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Rambus wins against Micron after long Italian litigation

Daniela Ampollini (Trevisan & Cuonzo) · Wednesday, February 2nd, 2011

Rambus and Micron have been involved in complex patent litigation in Italy since 2000. Things started when, in 2000, Rambus enforced the Italian designation of its patent EP 0525068 on SDRAM memories against Micron before the Court of Monza, obtained an ex parte seizure order and executed the same at the important manufacturing plant that Micron owned in a town called Avezzano, situated in the centre of Italy. The seizure was eventually lifted based on procedural reasons (alleged lack of jurisdiction of the Court of Monza), notwithstanding the Expert Witnesses appointed by the Court had found that the patent was valid and infringed. Merits proceedings ensued. The patent was however meanwhile revoked by the EPO by way of a final decision. Micron therefore filed proceedings against Rambus before the Court Milan claiming that the execution of the seizure order had caused severe harm and requesting an award of damages. Micron's action was based on the assumption that such a seizure represented an abuse of right by Rambus as the enforced patent had eventually been revoked. Additional grounds were that the seizure had been granted by a court lacking jurisdiction and that the seizure had allegedly been executed in a manner which was abusive per se. The case has now been decided by the Court of Appeal of Milan by ruling of 30 September 2010, which confirmed the first instance decision of the District Court of Milan and denied Micron's (the ruling is still subject to appeal on point of law before the Supreme Court). In substance, the Court of Appeal found that the claim of damages for the alleged abuse of patent rights had to be filed immediately, in the very proceedings in which the alleged abuse of rights had taken place, i.e. in the preliminary proceedings before the Court of Monza. At that time however, the patent had not been revoked already. The conclusion of the Court implicitly confirms, in my opinion, that no abuse of right per se subsists, under Italian law, in the enforcement of a patent which will later be found invalid or revoked (and in the absence of other specific circumstances, such as the awareness of the rightholder of the invalidity of the patent due, for example to a prior disclosure committed by the same patentee).

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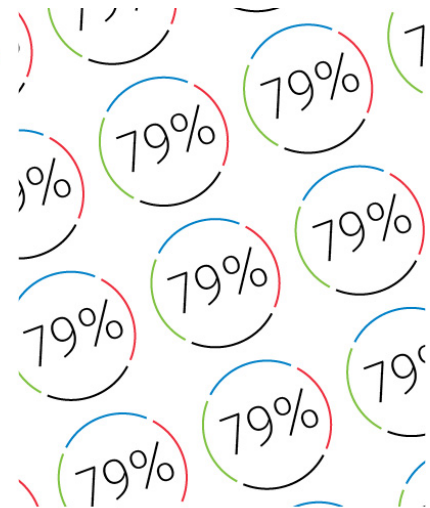
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