RIETI Policy Seminar

Standards and Intellectual Property: Strategies Japan should adopt in light of current global trends

Handout

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Research Institute of Economy, Trade and Industry (RIETI)
Standards and IP
– from the viewpoint of business model and market competitions

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Mobile Patent Suits as of 2011

This chart was created using the information described in Thomson Reuters ”Mobile Patent Suits – Graphic of the Day” https://blogs.thomsonreuters.com/answerson/mobile-patent-suits-graphic-day/

2017 Dec. 08
Apple v Samsung  EC委员会调查  3G特许での差止请求
Brussels, 31 January 2012 –
The EC has opened a formal investigation to assess whether Samsung has abusively, and in contravention of a commitment it gave to the ETSI, used certain of its SEPs to distort competition in European mobile device markets, in breach of EU antitrust rules.

Apple, Microsoft v Motorola  EC委员会调查  FRAND违反
Brussels, 03 April 2012 -
The EC has opened two formal antitrust investigations against Motorola Mobility Inc. to assess whether Motorola has abusively, and in contravention of commitments it gave to SSOs, used certain of its SEPs to distort competition in the Internal Market in breach of EU antitrust rules.

Apple v Motorola  米国訴訟  FRAND Royalty – Injunction
Northern District of Illinois by Judge Posner on June 22, 2012
◆ The value conferred by the patent itself as distinct from the additional value—the hold-up value—conferred by the patent’s being designated as standard-essential.
◆ By committing to license its patents on FRAND terms, a royalty is adequate compensation for a license to use that patent.
Smart Phone War involving FRAND SEPs & SSO

Is it the abuse of rights to seek an injunction based on FRAND SEPs?

How to calculate the reasonable royalty amount for FRAND SEPs?

Smart Phone War

Seeking Injunction by 3G SEPs

Apple

Sumsong

Google

Motorola

Seeking compensation for WiFi & H.264 SEPs

Microsoft

Standard Setting Organization

Contribution Adequate Rewards

IPR policy FRAND

Market Adoption

2017 Dec. 08
This chart was created using the data described in
平成23年度　特許出願技術動向調査報告書（概要）
携帯高速通信技術（LTE）　特許庁　平成24年4月
H. 23 year patent application technology trend survey report (summary)
Mobile High Speed Communication Technology (LTE) Japan Patent Office H.24

2017 Dec. 08
The cumulative number of litigation filed by NPE from 2009 to 2013

Situation of USA, EU and Japan

USA
Obama Administration
- Growth of CLOUD business: Apple, Google, Amazon, Facebook
- American Invents Act 2011 (Anti-NPE)
- President Obama vetoes Samsung patent ban on iPhone 2013
- IEEE IPR Policy change (Smallest Saleable Unites) 2015
- Case Law: Judge Robart’s RAND analysis, e-Bay case (Injunction)

EU
- Promoting “Industry 4.0”
- European Parliament:
  - European Standards for the 21st Century Open Trade
- CJEU decision on injunction under FRAND SEPs (Huawei v ZTE)
- Case: Unwired Planet (UK),
- European Commission: Communication on SEP Licensing

Japan
- Promoting “Society 5.0”
- Tokyo IP High Court: Samsung v Apple
- Japan FTC SEP Guideline
- JPO SEP License Guideline (under study)
Consideration Factors of the FRAND Licensing

- Promote Innovations & Industries
  イノベーションと産業の促進
- Benefit balance between right holders and implementers
  権利者と実施者間の利益バランス
- Protect good-faith negotiators
  誠実な交渉者を保護
- Establish Level Playing Field
  市場競争環境の確立と維持
- Secure freedom of negotiation
  交渉の自由度の確保
- Worldwide & Speedy
  世界共通、迅速性
- A long-term & sustainable
  長期的、持続可能
Thank you
ご清聴ありがとうございました

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