IEEE-SA & Via Licensing Collaboration

Fostering Joint Licensing Programs

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The News

- Collaboration agreement announced December 2008
  - IEEE-SA: Leading independent standards body
    - Over 900 published standards
    - Over 500 standards projects in development
  - Via Licensing: Leading patent pool administrator
    - Wholly owned subsidiary of Dolby Laboratories
      - More than 40 years of IP licensing experience
    - MPEG 2/4 Advanced Audio Coding, MPEG-4 SLS, MPEG Surround, MHP, 802.11, tru2way/OCAP, Digital Radio Mondial, NFC, UHF RFID, TV-Anytime
- Patent pool fostering and development
  - Early identification of candidate standards
  - Assist IP holders to create pool licensing programs
Why is this significant?

- Ground-breaking relationship
  - First of its kind collaboration
  - Coordinated efforts accelerate time-to-license
  - Promotes fast adoption of the standard

Pooling fulfills RAND obligations
Example: Telephone invented in 1876
- Approximately 65 original essential handset patents
- Modern devices could have more patent categories
- Multiple bi-lateral agreements are not efficient
Fundamentals...
Top 10 Common Myths

1. Patent pools are really trolls with better PR
2. I’ll lose my defensive patent posture
3. Participation exposes me to higher litigation risk
4. Pool formation stifles innovation
5. Pooling devalues my IP
6. Pools are anti-competitive
7. Pools are only for large IP holders
8. All the “best” pools are already filled
9. Pool licensing relies on “Voodoo” IP practices
10. Nearly anyone can create and run a patent pool
What is a Patent Pool?

Granting of certain IP rights to an administrator by the owners of essential patents.

Open access to a collection of essential patents under RAND terms.
Patent Essentiality

- Necessarily and unavoidably infringed by the practice of the standard
  - A patent is *essential* when the device *necessarily*, *directly*, *literally*, infringes one independent claim of the patent.
    - Necessarily
      - The device must support the claimed functionality
      - Functionality need not be present in all modes of operation
    - Directly
      - All elements of the claim are required
      - No contributory infringement
    - Literally
      - The claim “reads on” a device without resorting to determining equivalents under the “Doctrine of Equivalents”

- Determined by independent, expert evaluator
Role of the Administrator...
### Meeting Strict DoJ and FTC Guidelines

<table>
<thead>
<tr>
<th>Pro-competitive</th>
<th>Anti-competitive</th>
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<tbody>
<tr>
<td>Integrates complementary technologies</td>
<td>Market or customer allocation</td>
</tr>
<tr>
<td>Clears blocking positions</td>
<td>Fixes prices</td>
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<tr>
<td>Reduces transaction costs</td>
<td>Excludes competition</td>
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<tr>
<td>Avoids costly infringement litigation</td>
<td>Discourages R&amp;D</td>
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<tr>
<td>Promotes technology adoption</td>
<td>Reduces innovation</td>
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Standards & Pool Development

**Exploration**
- Standard Development

**Initiation**
- Candidate Standard

**Introduction**
- Product Development

**Management**
- Product Deployment

**Approval of Standard**
Resultant Licensing Agreements

- Commercialization agreement
  - Between licensors and administrator
- Patent license agreement
  - Between administrator and licensees
Licensing Phase

- Identify companies needing a license
  - Explain
  - Execute
  - Enforce

- Ensure a level playing field
  - Standard Patent License Agreement
  - Identical terms offered to all licensees
    - All licensees know they are getting the same deal as their competitors

- Enforce the terms of the license
  - Compliance
  - Payments
Licensing Services Infrastructure

- Licensee 1
- Licensee 2
- Licensee “n”

Global Sales Team

Global Compliance Team

Patent Pool 1
Patent Pool 2
Patent Pool “n”

Licensing Program Development and Management

- Agreement Management
- Reporting
- Payout Management
- Tax Management
- Compliance Enforcement
- CRM

Licensing Platform
Pool Dynamics...
IP Owners Chart the Course

- Via facilitates pool formation
  - Antitrust counsel guidance, meeting facilitation, etc.
- Commercial terms jointly set by IP owners
  - Administrative fees & matters
  - Revenue sharing
  - License scope
  - Audit rights
  - Reporting
  - Grantbacks

IEEE is not involved in setting business terms
Earmarks of a Winning Pool

- Includes “pure” licensors and licensor/licensees
- Everyone compromises
- Long-term focus
- Evolves over time to meet market changes
- Royalty rates are consistent
  - New members/patents do not increase royalties
  - New members obligated to contribute all essential patents
Cornerstones of a Licensing Program

- As much of a “one-stop-shop” as possible
- Sound antitrust advice
- Knowledgeable and independent patent evaluation
- Simple, clear, effective licensing terms
- Experienced licensing administrator
Value...
Patent Pools Serve the Market

- “All-inclusive” rates
  - Provides cost stability and reduces uncertainty for licensees
  - Lowers transaction costs for licensees and licensors
  - Simplifies reporting
- Helps to establish a fair market value
  - For patents outside the pool
- Levels the playing field
  - Consistent application of IP licensing
  - Reasonable and non-discriminatory (RAND in action)
- Enables markets through independent IP access
  - Licensees do not need to deal with competitors
- Helps avoid patent thickets
Thank you.

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