



California Court Halts Chinese-Issued Injunction Against Samsung

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Huawei sued Samsung in 2016 after years of unsuccessful negotiations to cross-license their respective standard essential patents (SEPs) covering 3G and 4G LTE cell phone technology. Huawei filed one case in the Northern District of California alleging that Samsung infringed 11 of its SEPs and that Samsung breached its commitment to cross-license on fair, reasonable and nondiscriminatory (FRAND) terms. The next day, Huawei filed nearly a dozen more actions in China alleging similar claims on the Chinese counterparts to the U.S. patents. Samsung filed similar countersuits in both jurisdictions as well. The Chinese actions advanced faster than the California case, and the Chinese court held a trial on two of Huawei's SEPs. Subsequently, in January 2018, the Chinese court issued an order finding that Samsung infringed Huawei's patents and that Samsung's behavior had not complied with FRAND principles, and it enjoined Samsung from making or selling its 4G LTE smartphones in China.

Requesting what is known as an "anti-suit injunction," Samsung sought to have the California court enjoin the Chinese injunction (which Samsung is also appealing in China). An anti-suit injunction refers to an extraordinary procedure where a domestic court issues an order to stop the outcome of proceedings in a second jurisdiction. The three-part test for determining whether to issue an anti-suit injunction is described in *E. & J. Gallo Winery v. Andina Licores S.A.*, 446 F.3d 984, 990 (9th Cir. 2006) ("Gallo"), which states that courts should consider: (1) whether the parties and the issues in both the domestic and foreign actions are the same (i.e., whether the first action is dispositive of the second); (2) whether the foreign litigation is vexatious or frustrates the policy, jurisdiction or equitable considerations of the domestic court; and (3) whether the injunction's impact on comity is tolerable. These injunctions can be used to prevent forum-shopping to "get around" an adverse ruling in the original jurisdiction.

Samsung argued that the Chinese injunction would force it to close its Chinese factories and to enter into negotiations with Huawei at an extreme disadvantage before the California court has an opportunity to decide the breach of FRAND obligations and patent infringement claims before it.

Anti-suit injunctions have been issued in recent years, such as in *Microsoft Corp. v. Motorola, Inc.*, 696 F.3d 872 (9th Cir. 2012), where the 9th Circuit affirmed the issuance of an anti-suit injunction against a parallel German proceeding that was filed months after the original U.S. proceedings. Here, the California court raised similar concerns that were addressed in *Microsoft*. First, the parties and issues before it and the Chinese court were largely the same, and resolution of FRAND issues in California would subsume the analysis of the Chinese case that involved related patents. Second, the California court held that, while the Chinese actions were not vexatious or oppressive on Huawei's part, the Chinese injunction would compromise the California court's ability to reach a just result free from external pressure that could impact Samsung's business around the world. Third, the California court recognized that comity requires that independent countries have the ability to issue judicial orders within their territories, but decided that, since the U.S. action was filed first (even though only by one day), it should have an opportunity to decide the issues before it. The California court stated that the "scope of this anti-suit injunction, limited to a particular order dealing with two patents, a specific form of relief, and estimated to last less than six months, presents a negligible impact on comity."

Ultimately, the California court decided that the appropriate remedy "may very well be the injunctive relief issued by the [Chinese] court," but the court "must have the opportunity to adjudicate that claim without Samsung facing the threat of the [Chinese] court injunctions."

Huawei Technologies Co., Ltd v. Samsung Electronics Co., Ltd, C.A. No. 3:16-cv-02787 (N.D. Cal. issued April 13, 2018)

Categories

District Court

Northern District of California

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