Qualcomm notches a 2nd win vs. Nokia

by Jonathan Sidener - CNS

Qualcomm Wednesday won one of its many battles with Nokia over patents and related licensing fees, as a Dutch court dismissed a lawsuit filed by the Finnish phone maker.

The action potentially removes one arrow from Nokia's quiver, but it does little to shift power in the conflict between the two telecom giants.

Nokia said it has not decided whether to appeal.

The Dutch court action was one piece of a busy news day for San Diego-based Qualcomm. The wireless technology company also announced the acquisition of a mobile banking company and said it had released the first products in a new line of chips for devices other than cell phones.

Litigation between Qualcomm and Nokia continues in a half-dozen cases in this country and in the United Kingdom, France and Italy. Action is pending on cases in Germany and China.

In addition to the litigation with Nokia, Qualcomm is facing Irvine-based Broadcom in three California court cases and one in New Jersey. An additional dispute is being heard by the International Trade Commission.

All of the conflicts with Nokia are seen as maneuvers to influence negotiations over licensing fees. A cross-licensing agreement expired in April, and Nokia has halted payments to cover its use of Qualcomm's technology for high-speed mobile data.

The two companies have entered into arbitration but remain far apart.

Wednesday's ruling by the District Court in The Hague is likely to have minimal impact on arbitration, said Michael Cohen, research director at Pacific American Securities in San Diego.

"This takes away one of the strategies Nokia had tried to use to leverage negotiations," Cohen said. "I don't think you could say it gives them even a nudge toward resolution. They're so far apart."

Last week, Qualcomm said the dispute - and the payments Nokia is withholding - prompted Qualcomm to cut its earnings forecast for the coming year by 25 cents to 30 cents per share.

In the lawsuit, Nokia argued that Qualcomm was trying to collect royalties twice on the same inventions. Texas Instruments, which makes phone chips for Nokia, pays a licensing fee to include Qualcomm's technology in those chips. Nokia argued that Qualcomm had exhausted its patent rights once Texas Instruments paid the licensing fees.

The Dutch court said that it dismissed the suit because Nokia's complaint was vague and that any relief would have been limited to the Netherlands.

Last month, Nokia lost a similar case against Qualcomm in Germany.

Qualcomm's new executive vice president and general counsel, Don Rosenberg, said the two rulings by European courts suggest that Nokia's argument was flawed.

"This ruling highlights that one should view Nokia's fundamental theory of exhaustion with a significant degree of skepticism," Rosenberg said in a statement. "It is obvious that Nokia was trying to weaken Qualcomm's position in our licensing negotiations and they failed."

A Nokia spokeswoman said the court ruled on one specific issue - the scope of relief Nokia sought - and did not reject its "exhausted patent" argument.

The company is weighing appeals in both cases, she said.

In an unrelated move, Qualcomm announced that it is acquiring mobile banking software company Firethorn Holdings for about $210 million.

Atlanta-based Firethorn's product lets consumers use their mobile phones to view account balances and history, pay bills, and transfer funds. Firethorn links wireless carriers such as AT&T with banks, including Wachovia and SunTrust.

The acquisition will cut earnings per share by 2 cents in the fiscal year ending in September 2008 and will have no impact on 2009 profit, Qualcomm said.

At a meeting with financial analysts in New York, Qualcomm demonstrated devices running on the new Snapdragon platform, working with the Linux and Windows Mobile operating systems.

Qualcomm says the chips are designed for mobile data processing, multimedia, fast data connections and low power consumption. Qualcomm expects Snapdragon chips to run a coming generation of devices that fall between mobile phones and laptop computers.

The chips are capable of wireless downloads at speeds up to 7.2 megabits per second and can process high-definition video and support a 12-megapixel camera.

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