

# Infringement on a New Track

## Standard-Based Infringement Analysis

### Patent Infringement

Infringement of a patent is unauthorized making, using, offering for sale or selling any patented invention within the geography, or importing it into the geography of any patented invention during the term of the patent. Infringement analysis is carried out for:

- Offensive Purpose
- Defensive Purpose
- Market Clearance/Due Diligence

The patent which is allegedly infringed, file history, prior art cited during prosecution, undeviating description of the accused device and the other possible evidences form the basis for infringement analysis.

The patent holder has the right for prohibiting the usage of his/her invention and can claim damages on infringement.

### 35 U.S.C. 271 - US Patent Law

Patent infringement is a legal violation that is governed by Federal Law. The case section 35 U.S.C. 271 defines infringement as "whoever without authority makes, uses, or sells any patented invention, within the United States during the term of the patent therefore, infringes the patent".

### Infringement Types

Infringement analyses are of three types:

- Literal
- Doctrine of Equivalence
- Contributory

#### Literal Infringement:

The term "literal infringement" means that each and every element narrated in a claim has identical correspondence in the allegedly infringing device/process.

#### Doctrine of Equivalents:

A product/device/standard performing the equivalent/same function similar to the claim elements of the patents to obtain the same result and objective, the accused Product/standard is said to infringe the patent.

#### Contributory infringement:

Contributory infringement occurs when a party supplies a direct infringer with a part that has no substantial non-infringing use the infringement study can be carried out for the following scenarios:

- Infringement based on Product
- Infringement based on Non-Standards
- Infringement based on Standards

### Standards

Technical standards mainly decide the interoperability in operation. The standards are mainly defined by standards-setting body to develop consensus standards of bringing diverse parts of an industry together. Different products will have its own operating standards in the products such as Cellular phone; Television, etc. are often used to ensure that products from different companies will interoperate.

### Standard Based Infringement

If a patentee holds a patent that is infringed by a standard available in the market, then the group of companies or industries which uses the standard is also infringing the patent. Hence, patents will be of big threat to the companies using the standards that are infringing it.

E-Merge tech has a wide experience of providing different types of Infringement Analysis Services, including the Infringement based on Standards, for Fortune 500 Companies across the Globe.