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VP8 Related Litigation Status Snapshot
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Abstract

There remains a great deal of confusion in the industry about the state of patent litigation and IPR disclosures around VP8. To facilitate greater understanding, Duane Morris LLP drafted a paper that summarizes the current state of disclosures and patent litigation based on publically available materials and posted this comprehensive report on the Internet. This Internet Draft provides a high level summary of that report. Cisco Systems requested and funded Duane Morris to prepare this report.

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[1.](#) Introduction

There remains a great deal of confusion in the industry about the state of patent litigation and IPR disclosures around VP8. To facilitate greater understanding, Duane Morris LLP drafted a report that summarizes the current state of disclosures and litigation based on publically available materials, and has posted the report on the Internet [[DM](#)].

The report is based on press releases, online reports, public court dockets and patent registrars. Duane Morris was not involved in any aspect of the litigation described in the report.

Cisco Systems requested and funded Duane Morris to prepare this report.

The information contained in the Duane Morris report [[DM](#)] is not intended to address the merits of any party's position; it is meant to provide an impartial summary of litigation known to relate to VP8.

For those that are intimidated by the length and legalese in the

Duane Morris report, this draft provides a high level summary. The report covers two main areas - first, it documents the known patent statements made against VP8 standards initiatives. The results are summarized in [Section 2](#). Secondly, it documents the current state of patent litigation around VP8, summarized in [Section 3](#).

[2](#). VP8-related IPR Statement or Declarations

VP8 "standard" initiatives exist in two places. The first is IETF [RFC 6386](#), and informational RFC that documents the VP8 bitstream format and decoder. The second is an ISO/IEC project called Video Coding for Browsers (VCB). The VCB project is looking to produce a formal standard around VP8.

Both IETF and ISO/IEC ask patent holders to submit patent statements and/or licensing declarations relevant to their respective work. [Section 2.1](#) summarizes patent statements against the IETF RFC for VP8, and [Section 2.2](#) against ISO/IEC VCB.

[2.1](#). IETF IPR Statements for [RFC 6386](#)

IETF Statements	Type	Note/Ref
Nokia	No License	[NOK1]
Ericcson	~RAND	[ERC1]
Google	~FRAND	[GOOG1]

Table 1 - IETF IPR Statements for VP8

IETF has received three IPR statements, enumerated in the table

above. RAND stands for "Reasonable and Non-Discriminatory" as an umbrella for a broad range of licenses that may incur a cost but are meant to enable practitioners to utilize the technology. FRAND stands for "Free under Reasonable and Non-Discriminatory," which is similar to RAND but with the important addition of being royalty free. "No license" means that the patent holder is not willing to license the technology for use in the related specification.

2.2. ISO/IEC IPR Declarations for Video Coding for Browser (VCB)

ISO/IEC Declarations	Type	Note/Ref
Google	1 (~FRAND)	[GOOG2]
Microsoft	2 (~RAND)	[MSFT1]
Nokia	3 (no license)	Note 1

Table 2 - ISO/IEC IPR Declarations for VP8

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Table 2 summarizes the state of IPR declarations against the ISO/IEC draft standard for VCB.

Note 1: The Nokia declaration to ISO/IEC, document M34971, was announced on the IETF RTCweb mail list and is included in this summary for completeness sake. This Nokia declaration has not been posted to the public IEC web site (patents.iec.ch) as of this draft's date and does not appear in the Duane Morris paper [[DM](#)].

3. VP8 Related Litigation

VP8 Related Litigation	Status	Note/Ref
Nokia v HTC - Germany	Settlement \$\$	Note 2
Nokia v HTC - US-ITC	Settlement \$\$	Note 3

Table 3 - VP8 Related Litigation

Table 3 summarizes the publically available cases of litigation against VP8. There are three cases, two of which have settled for an undisclosed monetary amount. A third case was recently filed.

Note 2: The German court suspended the '881 Patent infringement case to allow the invalidity case to proceed first, which happens in a separate court. The German court dismissed the '177 Patent infringement case. Before any decisions on the '881 Patent, Nokia and HTC submitted a joint motion to terminate the infringement and invalidity cases based upon their reaching a global "settlement" on all then-pending patent litigation, which included HTC payments of an undisclosed amount to Nokia. This motion was granted.

Note 3: The US-ITC did not issue a ruling on the alleged infringement or invalidity of the '211 Patent. Instead, Nokia and HTC submitted a joint motion to terminate the investigation based upon their reaching a global "settlement" on all then-pending patent litigation, which included HTC payments of an undisclosed amount to Nokia. This motion was granted, concluding the US-ITC's investigation.

Note 4: This lawsuit was recently brought against Google for the infringement of VSL's '339 Patent in its products such as VP8, VP9, WebM, YouTube.com, etc.

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[4.](#) IANA Considerations

There are no IANA considerations for this document.

[5.](#) Security Considerations

There are no Security considerations for this document.

6. References

6.1. Normative References

6.2. Informative References

- [DM] Duane Morris, LLP., "Summary of Known Patent Litigation Related to VP8," October 27, 2014, <<http://www.duanemorris.com/memo/VP8Compilation.pdf>>.
- [ERC1] LM Ericsson, "Telefonaktiebolaget LM Ericsson (publ)'s Statement about IPR related to [RFC 6386](#)," May 14, 2014, <<https://datatracker.ietf.org/ipr/2360/>>
- [G00G1] Google Inc., "Google Inc's Statement of IPR Related to [draft-bankoski-vp8-bitstream-02.](#)," May 18, 2011, <<https://datatracker.ietf.org/ipr/1571/>>
- [G00G2] Google Inc., "Patent Statement and Licensing Declaration for ISO/IEC 14496-31," June 30, 2014, <[http://patents.iec.ch/TISS/Patents.nsf/0/CEEA7ED83FDA0FA5C1257D4E0032B62E/\\$file/isoiec14996-31.pdf](http://patents.iec.ch/TISS/Patents.nsf/0/CEEA7ED83FDA0FA5C1257D4E0032B62E/$file/isoiec14996-31.pdf)>
- [MSFT1] Microsoft Corporation, "Patent Statement and Licensing Declaration for ISO/IEC 14496-31," July 9, 2014, <[http://patents.iec.ch/TISS/Patents.nsf/0/18BD602F5BC9BEE4C1257D4E003182CE/\\$file/ISOIEC14496-31.pdf](http://patents.iec.ch/TISS/Patents.nsf/0/18BD602F5BC9BEE4C1257D4E003182CE/$file/ISOIEC14496-31.pdf)>
- [NOK1] Nokia Corporation, "Nokia Corporation's Statement about IPR related to [RFC 6386](#)," March 21, 2013, <<https://datatracker.ietf.org/ipr/2035/>>

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