Apple and Microsoft have accused Google of infringing a number of their patents in Google’s Android operating system (OS). In order to right the wrong that Apple and Microsoft feel Google has done, both companies have sued Google and the smartphone manufacturers that use Google’s Android OS. Google claims that they have not infringed any patents, that they are suing using vague patents that should not have been issued to them in the first place, and that the suits are anticompetitive in nature by trying to stifle the success that Android has had in the mobile industry. On August 15th, 2011, Google acquired Motorola Mobility, with its 17,000 patents, to help defend Google and the other companies using its Android OS from what it sees as wrongful litigation. Media outlets differ on the purpose of the acquisition. Forbes believes the purchase of Motorola Mobility is an attempt by Google to cover for infringing Apple and Microsoft’s patents because Google has a track record of infringing patents, and attacks Google’s reputation by calling Google hypocritical for complaining about other companies being anticompetitive through their patent suits. The Financial Times, The New York Times, Fortune, The Economist, and the Wall Street Journal all believe the acquisition was made by Google to defend the company from weaknesses in the patent system that allowed Microsoft and Apple to sue Google based on vague and improperly issued patents.

Forbes believes the purchase of Motorola Mobility is an attempt by Google to cover for infringing Apple and Microsoft’s patents by citing Google’s patent infringement history, and attacks Google’s reputation by calling Google hypocritical for complaining about other companies being anticompetitive through their patent suits. In the article “Why Google’s Motorola Patent Play Backfires,” the author, Scott Cleland, refers to Google as a “property
scofflaw,” stating Google has flaunted the law in the past by copying and indexing 15 million copyrighted books for its Google Books service, allowing hundreds of thousands of copyrighted videos on Youtube, and using patented Java code in its Android OS. Cleland cites these infringements as evidence that Google has taken advantage of the patent system in the past by infringing first, and using their vast resources to cover lawsuits and licensing fees later. Cleland sees the Motorola purchase as just another attempt by Google to get away with patent infringement. Cleland reinforces his idea that Google is at fault by using bold text to enforce his idea that Google is “obstructing justice,” by trying to get away with mass patent infringements through acquiring Motorola Mobility and its 17,000 patents. Cleland attacks Google’s reputation, stating that “Google is making the classic mistake of throwing stones from a glass house” using the idiom to vilify Google for complaining that companies who are using their patents for patent infringement suits are anticompetitive, when Google has historically been anticompetitive by ignoring other companies’ patents. Forbes strong opinion underlies a support for the current patent system and patent holders, portraying Google as wrongly challenging the patent system, and characterizes Google’s cries of Apple and Microsoft as “anticompetitive” as hypocritical since the company is anticompetitive itself.

The Financial Times believes that Google’s acquisition of Motorola Mobility was made as a necessary defense from Apple and Microsoft using vague patents to accuse Google of patent infringement because they view Google as a younger company facing two established tech giants and as a victim of a mobile industry that is “at war.” The author of “Google needs more firepower in raging patent wars,” Richard Waters, states that “Google might have little choice but put its qualms aside and start fighting dirty,” implying that Google is a victim of the lawsuits in the mobile industry since it has “little choice” but to get involved in patent battles for its own
defense. Waters props up Apple and Microsoft as established tech giants with their significant patent holdings as opposed to the younger Google and the smartphone companies using Android who are “being left out in the cold” without the years needed to build up patent portfolios to defend themselves from the two veterans. Legal defense through patent ownership is where Waters sees the acquisition of Motorola Mobility as a way for Google to defend itself from lawsuits. The Financial Times calls into question the nature of the use of the patents as means of attacking a company for copyright infringement when Waters asks, “So where does a company’s justifiable defence[^1] of its IP rights end and unsupportable exploitation begin?” (Firepower).

This question implies that the Financial Times sees a need for a change in the patent system because Waters implies that there is an ethical line being crossed from exercising patent rights to defend innovation to using patents as a way to stifle competition. Another strategy that the Financial Times uses is employing combative terms throughout the article “Google pressed to enforce rights in patent war.” The words “patent war” are used in the title, along with many other terms and phrases, including: “mounting a counter attack,” “adversary,” “allies,” “arch-rival,” “clash,” and “arsenal.” The use of such terms creates an environment where Google needs to defend itself from an industry where legal attacks are in a war-like state in the mobile industry. The Financial Times sees Google’s acquisition as a sensible way for Google to protect itself in an industry which is rife with litigation over patents.

The New York Times sees Google’s purchase of Motorola Mobility as Google keeping up its defenses in an industry where lawsuits over patents are now the standard, and touches on the underlying problems in the patent system that have led to Google needing Motorola Mobility’s patents. In the article “A Bull Market in Tech Patents,” Steve Lohr states that “It now pays to sue over patents as a routine business practice.” Lohr implicates that the plaintiffs feel if
they have a way to profit from their competitors, while slowing down their competitors’ abilities to innovate, they will do so, which means that it is necessary for tech companies to have large patent portfolios to defend against potential patent infringement suits. This defensive strategy is affirmed in another article, “In the World of Wireless, It’s All About Patents,” when Herbert Hovenkamp, a professor of law at the University of Iowa, is quoted as saying, “The best way to fight a big portfolio of patents is to have your own big portfolio of patents,” before stating that that is exactly what Google is doing by acquiring Motorola Mobility. Lohr also discusses the potential legislation that aims to fix problems in the U.S. patent system, mentioning that the bill has been watered down and does not decrease the massive payouts that patent infringement suits bring, which would have lessened the benefit for companies such as Microsoft and Apple by suing Google. Additionally, Lohr refers to the removal of the provision which prevents firms from filing patent infringement claims in courts noted for awarding claims to the plaintiffs, which further decreases the effectiveness of the legislation. By stating that the legislation has been “scaled back” Lohr touches on the fact that there are issues with the current patent system, hinting that changes should be made without directly stating that the changes are needed. The New York Times sees the acquisition as a response to defend itself from problems in the patent system by stockpiling patents.

Fortune portrays the purchase of Motorola Mobility as a defense by Google to deal with problems in the patent system which allows for patents to be used offensively in order to gain a competitive advantage. In the article, “Why the mobile patent wars got so hot,” Daniel Roberts quotes Dennis Crouch, a professor of patent law at the University of Missouri, who states that “The whole idea in the smart phone business now is to puff yourself up in a way that wards off lawsuits.” This quote supports Roberts’s description of patent warfare as a strategy “game” in
which whoever has the most patents can stifle the competition and gain a competitive advantage. Crouch confirms this when he says, "The right to shut down or limit the operation of a competitor is especially valuable when parties are competing over platforms," which is what Apple and Microsoft are trying to do to Google’s Android OS. Roberts believes that the current system is problematic, because it makes it harder for technology companies to innovate when financially damaging patent infringement suits are common. Roberts’ opinion is apparent when he refers to the litigation as a “legal morass,” meaning it is holding back the industry. Fortune sees Google acquiring Motorola Mobility as a method for the company to defend itself from the constant threat of patent infringement in the mobile industry, which is using patents as business tools in a game to dominate the smartphone industry.

The Economist views Google’s acquisition of Motorola Mobility as a defense against serious flaws in the patent system, which has allowed frivolous lawsuits to occur due to lower standards for issuing patents, and furthers their argument by stating the need for patent reform. In the article “Inventive Warfare,” The Economist states that “it is not always clear precisely which inventions a patent covers,” indicating that there are grounds for dispute over whether or not infringement is occurring in technologies, which is essentially the argument that Google is making to refute Apple and Microsoft’s patents. Additionally, the Economist cites the fact that “Such a backlog of applications built up at America’s patent office (now more than 1m, with a waiting time of around three years) that standards slipped,” and that “Dubious patents were granted.” The controversy revolves around patents being issued without enough specificity to determine what qualifies as infringement and what is a new technology. The issuing of these weak patents in the U.S. leads The Economist to believe that the acquisition was made to give Google greater leverage in negotiations in the current system by providing them with the patents
needed to defend against lawsuits based on these weak patents. The Economist goes on to support their argument that the patent system is the culprit that caused Google to purchase Motorola Mobility, by posing three reforms that are needed in the article “Patent Medicine”: patents must be made shorter in fast moving industries like computing, the standard for issuing patents must be set higher, and better disclosure of patent portfolio ownership must be made. The Economist also adds that expert juries should be the ones to hear patent cases in court and the process of re-evaluating bad patents needs to be streamlined. The Economist believes that the system is the problem, and that Google purchasing Motorola Mobility is only a strategy for the company to protect itself from lawsuits stemming from bad patents owned by its competitors.

The Wall Street Journal views Google’s purchase of Motorola Mobility as a needed move to defend its Android OS from severe flaws in the U.S. patent system that have allowed companies like Apple and Microsoft to sue Google based on weak patents. Additionally, The Wall Street Journal believes the patent industry needs reform and attacks the patent lawsuits using strong language to claim the lawsuits stifle innovation. In the article “Google, Motorola and the Patent Wars,” L. Gordon Crovitz states that “It's a measure of the deeply dysfunctional U.S. patent system that the most sophisticated technology companies have been reduced to investing in patents to defend themselves from one another.” Calling the system deeply dysfunctional puts the onus directly on the patent system when it comes to the technology industry, which Crovitz argues needs reform. One suggestion the author poses is that a cease fire must be made between Apple, Microsoft, and Google because the companies are only holding back their own innovations by directing resources towards lawyers and patents rather than the technologies that they develop. Additionally, Crovitz states the need for the government to step in and reform patent law so technology patents are listed as they are in the pharmaceutical
industry, ensure that overbroad patents are not issued, and decide if software patents are actually beneficial. Crovitz begins by calling the patent system “broken” when describing the $12.5 billion cost to Google to acquire Motorola Mobility and its patents, a strong statement that immediately calls out the patent system that has allowed frivolous lawsuits to occur, which Crovitz argues is stifling innovation. The Wall Street Journal believes that Google’s acquisition of Motorola Mobility is an unfortunate necessity in the technology industry with the way patents are allowed to be used as offensive weapons and is strongly for the overhaul of patent law.

There is a difference of opinion about the purpose of Google’s acquisition of Motorola Mobility in the media outlets. Forbes believes the purchase of Motorola Mobility is an attempt by Google to cover for infringing Apple and Microsoft’s patents because Google has a track record of infringing patents, and attacks Google’s reputation by calling Google hypocritical for complaining about other companies being anticompetitive. The Financial Times, The New York Times, Fortune, The Economist, and the Wall Street Journal all agree the acquisition was made by Google to defend the company from weaknesses in the patent system. The common refrain throughout the different media outlets is that patents are making a huge influence in the mobile industry by costing firms billions of dollars to sue, defend, and countersue. More importantly, each media outlet, with the exception of Forbes which holds intellectual property rights most important, states the need for a change in how patents suits are being handled to promote innovation. The war over patents is only getting worse as Google, Apple, and Microsoft struggle to gain domination over the smartphone market. How the U.S. government decides to handle the patent system will decide whether it is patents or technology competition is most important to protecting the innovations of not just these corporate giants, but the small upstart technology companies that must compete against these industry giants and their legal armies.
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