

EXHIBIT 24

Patent war goes nuclear: Microsoft, Apple-owned “Rockstar” sues Google

by Joe Mullin - Oct 31 2013, 8:10pm PDT



Canada-based telecom Nortel went bankrupt in 2009 and sold its biggest asset—a portfolio of more than 6,000 patents covering 4G wireless innovations and a range of technologies—at an auction in 2011.

Rockstar's reverse-engineering lab in Ottawa, Canada.

[Rockstar Consortium](#)

Google bid for the patents, but it didn't get them. Instead, the patents went to a group of competitors—Microsoft, Apple, RIM, Ericsson, and Sony—operating under the name "Rockstar Bidco." The companies together bid the [shocking](#) sum of \$4.5 billion.

Patent insiders knew that the Nortel portfolio was the patent equivalent of a nuclear stockpile: dangerous in the wrong hands, and a bit scary even if held by a "responsible" party.

This afternoon, that stockpile was finally used for what pretty much everyone suspected it would be used for—launching an all-out patent attack on Google and Android. The smartphone patent wars have been underway for a few years now, and the eight lawsuits filed in federal court today by [Rockstar Consortium](#) mean that the conflict just hit DEFCON 1.

Google probably knew this was coming. When it lost out in the Nortel auction, the company's top lawyer, David Drummond, [complained](#) that the Microsoft-Apple patent alliance was part of a "hostile, organized campaign against Android." Google's failure to get patents in the Nortel auction was seen as one of the [driving factors](#) in its \$12.5 billion purchase of Motorola in 2011.

Rockstar, meanwhile, was pretty unapologetic about embracing the "patent troll" business model. Most trolls, of course, aren't holding thousands of patents from gigantic technology companies. When Rockstar was [profiled](#) by *Wired* last year, about 25 of its 32 employees were former Nortel employees.

The suits filed today are against Google and seven companies that make Android smartphones: Asustek, HTC, Huawei, LG Electronics, Pantech, Samsung, and ZTE. The case was filed in the Eastern District of Texas, long considered a district friendly to patent plaintiffs.

The lawsuits

The [complaint](#) against Google involves six patents, all from the same patent "family." They're all titled "associative search engine" and list Richard Skillen and Prescott Livermore as inventors. The patents describe "an advertisement machine which provides advertisements to a user searching for desired information within a data network."

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The oldest patent in the case is US Patent No. [6,098,065](#), with a filing date of 1997, one year before Google was founded. The [newest patent](#) in the suit was filed in 2007 and granted in 2011.

The complaint tries to use the fact that Google bid for the patents as an extra point against the search giant. "Google subsequently increased its bid multiple times, ultimately bidding as high as \$4.4 billion," wrote Rockstar's lawyers. "That price was insufficient to win the auction, as a group led by the current shareholders of Rockstar purchased the portfolio for \$4.5 billion. Despite losing in its attempt to acquire the patents-in-suit at auction, Google has infringed and continues to infringe the patents-in-suit."

The suits against the six manufacturing companies each assert the same patents—either six or seven of them, depending on the target. The patents cover a variety of innovations and have different inventors. One [patent](#) filed in 1997 for a "navigation tool for graphical user interface" describes a way of navigating through electronic documents. Another describes an "Internet protocol filter," and a third patent describes an "integrated message center."

The manufacturer lawsuits name the targets' whole array of smartphones and tablets. The [lawsuit](#) against Huawei, for instance, claims the infringing products include "the Huawei M865 MUNE, Huawei Ascend II, and Huawei Premia 4G M931, and Huawei's family of tablets, including but not limited to the Huawei MediaPad and Huawei IDEOS S7 Slim."

Rockstar has employed two different law firms to file the suits; both firms have patent experience and experience litigating in the Eastern District of Texas. The Google search suit is being handled by Susman Godfrey, which has taken on other sue-the-world patent cases, like [Paul Allen's lawsuits](#) against Facebook, Google, and others.

The manufacturer suits, meanwhile, are being handled by McKool Smith, a formidable Texas law firm that has probably wrung more massive verdicts out of tech companies than any other firm. It scored [\\$368 million from Apple](#) for VirnetX, [\\$290 million from Microsoft](#) over i4i's XML patent, and most recently notched a [\\$173 million verdict](#) against Qualcomm.

The ultimate “patent privateer”

When *Wired* visited Rockstar's Ontario headquarters, it found 10 reverse-engineering experts, working daily to take apart products and find patent infringement. With just a few dozen employees, Rockstar is hoping to convince more than 100 technology companies to pay it patent licensing fees for a huge array of products. "Pretty much anyone out there is infringing," said Rockstar's CEO, John Veschi.

The Rockstar Consortium may be the ultimate example of patent "privateering"—when big companies hand off their patents to small shell companies to do the dirty work of suing their competitors. Essentially, it's patent trolling gone corporate.

The "privateering" phenomenon has long irked Google. In February, when Google [filed](#) a patent lawsuit against British Telecom, it said one of the reasons for the suit was that BT had not only sued Google directly, but it had also gone around "arming patent trolls."

Part of Rockstar's strategy is avoiding a patent countersuit by not having any operating businesses. Essentially, the company wants to enjoy the same advantage patent trolls have, even though it's owned by direct Google competitors like Apple and Microsoft.

"The principals have plausible deniability," said Thomas Ewing, an IP attorney who spoke to *Wired* about Rockstar. "They can say with a straight face: 'They're an independent company. We don't control them.' And there's some truth to that."

And Rockstar's CEO was quite straightforward about his belief that whatever promises Microsoft and Apple might have made about how they'll use their patents, those promises don't apply to Rockstar. "We are separate," he says. "That does not apply to us."

Rockstar may want to keep the patent conflict as a kind of "proxy war" between Google and its competitors. But Google has plenty of patents, and this new attack seems assured to bring a counterattack.

The smartphone market is more valuable than ever, and the \$4.5 billion Rockstar purchase shows that Google's competitors will spare no expense to put a damper on Android, and they hope to make money while they do it. Patents have become the arena in which tech companies have chosen to do battle. Six years after the iPhone and five years after the launch of Android, the stakes keep getting raised.