



SEP/FRAND ROYALTIES ACROSS BORDERS

对比各地区的标准必要专利FRAND许可费率

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Examples of Court-Determined FRAND Rates

法庭裁定的FRAND许可费率案例

Case 案件	Region 地区	Tech 技术	FRAND Rate FRAND 许可费率
<i>Huawei v. Conversant</i> (2019)	China	2G, 3G, 4G	0-0.00225%
<i>Conversant v. Huawei</i> (2019)	U.K.	3G	0 (Invalid Patent 无效专利)
<i>TCL v. Ericsson</i> (2017)	U.S.	2G, 3G, 4G	0.09-0.45%
<i>Unwired Planet v. Huawei</i> (2017)	U.K.	2G, 3G, 4G	0.004-0.064%
<i>NDRC Qualcomm Investigation</i> (2015)	China	3G, 4G	3.5-5% (royalty base = 65% of net sales price 许可费计算基础 = 净售价的65%)
<i>Samsung v. Apple</i> (2014)	Japan	3G	0.00945% (royalty base = contribution of UTMS standard 许可费计算基础 = UTMS标准的贡献)
<i>Huawei v. IDC</i> (2013)	China	2G, 3G, 4G	≤ 0.019%

FRAND Rates Across Regions

跨地区FRAND许可费率

Unwired Planet v. Huawei (2017 UK)

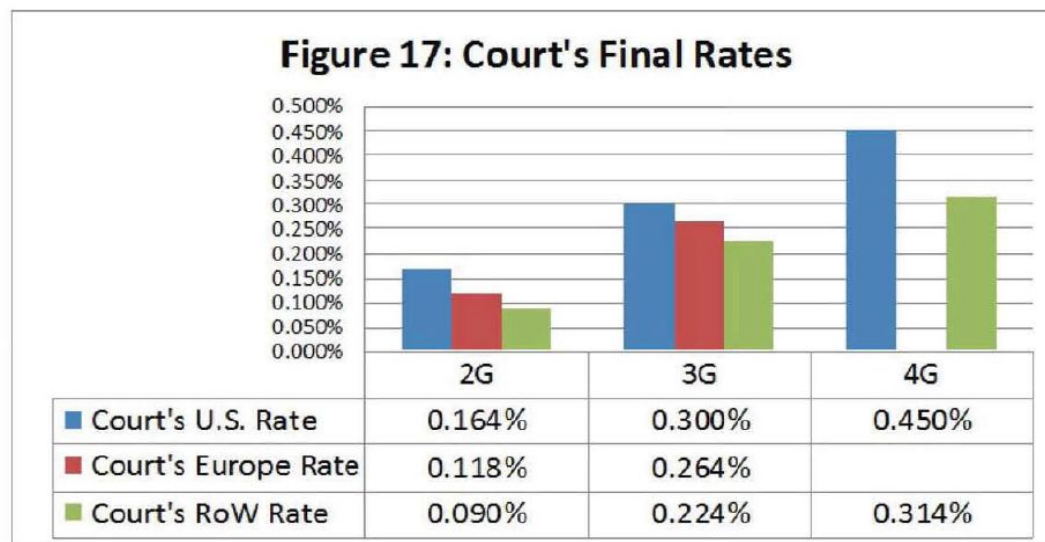
Unwired Planet FRAND rates for China					
<i>Handsets (3G and 4G are multimode)</i>					
	Benchmark rate	China benchmark (50%)	SEP families used to derive benchmark	Relevant SEP families in China	Rate for China
2G	0.064%	0.032%	2	1	0.016%
2G/3G	0.032%	0.016%	1	1	0.016%
2G/3G/4G	0.062%	0.031%	6	5	0.026%
<i>Infrastructure (not multimode)</i>					
2G	0.064%	0.032%	1	1	0.032%
3G	0.016%	0.008%	2	1	0.004%
4G	0.072%	0.036%	7	5	0.026%

Adjustment Factors 调整因子:

- “comparable licences show that rates are often lower in China than for the rest of the world”
具有可比性的许可协议表明中国的许可费率通常低于世界其他地区
- “Unwired Planet have fewer Relevant SEPs” in China
Unwired Planet 在中国拥有更少的相关标准必要专利
- “whether the Relevant SEP for 2G for China covers handsets rather than just infrastructure.”
中国2G的相关标准必要专利是否不仅涵盖基础设施,而且还涵盖手机设备

FRAND Rates Across Regions 跨地区FRAND许可费率

TCL v. Ericsson (2017 C.D. Cal.)









Adjustment factors 调整因子:

- Based on “Regional Strength Ratio”
基于“地区强度指数”
- “Ericsson’s portfolio is weaker outside the U.S.”
爱立信在美国以外的专利组合较弱
- “a global patent rate that does not account for differences in national patent strength provides the SEP owner a royalty based on features that are unpatented in many jurisdictions”
不考虑各国专利强度差距的全球性专利费率会包含一些在很多管辖区没有专利的特征的许可费

Similarities & Differences Across Regions

各地区相似与差异

		China 中国	U.K. 英国	U.S. 美国
	Apportionment specific to SEPs at issue? 利益分配是否针对有争议的SEP?	Yes	Yes	Yes
	Considers comparable licenses? 是否考虑具有可比性的许可协议?	Yes	Yes	Yes
	FRAND must be worldwide license? FRAND是否要求全球许可?	No	Yes	No
	Exclude all value from being included in standard? 是否排除标准带来的价值?	Yes	No	Yes
	“Top-Down” approach? 自上而下法?	Yes	Yes	Yes
	“Bottom-Up” approach? (e.g., hypothetical negotiation, citation analysis) 自下而上法?(例如假设性协商, 引用分析)	Not Yet	Not Yet	Yes

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