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The jury’s verdict of the District Court of Northern California of August 2012 ordering Samsung to pay 830 million euros in damages for the infringement of Apple’s patents and designs is just another instalment in the Patent Wars saga in which these two giants of mobile communications devices are currently immersed.

This true “technological world war” began in early 2011 when Apple sued Samsung in the Northern District of California. Since then, the legal battle between the two companies has resulted in more than 50 trials, extending to a dozen countries in four continents.

Unlike other patent infringement cases in the ICT sector, such as NTP against the Blackberry devices manufacturer RIM, where the plaintiff was a so-called “non-practicing entity”, or the closest case of the catalan company Fractus against Samsung (where the asymmetry between the plaintiff and the defendant is equivalent to that of David and Goliath), in this case there are two Goliaths competing with all their available resources to gain greater market share in the smartphones and tablets sector.
Therefore, it is not unusual that Apple has accused Samsung star products such as Galaxy S smartphones, also called iPhone killers, or tablets such as the Galaxy Tab, of infringement of its intellectual property rights. Samsung, in turn, has hit back in certain countries accusing the iPhone 4S of infringement of Samsung patents concerning the WCDMA standard.

It should not be forgotten that Apple’s attack against Samsung is also an attack against Google’s Android operating system, present in Samsung devices, which poses a threat to Apple’s hegemony in this sector.

Certainly, the dimensions of this case, as far as the damages are concerned, already exceed the NTP against RIM case, so far the reference case within the ICT sector. In that occasion, the conflict took on political overtones as it threatened to leave American members of Congress without Blackberry service, and was eventually settled with the payment of 480 million euros by RIM. In the case of Samsung, the compensation for damages could be multiplied up to three times because the jury has determined that Samsung was fully aware of the infringement. This is now in the hands of the judge.

Obviously, each player in this chess game has to make a move. On the one hand, Samsung will try to delay the payment of the fine imposed and shall lodge an appeal before the Court of Appeal of the Federal Circuit to show that Samsung does not violate Apple patents and designs, or even that they are not valid. In this respect, it is surprising that Samsung has not chosen to request re-examination proceedings of Apple’s patents before the United States Patent and Trademark Office to try to invalidate them in the register, parallel to civil actions.

On the other hand, Apple will try to weaken his opponent and force him to negotiate an agreement, for example by requesting injunctions to stop sales of infringing products in the United States. In fact, Apple has not wasted its time and has filed a new lawsuit —dated August 31!— accusing fifteen new Samsung products of patent infringement. Those products include, of course, best sellers such as the Galaxy S III or the Galaxy Note.
Nothing seems to suggest that the patent war between Apple and Samsung is close to an end. In fact, if we consider that Samsung has filed 3,000 new patent applications in the United States in 2012, and Apple more than 500, it seems that these two technological giants are preparing themselves for the next battle.

In any case, regardless of who the final winner is, it cannot be denied that the impact of news like this recent verdict against Samsung makes us aware of the importance of protecting technology, with patents and other intellectual property rights, in a competitive sector such as ICT.

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