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**InfoCom outlines the role of ICT patents in the future of competition and how the battle for supremacy in the ICT industry now goes beyond competition on products and services.**

**Patents used as way to cripple competition — Patent acquisitions ramping up — Patent pools seen as a way to break concentration of patent ownership.**

Stuttgart, Germany — While patent litigation among ICT companies is not new, nowadays this is one of the cards that companies with relatively deep pockets like to play to cripple competition by, for instance, requesting a court to ban sales of a product, which requires that patent. Recently, patent litigations among ICT companies have escalated as ICT giants engage in lawsuits and countersuits with mobile technologies, mobile devices, and mobile-related services and applications.

As a matter of fact, the battle for supremacy in the ICT industry now goes beyond competition on products and services. Patent disputes demonstrate how these intangible assets can be instrumental to disable the competition in this crowded industry. As a consequence, in 2011 and 2012, the industry saw some major ICT players ramping up their patent acquisition activities in order to use patents either as a defensive tool to strengthen their case in the litigations or as an expedient to attack their rivals.

Joining patent pools – composed of several companies that agree to cross-license specific patents – may become an effective strategy to avoid exorbitant litigation costs and expensive royalties and licensing fees. Patent pools help break the concentration of patent ownership in the hands of a single company and lessen the chances of an entity using the patents for litigation.

A patent pool brings together the essential patents of multiple players into a single offering. A Patent Pool Agreement usually entails access to all of the patents from the participating licensors allowing companies that manufacture or sell products implementing such patent to gain access to this patent portfolio through a single, cost-effective transaction. Recently, 2

patent pools emerged combining LTE-related patents. One pool was created in October 2012, around Via Licensing as patent pool administrator by AT&T, Deutsche Telekom, Hewlett-Packard, KDDI, NTT DoCoMo, SK Telecom, Telefónica, Telecom Italia and ZTE. In November, Sisvel SPA, an Italian company considered a patent troll, also created an LTE patent pool consisting of patents, among which from France Télécom, TDF and KPN as well as Cassidian and the China Academy of Telecommunication Technology.

Patent wars could become even more aggressive in the future as competition in the ICT industry, and particularly in the litigious wireless segment, becomes more cutthroat. But despite some prodigious patent acquisitions – for instance, the 17000 patents that Google acquired through Motorola's acquisition - companies may not fully cover all areas. Therefore, patent pools may be a successful strategy to break the concentration of patent ownership in the hands of a single company and lessen the chances of an entity using patents as tools to distort competition.

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