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Title agent receives patent for timeshare title technology

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Dave Heine, vice president at PCS Holdings LLC doing business as Closemytimeshare.com, recently told *The Title Report* how excited he was to receive his first patent. After four years of planning and designing and a 12-month review by the U.S. Patent Office, his Timeshare Pro Plus software received U.S. Patent No. 8,949,151 and all the protection that comes with it.

A patent is basically a limited monopoly, where the patent owner is granted the exclusive right to make, use, or sell a patented invention for a period time, according to patent attorney Steve Rost of Taft Stettinius & Hollister LLP.

"The patent protects Dave's company from competitors trying to make use of his software without obtaining a license from him first," Rost said. "In other words, others must be wary of his patent before making, using or selling similar software without his authorization."

Timeshare Pro Plus is the company's owner-to-owner module. It's designed for owners who want to transfer title to other owners. It was built with safeguards such as verifying addresses with the post office and providing fraud protection.

Before the invention of Timeshare Pro Plus, timeshare owners and buyers had to complete complex forms by hand. "Sometimes you couldn't read their handwriting on the forms," Heine said. "They were cumbersome. We took everything we knew about the timeshare industry and asked ourselves what we needed to effectively transfer title. We need the name of the resort, the unit, the week, the name of the seller and the name of the buyer. From this we created a forward-facing site for the consumer. They go into the site, enter the information and we get an email with their details."

Owners now can access a custom branded (to the Resort) web portal to begin the transfer process. A single data input screen removed the trouble out of completing the confusing forms. The system collects payment and fees and produces the title transfer documents to complete the process. The old system took months to produce the transfer documents, whereas Timeshare Pro Plus can generate all of the documents in less than an hour.

To get a patent for the software, Heine had to prepare a patent application meeting a number of requirements. Once it was prepared and filed, the patent office conducted a search and examined the application to determine if it met the requirements for a patent. These requirements include, *inter alia*, patentable subject matter, utility, novelty, nonobviousness and enablement. The patent application must fully describe the invention such that 'one skilled in the art' may understand the invention so as to make or use it. But, Heine faced an additional challenge.

According to Rost, the U.S. Supreme Court decided an important case last summer that made it more difficult to protect software and business methods via a patent.

"The premise behind the Supreme Court's decision in *Alice v. CLS Bank* is that abstract ideas do not meet the requirement of patentable subject matter," Rost said. "When the U.S. Patent Office first examined Dave's patent last year, all of his claims in the application were rejected for lacking patentable subject matter. The Patent Office cited the *Alice* decision to support its decision."

In response, Heine and Rost asked a number of professionals in the timeshare industry who were familiar with Timeshare Pro Plus to execute declarations stating there was nothing like this software in the market. Then they met with and interviewed the patent examiner handling Dave's application at the U.S. Patent Office, where they discussed their claims. They were later issued the patent, and Heine was thrilled.

"Unlike the residential title insurance market, where you have SoftPro and Closers Choice, there is nothing designed specifically for the timeshare market," Heine said. "A lot of resorts are older and don't have the cash-on-hand to automate, so they use paper forms. These forms are very difficult to understand. Three patent attorneys couldn't figure out how to fill out the paperwork. The light came on there had to be a better way to do this. No one had set anything up to do order entry the way we got it done."

Now, Heine is working on his second patent, which would protect the administration panel where all of the information from the previously mentioned forward-facing site is collected, processed and the documents are generated. The patent is pending and they expect to hear feedback from the patent office within the next few months. Heine plans to eventually file several more patent applications for each of his modules.

The second module, for example, is JiffyDocs, which is geared towards the real estate professional. The sales professional now can enter information about the transaction and using standard real estate documents as templates, prepare high quality, professional appearing real estate sales contracts. The parties can sign documents electronically, saving time, postage, ink and paper.

"We also built credit card processing into JiffyDocs. It's designed so we don't see the information," Heine said. "From the comfort of their (the customer's) own home, they can enter the amount of the deposit and the payment and it processes automatically. It helps cut down on credit card fraud and keep independent brokers PCI compliant."

The third module, Request My Estoppel, is designed as an online portal where owners and others may request an estoppel. Users can scan and upload documents such as seller authorizations, contracts or any other documents the resort requires to generate an estoppel. The resort can publish its timeshare documents on the site for secure viewing and downloading by potential buyers, either for free or for a fee. Since most of the programming needed was already complete, Heine said it only took about two days to create the module.

Around the same time, Florida enhanced its escrow laws. The new statute said advance payments had to be held in a Florida title company account or attorney account, so Heine created the Hold My Escrow module, where escrow accounts are reconciled and audited daily using RynohLive and the state complaint escrow documents are generated.

Heine intends to file patent applications to protect each of these modules, but that's not the only protection he has. He also owns 15 trademarks.

A trademark is a brand name, according to Rost. He said a trademark and a service mark can include any word, name, symbol, device or any combination thereof, used or intended to be used to identify and distinguish the goods and services of one seller or provider from another.

"Someone would have to use his (Dave Heine's) trademark in a commercial way to infringe it, whereas someone would have to develop a software program that is executable in a way that is covered by his patent to infringe the patent," Rost said. "Both forms of intellectual property rights provide different levels of protection, and Dave has done a great job securing rights in trademarks, copyrights and patents."

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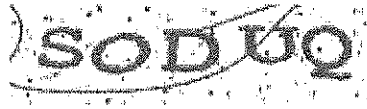
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