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## *When did DMC acquire the Wicker Patents?*

Prior to changing its name to Document Security Systems (AMEX: DMC, \$10.11) in February of 2003, the company formerly known as New Sky Communications began a series of acquisitions. Through the purchase of Lester Levin Printing d/b/a Patrick White Printing, Document Security Consultants, and Thomas M. Wicker Enterprises ("Acquisitions"), DMC made the unlikely transformation from a failed producer of campy B-List films to an anti-counterfeiting document technology company.

The foundation for this newest venture was the collection of patents acquired through the Acquisitions. Unfortunately, it is unclear what DMC actually owns or controls. DMC has changed the language characterizing its patents used in its SEC filings several times.

DMC paid \$72,000 in cash, assumed \$324,921 in debt and issued 1,875,000 shares of stock valued at \$262,500 in total for the acquisition of all three companies. During the time of the acquisitions DMC claimed to receive the ownership of the Wicker Patents. Shortly after the acquisitions however they seemed to change their tune as to what was received in the acquisitions. So what interest in the Wicker Patents did DMC receive during the acquisition of the three companies?

According to a 10-K filed on March 26, 2003 for the year ended December 31, 2002, DMC acquired "Patents: USA Patent #5,735,547, #5,707,083, Canadian Patent #2,045,580, European Patent #0455750 U.S.A. and Trade Secrets." Eight months later that language was materially changed. An amended 10-K for the year ended December 31st, 2002 filed on November 13, 2003 describes the technology acquired during the acquisitions as "Nonexclusive Patent Interests: USA Patent #5,735,547, #5,707,083, Canadian Patent #2,045,580, European Patent #0455750 U.S.A. and Trade Secrets."

Buried at the end of the 10-K is a Schedule which describes the technology gained in the transaction and states "Sub-license of the license for USA Patent #5,707,083 Wicker 2000 Trade Secrets including plates and Films at Tucker Printers subject to the terms of the license agreement with the estate of Ralph Wicker." The Schedule goes on to state that also included in the transaction was the "license agreement for USA Patent #5,454,598 Perf Product and Process, including the right to sub-license."

The answer as to what technology DMC acquired through the acquisitions becomes further muddled when a transaction is completed on February 25, 2005 to consolidate the ownership of the Wicker Patents into DMC. According to an 8-K filed on March 02, 2005, a total of 583,106 shares of stock valued at \$7.25 a share were issued to 42 individuals for the "purchase of various legal ownership and economic interests in certain technology (patents and trade secrets) from 42 persons and entities (referred to as "Interest Holders") who had purchased these interests in the technology from the original inventors of the technology, Ralph C. Wicker (deceased) and members of his family the Wicker family."

The schedule of Patents outlined by the Form 8-K lists the Patents acquired as all of the same patents previously

mentioned with the exception of the patent ending in 598. Also included in the list of acquired Patents is the 5,018,767 Patent ("767") which had claims invalidated by the United States Court of Appeals on March 13, 2000 and which was allowed to lapse due to DMC not paying maintenance fees, from May 2003 to March 2004.

An expired Australian Patent is also included in the list of acquired Patents, as is a withdrawn Patent, and a Japanese Patent whose registration status is listed as "unknown." Of the twenty patents listed on the schedule of acquired patents one has claims which have been invalidated, one withdrawn, one expired, one's registration status is "unknown," and three other patents (those ending in 580, 083, and 547) were mentioned as being included in the original Acquisition.

The remaining thirteen patents listed in the schedule are in reality, one Patent registered in thirteen different countries. The European Patent 0455750 ("750") is listed on the schedule in all thirteen countries that it is currently registered in. The 750 Patent is currently the subject of litigation with claims of invalidity filed in 8 of the 13 countries it is filed in, with the filing of another claim of invalidity imminent. According to the 8-K there were also "approximately 5" entities that did not come to an agreement with DMC who still have rights to the technology.

Perhaps the question that should be asked is not what was acquired when, but if valuable technology was ever acquired. Given the invalidation of previous patents, the current counterclaims moving to invalidate nine more DMC patents, and the lack of revenue from the licensing of DMC's other patents, it looks like DMC shareholders emerged from the February 25, 2005 transaction with what they went in with: nothing to show for their investment then, nothing to show for their investment now.