

Jury rules for Microsoft in patent trial with Motorola

September 5 2013, by Janet I. Tu

The jury in a long-running patent trial between Microsoft and Motorola decided in favor of Microsoft on Wednesday, saying Motorola Mobility breached its agreements to provide licenses to certain of its patents on fair and reasonable terms.

The U.S. District Court jury in Seattle, which deliberated for about three hours, also awarded Microsoft about \$15 million in damages - about half what the company had sought.

This means Microsoft has won both rounds of a patent battle in which the court decided Motorola's patents in the case were worth far less than what Motorola, now owned by Google, had initially asked Microsoft for.

"This is a landmark win for all who want products that are affordable and work well together," David Howard, a Microsoft deputy general counsel, said in a statement. "The jury's verdict is the latest in a growing list of decisions by regulators and courts telling Google to stop abusing patents."

Motorola spokesman William Moss said in a statement: "We're disappointed in this outcome but look forward to an appeal of the novel legal issues raised in this case. In the meantime, we'll focus on building great products that people love."

The trial is the second of two stemming from a lawsuit Microsoft filed in November 2010, claiming Motorola breached its agreements to provide,

at reasonable rates, use of its patented technologies that have become part of industry standards in online-video viewing and wireless usage.

Private companies that hold such industry-standard patents agree, as part of joining international-standards groups, to license them under "fair, reasonable and nondiscriminatory" - or FRAND - terms.

In its offer, Motorola had asked Microsoft for 2.25 percent of the sale price of each Xbox and Windows. Microsoft had said that would mean paying Motorola \$4 billion annually.

Microsoft had suggested that \$1.2 million a year would be a reasonable amount for use of those patents.

After Round 1 of the trials, which took place in Seattle last November, U.S. District Court Judge James Robart issued an April ruling setting what he deemed to be reasonable royalty rates and ranges for Microsoft to pay for use of the Motorola patents at issue.

According to Microsoft's calculations, the rate set by the judge would amount to the company paying about \$1.8 million annually to Motorola - a figure far closer to what Microsoft had proposed than what Motorola had initially offered.

Motorola has said all along that the initial offer was just a starting point, subject to further negotiations.

Microsoft attorney Art Harrigan of Calfo Harrigan Leyh & Eakes referred to that claim when he said during closing arguments Wednesday morning that Motorola had contended its initial offer letter was "just a piece of paper."

"Well," Harrigan continued, "so is a ransom note."

Microsoft had argued that the rate Motorola proposed for licensing its patents was so outrageously high that it was done precisely so Microsoft would say no. That would give Motorola an excuse to file for injunctions against the import of Xbox and Windows products.

Motorola had argued that its initial offer had to be taken in the context of the relationship between the two companies, and it painted a picture of a Microsoft that was out to make an example of Motorola for deciding to turn away from Microsoft's mobile phone platform to Google's Android.

Motorola's attorney, Bill Price of Quinn Emanuel Urquhart & Sullivan, said during closing arguments Wednesday that Microsoft refused to pay a dime for use of Motorola's patented technologies until it came under the threat of injunctions.

Microsoft "put Motorola through the hoops," Price said.

Microsoft had sought about \$29 million in damages, \$23 million of that for moving a distribution center from Germany to the Netherlands after Motorola won an injunction in Germany involving some of the same [patents](#) at issue, and \$6 million for attorneys' fees.

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