

European Commission closes investigation against IPCom; Nokia complaint unsuccessful

Munich, 14 January 2009 – In October 2009, Nokia filed a complaint to the European Commission against IPCom, the owner of a number of “standard-essential” telecoms patents, alleging that IPCom was breaking competition law. Nokia has now withdrawn its complaint, and the Commission has informed IPCom that it will not be opening the investigation originally sought by Nokia.

“The fact is that Nokia is using our patents without paying us a dime,” said Bernhard Frohwitter, IPCom’s Managing Director. “Nokia’s attempt to distract from that fact by seeking an investigation on spurious “competition grounds” has failed, and we sincerely hope they will now sit down with us to work out a mutually acceptable agreement.”

IPCom was able to demonstrate to the Commission that it lives up to all legal obligations, specifically its obligation to offer licenses under FRAND (Fair, reasonable and non-discriminatory) conditions. IPCom also made a statement publically reiterating its licensing policy, which was officially noted by the Commission on 10 December, 2009 (Memo/09/549). The case is thus closed.

IPCom has always been committed to licensing its patents under FRAND conditions, as it is in any case legally obliged to do. FRAND has always explicitly been the basis for the settlement sought by IPCom. The ongoing dispute with Nokia primarily concerns the appropriate size of license fees under FRAND. Nokia has so far refused to pay any fees for the use of a number of “standard-essential” patents used in Nokia’s mobile phones, despite many years of negotiations.

IPCom is therefore seeking injunctions in the District Court of Mannheim, Germany, on Nokia’s use of its key patents. Nokia risks a ban on the sale of handsets in Germany if it does not negotiate a license– under FRAND conditions - as many other patent users

have already done. The court has indeed already ruled that Nokia is infringing certain of ICom's patents. Litigation in Germany is ongoing.

The patents were originally developed by Bosch as part of its R&D for its pioneering car telephony systems, which evolved into the mobile telephony systems we know today. Bosch exited the business in 2000, and then tried for many years to negotiate license fees from Nokia for using these patents on the basis of FRAND. After failing to secure agreement, Bosch sold the patents to ICom in early 2007.

Many big patent users have already signed license agreements. Nokia has however refused to agree terms with ICom, and the parties have been engaged in a series of legal disputes in various jurisdictions.

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