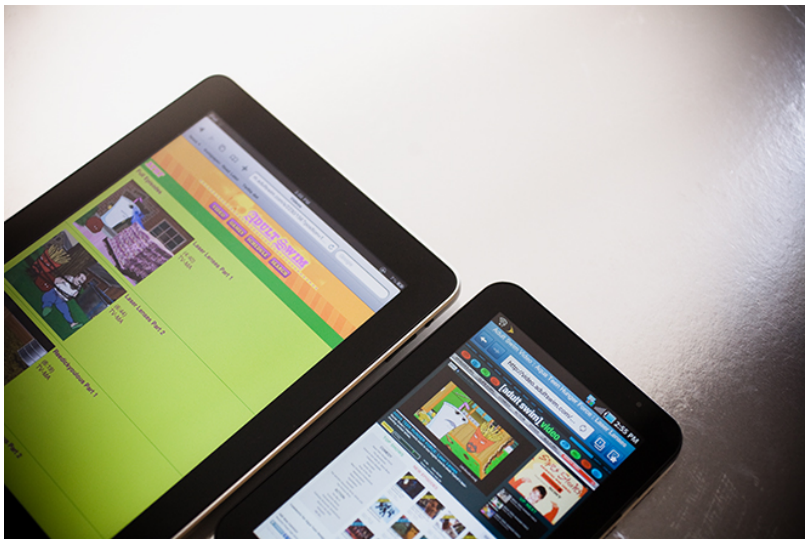
Does Apple’s Patent Win Against Samsung Put More Android Devices at Risk?



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There’s been gnashing of teeth between Apple and Samsung in courts across the globe for a while now, but Australia’s temporary injunction against the sale of a Samsung tablet is a huge win for Apple, and could be very bad for the Android platform.

A court in Australia ruled today that the Samsung Galaxy Tab 10.1 cannot be sold in the country because it infringes on two patents held by Apple relating to multitouch. Because the patents are so broad, other Android device makers could find themselves mired in similar litigation, FOSS Patents’ Florian Mueller said.

The two patents in question describe a “multipoint touchscreen” and a “touch screen device, method, and graphical user interface for determining commands by applying heuristics.” (Steve Jobs is listed as an inventor of the latter.) The preliminary injunction could have drastic effects for Samsung, leaving the tablet “commercially dead” in Australia and causing the company to miss out on lucrative holiday sales.

Samsung commented in a written statement, “We are disappointed with this ruling and Samsung will be seeking legal advice on its options.” Apple did not respond to a request for comment for Wired.com.

Apple began battling Samsung in court over design-related patents in April. In that lawsuit, Apple claimed that similarities between Samsung’s products and Apple’s iPhone and iPad were so similar it was “beyond the realm of coincidence.” Apple has continued to sue Samsung in courts across the world, including Germany, The Netherlands and Australia. The launch of the Galaxy Tab 10.1 was initially delayed in Australia, but today’s injunction makes it even more likely that the tablet may

never reach Australian consumers.

There are currently more than 20 lawsuits in litigation between Apple and Samsung.

Mueller stated in a blog post, “I believe no company in the industry may be able to launch any new Android-based touchscreen product in Australia anytime soon without incurring a high risk of another interim injunction.”

In previous rulings — for example, when Apple beat Samsung in a Netherlands’ court battle regarding a page-turning patent — Samsung was able to simply re-engineer a function and issue an update (often barely noticeable to the average smartphone user), and skirt the issue. But today’s ruling is different, because it concerns a patent for key, intrinsic, product-defining features.

“Today’s ruling is the broadest win that Apple has got so far,” Mueller said in an interview with Wired.com. There’s not much Samsung can do but countersue, and Mueller feels, “It’s really unimpressive what Samsung brings to the tablet against Apple.” Samsung has yet to score any wins against Apple.

Apple is already in litigation with three major Android device makers: Samsung, HTC and Motorola. Mueller believes Motorola could soon overtake Samsung as Apple’s main target, given Google’s acquisition of Motorola Mobility.

As for non-Android devices — such as Windows Phone, webOS and BlackBerry models — they don’t have as much to worry about.

“Apple is careful to exclude Windows Phone; they own far too many patents,” Mueller says. And as long as HP owns webOS, it may be in a stronger position than Google as far as patent challenges. And BlackBerry, well, it’s likely that Apple doesn’t feel threatened by RIM as it’s on the decline. It would be a far more efficient approach, Mueller says, to just erode RIM’s market via retail sales of iPhones and iPads.

Mueller says that unlike Microsoft, which uses its vast trove of patents as leverage to raise cash, Apple uses patents as they were originally intended: to create a monopoly. “Apple really seeks and optimizes its products for differentiation. Apple takes a more exclusionary approach to patent enforcement,” Mueller said. Microsoft, by comparison, has established licensing deals with a number of manufacturers in order to score a cut of retail sales revenue. The latest example is PC manufacturer Quanta, the ninth OEM to pay Microsoft royalties for Android products.

Android makers are especially susceptible to litigation because they are late entrants to the market, and don’t have licensing deals or extensive patent holdings in place yet.

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Posted by Janine E. Mooney, Editor

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