

BUSINESS

TODAY'S FOCUS **GROWTH**

VIDEO GAME SALES: 'Grand Theft Auto' helps drive sales up 27 percent last month to \$1.08 billion. **Page 2**

Tough week for patent giant

Acacia Research reports sharply lower revenue amid government scrutiny and public criticism.

The business of suing over patents is getting tougher, as one Orange County patent licensing giant discovered this week.

Facing increased government scrutiny and public criticism, and potentially a more restrictive legal environment, Newport Beach-based "patent assertion entity" Acacia Research reported sharply lower revenue on Thursday. Its stock price dropped more than 20 percent Friday, to \$15.50 a share, and is down 32 percent so far



IAN HAMILTON
REGISTER WRITER

this month.

Acacia sues some of the biggest names in technology armed with patents it contends are being infringed. Recent settlement or licensing agreements include those with Google, Samsung and Texas Instruments.

Critics say such outfits - which they call patent trolls - serve as a nuisance at best and a block to innovation at worst.

Acacia blamed its poor financial results on tougher negotiations over the price companies would pay to obtain a license for patented technologies owned by Acacia or its network of subsidiaries and partners.

Acacia reported \$15.5 million of revenue for the third quarter, compared to \$35 million in the same period the year before. Its net loss widened to \$15.7 million, versus \$6.6 million a year earlier. For all of 2012, Acacia had revenue of \$251 million.

In an earnings call with analysts, CEO Matthew Vella cited "unprecedented pressures being generated by those who seek to distract, dishearten and dissuade" the people and companies from which Acacia gets its patents.

In explaining the quarter, Vella - who

SEE ACACIA • PAGE 3



KEN STEINHARDT, ORANGE COUNTY REGISTER

The Santa Ana Mountain range serves as the backdrop for the Eaves Santa Margarita apartment complex in Rancho Santa Margarita, which experienced the highest rent increase, year over year, in Orange County, with rates rising more than 9 percent.

RENTALS REACH A HIGH



JEFF COLLINS
REGISTER WRITER

Orange County apartment rents rose an average of \$37 a month over the summer, pushing the asking rent in a large complex to a record \$1,708, apartment tracker RealFacts reported Friday.

The report marked the 11th consecutive quarter of rising apartment rents in Orange County. The county held its position as the fifth-priciest metro area in California, trailing San Francisco, San Jose, Los Angeles and Santa Cruz.

RealFacts surveyed managers of 502 complexes with 100 or more units, accounting for 132,000 apartments. That represents about a third of all rentals in the county.

"For low-income families, rents continue to rise, and they continue to struggle as to how they're going to pay those rents," said Cesar Covarrubias, executive director of the Kennedy Commission, an affordable-housing advocacy group. "We are seeing increases of \$20 to \$30 a

year for the last couple of years."

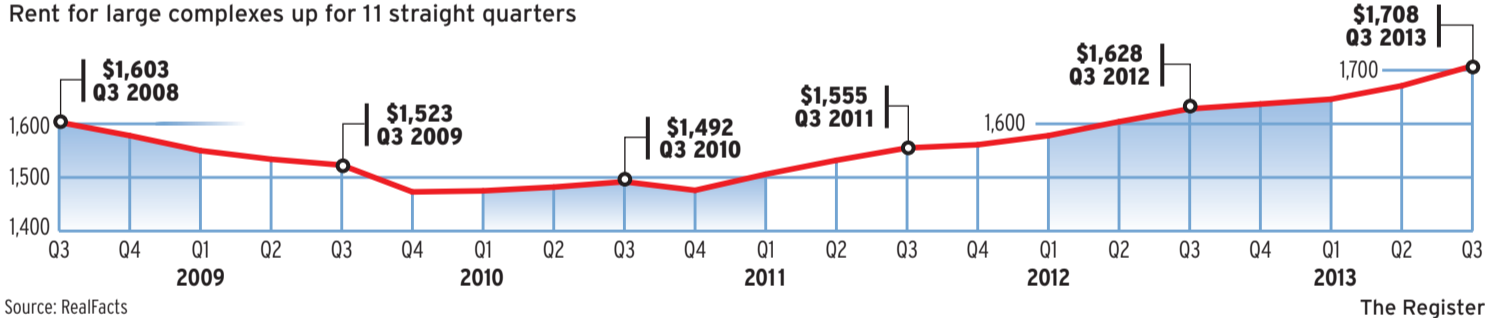
Averages for all rentals tend to range from \$1,200 to \$1,500 a month for a two-bedroom unit, compared with \$1,500 to \$1,900 for large-complex units, Covarrubias said.

Five cities skewed Orange County's rental averages upward: Newport Beach, Irvine, Costa Mesa, Aliso Viejo and Dana Point. RealFacts figures show that the average apart-

SEE RENT • PAGE 3

O.C. apartment rent

Rent for large complexes up for 11 straight quarters



Source: RealFacts

The Register

MORE INSIDE

SHUTDOWN DAMPENS HOLIDAY SHOPPING

Retailers are concerned but hope that short-term uncertainty that may linger from the federal government's two-week partial shutdown won't stop Americans from spending during the busiest shopping period of the year. Stores and industry watchers say shoppers already are holding back on purchases. **Page 6**



S&P 500 HITS RECORD TERRITORY

U.S. stocks rose, with the Standard & Poor's 500 index setting a record for the second day in a row. Results from Google Inc. surged nearly 14 percent, with the price topping \$1,000 a share for the first time. **Page 5**

Billionaire looks to be Fisker winner

Richard Li of Hong Kong is likely to take control of the hybrid automaker based in Anaheim.

By IAN HAMILTON
ORANGE COUNTY REGISTER

Hong Kong billionaire Richard Li is likely to be the winner of a debt auction that could give him a controlling stake in troubled Anaheim hybrid automaker Fisker Automotive, according to Reuters.

The auction started on Oct. 11, but federal officials said it could be some time before a sale closes and the Department of Energy announces a winner.

Fisker owes American taxpayers

about \$168 million after burning through that money, as well as more than \$1.2 billion in private money, to bring its flashy, but buggy, \$100,000-plus hybrid-electric Karma to market.

The company was working on a second, lower-cost car when it hit the wall amid car fires, recalls, slow sales and management changes. Fisker laid off the majority of its workforce in April and has been silent since then, operating out of a locked headquarters and selling off demonstration cars at less than half their original price.

Reuters reported "sources familiar

with the company" said at least two other groups were vying to buy the loan, including German investment group Fritz Nols AG and a team including Chinese auto parts supplier Wanxiang, which bought Fisker's bankrupt battery supplier, and long-time automotive executive Bob Lutz.

The auction required a \$30 million minimum bid and a commitment to promote American manufacturing, Reuters said.

The Karma was built in Finland, but the second car was to be made in a factory in Delaware.

Li is the youngest son of Hong Kong's richest man, Li Ka-Shing. Forbes places the younger Li's net worth at \$1.9 billion as of March.

MARKET RECAP



Dow Industrials
Close: 15,399.65
Change: +28



Nasdaq Index
Close: 3,914.28
Change: +51.13



S&P 500 Index
Close: 1,744.50
Change: +11.35



10-year Treasury:
Close: 2.59%
Change: 0



Oil per barrel:
Close: \$100.81
Change: +\$0.14



O.C. gas prices:
Gallon: \$3.766
Change: -\$0.004

MORE ON PAGE 5

Here's what your OC Register subscription is doing in Orange County.



Encouraging High School Students

Every Sunday the OCVarsity Arts Section chronicles the achievements of high school students actively involved in theater, dance, music and the visual arts throughout OC. We are proud to support and applaud our budding artists with you, our subscribers.

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In the Service of Orange County

Boeing will slow rate of 747 production

Demand is lagging; no new orders have been booked this year.

By **JOSHUA FREED**
THE ASSOCIATED PRESS

Boeing will slow down production of its double-decker 747 jumbo jet as demand continues to be weak. Counting cancellations, Boeing has not booked any new orders this year for that plane. Boeing said on Friday that it would slow 747 production to 18 per year, or 1.5 per month. Boeing originally planned to build 24 per year, but slow sales had already prompted it to make plans to cut the rate to 21 per year. The slowdown begins early next year, and Boeing said it would stay at that lower rate through 2015. The slower rate "doesn't change our confidence in the 747-8 or our commitment to the program," said Eric Lindblad, Boeing's vice president and general manager for the 747, in a prepared statement. The 747 has been flying with airlines since 1970, and it was popular at first for its long range and large size. But the revamped 747-8 first delivered in 2011 has not been selling well. More than half of the orders have been for freighters, and even that market has been weak. The 747-8 faces tough competition from the larger Airbus A380, which has been available longer. It also competes with Boeing's smaller 777, which has been a best-seller. Boeing has booked orders for a total of 107 of the



FILE PHOTO: THE ASSOCIATED PRESS

Boeing said Friday that it would slow production of the 747 jumbo jet to 18 per year, down from 24. The jumbo jet, like the one above, is being built at Boeing's plant in Everett, Wash.

jets, with 51 yet to be delivered - just over two years' worth of planes at the original, faster rate.

The biggest buyer of the passenger version has been Lufthansa, with orders for 19, including nine that have been delivered. No U.S. airlines have bought it. The 747's list price of around \$350 million makes it Boeing's most expensive plane. That means that even if it doesn't sell very many, it's a big revenue generator.

Boeing said the slower rate would not have a significant financial impact. Shares of Chicago-based Boeing Co. rose 23 cents to close at \$122.52 after rising to a high of \$122.86 earlier in the session.

Boeing stock has been rising steadily since March, when investors began to focus less on its problems with its new 787 and more on the rising deliveries for most of its planes.

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MATTHEW VELLA
ACACIA CEO

The Acacia website on Oct. 15, left, and then after a major revision, below.

RENT: Averages up across the county

FROM PAGE 1

Highest rents

Orange County had the fifth-highest asking rent for apartments in large complexes out of 25 California metro areas, according to the latest survey by RealFacts. Here are the top five and their average monthly rent:

Rank	County	Price
1.	Santa Clara County	\$2,140
2.	San Francisco Bay Area	\$2,043
3.	Los Angeles County	\$1,829
4.	Santa Cruz County	\$1,811
5.	Orange County	\$1,708

ment rents in those cities was \$2,002. By comparison, the average large-complex rent in the rest of the county was \$1,529 a month.

But rents jumped in all 24 cities included in the RealFacts report, ranging from a 1.2 percent year-over-year increase in Dana Point to 9.6 percent in Rancho Santa Margarita. Rents also increased for all apartment types and sizes. One-bedroom, one-bathroom units had the biggest increase, with rents up 5.1 percent to \$1,475 a month. The smallest rent hike was 4 percent for a two-bedroom townhome. Those units rented for \$2,112 a month this past summer.

During the past three years, asking rents for all Orange County apartments rose an average of \$216 a month. Rent in the summer quarter was up \$80 a month, or 4.9 percent, from the same quarter in 2012, the survey showed. The survey represents the amount landlords are asking their newest tenants to pay and don't take into account concessions landlords may grant, such as free rent for the first month.

The Consumer Price Index pegged annual rent inflation at 2.5 percent in August for all rentals in Orange, Los Angeles and Riverside counties. Ray Maggi, CEO of MPMS Inc., estimated rent has increased 2 percent to 3 percent a year for the past two years at the 2,500 apartments his Anaheim-based firm manages. High demand, fueled by job growth, accounted for some of the increase, Maggi said. RealFacts reported occupancy at Orange County's large apartment complexes at 94.9 percent.

But Maggi noted that rents are just getting back to where they were at the last market peak in 2008. He noted that large-complex rents have increased only 1.1 percent a year since then. But landlords' cost for maintenance, taxes and utilities have gone up more, he said. "In reality, we're still not at the point where we were in 2008," Maggi said. For tenants, however, rising rent means shelling out more of their income for housing, said Covarrubias. The National Low Income Housing Coalition issued a report earlier this year showing that the average renter in Orange County could afford no more than \$938 a month. To compensate, many low-income families have to double or triple up, renting a room that they share with other families, Covarrubias said. "If you're making minimum wage, you need four jobs to pay the typical rent," Covarrubias said. "That's why you have two to three families living in an apartment, to be able to pay the rent."

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CESAR COVARRUBIAS
AFFORDABLE HOUSING ADVOCATE

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Rent by the numbers

One-bedroom, one-bathroom apartments had the biggest rent hikes among large complexes in Orange County this past summer. Here's a breakdown of average rents by apartment size and year-over-year increases:

Rooms	Rent	Increase
Studio	\$1,276	+4.1 percent
One bedroom, one bathroom	\$1,475	+5.1 percent
Two bedroom, one bathroom	\$1,547	+4.1 percent
Two bedroom, two bathroom	\$1,952	+4.4 percent
Two bedroom, townhome	\$2,112	+4.0 percent
Three bedroom, two bathroom	\$2,327	+4.2 percent
Three-bedroom townhome	\$2,660	+4.2 percent

Source: RealFacts

ACACIA: Firm fights to remake image

FROM PAGE 1

took over the 65-employee company in July from the retiring Paul Ryan - said: "We believed the right move (is) to be simply continuing associated patent litigation until we get better pricing."

But conditions for patent assertion entities are getting more onerous, not less. Regulators, courts and lawmakers - including the Federal Trade Commission, the U.S. Supreme Court and Congress - are re-examining the legal justifications and economic impact of legal claims that seek settlements and fees based on patent claims.

UC Irvine patent law expert Dan Burk suggested increased attention to patent law could be emboldening patent defenders. An Acacia opponent might be thinking, "You guys have less leverage than you used to have and you might have less a few months from now," he said. "You can certainly see how that might affect negotiations." Burk added: "They have a very uphill battle convincing people that they are the good guys. I am sure they believe they are, or that they believe they have a legitimate business model."

Acacia is showing signs it is trying to fight back. The company's plain, sparse website was replaced this week, with more color and deeper explanations of how the company operates. On the new site, Acacia says it has generated gross licensing revenue of \$971 million to date and "returned more than \$430 million to our patent partners."

Acacia claims there's a difference between its modus operandi and the extortion-like tactics of others. In an interview, Vella suggested a "bad patent troll" threatens a lawsuit that could cost millions to fight in exchange for a couple of hundred thousand dollars. "We don't really do that anymore."

"Sometimes we're able to license without litigating, so we're very happy about that a lot. But the reality is that a trend of our revenue still comes in the shadow of litigation," Vella said. "When that happens it's not easy for us to explain to people how we do things. Because every time we say something publicly, we lose work product and we lose attorney-client privilege on some of our materials."

Still, Vella suggested Acacia encourages innovation by buying up the intellectual property from failed ventures, offering an exit to investors who can then put the money into startups. While technology giants have advantages of scale, he said, Acacia helps independent inventors and smaller companies that were too early for a market. "We bring parity back to the playing field," Vella said. That's admirable in theory, say some venture capitalists. But they bemoan how it works in practice. "Anyone who helps introduce resources into the startup environment - I encourage that," said Bob Holmen, managing director at VC firm Miramar Venture Partners. "My preference would be [that the patents end up] in the hands of companies that further innovate."

Before the dot-com bubble, Acacia was a tech incubator. Then it changed its business model to seek profits by identifying infringed intellectual property, seeking to license the patents and - when that didn't work - filing a lawsuit. The company, which now employs lawyers, engineers and business staff, hasn't worked on making new technologies since the 1990s.

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firm's momentum and execution discipline over the last year," the note said.

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This month the Supreme Court said it would take up two cases that could make it easier for patent suit winners to extract legal fees from their opponents. That could make such lawsuits much more costly for firms like Acacia. And last month, the Federal Trade Commission said it would seek information from patent assertion companies as part of a Department of Justice look into how the behavior of those companies affects the economy. Vella said he would welcome "loser pays" legislation or a ruling from the court. He says that would encourage inventors who dread the costs of an unsuccessful suit to turn to Acacia for help in making money off their patents. He also said Acacia is prepared to talk to the FTC if asked. Gene Quinn, a patent attorney and founder of intellectual property website IP-watchdog.com, agreed that rising pressure may wind up separating more legitimate patent outfits from the industry's worst offenders. He places Acacia in the former category. "There are some patent assertion entities that are evil, engage in truly abusive tactics," Quinn said in an email. "Focus should be placed on those entities."

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