

News

Microsoft Wins Partial Ruling Over Motorola Mobility

Microsoft Corp. (MSFT) won a ruling that Motorola Mobility Holdings Inc.'s Android phones violate one of its smartphone patents, while failing to convince a judge that six others are being infringed as well.

Motorola Mobility, which is being acquired by Google Inc. (GOOG), violated a patent for generating meeting requests and group scheduling, U.S. International Trade Commission Judge Theodore Essex said in a notice today. The finding is the second in two days from the ITC that has determined that some features of phones running Google's Android operating system are using licensed technology without permission.

"As Samsung, HTC, Acer and other companies have recognized, respecting others' intellectual property through licensing is the right path forward," said David Howard, deputy general counsel for Redmond, Washington-based Microsoft.

The ruling falls short of the broader claims originally sought by Microsoft, which has said its inventions are being widely used in Android phones. Motorola Mobility General Counsel Scott Offer said the majority of the ruling is favorable to the handset maker and may provide clarity on what Microsoft owns to avoid potential infringement.

"They're talking about removing that feature from the product very quickly to avoid infringement, but I'm not sure how easy that is," said David Mixon, a patent lawyer at Bradley Arant Boult Cummings LLP in Huntsville, Alabama, who's followed the case. "Being found to infringe is never a good thing."

SETTLEMENT IS 'BEST'

"Settlement is always the best way," Mixon said. "At the end of everything, this is still a business dispute and business disputes are almost always settled with money."

The patent is among those that cover a Microsoft program called ActiveSync, which is broadly licensed through the industry, including to Apple (AAPL) Inc. and Google.

The judge's finding are subject to review by the six-member commission, which can ban imports of products that infringe U.S. patents. Google said it had no comment on the case.

The Motorola Mobility ruling follows a loss yesterday for HTC Corp. (2498), which was defending itself from claims that its Android phones were using technology from Cupertino, California-based Apple without permission. Taoyuan, Taiwan-based HTC said yesterday it would be able to work around data-detection technology that had been found to infringe.

Microsoft also has a case against Barnes & Noble Inc. (BKS), whose Nook e-reader runs Android.

SMARTPHONE EXPERIENCE

Microsoft, the world's largest software maker, has sought to block U.S. sales of Motorola Mobility's Android-based devices, including Xoom tablets and the Atrix, Droid 2, Droid X, Cliq XT, Devour, Backflip, Charm and Cliq smartphones.

Microsoft had claimed the Motorola Mobility products infringed seven patents that are "essential to the smartphone

user experience." They include a patent issued in 1998 for a system that lets people select file names without being limited to 11 characters; one issued in 2005 for a technique to update a contact database; and a patent issued in 2010 covering a way to know the device's signal or battery strength.

The patent found to be infringed was issued in 2002 for a way to generate meeting requests among a group.

Microsoft filed the Motorola Mobility complaint in 2010 after the Libertyville, Illinois-based handset maker refused to pay royalties.

XBOX CASE

In a court hearing in Munich last week over German patent-infringement claims brought by Microsoft, a Motorola Mobility lawyer, Marcus Grosch, said the companies haven't made much progress on a possible settlement since a meeting in October. A Microsoft lawyer, Peter Hess, told the court that any settlement would have to wait until Google completes its \$12.5 billion acquisition of Motorola Mobility.

Google, based in Mountain View, California, has said one reason for buying Motorola Mobility was to obtain patents that could be used as a bulwark against a surge of lawsuits targeting handsets and tablet computers that use Android.

Motorola Mobility has its own patent claims against Microsoft in the U.S. and in Europe. A case at the ITC targets the Xbox video-gaming system. Judge Essex, who is overseeing that case, is scheduled to release his findings on Jan. 23, according to the ITC's website.

“Microsoft continues to infringe Motorola Mobility’s substantial patent portfolio,” the handset maker said in its statement today. “Motorola Mobility remains confident in its position and will continue to move forward with its complaints.”

BARNES & NOBLE

A trial in Microsoft’s case against Barnes

& Noble is scheduled before Essex in February and involves different patents. New York-based Barnes & Noble, the largest U.S. bookstore chain, has accused Microsoft of misusing its patents to obtain royalties on Android devices, and has asked the U.S. Justice Department to investigate whether Microsoft is trying to drive up the cost of Android to push out competition.

Microsoft’s case against Motorola Mobility is In the Matter of Certain Mobile Devices, Associated Software and Components Thereof, 337-744, while Motorola Mobility’s case against Microsoft is In the matter of Gaming and Entertainment Consoles, 337-752, both U.S. International Trade Commission (Washington).

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