



SHIMOKAJI & ASSOCIATES, P.C.

Intellectual Property Lawyers
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NEWSLETTER

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We specialize in the litigation and registration of patent, trademark, and copyright matters. The clients we serve range from start-ups to Fortune 500 companies, government entities, and universities. Though located in the US, our expertise and representation has an emphasis in Asia.

— LATEST NEWS & EVENTS —

Google Beats Android Trademark Infringement Lawsuit

Android Data received a US trademark in 2002. However, the business went under in the dotcom bust. In 2008, Google announced its plans to introduce its Android phone. Android Data then sought to use the mark and establish a basis for seeking \$94 million in trademark infringement damages against Google. The court said "no" to Android Data.

More information can be obtained at info@shimokaji.com



Limitation on US Patent Infringement Damages is Favorable for Asian Enterprises

The US Federal Circuit recently issued an opinion of great importance to Asian companies, particularly those involved in industries that continue to be targeted by US companies for patent infringement - semiconductors, computers, and telecommunications.

In *Uniloc (Singapore) v. Microsoft*, the Federal Circuit determined that Microsoft infringed, but further found that damages must be recalculated.

Uniloc sued Microsoft on a patent for software activation. Users connect to the internet to verify their software to prevent the same software being installed on multiple computers. Uniloc sought \$565 million in damages. The jury awarded \$388 million based on the "25% rule of thumb".

Historically, patent owners have used the 25% rule of thumb to calculate infringement damages. 25% is used as a reasonable royalty rate a manufacturer of the patented product would pay the patent owner under a hypothetical negotiated license.

The Federal Circuit said the 25% rule of thumb was "fundamentally flawed."

What this means for US patent owners suing Asian enterprises for patent infringement is that US patent owners cannot seek damages based on arbitrary royalty rates. The rate must have a connection to the specific product and industry involved.