In Silicon Valley, a Man Without a Patent

MENLO PARK, Calif.

GEOFF GOODFELLOW is a Silicon Valley entrepreneur who came up with an idea that resulted in a $612.5 million payday. But he will never see a penny of it. He remains little known even in Silicon Valley and, perhaps most surprising, he doesn't really mind.

And herein lies one of the stranger tales about innovation and money in the world of technology.

A high-school dropout, Mr. Goodfellow had his light-bulb moment in 1982, when he came up with the idea of sending electronic mail messages wirelessly to a portable device — like a BlackBerry. Only back then, there was no BlackBerry; his vision centered on pagers. He eventually did get financial backing to start a wireless e-mail service in the early 1990’s, but it failed.

So, in 1998, he moved to Prague and bought a bar. Tending bar, he believed that everyone had forgotten that he had initially come up with the idea of wireless e-mail.

Almost everyone had, that is, except for James H. Wallace Jr., a Washington lawyer for one of the companies involved in a patent dispute over Mr. Goodfellow's invention.

Mr. Wallace represented NTP, a company aggressively
In 1991, Mr. Goodfellow led an Internet company.

Thomas Compana died in 2004 but left behind a patent for wireless e-mail and a company, NTP.

defending its patents for wireless e-mail. He flew to Prague two days after first speaking to Mr. Goodfellow in early 2002 to introduce himself.

Mr. Goodfellow says that NTP was concerned that his earlier work might undermine its patent claims, and the company wound up going to some lengths to ensure that it did not. "I kind of had a big grin on my face that someone had dug deep enough to find the person where it all began," Mr. Goodfellow recalled. "He basically wanted to hear my story."

On a subsequent visit a year later, as Mr. Goodfellow remembers it, Mr. Wallace introduced him to a travel companion by saying: "Geoff's the inventor of wireless e-mail. My client patented some of its implementation workings."

Mr. Wallace, in an e-mail response to a reporter's questions, disputed the quotation. But two things are certain. Mr. Goodfellow, an early participant in Silicon Valley's grass-roots computer culture, disdained the notion of protecting his ideas with patents. And Thomas J. Campana Jr., a Chicago inventor with no such qualms, patented the idea of wireless electronic mail almost a decade after Mr. Goodfellow's original work.

Mr. Campana, who died in 2004, was a founder of NTP, and his patent push yielded a bonanza for the company, which will receive $612.5 million in a settlement reached last month in its patent infringement suit against Research in Motion, maker of the BlackBerry.

For legal and technology experts, the tale of Mr. Goodfellow's pioneering work is evidence of the shortcomings of the nation's patent system, which was created to reward individual creativity but has increasingly become a club for giant corporations and aggressive law firms.

Several legal experts suggested that Mr. Goodfellow's work might have constituted important "prior art" — earlier public information that is relevant to a patent application — that should have been disclosed to patent examiners and the courts by both sides in the dispute.

"I think there is a potential ethics issue," said Mark A. Lemley, a Stanford professor who specializes in patent law. "The basic key is the attorneys have the obligation to disclose everything they know about his prior artwork and make him available as a fact witness."

DESPITE what might have been, Mr. Goodfellow says he has no regrets. His scorn for patents is widely shared by many innovators in Silicon Valley, especially open-source software developers, whose technology competes with products from companies like Microsoft. But it remains a deeply divisive viewpoint.

"You don't patent the obvious," he said during a recent interview. "The way you compete is to build something that is faster, better, cheaper. You don't lock your ideas up in a patent and rest on your laurels."

The initial encounter with Mr. Wallace in Prague was only the beginning of Mr. Goodfellow's indirect role in the BlackBerry case. NTP, he says, seemed intent on neutralizing him as a complication to its patent case.

NTP hired Mr. Goodfellow as a consultant; invoices show he was paid $4,000 a day — about $19,600 in all — for several days' work in 2002, including two trips to meet with lawyers in Washington. As part of a formal contract, he signed a nondisclosure agreement,
prohibiting him from revealing any information or consulting with any other parties during the period of the lawsuit.

At one meeting in Washington, when Mr. Goodfellow described his technology at a white board in a conference room, Mr. Wallace insisted that the other lawyers not take handwritten notes for fear of leaving a paper trail, Mr. Goodfellow says. Another meeting, he says, focused on which claims in NTP's patents were least likely to be compromised by Mr. Goodfellow's prior work.

In an e-mail response to a reporter's question about NTP's contacts with Mr. Goodfellow, Mr. Wallace maintained that Mr. Goodfellow was retained because he had been mentioned in news articles from the early 1990's "regarding a product called RadioMail" — his effort to commercialize the wireless e-mail idea — but that Mr. Goodfellow "could not locate any documentation beyond these articles regarding the product."

As it happens, he had documented his wireless e-mail concept even earlier.

In the early 1970's Mr. Goodfellow, then a teenager, was hanging out at SRI International here, generally getting under foot until he was hired in 1974 as an assistant computer operator in the laboratory of the pioneering computer researcher Douglas C. Englebart.

By the early 1980's, the Arpanet, the computer network that preceded the modern Internet, was being used by thousands of academics, scientists and military officers — and by Mr. Goodfellow, who realized that it was possible to relay a mail message from the network to a newfangled alphanumeric pager that had just been introduced by a nearby company, Millicom, of Sunnyvale, Calif., which called its service Metagram.

In 1982, he published his idea on a widely read Arpanet mailing list called Telecom Digest in a note titled "Electronic Mail for People on the Move."

The service, he wrote, "allows Arpanet users to send messages to people on the MetaNet without having to run and find a terminal with a modem on it or go through the human dispatcher, i.e., so you can now do fun things like be driving down the road and have a message appear that says: [YOU HAVE NEW MAIL]."

Mr. Goodfellow went on to become a founder of the world's second commercial Internet company, Anterior Technology (later renamed RadioMail), in his apartment here in 1986. Beginning in 1990, at roughly the same time AT&T hired Mr. Campana to develop pager technology into a wireless mail gateway, Mr. Goodfellow set out to commercialize his idea, ultimately receiving $3 million from financial backers such as Motorola.

RadioMail was introduced in 1991, and the next year Mr. Goodfellow embarked on a partnership with Research in Motion, a Canadian company, and Ericsson, the Swedish telecommunications giant. But like a number of Mr. Goodfellow's projects, RadioMail was ahead of its time, and he left the company in 1996. During the height of the Internet bubble, Mr. Goodfellow, a self-taught software engineer, would speak caustically about the hype pervading the era, referring to the surplus of "zero-billion-dollar industries."

He walked away from Silicon Valley during the dot-com boom without the great wealth that it had afforded so many. But if he is miffed, it is because so much of the history has been forgotten.

"I don't want to sound bitter," he said. "I'm overjoyed that what I saw more than 20 years ago is now de rigueur."

Today, Mr. Goodfellow's invention and its fate are a curious but significant footnote to the bitter patent battle between NTP, whose only assets are the Campana patents, and Research in Motion, which has come to dominate the market for wireless electronic mail handsets.

Although the NTP patents have been tentatively invalidated by the United States Patent Office, a jury upheld NTP's infringement suit in 2002, and R.I.M. chose to settle the legal fight for fear of a federal court injunction against its popular service.
And Mr. Wallace, the NTP lawyer, rejects the idea that Mr. Goodfellow's work casts any further shadow over his client's patent claims.

Mr. Wallace said by e-mail that he was not aware of Mr. Goodfellow's 1982 article — though Mr. Goodfellow says he described his 1982 work in detail to NTP lawyers — and that NTP's patent claims turn on integration with a "destination computer," not a pager.

In any case, Mr. Wallace added, "the devil is in the details.

"Suppose I write something saying that teleportation is possible by merely converting matter to energy, beaming the energy to a distant location and reconverting energy back to matter," he said. "Does this mean that my statements compromise the patents of the first person to actually make such a system work? No patent attorney would argue such a thing."

Others take a different view. "The moral of the story is that for a long time now the patent system has been misused," said Mitchell D. Kapor, founder of the Lotus Development Corporation, the software publisher, and an adviser to Mr. Goodfellow in the early 1990's. "If it had been properly used, NTP would never have been issued its patents, and they never would have had a basis to pursue a lawsuit against R.I.M."

DURING the court case, R.I.M. and NTP wrangled over three earlier developments: work by some University of Hawaii researchers; a Motorola patent; and work by TekNow, a company in Phoenix. Mr. Goodfellow's company and 1982 system were not mentioned. (R.I.M. executives did not respond to telephone and e-mail requests for comment.)

Although his role went unnoticed both by the federal courts and patent examiners, Mr. Goodfellow's invention is woven into the very fabric of the Internet. The computer network assigns different addresses, known as ports, now numbering more than 65,000, to different services like electronic mail or the World Wide Web. To this day, Port 99 remains set aside for Mr. Goodfellow's original brainstorm: pushing an electronic mail message to a wireless pager.

Mr. Goodfellow sold his bar in Prague in 2004 and returned to Silicon Valley to help his brother run an Internet photography business. He is now back in the thick of innovation, serving as the chairman of a start-up Eritrean company working on voice-over-Internet-protocol technology.

In his spare time he volunteers as a disc jockey at KZSU, the Stanford student radio station. He said his show, beat.net, is his way of continuing to look for the technology edge.

"I'm really interested in the intersection of technology and entertainment," said Mr. Goodfellow, who just turned 50. "These days I'm still trying to spend my time doing new things."
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http://www.nytimes.com/2006/04/16/technology/16wireless.html?pagew...