

ADOBE DEFEATS INFRINGEMENT CLAIM

Wilmington, Delaware, September 21, 1997

Nation's Premier Graphics Software Company Fends Off Attack By Quantel

A Federal jury in Wilmington, Delaware found that Adobe's Photoshop software program did not infringe on Quantel patents. Quantel had alleged that its patents covered many of the features of Adobe's most popular program. Adobe makes a wide variety of software products for the computer graphics industry. Quantel is a British firm that manufactures high end, dedicated computers used to generate graphics for film, television and print.

Quantel claimed that Adobe knowingly copied its U.S. Patents covering the basic technology that allows artists to create art work that imitates the look of real paint, brush and canvas. During his opening, Quantel's counsel showed the jury an impressive demonstration of Adobe's Photoshop and Quantel's Paintbox side by side, performing exactly the same functions. Adobe denied the infringement claim and urged jurors to look behind the computer screen, a facade created by the Plaintiff to mask the truth about the case. Adobe also countered with related accusations of inequitable conduct and invalidity due to prior art.

Adobe's case centered on the computer graphics work of Dr. Alvy Ray Smith, who, while at the New York Institute of Technology in the early 1970's, wrote a program incorporating the basic elements contained in all current computer graphics programs. These functions include giving the artist the ability to draw a smooth line, change the color of objects, mix colors on an electronic 'pallet', and save the new colors for future use.

Smith, whose recent film credits include Star Wars and Toy Story, never patented his work, as he was primarily interested in what he could create with the tools, not in the tools themselves. Dr. Smith testified that he attended many trade shows in the late 70's and freely distributed his blueprint for creating computer graphics programs. Most computers at that time were not fast enough to take full advantage of Dr. Smith's work, so its commercialization as software was slow.

Quantel, however, was very experienced in computer hardware. After systematically gathering information from NYIT and various graphics organizations in America, Quantel returned to Britain in the late 1970's and, within a short while, patented an expensive high-speed machine that Adobe claimed took direct advantage of Dr. Smith's ideas. Quantel never told the United States patent examiner about what they had learned from the work of Alvy Smith and NYIT, which, Adobe argued, was in the public domain.

Quantel applied for a U.S. patent in 1983, and again failed to tell the patent examiner about Dr. Smith's work. The patent was in various phases of the prosecution process for more than 10 years before Quantel finally told the patent examiner about Dr. Smith's work. This revelation occurred after Quantel's British patents had been found *valid* and *enforceable* by a British court in 1995 in Quantel's suit against another competitor. The next year, Quantel filed suit against Adobe in America, seeking hundreds of millions of dollars in licensing fees.

The Wilmington jury said no to Quantel. Quantel walked away with no money and no patent on Paintbox equipment in the United States.

Litigation Strategies provided jury research and strategic consultation to James Pooley and John Gartman, Fish & Richardson counsel, who tried the case for Adobe.

- Strategic Research
- Witness Preparation
- Demonstrative Exhibits

