

OUTLINE FOR CIPA'S CHICAGO IP DAY **NOVEMBER 3, 2009**

General Scenario:

Moe Hammond is running for political office in the City of Chicago. Moe enters into a contract with a Chicago software developer to develop a program that will assist Moe in managing his campaign that Moe refers to as the “Soup to Nuts” program. But the software developer falls behind schedule and hires Larry Pine, a software developer in India, to help complete the program. It sends what it has so far – which is quite a bit of the program – to Larry in India. Larry finishes the project, but, unbeknownst to anyone, Larry also reverse engineers the program and develops an inter-operative program. Through this program, blogger posts espousing Moe’s opponent’s views end up appearing on Moe’s own campaign website. Moe’s opponent, the incumbent, is Curly Hammond, Moe’s brother.

Issues:

What if anything can be done to stop Larry from using and promoting the program Larry developed to interoperate with Moe’s “Soup to Nuts” program?

- Loss of control of the use that information; consequences
- Overseas IP rights, if any
- Enforcement
- Digital Millennium Act - loopholes

Larry is also a Green Ideology political activist who supports Curly’s positions concerning environmental protections. When it comes to these Green issues, he believes that Moe is nothing more than Healthy, Wealthy and Dumb and posts this in his blog, but he is still willing to take Moe’s money to create the desired program.

Moe's contract with the software developer gives him the rights to the software program and related IP rights. Moe applies for, and obtains, a business method patent for a method of managing an election campaign comprising posting blogs on a Web site promoting a candidate's political position.

Larry has been using the software program to post blogs from India, espousing Curly's political views. Moe decides to sue Larry for infringement of his business method patent. Can Moe reach Larry's activities in India? Can Larry claim that Moe's patent is not in fact patentable?

Moe hires his other brother Shemp, the family blogging enthusiast, to generate interest in the Soup to Nuts program among political candidates. Shemp posts on his blog that the Soup to Nuts program is Made in Chicago and Made in the USA. Shemp also states on his blog that the Soup to Nuts program is preferred by the majority of campaign managers. Shemp does not disclose that Moe has hired him to promote Moe's Soup to Nuts program.

- Green claims
- New requirements related to claims by paid FTC bloggers
- False and misleading claims