

Sisvel Wireless Licensing Program

Introduction

On January 12, 2012, Sisvel International S.A. (“Sisvel”) announced its acquisition of 47 patent families comprising of more than 500 patents and applications originally filed by Nokia. Thirty-three of the patent families, consisting of more than 350 patents and applications, have been declared essential to mobile communication technology standards such as ATSC, CDMA/CDMA2000, GSM/GPRS, LTE, OMA, UMTS and Wimax (“Sisvel Wireless SEPs”). Sisvel offers manufacturers and users of mobile communication devices licenses under these patents essential to second, third and fourth-generation communications standards including Global Systems for Mobile communications (GSM), Universal Mobile Telecommunications System (UMTS) and Long-Term Evolution (LTE).

With the growing end-user demand for more bandwidth and faster connectivity on the go, mobile telecommunication technology is nowadays a fundamental requirement for users of smartphones. Moreover, each year new devices (e.g. tablets, routers, cars) with mobile telecommunication capabilities emerge allowing customers to benefit from fast exchange of data. As a result, the market is willing to pay a value to obtain access to this useful technology.

Using the GSM, UMTS and LTE standards means profiting from years of investments, as well as the efforts of pioneering engineers and scientists, who deserve to be fairly compensated for the vast technological progress they achieved in the mobile telecommunication sector. This is also true for the owners of patents essential to these standards. At the same time, we believe that these attractive technologies should be available to implementers on fair, reasonable and non-discriminatory terms (“FRAND”) to promote a wider dissemination of these standards for the benefit of consumers and society at large. It all comes down to the need to achieve a fair balance between the interests of innovators and implementers and this is what we are aiming for with our present offer.

The Sisvel Wireless SEPs have been contributing to the 3G Joint Licensing Program and the LTE Patent Pool for which Sisvel acts as administrator. A license is offered respectively for the UMTS and LTE fields of use through these programs comprising of the essential patents of other patent owners. In addition, Sisvel offers a license under the Sisvel Wireless Licensing program, under which your company would be licensed for all fields of use for which the Sisvel Wireless SEPs have been considered essential with the ease of a single agreement under fair, reasonable and non-discriminatory terms (“FRAND”).

The royalty rates of the Sisvel Wireless Licensing Program are offered on a non-discriminatory basis to anyone who wants to benefit from implementing the patented technologies in their products, thus contributing to fair competition in the market. Our rates have been determined with a view to be considered as fair and reasonable compensation for the use of the patented technologies in the fields of use that are represented by the Sisvel Wireless SEPs and defined by the Sisvel Wireless License Agreement. As a matter of course, the same rates are offered to anyone we approach to conclude a License Agreement for the specified SEPs.

The royalty rate was determined based on customary and appropriate practices in the market and other comparable offerings for similar patent portfolios. Factors include, but are not limited to, the value that the patents contribute to the technology, the strength of the patents, enforcement actions to be taken in an effort to support a level playing field, the value attributed by consumers to the addition of the patented technology and - as a confirmation - a comparison with other licensing programs in similar technology areas.

The license is offered under the following royalty rate structure:

Table 1

Number of Licensed Products per calendar year	Standard Rate per unit	Compliant Rate per unit
From 1 to 500,000	EUR 0.14	EUR 0.11
From 500,001 to 2,500,000	EUR 0.10	EUR 0.075
From 2,500,001 to 5,000,000	EUR 0.075	EUR 0.06
5,000,001 and above	EUR 0.06	EUR 0.05

The Sisvel Wireless Licensing Program supports royalty rate determinations that capture the value of the technologies at stake and allow for an easy adoption of the license, including a straightforward calculation of the overall royalty due by each implementer thanks to its per unit royalty rate scheme.

To validate the FRAND offer of the Sisvel Wireless Patents, you may want to compare the rates of the Sisvel Wireless Patent License Agreement with those of other licensing programs in a similar technology space (a possible source for your assessment may be the following publication: *IPRA, Inc., "Royalty Rates For Technology – Computers and Communications – 3rd Edition", 2015*). When looking at other licensing programs mentioned in the afore-mentioned report, you can conclude that the royalty rate offered under the Sisvel Wireless Patent License Agreement happens to be very reasonable compared to the rates due under those other licensing programs. In the field of 3G and LTE, there are different actors actively offering licenses to their essential patents and have publicly announced their respective royalty rates. When these rates are applied against the average sales price of a smartphone¹, this results in the following comparison.

¹ According to Strategy Analytics the Average Sales Price (ASP) on wholesale level for smartphones globally has been USD 233 for 3G and USD 266 for LTE handsets in 2016. Applying the annual average EUR/USD exchange rate in 2016 (1.10656 – source: <https://www.ofx.com/en-au/forex-news/historical-exchange-rates/monthly-average-rates/>), results in a ASP of about EUR 210 and EUR 240, respectively.

Table 2

Company		Announced Royalty rate	Royalty Rate in EUR
Sipro W-CDMA Licensing program	3G	Minimum royalty rate offered through the lifetime of the license: 1 to 2,500,000: \$1.00 per unit 2,500,001 to 6,250,000: \$0.75 per unit 6,250,001 to 12,500,000: \$0.55 per unit 12,500,001 to 25,000,000: \$0.41 25,000,001 to 50,000,000: \$0.30 50,000,001 or more: \$0.22	EUR 0.90 – EUR 0.20
Qualcomm	3G	4-5% of product sales price	EUR 8.40- EUR 10.50
Qualcomm	4G	3.25% of product sales price	EUR 7.80
Motorola	3G/4G	2.25% of product sales price	EUR 5.40
Huawei	4G	1.5% of product sales price	EUR 3.60
Ericsson	4G	1.5% of product sales price	EUR 3.60
Nokia	4G	1.5% of product sales price	EUR 3.60
ZTE	4G	1% of product sales price	EUR 2.40
Siemens	4G	0.8% of product sales price	EUR 1.92

In a further effort to increase the transparency of its offer, Sisvel not only has been benchmarking the royalties determined as per above, with other comparable license offers, but also with court adjudicated royalties.