

Personal Tech

Huawei faces UK sales ban if it doesn't cough up 4G patent tithes

Sort it out or get a slap, warns High Court judge

5 Apr 2017 at 18:42, Gareth Corfield



Huawei may be barred from flogging its smartphones in the UK after Unwired Planet International chalked up a convincing win in a long-running patent infringement lawsuit.

The High Court of England and Wales today ruled that Huawei must pay Unwired licensing fees for using Unwired's patented intellectual property in 4G handsets. If the Chinese giant fails to whip out its wallet, the court reserves the power to halt sales of its mobile phones.

Having acquired the patents from Ericsson, Unwired approached technology companies including Huawei. It was said that Huawei, having previously licensed the same technology from Ericsson, ought to have known that it needed to sort out a licensing arrangement with Unwired.



The patents are considered essential to implementing established communications standards. Thus, the royalty rates payable must be fair, reasonable and non-discriminatory – FRAND, in other words. Huawei originally offered to stump up 0.034 per cent of revenues on 4G equipment, while Unwired wanted 1.69 per cent on 4G handsets and 2.29 per cent on Huawei's cellular network equipment.

The judge ruled that neither Unwired's demands nor Huawei's counter-offers were FRAND.

Following some fiendish math and esoteric economics (from [page 47 onwards](#) of Mr Justice Birss' judgment), the court decided to award Unwired 0.051 per cent on 4G equipment and 0.052 per cent on handsets, with rates of 0.032 per cent on 3G mobes, 0.016 per cent on 3G infrastructure, and similar rates on 2G kit and phones.

The judgment also set FRAND licensing rates between Huawei and Unwired for the rest of

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"Were it not for the fact that Huawei did not engage with the terms of the worldwide draft," said the judge, referring to Unwired's proposed worldwide licensing terms, "I would have been able to hand down this judgment with the worldwide terms fully settled. That has not proved possible."

EIP Legal, which represents Unwired, said Huawei could be banned from selling its gear in Blighty if it doesn't play ball.

"The latest judgment, which sets out the basis on which Unwired Planet will be compensated for Huawei's past infringements, also makes clear that unless Huawei agree to enter into a worldwide licence for Unwired Planet's patent portfolio, Huawei could be enjoined from selling its mobile telephones in the UK," the lawyers said in a [statement](#) today.

A Huawei spokesman chipped in: "We welcome the decision by the court that Unwired Planet's royalty rate demands have been found to be unreasonable. Huawei is still evaluating the decision as well as its possible next steps. Huawei does not believe that this decision will adversely affect its global business operations." ®

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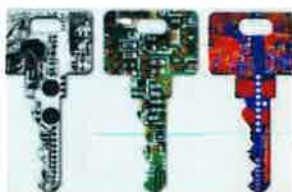
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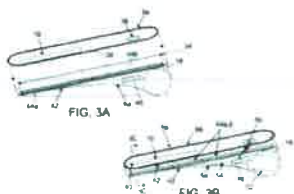
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