

Case Study of Nokia v. Huaqin Patent Rights Dispute

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Abstract—In 2010, Nokia Company filed an infringement lawsuit against Shanghai First Intermediate People's Court on the grounds that Shanghai Huaqin Communication Technology Co., Ltd. infringed its patent number z1200480001590.4. Due to the relatively large influence of this case, it has aroused widespread concern in the society in the past five years. Based on the analysis and discussion of this case, this paper tries to find out more valuable things, and finally reveals the response strategy of patent infringement lawsuit in this case.

Keywords—Nokia; Hua Qin; patent infringement

I. INTRODUCTION

In December 2010, Nokia filed a lawsuit against the Shanghai No. 1 Intermediate People's Court, suing Shanghai Huaqin Communication Technology Co., Ltd. (hereinafter referred to as Shanghai Huaqin) for violating Nokia's 8 without the authorization of Nokia. The patent right requires Shanghai Huaqin to immediately stop the infringement and compensate for the loss. Among them, for the invention patent z1200480001590.4, Nokia proposed a compensation claim of 20 million Yuan for infringement lawsuit. The invention title of the patent z1200480001590.4 is "Data Selection and Transmission Method", which is a necessary patent in the Chinese standard yd/t1214-2006. It was authorized by the State Intellectual Property Office on July 9, 2008, and the patent includes 10 claims. Wherein the subject name of claims 1-5 is a method and the subject name of claims 6-10 is a terminal device. Independent claim 6 claims a terminal device configured to determine a message to be transmitted based on input received from a user, the terminal device being further configured to: check for at least a portion of a message that is being entered or has been entered Characteristic information; and the terminal device is configured to: in order to transmit the message, select a data transfer method associated with the characteristic information of the message under a predetermined selection condition, wherein the feature information is the following information A: an information type that specifies the format of the information entered in the message and/or selected for the message; the identifier of the recipient; the type of the recipient identifier. Claim 7 is a dependent claim of claim 6, the claim 7 further defining that the terminal device is configured to apply the data transfer method selection to a message editor for inputting a message; the terminal device is configured Is: based on the selection of the data transfer method performed in the message editor, transmitting the

message to a data transfer application supporting the selected data transfer method, and the terminal device is configured to: A data transfer protocol used by the data transfer application to deliver the message to the telecommunications network.

In response to Nokia's infringement lawsuit, Shanghai Huaqin filed its first invalidation request with the Patent Reexamination Board of the State Intellectual Property Office (referred to as the Patent Reexamination Board) in March 2011. The Patent Reexamination Board did not be creative in April 2012. In order to review the decision on invalidation of some patent rights, the Beijing No. 1 Intermediate People's Court held the decision of the Patent Reexamination Board's invalidation review in December 2012 and the Beijing Higher People's Court in June 2013. On the basis of finding new invalid evidence, Shanghai Huaqin submitted a request for invalidation to the Patent Reexamination Board for the second time in June 2012. The Patent Reexamination Board was not creative in November 2013 (the Patent Law, Creative) It refers to the invention that has outstanding substantive features and significant progress over the prior art, that is, the invention is not obvious relative to the prior art and has a beneficial technical effect) as a review decision to declare all patents invalid, Beijing No. The Intermediate People's Court held the decision of the Patent Reexamination Board's invalidation review in December 2014 and the Beijing Higher People's Court in July 2015.

The Shanghai No. 1 Intermediate People's Court made the first-instance judgment in June 2013, arguing that the scope of protection of claim 7 was unclear and rejected Nokia's request for infringement. The Shanghai High Court upheld the first-instance judgment in the second trial of February 2014, dismissed Nokia's request for infringement lawsuit. In February 2015, Nokia applied to the Supreme Court for retrial of the infringement lawsuit, and Nokia applied for a retrial that the scope of protection in claim 7 is clear. In view of the particularity of patents relating to computer program inventions, it is most appropriate to use the steps to define the claims; for those skilled in the art, the specification fully discloses the embodiment of claim 7; Level trial decisions and judgments also support the conclusion that the scope of protection of claim 7 is certain. In order to be able to listen to the opinions of all parties, the Supreme People's Court organized a seminar on the case in July 2015. The participants included the judicial, academic, business and intermediaries. In view of this case, this paper firstly analyzes the problem of whether the scope of

protection of claim 7 is clear from multiple angles. Then, this paper believes that the case of Nokia v. Hua Qin patent infringement has already sounded the alarm for domestic enterprises. Domestic enterprises should Recognizing that the risk of patent infringement is constantly increasing this trend, and formulating a patent infringement risk response strategy.

II. CASE ANALYSIS

As far as this case is concerned, since the Beijing Higher People's Court upheld the patent invalidation committee's patent rights and did not have a creative invalidation decision, according to the provisions of the Patent Law, the patent right that was declared invalid did not exist from the beginning. Therefore, Nokia's infringement lawsuit has no basis for the validity of patent rights. From this perspective, Nokia's infringement lawsuit compensation is difficult to obtain support, and the compensation of 20 million Yuan of litigation has become a bubble.

For the Supreme Court, Nokia's request for retrial infringement may be rejected on the grounds that the patent right is invalid. However, the author believes that the Supreme Court may not judge the case on the grounds that the patent right is invalid and thus does not constitute infringement. The Supreme Court's judgment on whether the scope of protection of claim 7 is clear is the key to the case. Therefore, this judgment of the Supreme Court has very important guidance and reference for the subsequent judgment of infringement lawsuits of such patents.

To discuss whether the scope of protection of claim 7 is clear, this paper starts from two perspectives: functional limitation and the definition of the scope of protection of claims by existing technology (The Guidelines for Examination point out that the existing technology refers to the technology known to the public at home and abroad before the date of patent application). In addition, this article also raises the issue of whether the scope of protection of claim 7 is clear from the perspective of the patent law balancing the patentee and the public interest for discussion.

Specifically, as far as the technical scheme of claim 7 is concerned. Claim 7 requests the protection of a terminal device, and claim 7 adopts the functional limitation "configured as". With regard to functional limitation, the 2010 edition of the Review Guide states that "the technical features of functional limitation contained in the claims should be understood to cover all embodiments capable of achieving the said functions." For claims containing functionally defined features, it should be reviewed whether this functional limitation is supported by the specification. "Article 4 of the Supreme People's Court's Interpretation of Several Issues Concerning the Application of Laws in the Trial of Cases of Infringement of Patent Rights Disputes, which came into effect on January 1, 2010, states: "The people's courts shall combine the technical features expressed in the claims with functions or effects. The specific embodiments of the function or effect described in the specification and the drawings and their equivalent embodiments determine the content of the technical features.

In the present case, it is needed to consider whether the functional definition of claim 7 has a description of the corresponding embodiment in the specification. In fact, the specification of the present invention mainly explains the technical solution of claim 7 by means of a method and a process, and does not relate to a specific implementation manner for realizing the functional limitation of claim 7, and claim 7 protects a terminal device. The product structure of the terminal device is not described in the manual. Therefore, the scope of protection of claim 7 is unclear.

To determine whether the scope of protection of a patent application is clear and whether authorization can be obtained, it is needed to consider the date of application of the patent and the prior art prior to the filing date. With the rapid development of technology, more and more existing technologies are mastered by technicians in related fields. The technical solution of a patent application ten years ago may seem simpler and the scope of protection is very clear with the current standards. However, returning to the patent application date, the technical solution of the patent must seem simple: the scope of protection must be clear? The answer is no, because the patent examination process is based on the prior art before the filing date. Based on the judgment of whether the claims are clear, today's prior art is obviously more than the prior art before the patent filing date, and it is obviously inappropriate if it is reviewed by today's existing technical standards. Therefore, to determine whether a claim for a patent is clear, it must be combined with the patent application date and prior art prior to the filing date. Specifically, in this case, the application date of the patent in question is August 17, 2004. Then, if the scope of protection of claim 7 is clear, it should fully consider the application date of the patent in question and the prior art before the application date, but cannot be completely based. The existing technology mastered today is judged. At present, some of the people who support the scope of protection of claim 7 are clearly based on the existing technology they have mastered today. But this enlarges the scope of identification of the existing technology involved in patent cases. It does not conform to the relevant provisions of the Patent Law.

III. PATENT INFRINGEMENT LITIGATION STRATEGIES

For domestic enterprises, if they encounter patent infringement litigation disputes, they should calmly analyze and calmly respond. Don't be self-confident because they are facing the communication giant. In addition to actively responding to the lawsuit, they should also launch patents on the case. The invalid analysis, if the possibility of invalidation is very large, may file a patent invalidation request with the Patent Reexamination Board. If a patent is invalidated, its patent right does not exist from the beginning, and the corresponding litigation request has no supporting basis. If there is an infringement and the right to file a patent is very stable, you can actively negotiate with the patentee for permission and transfer, and you can refer to the license fee standard when the patentee grants the same patent right to others. Patent licenses in the field of information and communication often involve the licensing of standard

essential patents. For the license of the standard essential patent, it is necessary to confirm whether the patentee has a fair, reasonable and non-discriminatory license according to the FRAND principle. If the standard essential patent is not licensed in accordance with the FRAND principle, it may consider filing an antitrust lawsuit against the court.

IV. CONCLUSION

Standard essential patents refer to patents that must be used to implement technical standards. In the negotiation of licenses for standard essential patents, the negotiating parties should adhere to the principle of honesty and credit. If a patentee participates in the formulation of a standard or agrees to incorporate a patent into a national, industry or local standard, it is deemed that the patentee permits others to implement the patent while implementing the standard. The related acts of other people of execution do not belong to infringement of patent rights. The patentee may require the implementer to pay a certain usage fee, but the amount paid shall be significantly lower than the normal license fee. If the patentee promises to waive the royalties, it shall deal with it according to its commitment. In the standard essential patent case, the alleged infringer has negotiated with the patentee to negotiate the patent, because the patentee intentionally violates the fair, reasonable and non-discriminatory licensing obligations promised in the standard setting, resulting in If the patent implementation license contract is reached and the accused infringer has no obvious fault in the negotiation, the people's court generally does not support the patentee's claim to stop the implementation of the standard. The principle of good faith is the basic principle of civil law. The principle of honesty and credit has the dual meaning of ethics and legal norms. The principle of honesty and credit as the value of legal value is generally indirect and does not directly play the role of legal adjustment. The value judgment and methodological analysis of the principle of honesty and credit are permeated throughout the rights of trademark rights. In the case that the trademark law has made exhaustive provisions, judges should not directly regulate and determine the rights and obligations of trademarks based on the principle of good faith.

This topic has strong principles and legality. It is needed to get familiar with some laws and regulations. In actual case, it is needed to make a corresponding soft interpretation based on the principle of honesty and credit and the judicial guidance of pursuing substantive justice.

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