

Make in India runs into high royalty fee hurdle

M Rajendran

m.rajendran@hindustantimes.com

NEW DELHI: High patent royalty fees charged by foreign technology firms are fast emerging a major hurdle for India's ambitions of turning into a global mobile manufacturing hub.

Mobile phone makers such as Micromax, Intex, Lava and iBall will together pay at least ₹2,000 crore in royalty payments over the next four years to foreign telecom equipment makers.

Standard essential patents owners demand royalty payments on the end value of the mobile device rather than on the value of the component used.

This means that royalty payouts will only rise when Indian phone makers launch more sophisticated — and expensive — handsets as the market matures.

Sensing the risk, the government is now working on policy solutions to address concerns over rising patent costs of producing mobile phones in India.

"The government is taking necessary actions (policy and amendments to Patents Act) to resolve the issue to promote manufacturing in India," AK Garg, director in department of electronics and information technology (DeitY).

Swedish telecom firm Ericsson's 30,000-plus patent portfolio covers much of the technology that enables both cellphones and networks that support them.

"Globally, if there is a conflict of payment between the patent user and patent holder, courts do not give injunctions. But in India, it is easily available. There is a need for a policy to address this issue, especially 'FRAND' (fair, reasonable and non discriminatory royalty payment)," said NK Goyal, chairman emeritus, Telecom Equipment Manufacturers Association of India.

Indian handset makers allege that Ericsson charges 2% royalty on the total value of mobile

BLINKERS FOR CASH COWS

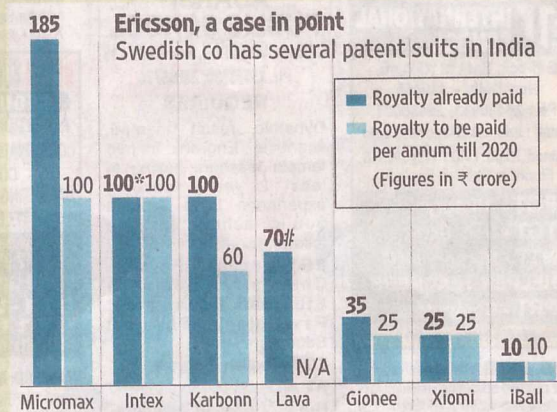
Massive annual licence fee payments a turn off for cos

Patent 101

A patent is an exclusive right granted for an invention — a product or process that provides a new way of doing something or offers a new technical solution to a problem

Intellectual Property Rights (IPRs) and patents

The World Intellectual Property Organisation (WIPO) works towards developing a balanced and effective international intellectual property (IP) system, a key part of which is dedicated to patents. WIPO does not actually grant patents per se, the grant or refusal of a patent still rests with the relevant national or regional patent office.



*Appeal pending; #Fighting the case

phones manufactured by Indian firms. China caps the royalty fee at just 0.019%.

Even Chinese phone makers such as Xiaomi and Gionee, which have announced plans to set up manufacturing plants in India, have raised similar concerns.

Ericsson, on the other hand, sees no wrong in the licence terms.

"Ericsson has offered licences of its standard-essential patents to handset vendors in India on fair and reasonable terms," said Gustav Brismark, vice-president, patent strategy and portfolio, Ericsson.

In the company's ongoing patent infringement cases against handset makers in India, the Delhi High Court has ordered handset manufacturers to make

interim deposits to the Court or payments to Ericsson for sales of those devices pending final resolution at the trial.

Ericsson also rejected the claim that the cost of manufacturing a cellphone rises because of high royalty paid to handset makers. "On the contrary, it is thanks to the FRAND licensing system where you are able to access technology on reasonable terms that has allowed the telecom market to grow," Brismark said.

"These so called patents should be examined under relevant provisions and royalty, if any, has to be on the component and not on the finished product," said Pankaj Mohindroo, national president, Indian Cellular Association, a body of cellphone manufacturers.