

Apple presses legal war over Android

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Steve Jobs' legacy at Apple Inc. goes well beyond cool gadgets, a thriving retail chain and a music empire.

He also launched the company's all-out legal war on [Google](#) Inc.

In the last months of Jobs' life, [Apple](#) unleashed a patent-suit blitzkrieg on its [Silicon Valley](#) rival, filing 10 lawsuits in six countries that accuse the Internet search giant of stealing its smartphone and [tablet computer](#) technology.

The campaign is rooted in Jobs' belief that Google and mobile device manufacturers that use its Android software copied key design and technology features from Apple's iPhone and iPad.

"I'm willing to go to thermonuclear war on this," Jobs told author [Walter Isaacson](#) for his recently released biography. "I'm going to destroy Android, because it's a stolen product."

He then vowed to battle Google until "my last dying breath."

Google and manufacturers using Android are vigorously contesting Apple's claims, which could take years to play out in court. But one thing is certain: There is a lot at stake for the company Jobs built. If it is unable to protect the iPhone's distinctive look and feel, lower-cost competitors imitating its technology could threaten the future of its most profitable products, analysts say.

"Unless they can keep Android at bay, they cannot sustain their incredibly high margins," said Florian Mueller, a patent specialist who has been closely following the disputes. "They'll have to compete with much lower-priced devices with essentially the same features coming out of China and other places."

Alternatively, victories by Apple would enable it to extract hefty ransoms from any phone maker that uses Apple-like technology, or even force its rivals to water down or remove popular features from their smartphones, including screens that respond to multiple finger touches, the graphical display of text messages, and the way users send email and browse the Internet.

That type of technological rollback, analysts and patent attorneys say, could demolish much of Google's recent success in the \$160 billion smartphone market, and gain Apple an unparalleled advantage in the industry. The market is growing rapidly as many consumers dump simpler cellphones for the more powerful and versatile smartphones.

"Some of the revelations from the Jobs biography suggest that this is almost a religious war," said Toni Sacconaghi, an analyst at Sanford C. Bernstein Co. The question is whether Apple's battle is based on a rigorous legal analysis of company's patent holdings or part of a personal vendetta by the company's late co-founder, he said.

Apple's aggressive legal attack comes as it is losing ground to its rivals in the smartphone industry. Samsung Corp., whose devices run Google's Android software, dethroned Apple in the most recent quarter to become the world's largest vendor of smartphones, accounting for nearly a quarter of handsets sold last quarter, compared with about 1 in 7 for Apple, according to data from Britain-based Strategy Analytics.

Apple has hired some of the nation's top patent lawyers, including

William F. Lee of WilmerHale, who helped win networking chip maker Broadcom Corp. an \$891 million infringement settlement against rival Qualcomm Inc., and Harold McElhinny of Morrison & Foerster, who led Pioneer Corp. to a \$59 million judgment against Samsung.

In recent weeks, Apple has been successful in temporarily banning sales of Android-powered tablets in Australia, Germany and the Netherlands. The company is now involved in lawsuits covering dozens of patents, some of which date to the technology created for 1990s-era personal computers designed a decade before smartphones were invented.

But what may look like a shotgun approach may actually be a carefully crafted battle plan. Apple is using its initial round of lawsuits to see which of its many patent claims can survive intense legal scrutiny, analysts said. The ones that are successful will become the spearhead of Apple's litigation strategy.

"Once they've found the battle-tested patents that can survive challenges," Mueller said, "they're going to assemble all of them, put the winning team together and enforce them against everyone."

Although Apple's patent war stretches around the globe, the heaviest assault is in the U.S. The company is currently locking horns with Samsung in separate federal lawsuits in Washington, Delaware and Northern California, where Apple's attorneys have demanded court orders preventing Samsung from selling its smartphones and tablets in the U.S.

"This kind of blatant copying is wrong," Apple spokeswoman Kristin Huguet said in a statement. "We need to protect Apple's intellectual property when companies steal our ideas."

Google has called the patent attacks "bogus," but in August it made a

major move to defend itself, announcing the largest acquisition in its 13-year history by paying \$12.5 billion in cash for Motorola Mobility Holdings Inc., one of the leading Android manufacturers and the holder of 17,000 technology patents that Google could use as ammunition to fend off the lawsuits.

Google allies Samsung and HTC Corp., two major device makers, are also striking back against Apple, filing countersuits that ask courts around the world to ban Apple's iPhone and iPad devices. Each patent case can cost upward of \$8 million, according to attorneys and analysts said.

So far, Samsung has had mixed results with its legal fusillade against Apple, with courts in Italy and the Netherlands initially denying its motions to bar sales of Apple's recently released iPhone 4S.

Samsung has denied that its phones infringe Apple's patents, and has instead accused Apple of illicitly using Samsung communications technology in multiple [iPhone](#), iPod and iPad models. The company said it has spent tens of billions developing its own digital technology in recent years, and has amassed nearly 30,000 patents in the U.S. alone.

Apple "continues to violate our intellectual property rights by selling these products," Kim Titus, director of public relations for Samsung Telecommunications America, said in a statement. "The courts will find Apple has indeed been free-riding on our technology."

But many of the technologies that these patents protect are so abstruse or vague that companies may end up running afoul of the law without even knowing it, said Bijal V. Vakil, a partner at law firm White & Case in Palo Alto, Calif.

"It's become a virtually unmanageable task to go and see if you have the

freedom to operate," he said. "Procedurally it would be impossible to check all of (the valid patents) - even large companies can't afford to do that."

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