

WORST OF THE WEEK: APPLE AND SPRINT PLAY THE TORT GAME, RCR WIRELESS

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Hello! And welcome to our Friday column, Worst of the Week. There's a lot of nutty stuff that goes on in this industry, so this column is a chance for us at RCRWireless.com to rant and rave about whatever rubs us the wrong way. We hope you enjoy it!

And without further ado:

One of the many things the United States is known for throughout the world is our robust tort system. From our packed courthouses to the billions of lines of small print at the bottom of any document, the U.S. has mastered the ideals of legal authority and blame.

That expertise made the rounds of the telecom space this week with a pair of the mobile industry's most recognized names – Apple and Sprint – both being stung by the legal system.

First, a Wisconsin court ruled Apple violated patented technology held by the University of Wisconsin-Madison, with damages totaling upwards of \$862 million. The judge ruled Apple did indeed infringe on technology that was said to boost the efficiency of chipsets developed by Apple and used to power its latest iPhone and iPad devices.

Now for the hilarious part: Our Martha DeGrasse noted in her story that the fine, if actually enforced, would ding Apple to the tune of one day's worth of profits on the sale of its iPhones, iPads and Mac computers. Sure, that is a mere fraction of Apple's yearly profit, but I am guessing just about every company in existence would be happy to have one day worth of Apple's profits.

Of course with all that money on hand, Apple is sure to unleash a second wave of its lawyers on this latest legal action, which means we really have no idea how much money Apple will be on the hook for – if any. Apple has found success in the courtroom in terms of patent issues, but those came closer to its home in Silicon Valley.

Perhaps more of a concern for Apple is a report from Pacific Crest Securities claiming sales of Apple's latest iPhone 6s devices has been "disappointing," with expected full-quarter sales predicted at 67 million units compared with the 76 million units forecast by analysts.

The report noted sales of the latest iPhone models have tapered off significantly since opening weekend, when the devicemaker said it sold 13 million units over the first three days. In bolstering its hypothesis, Pacific Crest cites the fact "less than 10% of the carrier stores we surveyed have been sold out of iPhones; last year, carriers didn't have iPhone stock on hand until November."

Harsh when customers are actually able to get their hands on a new phone without having to break out the camping gear is seen as a negative. But, when you set such a precedent, it's eventually going to come back and bite you.

End of the day, I suspect Apple will still have plenty of spare change between its couch cushions to keep everyone – especially its lawyers – happy.

At the other end of the financial scale, Sprint is being sued by reseller partner Mobile Citizen for plans to shutter its WiMAX network on Nov. 6. The lawsuit claims the move will break an agreement Mobile Citizen has with Clearwire, which Sprint acquired full control of, to provide mobile broadband services using the WiMAX network.

Sprint reported last year that it planned to shut down the WiMAX network as it has changed focus to LTE technology. However, the move will apparently leave up to 300,000 people currently relying on the WiMAX network for service without ... service.

Normally, I would guess Sprint would just say “oh well” and move on from this mess, but Mobile Citizen and its partner Mobile Beacon provide low-cost broadband to 429 schools, 1,820 nonprofits and 61 libraries, and they are also holders of education broadband services licenses in the 2.5 GHz band that Clearwire/Sprint just happens to be leasing as part of its significant spectrum holdings.

In its lawsuit, Mobile Citizen claims its inability to migrate remaining WiMAX customers to a different service or technology has been due to “a series of serious problems and Sprint has failed to take any meaningful steps to move our customers over. Instead, it has created roadblock after roadblock, including a lack of eligible devices and throttling our schools, nonprofits and social welfare agencies.”

Sprint countered that Mobile Citizen has made the process difficult and the carrier has done all it can to help facilitate the migration.

Look, Sprint has a lot – a lot! – of issues currently on its plate, and you would think the potential loss of 300,000 customers from an organization that it’s also leasing spectrum from would be high on its priority list to solve as quickly and quietly as possible. But, as we have seen from Sprint’s recent history, nothing seems to come quite so easy.

I am sure the powers that be at Sprint – though it should be noted that many of those “powers” remain in a state of flux – want to get this solved, but just the fact this issue has come to the lawsuit stage shows a lack of deft at Sprint in handling its business.

Not that it’s in any way fair to compare how Apple and Sprint handle their legal affairs, but my guess is one company is sure to come out of these torts smelling like a rose, while the other will be Sprint.

Thanks for checking out this week’s Worst of the Week column. Here is a quick, but satisfying extra:

- AT&T this week was gouged by public opinion and – of course – T-Mobile US CEO John Legere for how the telecom giant handled an interaction with a customer looking to give some “advice” on service offerings.

You can read all about the back-and-forth and form your own opinion, but from my reading I have to say I don’t really see where AT&T went wrong with its initial response.

Sure, it was probably a bit much to have one of the company's lawyers send off the letter in question, as consternation is sure to follow anytime a letter is received on legal letterhead. But, all the letter really said was "thanks for the ideas, but no thanks for the ideas." AT&T went on to explain that the response was needed as a way to cover itself in case at some future point the carrier were to actually launch a service in any way similar to what was recommended, it would then be open to potential legal action.

Covering your legal bases in light of the issues referenced above looked to be a good move by AT&T. Unfortunately, that base covering included a person with too much time on his hands.

I welcome your comments. Please send me an e-mail at dmeyer@rcrwireless.com.