V. Radio

In 1924, an organization first named the Associated Radio Manufacturers, and later the Radio Corporation of America,[122] merged the radio interests of American Marconi, General Electric, American Telephone and Telegraph (AT&T) and Westinghouse. This pooling agreement was designed to control the licensing of the large number of radio patents, so that each member could have access to all the relevant patents necessary to build radio transmitters, antennas and receivers. The pool led to the establishment of radio parts standardization, airway frequency locations and television transmission standards.

This consolidation and standardization of radio technology[123] allowed the Radio Manufacturers Association (RMA) to control the essential technology that aspiring radio manufacturers would need to supply the sudden public appetite for radio, which, during the early part of the 20's, was growing rapidly. It also allowed RCA and other RMA patent owners to litigate against infringers from a strong, consolidated position. One of the benefits of this control was the ability to standardize the manufacture of electronic parts. This allowed manufacturers to make parts that could be used by radio producers interchangeably.[124]

VI. Hartford-Empire

However, the recently arising suspicion and misconception of patent pools was still persistent and political driven efforts to investigate and break up pools accelerated after some well-publicized hearings striking those kinds of agreements throughout the late 1930s. The famous US Supreme Court decision in the *Hartford-Empire* case[125] is still recalled for the harshness of Justice Hugo Black's outburst, holding against patent pools that "the history of this country has perhaps never witnessed a more completely successful economic tyranny over any field of industry than that accomplished by the pool members". This statement was widely perceived as ushering in an era of regulatory intolerance against these arrangements. As a con-

122 In 1950, the organization changed its name again to Television Manufacturers Association (TMA), then to the Radio Electronics Television Manufacturers Association (RETMA), in 1953. In 1957, the name became the Electronics Industries Association (EIA), now known as the Electronic Industries Alliance. Still quite active as a standards agency, among other things, the EIA maintains an Internet website at: http://www.eia.org/.

123 More on the Radio Manufacturers Association available at: http://www.netsonian.com/antiqueradio/radiodocs/RETMA/ccodeindex.htm

124 Burns R., "British Television: The Formative Years", Published by IET, 1986, p. 337 *et seq.*

125 Hartford-Empire Co. v. United States, 324 U.S. 570 (1945), available at: http://supreme.justia.com/us/324/570/case.html; for more information see also the opinion of the court delivered by Mr. Justice Roberts, available at: http://www.ripon.edu/faculty/bowenj/antitrust/hart-emp.htm

sequence, the number of patent pools created in the United States indicatively dwindled away to almost nothing until after World War II.

Fortunately, the situation improved in 1995, after the US Department of Justice and the US Federal Trade Commission jointly issued their "Antitrust Guidelines for the Licensing of Intellectual Property",[126] amending the previous misconception condemning those kinds of agreements while openly recognizing that "cross-licensing and pooling agreements may provide pro-competitive benefits". This positive approach was welcomed as an encouragement for the formation of new patent pools and opened the way to the establishment of those kinds of practices, especially flourishing within the new emerging video and entertainment industries.

VII. Video

A patent pool was then formed in 1997, by the Trustees of Columbia University, Fujitsu Limited, General Instrument Corp., Lucent Technologies Inc., Matsushita Electric Industrial Co., Mitsubishi Electric Corp., Philips Electronics N.V. (Philips), Scientific-Atlanta Inc., and Sony Corp. (Sony) to jointly share royalties from patents that are essential to compliance with the MPEG-2 compression technology standard. The MPEG-2 standard patent pool comprises a number of essential patents put into the hands of a common licensing administrator empowered to grant licenses on a non-discriminating basis, collect royalties and distribute them on a pro-rata allocation based on each licensor's contribution. The terms of the arrangement were negotiated with and approved by the US Department of Justice.

In 1998, Sony, Philips and Pioneer entered a patent pooling agreement for inventions that are essential in order to comply with certain DVD-Video and DVD-ROM standard specifications. In 1999, another patent pool was created by Toshiba Corporation, Hitachi, Ltd., Matsushita Electric Industrial Co., Ltd., Mitsubishi Electric Corporation, Time Warner Inc., and Victor Company of Japan, Ltd. for products manufactured in compliance with the DVD-ROM and DVD-Video formats.[127] There are presently about 80 US Patents for DVD-ROM drives, DVD-Video players and DVD decoders, and 96 U. S. Patents for DVD-ROM discs and DVD-Video discs.[128] The royalties under the joint license for DVD-Video players and DVD-ROM drives are 4% of the net selling price of the product or US $4,00 per product, whichever is higher. Royalties for DVD decoders are 4% of the net selling price of the product or

126 US Department of Justice and Federal Trade Commission, "Antitrust Guidelines for the Licensing of Intellectual Property (IP Guidelines)", April 1995, available at: www.usdoj.gov/atr/public/guidelines/ipguide.htm

127 See Letter from Klein J., Assistant Attorney General, Department of Justice, Antitrust Division, to Carey R. Ramos, Esq., available at: http://www.usdoj.gov/atr/public/busreview/2485.htm

128 For more information on the VD6C Licensing Agency, see the DVD Licensing Site at: http://www.dvd6cla.com/faq.html