

Patently Obvious

The Auto-ID Center is considering creating a patent pool to reduce the risk of lawsuits derailing its technology. The idea is good for vendors, as well as customers.

Oct. 21, 2002 - As we report exclusively in this week's feature, that Auto-ID Center is considering setting up a patent pool. The aim, if the plan goes ahead, would be to try to give the center's technology the best chance of being adopted by reducing the risk of lawsuits. To get a deeper understanding of how pools work, the historical precedents, and their benefits and drawbacks, read the feature, [Auto-ID Center Ponders Patent Pool](#)

There's no guarantee that the center will go ahead with the plan, and certainly the success or failure of any pool will depend a great deal upon the details. I have not seen the proposal that Kevin Ashton will make to the Auto-ID Center's board next month. Nor would I ever presume to tell companies what is in their best interests. It will be up to each company to assess its intellectual property, its market position, the terms of the pool and other factors before deciding whether to jump in.

However, I do have some broad views on this issue. Regular readers of *RFID Journal* know that I fervently support industry standards. I believe standards benefit customers, vendors, investors and the industry as a whole. I would support any mechanism that will foster the adoption of standards and the growth of the market. Given the unique circumstances surrounding RFID -- there are many patent holders and some of them are no longer in the market -- the pool concept seems to make the most sense.

In a perfect world, technology vendors and individual patent holders would assess the merits of joining the pool without emotion and simply do whatever is in their best interests. Unfortunately, two factors make that unlikely. One is that intellectual property is an emotional issue. Many people who run RFID companies developed their products and hold the patents. Contributing to a patent pool might feel like an admission that their invention is inferior. Issues of pride cloud people's judgement.

The other issue is one that bedevils companies all the time: Companies are so used to competing that they can't see when it's in their interests to cooperate. Some companies will, no doubt, feel that they are giving up a competitive advantage by contributing their patent to a pool. It's understandable, but wrongheaded.

This is about getting together to establish ground rules. Think of it as a football game. First you have to agree where you are going to play, when and what the rules will be. All of those things have to be decided before the competition begins. Football teams don't win by preventing their opponents from running the same plays. They win by having players with better skills. They win by executing more effectively and sometimes by having a better strategy.

Once everyone agrees to play on the Auto-ID Center's field, so to speak, there will still be plenty of room for competition. Vendors will compete to make the reader with the best performance, the tag with the greatest read range, the software that best utilizes the RFID data and so on. And they will compete to provide customers with the best service and support.

I expect the center will come up with a workable proposal. I hope that Kevin Ashton will listen to the views

expressed by patent holders. I also hope that the patent holders will put aside emotional issues and avoid get hung up on whose technology is worth more to the pool. This is an industry that has shot itself in the foot several times in the past. There's an historic opportunity here to step up and show potential customers that this industry is ready to respond to their needs. If the center's system doesn't catch on, the vendors will have lost nothing, and it may win back a little credibility.

In the end, whether the pool is successful or not, the harsh realities of the marketplace will determine the success or failure of the Auto-ID Center's system (not to mention individual RFID vendors). But we hope each patent holder understands that it is better to compete head-to-head in a \$100 billion market than to hold the patent on a technology for which there is no market. That should be patently obvious.

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