this is especially true for medical research, because in some cases patents can kill, and we, the smartest species on the planet, ought to know better.

## Copyright information

## About the author

Tony Mobily is the Editor In Chief of Free Software Magazine (http://www.freesoftwaremagazine.com).