# Smartphone Makers Post Wins On Separate Continents

Paul Elias, Associated Press

SAN FRANCISCO (AP) — Apple and Samsung, the world's top two smartphone makers, each scored a significant victory on different continents that will allow both to keep selling their products without legal interference this holiday season.

A federal judge in San Jose late Monday rejected Apple Inc.'s demands to block U.S. sales of three smartphones made by Samsung Electronics Corp. The ruling came weeks after a jury found that Samsung infringed six Apple patents.

Hours later, Samsung announced it was dropping its demands that several European countries prohibit sales of Apple smartphones that Samsung claims infringe its patents.

Despite the developments, the two companies remain locked in legal battles around the globe. But taken together, the moves on Monday could hint at a global settlement between the two tech giants that account for more than half of all smartphone sales worldwide, legal experts and technology analysts said.

"I think we have seen some moves in that direction," said University of Notre Dame law school professor Mark McKenna. "The odds of a settlement just got a little bit better" because of the judge's refusal to bar U.S. sales of Samsung's products.

The ruling allows three versions of Samsung's older-generation Galaxy SII smartphones to remain on U.S. shelves, while Apple sales will continue unabated in Germany, the United Kingdom, France, Italy and the Netherlands.

"We are pleased that the judge today denied Apple's move to limit consumer choice, and restrict fair competition in the marketplace," South Korea-based Samsung said in a statement commenting on the ruling in San Jose.

Regarding its decision in Europe, it said, "we strongly believe it is better when companies compete fairly in the marketplace, rather than in court."

Apple declined comment about the developments.

Samsung still faces a European Commission antitrust investigation, and its announcement doesn't effect a trial set to begin next month in London in another dispute with Apple.

Samsung also is continuing to press for damages in the European companies where it dropped its demands for an injunction against Apple phone sales.

The companies are also scheduled to go to trial in 2014 in San Jose over a lawsuit filed by Apple claiming Samsung's latest products to hit the market still infringe some of its patents.

Earlier this month, U.S. District Judge Lucy Koh in San Jose implored the two companies to settle the legal disputes stretching over four continents.

Koh presided over the month-long jury trial in August that resulted in a jury's $1.05 billion verdict and a determination that Samsung willfully used Apple's technology without permission.

In her ruling Monday on the sales ban, Koh said Apple failed to prove the six patents Samsung used without permission were the main reasons consumers purchased the products.

Each of the smartphones at issue was designed and manufactured with technology flowing from hundreds of patents. One of the patents, for instance, was for the Apple "pinch-to-zoom" feature that Samsung incorporates in several of its products.

Koh said it would be wrong to prohibit sales of the three Samsung smartphones because the devices contained just a few features ripped off from Apple.

"'Though Apple does have some interest in retaining certain features as exclusive to Apple," Koh wrote, "it does not follow that entire products must be forever banned from the market because they incorporate, among their myriad features, a few narrow protected functions."

Stanford University law professor Mark Lemley said Koh's decision has the potential to "radically change the calculus of patent suits in the information technology industries."

The decision is part of a legal trend to punish patent violators with damages rather than ruinous sales injunctions "in cases that involve large, multi-component products," Lemley said.

Koh has yet to rule on Samsung's plea to reduce the jury's award by as much as $600 million and on Apple's argument for an increase of more than $100 million.

Koh has indicated she was leaning toward trimming tens of millions from the $1.05 billion award, saying it appeared the jury miscalculated some of the damages.

McKenna said there's a chance Koh could significantly reduce the award based on her ruling Monday that said Apple failed to prove the infringing patents hurt its sales.

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