

The Business Negotiation Between Apple, Netflix and Samsung: An Interest-based Analysis

Jiaxin Li^{1,* †}, Jinze Song^{2, †}, Chu Wang^{3, †}

¹ *CBC Hefei No.1, Hefei, 23000, China*

² *Newchance, Malvern College Qingdao, Qingdao, 250001, China*

³ *The Quarry Lane School, Zhengzhou, 450000, China*

**Corresponding author. Email: guanghua.ren@gecacademy.cn*

†These authors contributed equally.

ABSTRACT

Business negotiation plays an essential role in nowadays business world. Regardless of the business scale and industrial sector, every enterprise is required to come up with appropriate negotiation strategies to maximize its interests. This paper conducts two case studies between Apple, Samsung and Netflix to discuss how interest-based negotiation tactics are applied in the nowadays competitive technology field. For the first case, it reviews the patent dispute between Samsung and Apple and manifests that why interest-based negotiation strategies may not be applicable. As for the second case, it reviews the negotiation case between Apple and Netflix and delineates that how Apple has enhanced its strategies to reach a win-win situation. Following the above analysis and pertinent strategic negotiation models, the negotiation tactics of Apple are further discussed concerning how the interest-based negotiation approach can help obtain more competitive advantages. The findings of this study prove the significance of interest-based negotiation strategies and call for adopting an agile mindset when facing uncertainties during the business negotiation process. The results of the study are expected to shed light on the ensuing strategic business negotiations' theoretical development and practices.

Keywords: *Business negotiation, Patent negotiation, Interest-based approach, Apple, Netflix, Samsung.*

1. INTRODUCTION

Business negotiation is a process between two or more parties or commercial organizations, aiming to find a common ground and to reach an agreement to solve mutual concerns for the participants. In other cases, business negotiation also denotes a process to address a conflict or disagreement. In most negotiation scenarios, each party involved in such a process would have its objectives, needs and wants. In other words, they usually have distinct invested interests [1].

During the business negotiation process, negotiation strategies and skills are crucial to determine the ultimate result of the negotiation [2]. An appropriately applied negotiation strategy together with efficacious negotiation skills would essentially contribute to the success of the business negotiation. In line with strategic negotiation theory, the negotiation should be designed based on different stages including 1) preparation and planning; 2) search for the common ground; 3) clarification for the needs. 4) bargaining and problem-

solving; and finally, 5) closing, conduction and reflection [2].

In the commercial and business world, interest-based negotiation theory, or mediation strategy, is one of the most frequently adopted strategies. Nevertheless, this strategy may not always work uniformly in every situation, which calls for further investigation [1].

Nowadays, technological companies have become more and more considerable and essential in the business field, and Apple company as one of the most successful one has already been involved in multiple business negotiation cases and gained academic attention [3]. This study would therefore select the case of Apple as the focal point. More specifically, this study probes how Apple negotiate with Samsung and Netflix to show how interest-based strategy would functionalize in distinct scenarios. The reflection of this study would then make contributions to the strategic negotiation field.

As an introduction to the parties included in the case study, Apple, one of the world's most successful tech companies, was founded by Steve Jobs in 1976. It is now based in California, the USA with over 120,000 staff globally. Apple is also one of the world's greatest manufacturers for mobile phones, computers and other pertinent services and platforms and software. Its renowned products comprise iPhone, iPad, iMac, Apple TV, iWatch and related software such as Apple Pay, and IOS System. Up to date, Apple is the world's most valuable listed Technology company with the highest brand equity as well.

As the market power of Apple dramatically increased in the past decade, multiple business negotiation cases occurred to it. The cases between Samsung and Netflix, however, are the most representative ones to reflect Apple's business negotiation practices.

To be more specific, Apple and Samsung have ever been faced several patent disputes starting from the year 2011. This array of patent negotiations can be deemed as the typical business case of strategic negotiation and thus obtain great academic attention as well. Massive lawsuits and legal cases are made over the world, which has become the headlines in many news reports as well.

About another negotiation case with Netflix, it is also a very controversial one that gained much public attention. This case occurs due to the unreasonable licensing fees charged by Apple. Thus, Apple and Netflix made numerous negotiations toward reaching a common ground. To date, it can be seen that some of the lawsuits and still existing, making these cases complex and worthwhile to be reflected.

Hence, it can be said that the included two cases in this study are of great significance for both practitioners and academics to generate related insights. More specifically, the results of the study would help investigate how interest-based negotiation tactics can be better applied in the contemporary business world. The implications for future studies are also put forward in this article as well. In the following sections, the two cases are respectively reviewed, followed by a discussion in light of interest-based negotiation theory.

2. THE CASE BETWEEN APPLE AND SAMSUNG

Samsung is a South Korean company that is one of the world's largest producers of electronic devices. It specializes in the production of a wide variety of consumer and industry electronics, including computers, smartphones, digital media devices and other electronic appliances. It has become one of the most recognizable names in technology and produces about a fifth of South Korea's total exports. Moreover, it was Apple's largest supplier.

The dispute between Apple and Samsung happened firstly because that the Galaxy Phone Series issued by Samsung has a very similar product appearance to the iPhone. At that time, Samsung has been accused that it imitated the outlook designed by Apple, which costs Apple billions of US dollars to make such a popular product design [3]. To make combat and respond to such a violation of product appearance patent, Apple decided to make a lawsuit against Samsung in the year 2011, requiring Samsung to stop selling Galaxy Phone and pay patent violation penalties [4].

However, Samsung insisted that it did not copy Apple's patents. Instead, Apple was countersued by Samsung for many violations of Samsung's telecommunication, mobile and chip technology patents. This patent war was readily heated in the following 5 months. Starting from the first lawsuit, over fifty lawsuits are put forward by both Apple and Samsung in the global markets including the US, China, Japan and the European countries [5]. Until the end of the year 2012, the total value of these lawsuits is more than a trillion US dollars [3]. Not only for that, but this news has also become a public issue that keeps impacts on both companies' public image and reputation.

Interestingly, these lawsuits, have received distinct verdicts in different parts of the world. For instance, in the US courts, Apple obtained more supports and favors [6]. However, in other places especially in those Asian countries like Korea, Samsung won more cases than Apple [5].

Yet, taking all the lawsuits into the consideration, it cannot be called a preferable ending for both sides, because tremendous financial and time investment had been made in these disputes. More than that, such a long-term seesaw battle also generates negative impacts on the perceptions of their consumers and the public. Hence, it is necessary to examine why the interest-based approach did not work for this patent dispute [7].

3. THE CASE BETWEEN APPLE AND NETFLIX

The case between Netflix and Apple is another controversial one being worthy of discussion. As an introduction, Netflix is a US company that is also the world's top provider of streaming movies and television, with more than 2 million subscribers in around 200 areas and countries. Netflix, to date, has been in a leading position in streaming services, with a comparison of its competitors such as Disney+, Amazon Prime Video and HBO [8].

To fund their operations, online streaming companies such as Netflix, often rely on advertising or a subscription business model, or a combination of both. For example, customers can pay more for ad-free

streaming on Hulu's basic plan, which combines advertising and subscription fees [9].

By contrast, Netflix has adopted a revenue plan that is completely based on subscriptions. Customers may choose from three payment options that provide them access to both exclusive and non-exclusive TV series and movies that the firm has either created or licensed from the content owner. Netflix can invest in content through in-house production or license agreements with content suppliers thanks to subscription fees and cash raised through fresh debt offerings [9].

However, even though Netflix can make great money through its subscription services, it has to pay great commission fees to Apple. More specifically, Netflix made \$853 million on the iOS App Store in 2018, according to new figures from the company. Apple's profit would have been about \$256 million based on that calculation, according to the company. To date, the Netflix iOS app has earned more than \$1.5 billion in in-app subscription revenue, with Apple taking a \$450 million share [10].

In this context, to avoid paying such a high amount of "Apple Tax", Netflix experimented with bypassing iTunes billing in hundreds of locations across the world. Netflix, the top-grossing app on the App Store, has removed the option for new users to join up and subscribe to the streaming service via its iOS app in all worldwide countries as of 2018 [10].

If the test is successful and finally implemented in the market, Apple would lose millions of dollars in App Store income each year as a result of such the move by Netflix, the revenue it would have gotten otherwise as a percentage of in-app sales. In this scenario, Apple started its negotiation with Netflix and tried to find a solution that can benefit both sides [10].

The results look like a happy ending for both, as finally, they agreed that Netflix would continue to use the payment system of Apple while Apple would provide more services for Netflix [9]. As can be seen from their financial results, both companies have made huge progress after this deal. Therefore, it would be implicative to review why the mediation approach well functioned between Netflix and Apple.

4. DISCUSSION OF CASES IN LIGHT OF INTEREST-BASED NEGOTIATION STRATEGY

In this section, the analysis is made to discuss how Apple performed in two cases in line with interest-based negotiation theory. To begin with, as for the negotiation process between Apple and Samsung, back in April 2011, as soon as Apple had filed a lawsuit accusing Samsung of copying the "look and feel" of the iPhone when the Korean company created its Galaxy line of

phones [5]. Samsung counterclaims against Apple for not paying royalties for using its wireless transmission technology [7].

During the process of negotiation, the two companies have repeatedly accused each other of copying the appearance and functions of their smart phones and tablet devices [6]. To avoid going to court, the two companies have shown some willingness to compromise: on the advice of a California court, they have halved the number of patents in dispute [6]. But just as the CEOs sat down to meditate at the urging of the court, Apple moved a motion asking the trial judge to ban the sale of the Samsung Galaxy Tab 10.1 because the tablet was designed to "mirror" Apple's second-generation iPad [6,7].

At that time, both sides claimed that they wanted to avoid a lawsuit. Given that Samsung is one of Apple's largest suppliers, both companies have a strong incentive to get out of the dispute and build a continuing partnership. However, in late May, two days of mediation talks between the two CEOs ended in a stalemate, with both sides refusing to give up their arguments. Apple won more than \$409 million in two subsequent court sessions. However, the cost is that the partnership between Apple and Samsung has been destroyed.

As a result, it can be found that Apple's interest is to restore sales and protect product copyright, while Samsung's main interest is to protect the company's reputation and keep the sale of products. Unfortunately, during the negotiation process, they only stick to their positions with looking for common ground.

Furthermore, even though Apple uses mediation as a negotiation skill, which is included in interest-based negotiation, Apple believes that its interests, that is, the copyright of its products, have been seriously damaged, and strongly demands that Samsung remove all related products.

Consequently, Samsung's main interest has also been damaged. In this case, both parties feel that their interests have been seriously damaged, they don't want to mediate. Mediation as a dispute resolution technique between business negotiators is far less likely to succeed when the parties are grudging participants than when they are actively engaged in finding a solution [11]. mediation does not work. Moreover, the longer they spend fighting each other, the more contentious and uncooperative they are likely to become. Finally, the previous cooperation between Samsung and Apple has been significantly broken.

Accordingly, it is obvious that although Apple company firstly utilized mediation as an interest-based negotiation skill, both Apple and Samsung consider their own interests which cannot be changed instead of common interest. As a result, the negotiation had no

deal. When both sides merely consider their interests/positions, interest-based bargaining cannot work [12].

Overall, if Apple is willing to have deal with Samsung, it cannot concern too much about its interest but creating options for both interests. They all have a common interest, which is to protect the company's interests and form long-term cooperation. If both sides create an option through this common interest, this business negotiation should have a deal. So, in this case, interest-based bargaining is not the best negotiation strategy used, because although their common interest is important, both sides have unchangeable and other more essential interests. Accordingly, distributive bargaining theory or position-based negotiation theory are likely to be used successfully.

By contrast, as for the case related to Apple and Netflix, the results seem to be more positive. Back in February 2018, Netflix wanted to test a new way to charge a monthly subscription fee from consumers in Apple Store so they can avoid the 15 to 30 percent cut by Apple. Since Netflix was one of the top-grossing apps in App Store, Apple sent a negotiation group to Netflix to discuss this topic.

Using the interest-based approach, it can be found that Apple's position is to force Netflix to stop the test and let their consumers continue to pay within the App. Their interest is to charge a 15 to 30 percent cut of the purchase which Netflix wants to avoid. The position of Netflix is to develop a new way to charge their users to gain all the subscription fees. In consequence, Netflix's interest is to lower the cost so they can have more revenue [9].

To achieve their interests, Apple decided to take mild cooperative measures to reach a common ground with Netflix before the negotiation. During the negotiation, Apple had lots of creative ideas as bargaining power. One of the ideas was that apple could offer Netflix the "custom APIs", or non-public software to allow it to build systems to modify Apple subscriptions, handle-free trials or extend auto-renew dates [10].

Apple would also be willing to build features based directly on Netflix requests. Other than that, Apple can provide free promotions of Netflix inside Apple's App Store to increase the download volume of their app. Meanwhile, during the negotiation, Apple expressed its willingness to deepen its partnership with Netflix, including using Netflix's commission that Apple collects to buy App Store search ads to drive downloads and bundling Netflix along with other Apple services [8].

At the end of the negotiation, Netflix agreed on the proposal of free promotion plan made by Apple and continues to charge within the Netflix app. In contrast to

the case of Samsung, the negotiation between Apple and Netflix was more successful for Apple because they achieved their best interests shortly after the dispute.

5. CONCLUSION

Technology is currently experiencing rapid development, manifested by the rise of many technology companies. Apple, as one of the most successful technology companies, has been widely considered by the academic field and thereby included in this case study as the focal point to implicate strategic business negotiation. To sum up, this article analyzes the business negotiation process between Apple, Samsung and Netflix.

More specifically, this study, referring to the interest-based bargaining theory, reviewing how Apple negotiates with Samsung and Netflix in terms of patent and payment disputes. It is found that although Apple has harnessed interest-based bargaining and mediation strategy in both cases, the results are different. Based on this analysis, it can be argued that it is impossible to reach an agreement when Apple only concerns about its important interests instead of considering others' interests without making any compromise.

Therefore, as a general reflection of this review and analysis, the interest-based approach should never be only regarding one party but all parties in the negotiation process. The determinant of whether such negotiation can be successful is dependent on whether their interests are clearly listed and openly discussed.

More than that, the interest-based negotiation approach should also take costs (e.g. time and money), impacts on its public image and long-term relationship with its business partners into consideration. Even for Apple is undoubtedly the market leader, it cannot survive individually without the supports from those service providers and developers. As a whole, the design of the interest-based negotiation process should always fully appraise all of the potentially influential factors before the conduction of the negotiation.

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