INTELLECTUAL PROPERTY LAW
FOR
MOBILE TECHNOLOGY DEVELOPERS

Chapter 1

Chapter I. Introduction – Mobile IP Landscape

Most agree that smartphone related technologies will remain a high growth area for the foreseeable future. Driving this boom is the convergence of various technologies that matured within a relatively small window of time. Unimaginable just a few years back, mobile technology is now able to seamlessly integrate high speed data, Wi-Fi, SMS, email, digital photography, high resolution displays, movies and music, touch screens, voice recognition, a mobile application marketplace, and much more into a convenient handheld appliance. The resulting feature-rich mobile devices have unlimited appeal and an apparently limitless number of applications.

To keep up with demand, mobile device makers and the mobile app developers are pumping new models and Apps into the marketplace at a dizzying rate. Everyday we hear truly staggering statistics, such as:

"Mobile App downloads are being measured in the billions,"

"It has been estimated that more than 700,000 Android based devices are sold every day and analyst have predicted that the number will reach 2.5 million devices per day,"

"Apple profits for Q4 of 2011 double thanks to 37 million IPhone sales,"

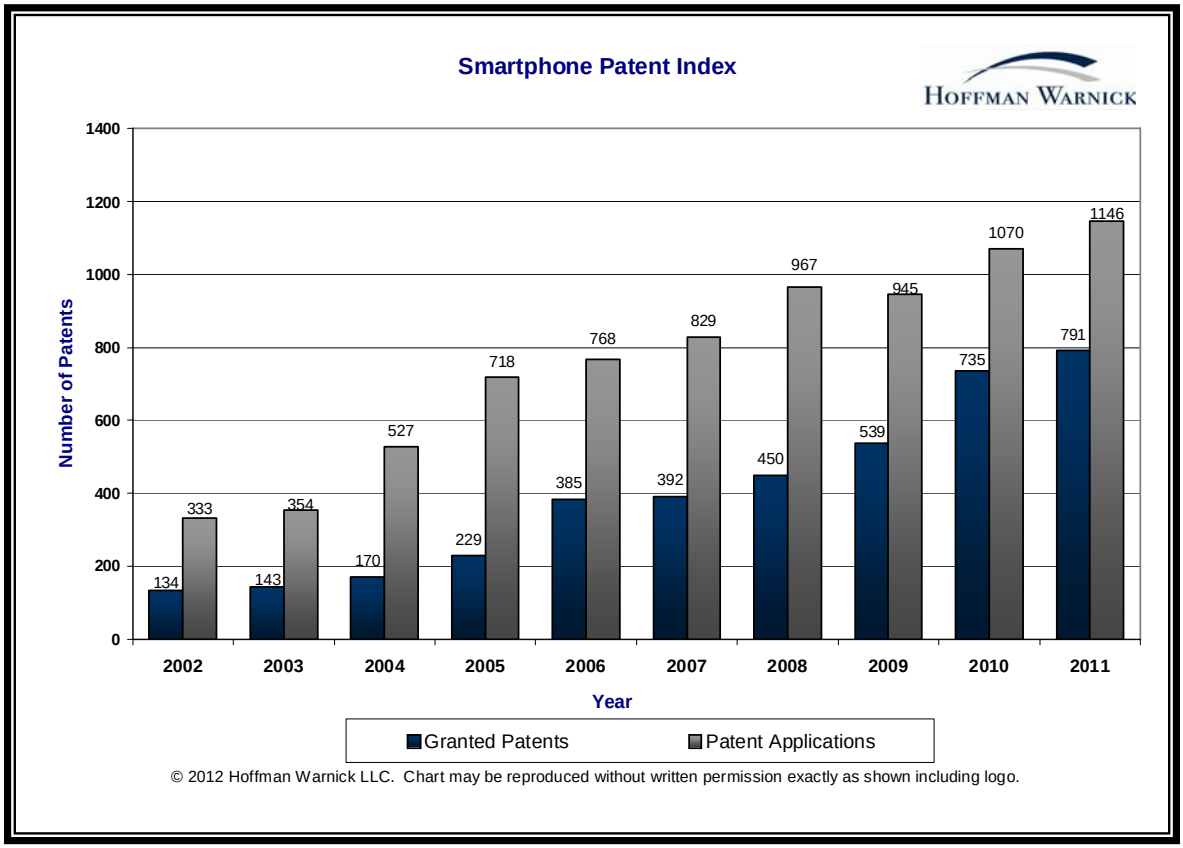
"Mobile App developer salaries are expected to increase 9.1% in 2012."

The technology advancements associated with mobile devices is something not experienced since the introduction of the personal computer (PC) in the 1970's and 1980's. However, unlike the PC revolution of a few decades ago, developers of smartphone related technologies must deal with a much more complex and demanding universe of intellectual property issues. Recall that many of the features that APPLE® first gave us, including the mouse, were developed at a XEROX® research facility and left virtually unprotected from an intellectual property standpoint. Software technologies such as operating systems, word processing programs and spreadsheet programs were largely protected only by copyright. At the time, the ability to patent software was uncertain, and considered by many in the industry to be bad policy, if not unethical.

Clearly, those days are largely gone. All of the large mobile technology stakeholders have invested significant money and efforts in establishing intellectual property rights for their technological innovations, both in hardware and software. The contrasting IP landscape between mobile computing and personal computing is evident from the following two graphs that show 10-year

patent activity for (1) smartphone related technologies between 2002 and 2011; and (2) personal computer related technologies between 1976 and 1985.

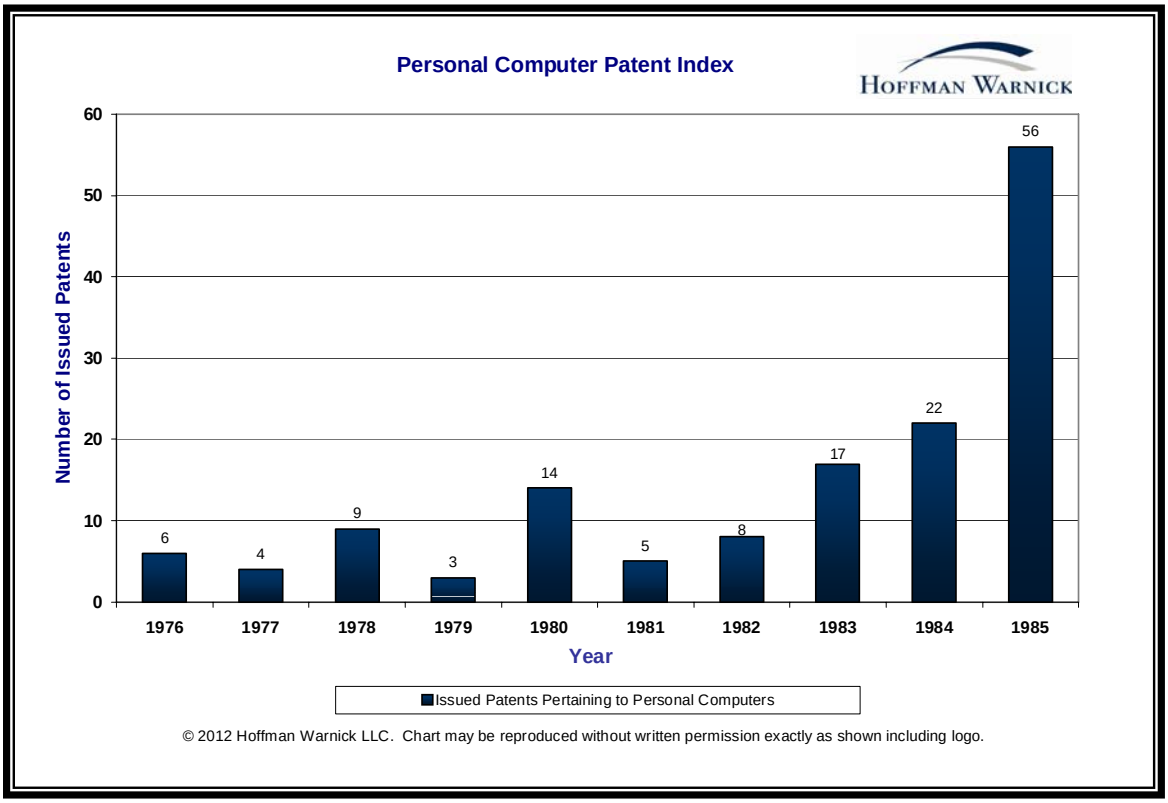
As can be seen in Graph 1, thousands of smartphone related patents have been filed and issued over the past decade. In 2011 alone, there were over 1100 new applications published and almost 800 patents issued.



Graph 1: Patent activity for mobile computing technologies

Compare this with the relatively small number of patents issued for personal computer related technologies between 1976 and 1985, as shown in Graph 2. (Note that in the US, patent applications were not published during the period shown in Graph 2.) While extracting patent data for these two technologies is not an exact science, it is clear that the role patents and

intellectual property plays for the emergence of mobile technologies far exceeds that experienced during a similar time period for personal computer technologies.



Graph 2: Patent activity for personal computer technologies

Given the current IP climate, it is certainly not surprising that the different stakeholders are engaged in significant legal battles with each other. At the very highest level are those companies that make the devices and the operating systems, Samsung, Apple, Nokia, RIM, Google, Microsoft, HTC, Motorola, LG, etc., etc. Throw in a bunch of additional companies that happen to own significant patent rights for smartphone related technologies, e.g., Kodak, Digitude, Graphics Properties Holdings, and what you have is a worldwide patent litigation firestorm. With billions of dollars and the future of mobile device technology at stake, it makes sense that these players are aggressively utilizing intellectual property laws to carve out as much of the technology landscape as possible.

At a different level are the Mobile App developers, who are devising and releasing Mobile Apps as quick as they can find people to write them. With

hundreds of thousands of Apps already in the marketplace, it's hard to envision Apps disappearing anytime in the near future. Questions nonetheless remain as to what the future holds for Mobile Apps. Will every business eventually require an App as a marketing channel? How will the industry deal with the fact that so many Apps get downloaded and then go virtually unused? Will the platform in which Apps are delivered evolve? Who will be the next Microsoft or Google? Clearly, over the next several years, *winners and losers* at both the device and App levels will be decided.

Although impossible to predict exactly how things will evolve, it remains a good bet that intellectual property will play a significant role in the evolution of mobile device technology. Accordingly, Hoffman Warnick has compiled this E-Book to provide some basic intellectual property law guidance for mobile technology developers, and particularly mobile App developers.

If at any time you would like more information regarding how we can help you navigate Intellectual property issues, please visit our Mobile App Law Group website at www.MobileAppLaw.com. You can also give us a call at 866-539-1395 or email us at MobileLaw@hoffmanwarnick.com.