

Court rules against Qualcomm on patents

by Jonathan Sidener

SAN DIEGO - For the second time in less than a week, Qualcomm has lost a round in its extensive patent battle with the world's largest cell phone maker, Nokia.

On Monday, the British High Court ruled that Nokia is not infringing on Qualcomm patents covering power saving and power control in cell phones. The court said that one Qualcomm patent was not valid, while the other was partially invalid.

Last week, the U.S. International Trade Commission said it will let stand a decision that Nokia did not infringe on four patents held by San Diego-based Qualcomm.

Qualcomm said the disputed patents in both cases cover technology in older "2G," or second-generation phones, not the patents for 3G phones that have high-speed data capabilities.

"Obviously we're disappointed with the loss," said Bill Sailer, Qualcomm senior vice president of legal counsel. "But this is not where the real battle is between the two parties."

The two companies have filed suits and countersuits in the United States, Europe and Asia. Both sides have agreed to put the bulk of those disputes on a back burner pending rulings by a Delaware court.

That court will decide a conflict that dates to April, when Nokia stopped paying royalty fees on phones that use Qualcomm's 3G technology for WCDMA, or wideband code division multiple access.

Nokia did not have to pay Qualcomm royalties on 2G phones used in Europe - Nokia's core market - because it uses GSM technology as an alternative to Qualcomm's CDMA system.

Nokia is resisting paying Qualcomm's asking price to use its WCDMA technology for 3G phones.

WCDMA, based largely on CDMA, is an improved system for allowing multiple voice and data connections to share a single slice of wireless spectrum.

Arbitration over those fees has been moved to the Delaware court and consolidated with another case.

Qualcomm argues that the earlier fee structure - estimated to be about 5 percent of the price of each phone - remains in effect because Nokia continues to make phones covered by the licensing agreement that expired in April.

Nokia argues that Qualcomm technology is less crucial to a 3G phone than it had been in a 2G phone and wants a lower royalty fee.

The Finnish phone manufacturer suggested that Monday's court ruling supports that argument.

"The U.K. High Court and U.S. ITC findings are further evidence of Qualcomm overstating its position as an industry innovator and demanding compensation for patents that are not relevant or valid," Nokia said in a statement.

The Delaware Chancery Court will also rule on the commitments Qualcomm made to a phone-industry standards group that established WCDMA as part of the standard for 3G phones in Europe. Qualcomm told the European Telecommunications Standards Institute that it would license its technology to other companies. Qualcomm says it is making the technology available on a fair and reasonable basis. Nokia says it is not.

A hearing on the consolidated Delaware cases is scheduled for July 21.