

Standard-Essential Patents and Pooling

January - March 2015 Developments

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U.S. Litigation and PTAB Proceedings

1. Core Wireless v. Apple

Jury issues verdict finding defendant Apple did not infringe Core Wireless's standard-essential patents: March 16, 2015: A jury found that Apple's accused iPads and iPhones did not infringe Core Wireless's patents alleged to be essential to the ETSI cellular standards. The jury also found that Core Wireless did not breach its contractual obligation to ETSI's members to license the patents on RAND terms. *Core Wireless Licensing S.a.r.l. v. Apple Inc.*, No. 6:14-cv-00752 (E.D. Tex. 2015)

2. InterDigital ITC Investigation: Nokia and ZTE

Federal Circuit affirms ITC decision finding that Nokia and ZTE did not violate InterDigital's standard-essential patents: February 18, 2015: The Federal Circuit upheld the ITC's determination that Nokia and ZTE did not infringe InterDigital's patents related to 3G wireless technology. InterDigital initiated an ITC investigation against Nokia, ZTE and several other companies, alleging infringement of five patents related to 3G wireless technology. The ITC terminated the investigation, finding no violation by respondents' Nokia and ZTE and reserving ruling on other issues, including whether InterDigital had breached its RAND obligations. InterDigital appealed. The Federal Circuit rejected InterDigital's arguments that the ITC had erred in its claim constructions, and instead affirmed the ITC's finding that four of InterDigital's patents were not infringed and the fifth was invalid as obvious. *InterDigital Communications LLC v. ITC*, No. 2014-1176 (Fed. Cir. 2015).

3. Golden Bridge v. Apple

District court denies Golden Bridge's motion for judgment as a matter of law or for a new trial: March 18, 2015: A Northern District of California court denied Golden Bridge's motion for judgment as a matter of law or for a new trial following a jury verdict finding Golden Bridge's standard-essential patent valid but not infringed by Apple's accused products. The court held that Apple had presented substantial evidence supporting the jury's finding of noninfringement. The court rejected Golden Bridge's arguments that Apple misrepresented the court's claim construction to the jury and that the jury's questions to the court showed obvious confusion about the proper legal standard. *Golden Bridge Technology v. Apple Inc.*, No. 5:12-cv-04882-PSG (N.D. Cal. 2015).

4. Broadcom v. Wi-Fi One

PTAB finds claims in three WiFi related patents invalid: March 6, 2015: The PTAB held that petitioner Broadcom had established that various claims-at-issue in three Wi-Fi One's standard-essential patents were unpatentable as being anticipated or obvious. The Board also denied patent owner Wi-Fi One's motion to amend, finding that Wi-Fi One failed to demonstrate that the proposed claims were patentable. *Broadcom Corp. v. Wi-Fi One LLC*, Nos. IPR2013-00601, IPR2013-00602, and IPR2013-00636.

Settlements of Litigation

1. Cisco v. Innovative Wireless Solutions

Cisco, Ruckus, and Innovative Wireless Solutions (IWS) stipulate to entry of final judgment of non-infringement: March 3, 2015: A Western District of Texas court entered final judgment pursuant to the parties' stipulation of non-infringement of three IWS WiFi patents, which were alleged to be standard-essential. The parties stipulated to the dismissal without prejudice of all claims and defenses in the action. The stipulation, which is subject to the parties' right to appeal, followed the court's recent claim construction opinion construing a disputed term in light of the standard's definition of the term. *Cisco Systems, Inc. v. Innovative Wireless Solutions, LLC*, No. 1:2013cv00492 (W.D. Tex. 2015)

2. Via Licensing v. Barnes & Noble

Settlement of alleged breach of license agreement covering Advanced Audio Coding (AAC) standard-essential patents: March 17, 2015: Via Licensing reached settlement with Barnes and Noble regarding the use of AAC technology in Barnes & Noble's NOOK devices. The settlement agreement resulted in dismissal of Via Licensing's claims that Barnes & Noble allegedly breached a 2010 patent license agreement related to Via Licensing's Advanced Audio Coding (AAC) technology. Under the settlement agreement, Barnes & Noble agreed to pay royalties owed under the license agreement. *Via Licensing Corp. v. Barnes & Noble, Inc.*, Civil Action No. 13-532140; see also [Via Licensing press release](#).

Legislation and Regulations

1. U.S. DOJ's Antitrust Division will not challenge proposed updates to IEEE's standards-related patent policy

February 2, 2015: In a business letter issued in response to IEEE's proposed updates to its standards-related patent policy, the U.S. DOJ's Antitrust division indicated that it did not intend to challenge the proposed updates. The letter concluded that none of the proposed updates are likely to result in competitive harm. Rather, the DOJ's Antitrust Division viewed the updates as likely to facilitate adoption of standards, which would eliminate potentially anticompetitive practices. (See [DOJ's business letter](#))

2. Chairman of House Judiciary Committee introduces Innovation Act (H.R. 9)

February 5, 2015: The Chairman of the House Judiciary Committee announced the introduction of the Innovation Act (H.R. 9), which seeks to increase transparency in patent litigation and address certain abusive litigation practices. According to the press release, the legislation is identical to a bill that was passed by the House during the last Congress. Under proposed § 281A(a)(10), a patent owner would be required to disclose whether a patent has been declared essential by any standard-setting body. (See [Innovation Act](#); [Senator Goodlatte's press release](#))

International

1. China - Electronic Intellectual Property Center (EIPC) of China's Ministry of Industry and Information Technology (MIIT) releases draft IP Policies template for standard development organizations

January 2015: MIIT's EIPC released a draft template for IP policies to be adopted by standard development organizations. The template includes provisions requiring disclosure of potentially standard-essential claims, prohibiting injunctive relief for RAND-encumbered standard-essential patents except in certain limited circumstances, and outlining factors to determine the "reasonableness" of licensing terms. (See [ABA's comments](#))

2. China - China's National Development and Reform Commission (NDRC) levies a \$975 million fine against Qualcomm following finding of violation of China's Antimonopoly law

February 10, 2015: China's NDRC issued a decision finding that Qualcomm abused its dominant market position in violation of China's Antimonopoly law through various practices, including improperly tying licensing of unrelated patents with standard-essential patents, having expired patents in the licensing portfolio, requiring free cross-licenses without good faith negotiations, and forcing buyers to enter into license agreements on unreasonable terms. The NDRC fined Qualcomm approximately \$975 million, reportedly one of the largest fine ever imposed by Chinese anti-competition authorities. (See [NDRC administrative penalty decision](#); [Qualcomm Press release](#))

Portfolio Acquisitions and Licensing Agreements

1. RPX Corporation announces completion of purchase of Rockstar Consortium LLC patents

February 3, 2015: RPX Corporation announced the completion of purchase of Rockstar patents by its subsidiary, RPX Clearinghouse LLC. The completion of the purchase will result in the dismissal of about eight pending litigations, including cases against Cisco, Google and 14 other companies. RPX Clearinghouse plans to make the patents available for licensing on RAND terms. (See [RPX press release](#))