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## **Will the Patent Arms Race Affect RFID Deployments?**

In recent years, technology companies have placed a growing emphasis on patents. This summer, a consortium of six technology providers—Apple, EMC, Ericsson AB, Microsoft, Research in Motion and Sony—paid \$4.5 billion for some 6,000 patents held by Nortel Networks, the Canadian

telecommunications firm that filed for bankruptcy in 2009. In August, when Google announced plans to purchase Motorola Mobility for \$14 billion in cash, Google said one of the key drivers was Motorola Mobility's roughly 17,000 patents, as well as an additional 7,500 patents under government review.

So far, it has been largely wireless companies that have been battling over patents, because there's money to be made in the hot smartphone industry. Think mobile transactions, for example—payments made with cell phones based on Near-Field Communication technology.



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But other companies are suing each other over patent infringement with increasing frequency. And those that win patent-infringement lawsuits can earn millions in royalties. Microsoft, for example, receives a royalty from HTC for every Android phone HTC manufactures, and is seeking to win similar royalties from Samsung. Apple has sued Android phone makers.

One company that recently deployed an RFID asset-tracking system received a letter from a firm that describes itself as

“a technology research and patent licensing company.” The letter said its “patent portfolio consists of several thousand issued patents and pending applications throughout the United States, Europe and Asia”—and the research firm owns some of the patents used in the deployment and would like to discuss licensing.

Some RFID vendors have joined a patent pool to make licensing technology easier—a technology company seeking to use several patents in its RFID products would need to license the patents from the pool, instead of going to the individual companies. Other RFID vendors have signed an agreement with EPCglobal to offer their patents royalty-free, so the technology could be used in the EPC air-interface protocol standard without any license.

Still, any RFID project could be the subject of a patent-infringement lawsuit. And it’s likely the risk will only rise as RFID adoption increases. Here’s how companies can protect themselves:

- Ask your technology supplier to provide evidence that its technology does not infringe on another company’s patents.
- Have your patent attorney or an independent patent attorney review the material submitted by your RFID technology provider.
- If you’re submitting a patent application, have your patent attorney conduct a review to determine if there are any patents already on the application.

Some companies have taken patents out on applications such as using RFID for “monitoring care-giver performance,” “a method of monitoring an item,” “managing construction projects” and “presenting advertising content offline.” These companies might have no intention of using RFID; rather, it’s an effort to win royalties from those using RFID systems. To avoid having to pay royalties, do your due diligence up front.



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