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Subject: Third and Final Submission on Theft of American IPR
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Attachments: [Competitor or Collaborator Final.doc](#)

Two previous submissions alerted Office of Management and Budget about the existence of on-going, outright theft of American IPR in the mobile wireless arena. We were uncertain we could complete this portion of the documentation substantiating this illegal activity, but we have and we are submitting the attached for inclusion with the two prior submissions.

The attached report, drawn from public source documents as specifically cited, substantiates the Cartel's illegal existence; its activities; and the litigation pathway pursued to enforce the Cartel's attempt to accomplish their objectives. This description and map of the existence of illegal activities set forth in the attached report will remove any lingering doubt that this activity is, in fact, currently underway.

Thank you for providing a platform to bring this matter to your attention.

Richard Monahan and Kent Greene

Competitors or Illegal Collaborators?

March 23, 2010

Kent Greene and Richard Monahan

If a litigant covertly pursues an action on behalf of others, under the pretense that such course of action is for the benefit of only one party, is such misrepresented action really legal?

Mobile wireless American companies have received only a small percentage of revenue from 1.2 billion phones manufactured in 2008. If any doubts remain that coordinated, illegal efforts conducted by mobile wireless manufacturers to hijack American technology from U.S. mobile wireless non-manufacturers, the following chronology of Cartel litigation and Cartel coordinated activities will remove this doubt.

Our March 12, 2010 report submitted to The Office of Management and Budget entitled U.S. Department of Justice Action Facilitated Foreign Theft of American IPR, documented how foreign manufacturers misused the DOJ's "antitrust approval". A follow up report submitted March 19, 2010, 3G P platform-Patent licensing Mechanism Abuse, identified the vehicle for this misuse of the "antitrust approval". Our final report will now document how and when the Cartel implemented the patent license mechanism, the multiple litigation efforts initiated to compel compliance by non-agreeing members, and the consequences these activities have forced American businesses to endure.

The 3rd Generation Partnership Project (3GPP) is a collaboration agreement established in December 1998. On November 11, 2002 the DOJ issued antitrust 'clearances' of the 3G P patent P platform, including a licensing mechanism for future capping maximum cumulative 3G IPR royalties within any of five radio interface technologies.

A separate collaboration agreement had been previously announced only one week earlier on November 6, 2002 by Ericsson, Nokia, Siemens, and NTT Docomo. **While the DOJ approved antitrust "clearances" associated with capping maximum cumulative royalties, the DOJ never approved cartel-based litigations as the enforcement tool for that licensing mechanism to compel U.S. non-manufacturers Interdigital and Qualcomm to accept this cap.**

Given staunch opposition to maximum cumulative 3G royalties by both Qualcomm and Interdigital, the MENS IPR rate setting cartel (Motorola, Ericsson, Nokia, Siemens, the latter replaced by Samsung) knew from the onset the DOJ approved heterogeneous licensing mechanism was doomed to fail. Their only recourse was to separately negotiate licensing terms in accordance with the pro-competitive DOJ approval, or devise an alternative anti-competitive licensing scheme to challenge both Qualcomm's and Interdigital's royalty demands.

The cumulative single digit royalty cap initiative was reportedly well received by manufacturers, infrastructure providers, operators, and application developers who had expressed concerns that royalties could comprise up to 25% of each mobile phone's unit cost. **Numerous independent litigations targeting U.S. based R & D developers Qualcomm and Interdigital from 2003 and beyond became the all-encompassing implementation strategy resulting from the separate anti-competitive collaboration agreement.**

By 2002, California based Qualcomm was already receiving **about 5%** on every CDMA phone made outside of China. Pennsylvania based Interdigital had been involved in nearly a decade of litigation, claiming Swedish based Ericsson owed **between 2.5% and 5%** on all phones and infrastructure sold since the early 1990's. Collusion could be avoided by having a single player, Nokia, play the lead role to cap cumulative 3G IPR royalties encompassing both Qualcomm and Interdigital within the agreed on single digit, numerically expressed as 5%. Interdigital's unpaid 2G royalty claims would become commingled in follow-on 2G/3G litigations.

Consequently, all global licensing related litigations since 2002 involving Ericsson, Nokia, and Samsung continuing to present day with Qualcomm and Interdigital have been based on non-anti-trust exempt collaborative arrangements to force both Qualcomm's and Interdigital's IPR rates to be contained within a non-3GPP based "modest single level digit.

Cartel based litigations in the mobile wireless industry have worked well for Europeans and Asians, particularly China. **About 1.2 billion mobile phones were sold in 2008**, roughly triple the volume of PC's. Nokia's global share alone as of February 2010 was 51.4%. 85% of all smart phones are now made in Shenzhen of China. 4G SUMMIT (June 2010) is to launch an 4G Mobile IPR Alliance (aka 4G IPRA) to consolidate the leading IPRs in the 4G mobile technology portfolios. The 4G IPRA is strongly backed up by governmental authorities, law firms and financial agencies. Summit premier sponsors are exempt from 2010 4G IPRA actions such as patent litigation, ITC filing and patent invalidation, etc.

The exact opposite occurred in the U.S. As of 2010, Motorola's market share slipped from 15.7% in 2005 to less than 1%. In terms of litigation based licensing, Qualcomm signed a 20-year licensing agreement for \$2.3 Billion in 2008. **Meanwhile, MEN have collectively resisted paying royalties to Interdigital.** Nokia settled for \$253 million in April 2006 for 2G, and released Nokia from infringement liability for its worldwide sales of 3G terminal units and infrastructure through April 26, 2006. Nokia and Interdigital are continuing to litigate over 3G. Interdigital settled both 2G and 3G royalty disputes with Samsung in 2008 and signed a mutually accepted license through 2012 for \$400 million. Motorola remains unlicensed with Interdigital for 2G and 3G. Ericsson/Sony Ericsson remains unlicensed with Interdigital for 3G.

The global wireless industry remains wholly dependent on competitors entering into collaborative agreements to devise and implement standards for 2G, 3G, and 4G technologies, including licensing mechanisms within three key radio technologies (WCDMA, CDMA-2000, TD-SCDMA) to minimize cumulative royalties. **No U.S. mobile**

wireless company can compete against collaborative agreements among multiple parties with collective extreme monopoly power to singularly or cumulatively fix the price of 2G, 3G and 4G IPR royalties, as evidenced by numerous post-2002 cartel based litigations involving Qualcomm and Interdigital.

Following filing of the above two O M&B reports, an in-depth study was conducted to review litigations subsequent to the licensing mechanism jointly approved by DOJ/EC on November 11/ 12 2002 . Focus was on MENS collaborative relationships including licensing litigations among heterogeneous industry groupings: manufacturers, infrastructure providers, and operators deriving revenues through products sales and usage sales versus R&D developers deriving revenues mainly through licensing.

Two litigation possibilities from separate collaboration agreements emerged:

- Nokia Corporation and others litigating on their own terms
- Nokia Corporation and others litigating for group terms

Interdigital litigations with Most Favored Licensee (MFL) Agreements were all so reviewed.

- Motorola (pre 2000), no 2G or 3G license
- Ericsson (2003), 2G license only (formed Sony/Ericsson in 2001)
- Nokia (Apr 2006), 2G license, 3G to Apr 2006 (formed Nokia/Siemens in 2006)
- Samsung (2008), 2G and 3G license

Factors used to determine whether Nokia and others are litigating on their own terms or group terms:

- Interdigital asking between 2.5% and 5% from Ericsson on all iPhones and infrastructure sold since the early 1990's
- Qualcomm averaging slightly less than 5% on CDMA royalties
- Qualcomm's 2.65% royalty rate negotiated with China Government in 2000
- Interdigital's Most Favored Licensee (MFL) triggers threaten MENS
- Nokia's May 2002 5% cap initially received little industry support, immediately followed by a reversal November 6, 2002 when the collaboration agreement now supported Nokia's recommendation
- DOJ's November 11, 2002 approval of antitrust 'clearances'
- Qualcomm/Interdigital oppose Nokia/Ericsson collaboration agreement
- Nokia/Ericsson's strategy to implement single digit cumulative royalty cap
- Cumulative financial impacts on Qualcomm & Interdigital from sustained litigations to compel acceptance of the 5% cap
- Cumulative Nokia financial offsets via MENS cross-licensing
- Multiple MENS collaborative agreements, including Symbian mobile wireless Operating System ownership

CHRONOLOGY OF CARTEL RELATIONSHIPS

1997

1997-- Ericsson, Motorola, Nokia, and Unwired Planet, today announced plans to co-operate in defining a common Wireless Application Protocol.

<http://www.thefreelibrary.com/Ericsson,+Motorola,+Nokia+and+Unwired+Planet+unite+to+create+an+open...-a019539364>

1998

Nov -- the European Commission received a notification of a proposed ...Motorola, Inc. would acquire joint control in Symbian Limited. As a result of the operation, **Motorola, Ericsson, Nokia and Psion would jointly control Symbian.**

http://ec.europa.eu/competition/mergers/cases/decisions/jv12_en.pdf

1999

mobile-phone sales totaled 222 million in 1999, and only 40 million were based on CDMA

<http://www.businessweek.com/archives/2000/b3671135.arc.htm>

2000

“When the 3G Patent Platform Partnership (3G3P) effort was in its formative stages in 2000, it had tried to rally industry support for a 5% cumulative cap on royalties for essential patents of 3G infrastructure. Nokia, along with Ericsson, Lucent Technologies, Motorola and Qualcomm, declined to support the partnership's efforts at that time.”

http://connectedplanetonline.com/mag/telecom_nokia_support_royalties/

Mar 6 -- **Qualcomm's Quandary** (Business Week)

Piecyk (analyst) estimated that there will be 3 billion mobile phones and other wireless devices sold worldwide in 2010, and 85% of them would use technologies that Qualcomm has patented. After that, he projected that **Qualcomm would receive an average royalty rate of 4.5% on mobile phones and other wireless devices that cost an average \$180. Based upon this projection, Qualcomm would be receiving \$20 billion in royalties at decade's end.**

...company reaps about 5% of the price of a CDMA phone now, analysts such as Snyder believe that will fall to 1% to 2% in the future.

Ericsson says it has a strong CDMA patent portfolio, as do others. "Qualcomm will not get rich off of Ericsson," says Ericsson spokeswoman Kathy Egan

...agree that Qualcomm will command billions of dollars in royalties as the wireless economy grows. The question is: How many billions? This year, unit sales of CDMA mobile phones will grow by more than 50%, to some 65 million units. That figure could reach 95 million in 2001 and as much as 200 million in 2004, analysts say.

<http://www.businessweek.com/archives/2000/b3671135.arc.htm>

May 2000 -- MeT Initiative, ERICSSON, MOTOROLA AND NOKIA, to join MasterCard's Global Mobile Commerce Forum

http://press.nokia.com/PR/200005/782730_5.html

In 2000 Irwin Jacobs negotiated government permission for CDMA to be used in China, Qualcomm granted Chinese manufacturers the best rates in the world — around 2.65% as opposed to 5% for other makers. (Qualcomm neither discloses nor confirms its royalty rates.)

<http://sdtelecom.blogspot.com/2009/02/cdma-success-brings-chinese-royalty.html>

2001

Mar 21 -- **Nokia, Motorola, Ericsson and Siemens to further advance the development of personal mobile services through XHTML** Nokia, Motorola, Ericsson, Siemens and others have banded together to endorse a next-generation delivery protocol for cellular phones and other devices.

http://press.nokia.com/PR/200103/813123_5.html

Apr 26 -- **ADVISORY/Industry Leaders Ericsson, Motorola and Nokia to Make Special Joint Announcement About Important New Industry Initiative.**

<http://www.thefreelibrary.com/ADVISORY%2FIndustry+Leaders+Ericsson,+Motorola+and+Nokia+to+Make...-a073634101>

Aug 01 -- **Ericsson, Nokia and Motorola Welcome Evolution of WAP Standard**

New WAP 2.0 protocol based on widely accepted Internet standards will further advance mobile services

http://press.nokia.com/PR/200108/828958_5.html

2002

Feb 2002 -- Nokia takes on Microsoft in the phone wars

The move is the first concrete step taken by an industry alliance with Matsushita that was first announced in November, and provides third-party mobile phone manufacturers with a complete range of tools for developing smart phones - data and internet-enabled mobile handsets designed for 2.5G and 3G mobile networks

The Nokia announcement builds upon the long-standing Symbian consortium, a joint venture to develop smart phone operating systems between Ericsson, Nokia, Psion, Sony Ericsson, Matsushita and Motorola. The move will help Nokia and the other Symbian shareholders to resist Microsoft's bid to muscle into the market for data-capable mobile phones and PDAs - Microsoft already supplies its licenses with a software platform

<http://www.silicon.com/technology/mobile/2002/02/19/nokia-takes-on-microsoft-in-the-phone-wars-11031419/>

2002 -- **GPRS News and Articles Archive 2002. ... Ericsson, Motorola, Nokia and Siemens formed MGIF to promote standards for offering games over wireless phones. ...**

www.palowireless.com/gprs/newsarchive2002.asp

May 20 -- NOKIA SUPPORT FOR ROYALTIES FAILS TO WIN OVER CRITICS

“We believe it is very important that the total royalty level for WCDMA be competitive — this is not a new belief,” said a spokesman for Ericsson. “We welcome this view from Nokia, but we believe we cannot put a specific cap on it. **Any individual company cannot do that. If you look at it from the perspective that this cap is crucial to the rollout of 3G, our belief is that**

this is far from the truth. The cost of 3G infrastructure is more dependent on volumes than royalty costs.”

“There is not much industry support for this, and we don't know what the point is,”

Because Nokia does not possess the same expertise in CDMA as it does in GSM, it likely needs to get its hands on intellectual property. That also would explain why patent-rich Qualcomm remains adamantly opposed to a 5% cap.

http://connectedplanetonline.com/maq/telecom_nokia_support_royalties/

Aug -- **GUI wars return: Motorola, Sony Ericsson tie-up**

Motorola has licensed Symbian's UIQ ("Thin Quartz") user interface for its forthcoming Paragon 3G smart phone... SonyEricsson and Motorola taking joint ownership, and attempting to license it to other manufacturers. The Ronneby lab was itself spun out of Ericsson early on in Symbian's history.

http://www.theregister.co.uk/2002/08/02/gui_wars_return_motorola_sony/

Nov 6 -- **Gang of Four set W-CDMA royalty cap**

Squaring up to Qualcomm

...today four leading mobile phone firms agreed to reduce royalties for W-CDMA patents, **ensuring that payments comprise no more than five per cent of equipment costs.**

The Gang of Four - Nokia, Ericsson, Siemens and NTT Docomo - want mobile phone networks to choose W-CDMA technologies for their 3G networks, in preference to Qualcomm's competing cdma2000. Qualcomm is strong in North America and Korea, while the Gang of Four have Europe pretty much sewn up. The rest of the world is to play for.

http://www.theregister.co.uk/2002/11/06/gang_of_four_set_wcdma/

Nov 21 -- **InterDigital will not limit standard royalty**

The companies say their agreement means that any company manufacturing wireless phones and network infrastructure compatible with the W-CDMA 3G technology will pay patent holders less than 10% of the sale price of the product in royalties. Those royalty levels have been expected to reach 25 percent.

Like Qualcomm, Interdigital owns extensive intellectual property rights in the CDMA space. As well, Hicks says, the company made hundreds of contributions to the W-CDMA standard development process, with some 400 accepted and included in the standard.

http://www.3gnewsroom.com/3g_news/nov_02/news_2761.shtml

2003

Feb -- Samsung Joins Ericsson, Matsushita, Motorola, Nokia, Psion, Siemens and Sony Ericsson as a Shareholder.... announce that Samsung has become a new Symbian shareholder, strengthening Samsung's commitment to promoting smart phones based on Symbian OS

http://findarticles.com/p/articles/mi_m0EIN/is_2003_Feb_17/ai_97731904/

Feb 15 -- A decade of legal income **Interdigital seeks billions from Ericsson in Texas court**

The lengthy patent rights battle between [Ericsson](#) and [Interdigital](#) was delayed until May of this year, according to reports in the Swedish press

The US Company's claims over TDMA intellectual property rights first aired in 1993. The case was due to open on Monday, February 17th

According to a report in the Swedish business daily, **Dagens Industri, Interdigital is said to be demanding license fees of between 2.5% and 5% on every single mobile handset sold by Ericsson since the early 1990s. In addition, the paper reports that the US company will demand between 1.5% and 3.5% of Ericsson's mobile network equipment revenues for the last ten years. In money terms this would mean billions of dollars**

<http://www.mobilemonday.net/news/interdigital-seeks-billions-from-ericsson-in-texas-court>

Jun-- **Industry Leaders announce Unified Testing Criteria for Wireless JAVA applications**

Industry leaders Motorola, Nokia, Siemens, Sony Ericsson and Sun Microsystems Inc. today announced plans to unify their application testing and certification programs into a single initiative that will help accelerate the availability of applications and services for Java™ technology- enabled wireless devices.

http://press.nokia.com/PR/200306/908839_5.html

RosettaNet Telecommunications Industry Council

Jun 10 -- BT, Cisco, Deutsche Telekom, Ericsson, Motorola, Nokia and Siemens form RosettaNet Telecommunications Industry Council... with the goal of promoting RosettaNet to streamline the exchange of information throughout the global telecommunications trading network.

<http://xml.coverpages.org/RosettaNet-TC.html>

Sep 2003 -- *Motorola* sold its stake in the company to Psion and *Nokia* in September 2003.

Psion's stake was bought by *Nokia*, Matsushita, Siemens AG and Sony *Ericsson* in July 2004

www.answers.com/topic/symbian-ltd

2004

Mar 17 -- **Nokia Moves Forward with Push-to-Talk Plans**

Ericsson, Motorola and Siemens all have announced the first joint interoperability tests for push-to-talk technology. Meanwhile, Nokia has said its own new PTT infrastructure solution will in fact also enable operators to use manufacturers' push-to-talk terminals.

<http://www.technewsworld.com/story/33151.html?wlc=1269049829>

May 10 – Nokia Quits WIMAX Forum

In a shock move, Nokia has left the WiMAX Forum, indicating a U-turn on the technology it once promoted enthusiastically. Nokia was a founding member of the Forum, before Intel joined and

raised 802.16's profile beyond recognition, and during 2003 was bullish about the technology, with development projects surrounding base stations for rural regions and 802.16e handsets.
http://www.theregister.co.uk/2004/05/10/nokia_quits_wimax/

Aug 30 -- 3G Activities in China

China Academy of Telecommunications Research

... ordered by the government to break into two ... *Nokia* is the second largest In May 2002, the old China Mobile was handset supplier in China after *Motorola*, ... *Ericsson*: *Ericsson* of Sweden began selling in China as early as 1892

http://166.111.135.66/winet/3_academy/docs/lectures/ppts/Cao_20040830.pdf

Oct 2004 -- (Publication Date) **Snakes and ladders: a patent analysis of Ericsson, Motorola and Nokia in the wireless communications industry, 1980-2000**

<http://ieeexplore.ieee.org/Xplore/login.jsp?url=http%3A%2F%2Fieeexplore.ieee.org%2Fiel5%2F9654%2F30509%2F01407068.pdf%3Farnumber%3D1407068&authDecision=-203>

Oct 2004 -- **Ericsson, Motorola, NEC, Nokia and Siemens Tie-Up on Mobile Architecture Management operator networks.**

<http://www.highbeam.com/doc/1P2-14435392.html>

2005

Jan 15 -- **InterDigital finds hard collecting from Nokia.**

Nokia files suit to exclude 3G from patent battle as Nokia has filed a lawsuit against wireless patent company InterDigital Communications. Nokia is asking a Delaware district court to rule on whether Nokia's ongoing legal battle with InterDigital should include third-generation technology

<http://www.mobilemonday.net/news/nokia-files-suit-to-exclude-3g-from-patent-battle>

Aug -- Nokia and Motorola Account for Nearly 50% of Worldwide Sales

Worldwide Mobile Terminal Sales to End-Users in 2Q05 (Thousands of Units)

Company - 2Q05 Sales - 2Q05 Market Share (%) - 2Q04 Sales - 2Q04 Market Share (%)

- Nokia	60,793.9	31.9	46,367.7	29.6
- Motorola	34,018.1	17.9	24,625.9	15.7
- Samsung	24,478.6	12.8	18,981.0	12.1
- LG	12,374.4	6.5	9,494.5	6.1
- Sony Ericson	11,843.2	6.2	10,354.1	6.6
- Siemens	8,894.8	4.7	10,822.9	6.9
- Others	38,095.6	20.0	35,997.1	23.0
Total	190,498.6	100.0	156,643.2	100.0

<http://www.mobiledia.com/news/35125.html>

Oct -- India: Motorola, Ericsson and Nokia dispute PE decision

<http://www.internationaltaxreview.com/?Page=10&PUBID=35&ISS=20690&SID=590317&TYPE=20>

Oct 28 -- **Industry Giants Square Off Against Qualcomm Over 3G Patents**

Six industry heavyweights have joined forces to file Complaints to the European Commission requesting that it investigate Qualcomm's alleged anti-competitive conduct in the licensing of essential patents for WCDMA technology. Broadcom, Ericsson, NEC, Nokia, Panasonic, and Texas Instruments are the complainants. The companies claim that Qualcomm is failing to meet commitments it made to industry groups to license its technology on

fair terms. The anti-competitive behavior includes trying to prevent other companies from making WCDMA chipsets, and offering lower royalty rates to handset makers who only buy chipsets from Qualcomm.

<http://www.phonescoop.com/news/item.php?n=1437>

2006

Jun -- Nokia and Siemens announced plans to merge Nokia's networks business and the carrier-related operations of Siemens into a new company, to be called NokiaSiemens Networks... is one of the top three vendors in the telecommunications infrastructure industry

<http://www.oppapers.com/essays/Strategy-Formation-Planning-Nokia/188565>

2006-- Open innovation: researching a new paradigm

By Henry William Chesbrough, Wim Vanhaverbeke, Joel West

Henry William Chesbrough, Wim Vanhaverbeke ... - 2006 - Business & Economics - 373 pages
First, for CDMA only one firm (Qualcomm) paid the lowest royalty rate, versus at least five for GSM (Nokia, Ericsson, Motorola, Alcatel, Siemens). ...

books.google.com/books?isbn=0199290725...

http://books.google.com/books?id=wBmA_ft_5lqC&pg=PA127&lpg=PA127&dq=2002+motorola+ericsson+nokia&source=bl&ots=wp6JIHqx34&sig=C6a4FnZon2SBSSTuK0VxVLVgpQk&hl=en&ei=zyOkS_eMJ5OVtgfKrfCLCg&sa=X&oi=book_result&ct=result&resnum=1&ved=0CAUQ6AEwADjAAg#v=onepage&q=2002%20motorola%20ericsson%20nokia&f=false

2007

Jan 24 -- **QUALCOMM F1Q07 (Qtr End 12/31/06) Earnings Call Transcript**

... We continue to see an orchestrated attack on our enabling business model by a small consortium of companies that refer to themselves as Project Stockholm. As you all know, the Project Stockholm Group consists of six companies, including Nokia, Ericsson and TI, the number one global suppliers of wireless handsets, infrastructure and chipsets, respectively. One of the major objectives of Project Stockholm is to try and decrease the royalties **that some of the group became obligated to pay us, when they voluntarily signed their agreements with us.** We believe, however that their attack is motivated by more than just a desire to reduce the royalties they pay.

The Project Stockholm companies hope to reduce the royalty revenue that we collect and thereby to reduce the funds available to us for reinvestment in creating new innovations that we share with their competitors.

Given the objectives of the members of the Project Stockholm, the concessions that they are demanding in order to resolve their claims and the impact to our business where do we -- where we to accept their demands, it is very clear to us that it is in our best interest to continue to vigorously defend our business against these attacks and assert our own rights.

2008

2009

May -- Mobile Graphs and Statistics

Worldwide Mobile phones in Use- 3000 Million 2008 Sales 1200 Million
2008 Cost Basis @ \$100 =120 Billion

Worldwide PC's in Use – 1000 Million 2008 Sales 300 Million

<http://www.boxuk.com/blog/mobile-the-business-case>

2010

Feb -- Manufacturer Market Share

Nokia	51.40%
Sony/Ericsson	13.65%
Samsung	9.91%
LG	3.00%
Blackberry	1.93%
Motorola	0.98%

<http://stats.getjar.com/statistics/>

Feb -- Apple Accuses Nokia of Antitrust Violations in Fight (Update1)

“Nokia deliberately and deceptively failed to disclose in a timely manner” its intellectual property rights, Apple said in the filing. “This course of misconduct enabled Nokia to obtain monopoly powers” in each of five areas “to obtain excessive royalties.”

“Having suffered losses in the marketplace, Nokia has resorted to demanding exorbitant royalties from Apple for patents that Nokia claims are essential to various compatibility standards,” Apple said in today’s filing.

<http://www.businessweek.com/news/2010-02-19/apple-accuses-nokia-of-antitrust-violations-in-patent-fight.html>

4G Summit (China) June 10-11, 2010 *

- 4G SUMMIT is to launch an 4G Mobile IPR Alliance (aka 4G IPRA) to consolidate the leading IPRs in the 4G mobile technology portfolios. **The 4G IPRA is strongly backed up by governmental authorities, law firms and financial agencies.** It will bring together around 1,000 - 1,500 key patents for this 4G IPRA in the next five years to join the forces together of the alliance in *protecting the interest and business* of the alliance members
- All 2010 4G Summit premier sponsors are exempt from 2010 4G IPRA actions such as patent litigation, ITC filing and patent invalidation, etc.
- China will drive the global 4G business and expect to take about 75% of worldwide markets.

- **United States stays much behind China for at least ten years on open mobile movement because of many critical issues unsolved**
- Over 85% of global smart phones are manufactured in Shenzhen of China. There are about 1500 companies in Shenzhen directly or indirectly involved in smart phone development and production, and therefore Shenzhen is well called the Smartphone Valley of the world.

<http://wirelesscongress.com/press/wnew.htm>

** A 4G alliance claiming to take 75% of worldwide 4G markets can readily fix the price of IPR for any non-manufacturer, as evidenced by Qualcomm's reported 2.65% original 2G CDMA royalty rate for mobile wireless products manufactured in China (2000), angering S. Korea. While China is relatively lacking in IPR, their government is more than capable of setting the maximum price of 2G, 3G, and 4G IPR in-country OEM's and ODM's can lawfully pay to foreign R&D developers, particularly Qualcomm and Interdigital.*

Thursday, February 12, 2009

CDMA success brings Chinese royalty gripes

U.S. chipmaker Qualcomm's royalty policy has angered Korean manufacturers of code division multiple access (CDMA) phones as it charges lower rates to China than to Korea.

A local CDMA phone maker contends that Qualcomm gives a "subsidy" to Chinese exporters as it collects as low as 5 percent of handset prices in royalties from them. But the rate is 5.75 percent for Korean makers.

Interestingly, there is no complaining about the GSM royalty rate, which is also secret. One report estimated the rate at 2-10%. However, data from the various Sendo-related lawsuits put the number more like 10-13%, suggesting that single-digit GSM royalties are only available to firms with big enough patent portfolios to negotiate a cross-license. Thus far, only a few Chinese manufacturers have enough patents to possibly put them in the latter category.

<http://sdtelecom.blogspot.com/2009/02/cdma-success-brings-chinese-royalty.html>

CHRONOLOGY OF LITIGATIONS INVOLVING ROYALTIES

NOKIA, ERICSSON, SAMSUNG

v.

QUALCOMM AND INTERDIGITAL

1. 1993 -- Ericsson and Interdigital initiate separate litigations.
2. Jan 1996 -- Samsung entered into agreements with InterDigital for both technology development and a patent license agreement. As part of an arbitration proceeding concluded in 2002, Samsung elected, pursuant to its Most Favored Licensee clause, to have its royalty obligations commencing January 1, 2002 for its 2G TDMA-based wireless communication products be triggered in accordance with the terms of InterDigital's patent license agreement with Nokia. Patent licensing agreements signed in March 2003 between InterDigital and Ericsson and Sony Ericsson established the framework to trigger Nokia's royalty obligations for 2G GSM/TDMA and 2.5G GSM/GPRS/EDGE handset and infrastructure sales. After these patent license agreements were signed, InterDigital notified Nokia and Samsung of their royalty payment

obligations. Nokia and Samsung disagreed with InterDigital's interpretation of the trigger for these patent license agreements and each requested (separate) binding arbitrations.

3. Feb 1999 -- Nokia agreement with Interdigital covered both technology development and a patent license agreement. As part of the patent license agreement, Nokia paid \$31.5 million up front to InterDigital to cover product sales through the end of 2001. Royalties owed after 2001 could be defined through direct negotiation, or by a patent license agreement with a designated major competitor, typically referred to as a Most Favored Licensee clause, a customary licensing term in the industry
4. Mar 2003 -- Ericsson and Interdigital settle at 2G and 2.5G royalty rate for handset and infrastructure sales. InterDigital notified Nokia of its royalty payment obligations. Nokia disagreed with InterDigital's interpretation of the impact of these patent licensing agreements
5. Jul 2003 -- Nokia requested ICC for binding arbitration to resolve dispute
6. Nov 2003 -- Samsung files arbitration request for decision on application of royalty rates based upon Nokia ruling.
7. Jul 2005 -- ICC issued the binding Final Award, the Tribunal established royalty rates which are applicable to Nokia's sales of covered products for the period beginning January 1, 2002 through December 31, 2006, and also established dates for payment of royalties on past sales.
8. Jul 2005 -- InterDigital initiated an enforcement action in the U. S. District Court for the Southern District of New York in order to convert the Final Award into a court judgment which would allow InterDigital, if necessary, to compel collection of the royalties due to InterDigital from Nokia under the Final Award.
9. Jul 2005 -- Nokia filed a claim in the United Kingdom High Court of Justice, Chancery Division, Patents Court against InterDigital Technology Corporation (ITC), a wholly owned subsidiary of InterDigital Communications Corporation. Nokia's claim seeks a Declaration that the importation, manufacture and sale of mobile phones and/or infrastructure equipment compliant with the 3GPP Standard TS 41.101 Release 5 without license from ITC does not require infringement of any of thirty-one of ITC's UMTS European Patents registered in the UK, such that none of the patents are essential IPR for that standard.
10. Nov 2005 -- Qualcomm files a suit against Nokia in a federal court in San Diego related to GSM patents.
11. Dec 2005 -- Federal district court judge presiding in the enforcement proceeding between InterDigital and Nokia Corporation (Nokia) in the United States District Court for the Southern District of New York confirmed in its entirety the Final Award rendered in June 2005 by the Arbitral Tribunal operating under the auspices of International Court of Arbitration of the International Chamber of Commerce (ICC).
12. April 27, 2006--InterDigital Communications Corporation announced agreement with Nokia. Under the agreement, Nokia is obligated to pay InterDigital a total of \$253 million on or before April 28, 2006. Upon payment, Nokia will have a paid-up patent license covering sales of 2G TDMA-based products, which consist mainly of GSM/GPRS/EDGE terminal units and infrastructure. Also, InterDigital will release Nokia from infringement liability for its worldwide sales of 3G terminal units and infrastructure through April 26, 2006. The parties have agreed to terminate their 1999 patent license agreement originally scheduled to terminate at the end of 2006. As a result, Nokia's sales of 3G products after April 26, 2006 will be unlicensed. InterDigital expects to continue negotiations with Nokia on this issue.
13. May 2006 -- Qualcomm files a lawsuit against Nokia in Britain regarding two GSM-related patents. A trial is expected to begin in November.

14. Jun 20 06 -- Qualcomm files a complaint against Nokia with the ITC regarding GSM patents and seeks a bar on imports of Nokia GSM handsets into the United States.
15. Aug 2006 -- Qualcomm files a patent infringement lawsuit against Nokia in Germany.
16. Aug 2006 -- Nokia files against Qualcomm in Delaware saying Qualcomm had breached its contract to license patents on fair and reasonable terms.
17. Aug 2006 -- ICC renders Final Award against Samsung in favor of InterDigital.
18. Oct 2006 -- Qualcomm files infringement lawsuits against Nokia in France and Italy regarding GSM technologies.
19. Oct 2006 -- Samsung files with International Chamber of Commerce (ICC) requesting a new arbitration with InterDigital related to the ongoing patent royalty dispute between the parties. Samsung seeks a new arbitration panel establish new royalty rates for Samsung's 2G/2.5G GSM product sales based on the April 2006 agreement between Nokia Corporation and InterDigital (Nokia Resolution) that implemented the June 20 05 Arbitration Award rendered against Nokia by the ICC. Samsung further requests that such new rates be applied retroactively to the period 2002 through April 2006 and prospectively for the remainder of 2006, thereby voiding the September 2006 binding Arbitration Award issued by the ICC (which awarded InterDigital \$134 million in past royalties on Samsung's sales of 2G GSM/TDMA and 2.5G GSM/GPRS/EDGE handsets through 2005 and set forth additional royalties to be paid by Samsung for sales of such equipment for the remainder of 2006).
20. Oct 2006 -- Broadcom, Ericsson, NEC, Nokia, Panasonic Mobile Communications and Texas Instruments have each filed Complaints to the European Commission requesting that it investigate and stop Qualcomm's anti-competitive conduct in the licensing of essential patents for 3G mobile technology
21. Feb 2007 -- Qualcomm files three complaints in China regarding GSM patents
22. Mar 2007 -- InterDigital filed a complaint with the U.S. International Trade Commission (ITC) against Samsung. The complaint alleges that Samsung engaged in an unfair trade practice importing 3G handsets and components that infringe three of InterDigital's patents. InterDigital also has filed a complaint in the United States District Court for the District of Delaware alleging that Samsung's 3G WCDMA handsets infringe the InterDigital patents identified in InterDigital's ITC complaint.
23. Mar 2007 -- Nokia files complaints against Qualcomm patents in Germany and the Netherlands.
24. Apr 2007 -- Qualcomm files two cases against Nokia in the United States over Nokia GSM cellular phones. Nokia filed a counter-suit in Wisconsin in May and in Texas in June.
25. Apr 2007 -- Qualcomm asks American Arbitration Association to rule that Nokia's use of its patents after April 9 would mean Nokia extended a key cross-license agreement at old royalty rates.
26. Apr 2007 -- The Qualcomm cross-license agreement expires in part. The firms say they continued discussions.
27. Aug 2007 -- Nokia asks the ITC to bar the import of some Qualcomm's chips, and phones using those chips, to the United States as they infringe five Nokia patents.

28. Aug 2007 -- InterDigital, Inc. filed a complaint with the U.S. International Trade Commission (ITC) against Nokia Corporation for unfair trade practice by making for importation into the United States, importing, and selling after importation certain 3G handsets and components that infringe two of InterDigital's patents. InterDigital also has filed a complaint in the United States District Court for the District of Delaware alleging that Nokia's 3G mobile handsets and components infringe the InterDigital patents identified in InterDigital's ITC complaint.
29. Dec 2007 -- Interdigital announced that the Federal District Court judge presiding in the enforcement proceeding between InterDigital and Samsung in the United States District Court for the Southern District of New York confirmed in its entirety an arbitration award rendered in September 2006 (Award) by an Arbitral Tribunal operating under the auspices of International Court of Arbitration of the International Chamber of Commerce (ICC).
30. Dec 2007 -- Interdigital announced that the English High Court issued a judgment finding that European Patent (UK) 0,515,610 (the '610 patent), owned by InterDigital Technology Corporation, is essential to the 3G UMTS WCDMA European standard promulgated by the European Telecommunications Standards Institute (ETSI) and that this patented invention is infringed by carrying out the method described in the standard.
31. Jul 2008 -- Nokia and Qualcomm agreement covering various current and future standards and other technologies, and resulting in a settlement of all litigation between the companies.
32. Jul 2008 -- Interdigital announced that its wholly owned subsidiary, InterDigital Technology Corporation, and Nokia Corporation have agreed to end two legal actions in the English Courts.
33. Jul 2008 -- InterDigital Prevails Against Samsung in ICC Arbitration Proceeding; Tribunal determines that prior arbitration award against Samsung (Currently \$153 Million) is not affected by 2006 Nokia-InterDigital settlement agreement
34. *Jul 2008 -- Second Circuit Reverses Injunction Preventing InterDigital from Proceeding against Nokia before U.S. International Trade Commission Decision Finds Nokia Waived Any Right to Arbitrate a License Defense*
35. Nov 2008 -- InterDigital agreed to grant Samsung a royalty-bearing license covering Samsung's sale of all 3G products (including products built under both the WCDMA and cdma2000 standards and their related extensions) through 2012. The agreement also ended the payment disputes regarding Samsung's royalty obligations for sales of 2G products.
36. *Aug 2009 -- InterDigital announced that it has received notice indicating that the Chief Administrative Law Judge (ALJ) overseeing the U.S. International Trade Commission (Commission) action brought by InterDigital Communications, LLC and InterDigital Technology Corporation against Nokia Corporation and Nokia, Inc. (Nokia) has filed an initial determination (ID) finding no violation of Section 337 of the Tariff Act of 1930*
37. Oct 2009 -- InterDigital Receives Notice That Commission Found No Violation of Section 337 in ITC Patent Infringement Action against Nokia