



Department of Justice

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STATEMENT OF THE DEPARTMENT OF JUSTICE ANTITRUST DIVISION ON ITS DECISION TO CLOSE ITS INVESTIGATION OF SAMSUNG'S USE OF ITS STANDARDS-ESSENTIAL PATENTS

WASHINGTON – The Department of Justice’s Antitrust Division issued the following statement today after announcing the closing of its investigation into Samsung Electronics Co. Ltd.’s use of its portfolio of standards-essential patents that it had committed to license to industry participants on fair, reasonable, and non-discriminatory terms (SEPs) to exclude certain Apple, Inc. products from the U.S. market:

“The Antitrust Division’s investigation focused on Samsung’s attempts to use its SEPs to obtain exclusion orders from the U.S. International Trade Commission (ITC) relating to certain iPhone and iPad models.

“As the Department of Justice and the Patent & Trademark Office (PTO) explained in their joint ‘Policy Statement on Remedies for Standards-Essential Patents Subject to Voluntary F/RAND Commitments,’ issued on Jan. 8, 2013, a number of competitive issues arise when holders of SEPs seek to block their competitors from selling products that implement the SEPs. While there are certain circumstances where an exclusion order as a remedy for infringement of such patents could be appropriate, in many cases there is a risk that the patent holder could use the threat of an exclusion order to obtain licensing terms that are more onerous than would be justified by the value of the technology itself, effectively exploiting the market power obtained through the standards-setting process.

“The U.S. Trade Representative (USTR) reviewed the exclusion order issued by the ITC against Apple at Samsung’s request and overturned it, determining that it was not consistent with the public interest. As a result of the USTR’s action, the Antitrust Division has determined that no further action is required at this time. The Antitrust Division is therefore closing its investigation into Samsung’s conduct, but will continue to monitor further developments in this area.

“Throughout the investigation, the Antitrust Division has worked closely and consulted frequently with its colleagues at the European Commission. This cooperation underscores the agencies’ common concerns over the potential harm to competition that can result from the anticompetitive use of SEPs.”

The Antitrust Division's Closing Statement Policy

The division provides this statement under its policy of issuing statements concerning the closing of investigations in appropriate cases. This statement is limited by the division's obligation to protect the confidentiality of certain information obtained in its investigations. As in most of its investigations, the division's evaluation has been highly fact-specific, and many of the relevant underlying facts are not public. Consequently, readers should not draw overly broad conclusions regarding how the division is likely in the future to analyze other collaborations or activities, or transactions involving particular firms. Enforcement decisions are made on a case-by-case basis, and the analysis and conclusions discussed in this statement do not bind the division in any future enforcement actions. Guidance on the division's policy regarding closing statements is available at www.justice.gov/atr/public/closing/index.html.

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