

Mobile Communication Program - 3G

Introduction

The Universal Mobile Telecommunications System (UMTS) is a third generation of mobile communication that is developed and maintained through 3GPP. UMTS uses wideband code division multiple access (W-CDMA) radio access technology to offer greater spectral efficiency and bandwidth. It enables a variety of new services with much faster data transmission compared to the second generation of mobile communication. With the growing end-user demand for more bandwidth and faster connectivity on the go, the 3G mobile telecommunication technology is nowadays a fundamental requirement for users of smartphones. Moreover, each year new devices (e.g. tablets, routers, cars) with 3G capabilities emerge allowing the customers to benefit from fast exchange of data. As the result, the market is willing to pay a value to obtain access to this useful technology.

Using the UMTS standard means profiting from years of investments, work and efforts of pioneering engineers and scientists, who deserve to be fairly compensated for the vast technological progress in the mobile telecommunication sector they achieved. And this is also true for the owners of patents essential to the UMTS standard. At the same time, we believe that this attractive technology should be available to implementers on fair, reasonable and non-discriminatory terms ("FRAND") to promote a wider dissemination of the UMTS standard 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 exactly this is what we are aiming at with our present offer.

Sisvel acts as administrator for a joint patent licensing program that offers manufacturers and users of 3G devices licenses under patents essential to the third-generation mobile communication technology standard UMTS¹ (3G SEPs). The joint licensing program represents patents held by 3G Licensing S.A., Mitsubishi Electric Corporation, Royal KPN N.V. and Sisvel International S.A.. The patent owners have declared all the 3G SEPs to the relevant Standard Setting Organizations (SSO) and have confirmed their commitment to license their standard essential patents under FRAND terms.

These owners of 3G Patents have decided to offer this collective license for the convenience of any third party using UMTS technology in its products. Under the Mobile Communication Program - 3G license agreement, your company's products would be licensed for all, present and future, UMTS essential patents filed in the name of the participating patent owners for the use of UMTS, with the ease of a single agreement under fair, reasonable and non-discriminatory terms ("FRAND").

The royalty rates of the Mobile Communication Program are offered on a non-discriminatory basis to anyone who wants to benefit from incorporating the patented 3G technology in their products, thus contributing to fair competition in the market. Our rates have been determined with a view to be considered a fair and reasonable compensation for the use of the patented technologies in the fields of use that are represented by the 3G SEPs and defined by the Mobile Communication Program - 3G License Agreement. As a matter of course, the same rates are offered to anyone we approach for concluding a Mobile Communication Program License Agreement for the specified fields of use.

Moreover, we recognize that pooling patents should contribute to substantially reducing the transactional costs of licensing and we are happy to forward this positive effect also to the implementers. So, when determining the royalty rate for the Mobile Communication Program, in fact,

¹ The WCDMA, ARIB STD-T63, TD-SCDMA, FOMA, HSPA, HSPA+, HSUPA and HSDPA Standards being derivative standards thereof.

the patent owners eventually agreed to discount their individual requirements which, considering amongst other things the saving of transaction costs, led to the rates as offered for the Mobile Communication Program.

Our rates have been determined with many factors in consideration. The royalty rate was determined based on customary and appropriate practises 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 3G 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

Standard rate	Compliant rate
EUR 0.45	EUR 0.35

The Mobile Communication 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, you may want to compare the rates of the Mobile Communication Program - 3G 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 those other programs you can conclude that the royalty rate offered under the Mobile Communication Program happens to be very reasonable compared to the rates due under those other licensing programs. In the field of 3G, there are different actors actively offering licenses to their 3G essential patents and have publicly announced their respective royalty rates. When these rates are applied against an average sales price of a smartphone, this results in the following comparison.²

² According to Strategy Analytics the Average Sales Price (ASP) on wholesale level for smartphones globally has been USD 233 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.

Table 2

Company	Announced Royalty rate	Royalty Rate in EUR
Sipro W-CDMA Licensing program	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 CDMA Licensing program	4-5% of product sales price	EUR 8.40- EUR 10.50
Motorola Licensing program	2.25% of product sales price	EUR 4.73

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.