

EIP

EIP's litigation team claims another win for client Optis against Apple

Today, 27 October 2022, judgment was handed down by the Court of Appeal, London, in a successful appeal for EIP client Optis as part of its long-standing licensing dispute with Apple.

The appeal involved the issue as to whether or not an implementer who had been found to infringe a valid UK SEP was obliged to undertake to enter into a FRAND licence determined by the Court, in order to avoid the court granting an injunction preventing further infringements by the implementer in the future. At first instance, Meade J held that it was so obliged.

Apple appealed against this finding, but EIP client Optis was successful, and the appeal was dismissed by all judges. This decision is likely to prove another important decision in the FRAND landscape and is likely to be relied upon in subsequent cases.

Gary Moss, Head of Litigation at EIP and lead on this case comments: "We are obviously pleased with the Court of Appeal's judgment and find it to be a logical application of the Supreme Court's guidance in *Unwired Planet*. It has endorsed the view we've always taken, which is that in return for taking the benefit of the SEP holder's commitment to ETSI to grant FRAND licences, implementers should be obliged to accept the FRAND license that is determined by the court. That is the price they have to pay to avoid being subject to the normal relief for infringement of a valid patent, namely an injunction. It will be interesting to see what effect this decision will have on SEP holders and implementers, and the Courts, going forward and whether it changes their behaviours in any way."

The full judgment can be viewed [here](#).

The EIP team on the case was:

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Gary Moss, Angela Jack, Elizabeth McAuliffe, Owen Waugh, Steph Harris, India Badini, Jacqueline Long, and Emily Williams.

Osbourne Clarke LLP were co-Counsel.

The barristers acting for Optis were: Sarah Ford KC, Isabel Jamal, Emily MacKenzie and Jennifer Dixon.