

Apple's 'bogus' patents will 'strangle' Android: Google

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Shift... the lines are blurring between business and consumer phone markets. Photo: AFP

Google's chief legal officer has launched a blistering attack on competitors, including Apple, for attempting to stifle innovation by using "bogus patents" to target Google's Android partners including Samsung.

David Drummond, who is also Google's senior vice-president, wrote in an explosive blog post that the patent wars were pushing up the prices of Android smartphones and tablets. This was part of a "hostile, organised campaign" being waged by Apple, Microsoft and others to "strangle" Android, which Google provides free of charge.

His remarks come after Apple succeeded in hobbling the Australian launch of Samsung's Galaxy Tab 10.1 after accusing it in the Federal Court this week of infringing 10 Apple patents including the "look and feel" and touchscreen technology of the iPad.

Mr Drummond implied that Microsoft and Apple were getting "into bed together" to stifle Android's success. He revealed that more than 550,000 Android devices were being activated worldwide every day through a network of 39 manufacturers and 231 carriers.

He said this competition was yielding "cool new devices and amazing mobile apps for consumers".

"But Android's success has yielded something else: a hostile, organised campaign against Android by Microsoft, Oracle, Apple and other companies, waged through bogus patents," he wrote.

Apple sought injunctions preventing Samsung from selling or advertising the Galaxy Tab 10.1 in Australia - and demanded all of Samsung's stock be sent to it to be destroyed.

Samsung has agreed not to market the US version of the tablet in Australia but has said it will launch a modified version and has agreed to send Apple samples of the device seven days before it goes on sale. It is likely Apple will also seek injunctions preventing the sale of the Australian version upon receiving the samples.

Patent experts claim that Samsung will not be able to modify the tablet sufficiently to avoid infringing Apple's broad and far-reaching patents on multi-touch, gestures, list scrolling and other features.

Separately, the FOSS Patents blog has broken down some of the patents in question and argues it will be difficult for any Android maker to escape an Apple infringement suit.

Apple is suing Samsung in nine other countries as well and has launched other legal attacks on HTC and Motorola for allegedly infringing its patents with Android devices and stealing its ideas. Google itself faces patent suits from Oracle, which seeks billions of dollars in damages, claiming Google's Android infringes its Java patents.

Mr Drummond cited these patent battles as well as the fact that a consortium including Microsoft and Apple recently bought thousands of Novell and Nortel's old patents and were using them to demand a \$US15 licensing fee for every Android device. He said this would make it more expensive for phone manufacturers to license Android than Windows Mobile.

"Patents were meant to encourage innovation, but lately they are being used as a weapon to stop it," he wrote.

"A smartphone might involve as many as 250,000 (largely questionable) patent claims, and our competitors want to impose a 'tax' for these dubious

patents that makes Android devices more expensive for consumers. They want to make it harder for manufacturers to sell Android devices. Instead of competing by building new features or devices, they are fighting through litigation."

Mr Drummond said this was an "anti-competitive strategy" designed to "strangle" Android.

Google has responded by attempting to buy up its own cache of patents and has hired one of the US Federal Trade Commission's top patent lawyers. Despite its criticisms of Apple and Microsoft for joining to buy Nortel's patents for \$US4.5 billion, Google also put in a bid.

Microsoft's general counsel Brad Smith fired back with a tweet: "Google says we bought Novell patents to keep them from Google. Really? We asked them to bid jointly with us. They said no."

Microsoft's PR team backed Smith's tweet up with a [picture of an email](#) that appears to corroborate his remarks.

Google executive chairman Eric Schmidt has previously accused Apple of responding to Android's success with lawsuits rather than innovation.

"We have not done anything wrong and these lawsuits are just inspired by our success," he said last month, commenting on Apple's battle with HTC.

Kimberlee Weatherall, an Australian intellectual property lawyer, blogger and academic, [wrote on The Conversation](#) website that "the breadth of monopoly Apple is claiming" over basic smartphone features was "breathtaking".

"I'd like to think Apple won't be able to maintain a claim that broad, but in patent law, you never know – it all depends on what existed before the date of the patent," Ms Weatherall said.

One of the patents "seems to cover most commands given using more than one finger on a touchscreen of any computing device (mobile phone, tablet, or anything else). Think 'pinch to zoom' and everything else".

Technology companies, particularly Microsoft, Apple and Google, are buying up stacks of technology company patents in order both to demand licensing fees and to protect themselves from patent litigation by other companies.

In a recent [interview with TechCrunch](#), Google general counsel Kent Walker argued that a patent wasn't innovation but rather "the right to block someone else from innovating".

"Patents are government-granted monopolies. We have them to reward innovation, but that's not happening here."

Apple Australia and Samsung Australia declined to comment.

