



Licensing Executives Society
(U.S.A. and Canada), Inc.

IP Leaders Discuss the High Tech Evolution in Mobile Devices at the LES (USA & Canada) Winter Meeting in Silicon Valley

By Lydia Steck

The Licensing Executives Society (U.S.A. and Canada), Inc. Winter Meeting in Silicon Valley hosted an impressive line-up of Intellectual property executives, who participated in vibrant interactive panels discussions on key high tech developments. One such panel examined trends, opportunities and challenges for licensing professionals in the fast-paced mobile device arena.

For the panel, moderator Myra Moore of Digital Tech Consulting, Inc. was joined by panelists Jim Harlan of RIM, Sam Korte of Garmin, Niklas Ostman of Nokia and Eric Siow of Intel. The group quickly identified one of the key problems in today's mobile marketplace -- convergence. They agreed that a strong undercurrent of convergence is spurring a frenzy of litigation.

"The IP landscape is messy in this category, which is arguably today's hottest consumer technology product category," said Myra Moore. "Smart phones and tablets have more standards-based proprietary technology stuffed into them than any two gadgets ever made. Acquiring the rights to use these technologies is complicated and often times contentious. Just consider the red-hot litigation currently in play among companies like Apple, Nokia, Rim, Microsoft, Motorola, HTC and others."

A case in point was offered by Intel's Eric Siow who said that his company is currently working to avoid litigation down the road by developing a large-scale initiative 4G patent pool, which was born out of concern about convergence between cell phones and laptops. He said that while the cell phone space had traditionally been closely guarded, it's evolution into a consumer-based market has made for "interesting times." Sam Korte of Garmin agreed and reported that while his company's GPS device represents only 40% of revenues its patents are the subject of 100% of the company's litigation.

Convergence is also being seen in areas including the internet, handsets, traditional computing (laptops) and oem/device manufacturers where it is said to be causing a lot of friction and litigation centered around feature patents. There is also fierce competition from China, which had over 100 cell phone manufacturing companies in attendance at the recent Consumer Electronics Show in Las Vegas.

The panel discussion turned to patent pools, which are designed to encourage innovation by allowing new or small companies to purchase licenses from the pool rather than from large companies. But with more and more patents in each area and increasing convergence, the functioning of these pools is more complex than ever before. How do you divide proceeds amongst 20-30 companies? Panelist suggested that a better all-around solution might be traditional cross licensing, which may be easier said than done. Another suggestion was the development of pooling guidelines that would disallow pooling of competing technologies and instead offer separate pools for different technologies or perhaps pools for devices rather than single technologies. It was clear from the discussion that while the concept of patent pools may be one answer – it's clearly not THE answer.

The topic of non-practicing entities (NPE) also brought spirited discussion. When asked how NPEs are affecting the climate, panel members suggested that they seem to be increasing the level of litigation and that they're seeing new business models and strategies emerging. For instance, NPEs are pursuing customers rather than suppliers, and certain litigation driven opportunities are presenting themselves, such as RPX's defensive patent aggregation model.

There was also lively conversation between the audience and panel members on China, India and other BRIC countries. When asked what the panelists' companies were doing to help guide policies in these countries and what they expect to see in the future, one panel member said that part of his job is to meet with government representatives from these countries and to work on building alliances with trade and technology based organizations. Another panelist commented on the cultural differences when meeting with Chinese companies and indicated that very little gets done without the approval of the Chinese government. All agreed that China and India are the next markets on the horizon and that U.S. companies would be wise to monitor their progress.

In terms of predictions for the coming year, the panel agreed that there are likely to be better, cheaper devices and more litigation. "Attendees -- licensing folks and lawyers alike -- agreed that it's going to get worse before it gets better. The stakes are extremely high as all of the players jockey for market share position, and the demand for innovation for user interfaces, software, batteries and displays promises to keep the IP folks busy for years to come," said Moore.