

AUSFTA
Submission No: 123

Sidley, Kristine (REPS)

From: Justin Cliff [jcliff@digitaldistribution.com]
Sent: Thursday, 15 April 2004 5:10 PM
To: Committee, Treaties (REPS)
Subject: Submission of concern about the Free Trade Agreement

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BY:

Hello,

The reason for this submission is the very serious concern that many members of my Community, my Company, and I have in regards to the Free Trade Agreement as being proposed.

We have seen strong indication that as drafted it will allow significant damage to our business interests in this country, and it appears to be designed to funnel money from our (Australian) businesses to profiteering enterprises in the United States.

Our concern with the Free Trade Agreement as proposed is that it moves us towards adopting the United States patent system against our best interests. The patent system in the United States is world renowned as being neither Fair nor Equitable. The badly managed system they use, and the wrongheaded way they view Intellectual Property has over time led to accumulation by some of "patent portfolios" for things that should never have been patented.

One example of this is where a company in the United States found themselves the owner of a very broadly worded patent regarding financial transactions through the Internet. The wording of this patent gave them direct ownership of any process of financial payment through the Internet. This company has since begun demanding exorbitant payment from others and has instigated court proceedings when refused. The reality after investigation is their patent should never have been granted and will likely be invalidated in the future after someone with enough money to stop them comes into play. However, until that point they are milking it for all its worth, to the detriment of those they are targeting.

This is just one example of many, and we should not ignore them, nor the causing factors. We believe the United States patent system is a mess, skewed towards giving a huge amount of unfair leverage to corporate United States interests, and significantly reducing innovation.

For the last few years we have watched them try and export their patent system to as many other countries and economic groups as possible, including the EC, and have now cleverly packaged it inside a much larger agreement for Australia.

As a matter of background, my company is an Australian Small Business. Our Head Office is in Sydney, we employ people in Victoria, and personally I live in East Perth. We provide high quality training materials that address a high growth segment of the Information Technology (IT) market called "Open Source Software".

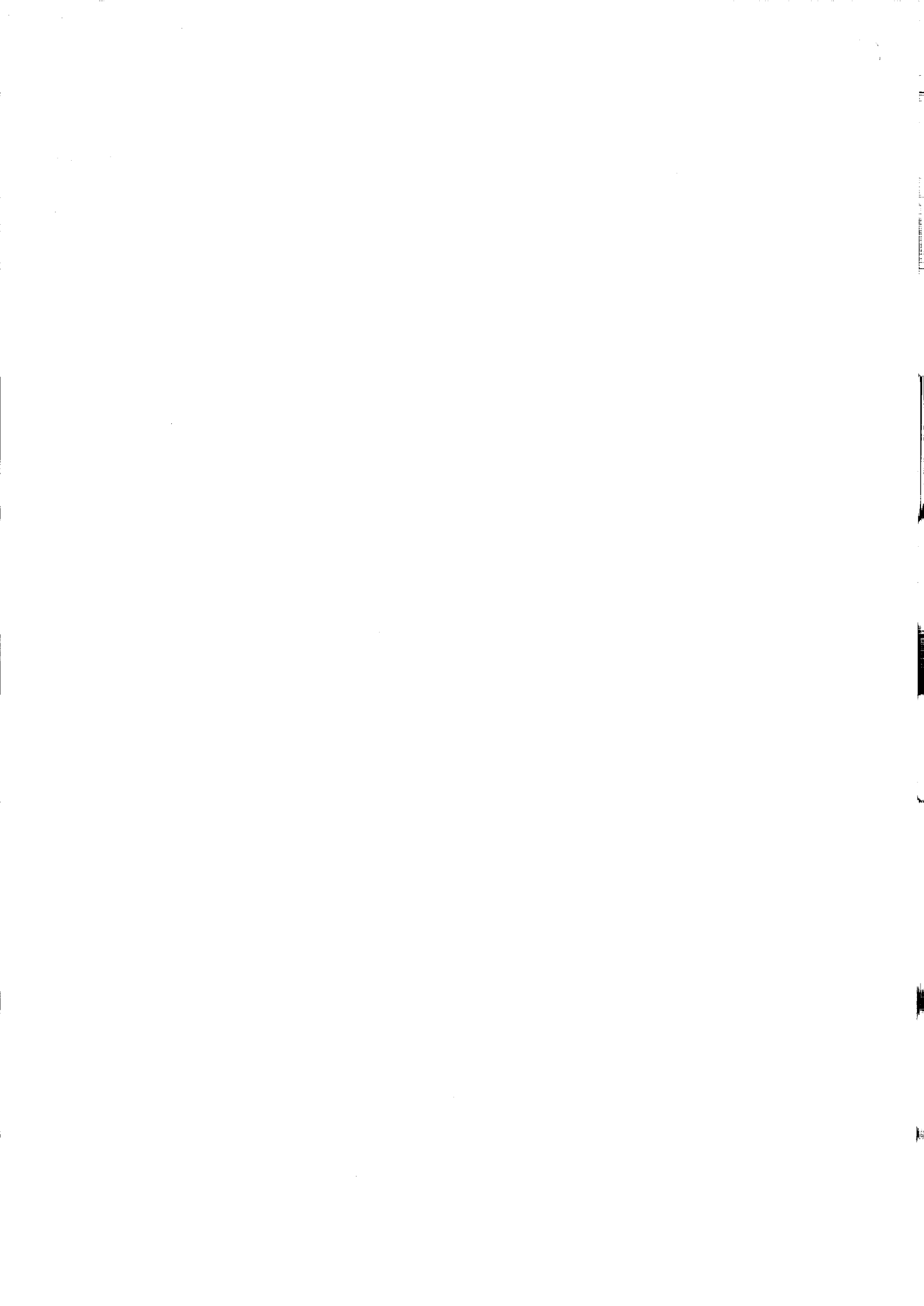
We have taken considerable time and effort to develop our products and are considered "best of breed" in our primary markets. Our primary markets are English speaking North America and Europe, and we will begin translation of our products to other languages within months. This is to further expand our market in Europe and open up many South American countries.

In the IT industry the most effective process for developing products and solutions is to look at the problems at hand, look at the established industry "best practice" methods for addressing them, and then create ways of doing it better. This approach encourages innovation, and over time brings world class solutions to the table.

Things are looking positive for this company, and the Australian IT industry in many areas, however the Free Trade Agreement as presently drafted looks to take away our ability to act as innovators on the world stage.

We feel it will provide a large amount of financial woe for Australian businesses, close important markets to us, and only be of real benefit to United States businesses who are already accomplished in unfairly leveraging the US patent system to their own benefit.

Hopefully you will have the time to read through this and understand the gravity of



These concerns for the Australian IT Industry and the Australian "Open Source Software" IT Industry.

Regards and best wishes,

Justin Clift

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