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Motorola's Value to Google Found in 18 Patents

Q By Brian Womack and Susan Decker - Aug 21, 2011 9:00 PM PT

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Among Motorola Mobility Holdings Inc.'s more than 17,000 patents, a group of 18 may prove most useful in Google Inc. (GOOG)'s effort to fend off litigation targeting the Android mobile platform.

The inventions date back to 1994 and form the heart of three Motorola lawsuits against Apple Inc. (AAPL), making them among the stars of the portfolio, said David Mixon, a patent lawyer at Bradley Arant Boult Cummings in Huntsville, Alabama. They cover technology essential to the mobile-device industry, including location services, antenna designs, e-mail transmission, touch-screen motions, software-application management and third-generation wireless.

"Any patent owner, before they consider litigation is going to carefully evaluate their patents to withstand an attack," Mixon said in a telephone interview. "You don't want to hold any back. You want to pick your strongest patents."

Google is counting on its \$12.5 billion acquisition of Libertyville, Illinois-based Motorola Mobility to strengthen its patent lineup as Apple and Microsoft Corp. challenge Android, the best-selling smartphone operating system in the second quarter. Google had been issued fewer than 1,000 patents as of the start of this year.

Motorola Mobility would add another 17,000, as well as about 7,500 pending applications.

"There are a lot of sweet patents in that portfolio," said Dean Becker, chief executive officer of Palm Beach, Florida-based ICAP Patent Brokerage, the world's largest. He said Google only needs a few to bolster its legal position.

On the Sidelines

Android was introduced on handsets three years ago to further Google's advertising business and is provided free to device makers including Motorola Mobility, Samsung Electronics Co. and HTC Corp. (2498) The platform accounted for 43.3 percent of the smartphone market last quarter, according to Stamford, Connecticut-based research firm Gartner Inc. Cupertino, California-based Apple had an 18.2 percent share.

The U.S. International Trade Commission, which arbitrates patent-related disputes, has

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fielded more than a dozen cases in the past year related to smartphones and tablets. Because Google doesn't profit directly from Android, it has been able to sit mostly on the sidelines while its partners were sued.

Google has been sued twice by competitors over Android -- [Oracle Corp. \(ORCL\)](#) and Skyhook Wireless Inc. -- and has never led a patent-infringement case against another company. It declined to comment for this story, as did Motorola Mobility and Apple.

An ITC judge last month found HTC's Android phones infringed two Apple patents, which may spur a U.S. import ban.

'Under Threat'

"We've been saying for some time that we intend to protect the Android ecosystem," David Drummond, chief legal officer at [Mountain View](#), California-based Google, said during a conference call with analysts last week. "It's under threat."

Motorola Mobility, which created the consumer market for mobile phones with the DynaTAC 8000X "brick" in 1983, and Apple, which reinvented the industry with the "smart" iPhone in 2007, are among the larger companies that have been battling over ownership of mobile technology. Motorola Mobility, spun off from Motorola Inc. in January, picked a fight with Apple in October when it filed three lawsuits and an ITC complaint.

The cases target Apple products including the iPhone 4, iPad, AppleTV and MacBook Air. Motorola Mobility used four of the 18 patents from the Apple cases to help push BlackBerry maker [Research in Motion Ltd. \(RIMM\)](#) into a cross-licensing settlement last year. That deal required Waterloo, Ontario-based RIM to make an undisclosed upfront payment and pay royalties.

Balance of Power

The balance of power is shifting toward Google with this acquisition of Motorola Mobility, so the option for settlements and cross-licensing will become "inevitable," said Ron Epstein, CEO of Epicenter IP Group LLC, a Redwood City, California-based patent brokerage.

"We're in a market battle here and people are using innovation as a tool for who will win," he said. "The only way to protect your innovation from copying is patents."

One patent from 2001 disables a "touch sensitive" sensor when a smartphone is near a user's head to prevent inadvertent hang-ups or dialing. Another from 1994 aims to increase data storage, while a third enables users to control when a global positioning system sends their location data over a network.

Motorola Mobility also has a "leading position" in fourth-generation wireless networks, CEO Sanjay Jha said on a conference call last month.

'Back Off'

In addition to the Apple fight, Motorola Mobility has claimed Redmond, Washington-based Microsoft infringes some of its patents over video technology and is seeking to block imports of the Xbox video-game console.

Even with a stronger patent portfolio for Google, Apple is likely to continue to pursue its patent battles against HTC and Samsung, said [Peter Misek](#), an analyst with Jefferies & Co. in [New York](#).

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"This is a war," Misek said.

Apple filed its own patent-infringement complaints against Motorola in October at the [ITC](#) and in federal court in Madison, [Wisconsin](#). Apple also filed a civil suit in March accusing Motorola Mobility of "a pattern of unfair, deceptive and anticompetitive conduct" and said the company demanded higher licensing rates than for other competitors over three years of talks. Microsoft has made the same allegations over Motorola's licensing demands, which Motorola has denied in both cases.

Epstein said the strength of the 18 patents from the Motorola Mobility portfolio is likely the tip of the iceberg.

"I would be shocked if they brought all of the patents they thought were of value in this first round of litigation," Epstein said. "They brought a set of patents that they thought would do a job they set out for, which is telling Apple to back off."

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