

Fed. Circ. Affirms Toshiba Win Over LCD Screen IP Suit

By Tiffany Hu

Law360 (January 22, 2019, 7:25 PM EST) -- The Federal Circuit on Tuesday upheld a Delaware federal judge's ruling that LCD screens made by Toshiba Corp. and Funai Electronic Co. Ltd. did not infringe on patents owned by MiiCs & Partners America Inc., rejecting arguments by MiiCs that the judge misinterpreted a term for the location of the thin film transistor in the screens.

In a per curiam order, the three-judge panel summarily affirmed U.S. District Judge Richard G. Andrews' October 2017 decision that found that two of MiiCs' patents described thin film transistor components that are located in different places within a screen than where those parts are located in Toshiba and Funai products and concluding that MiiCs hadn't shown literal infringement of its patents.

The panel had heard oral arguments earlier this month, with a lawyer for MiiCs arguing that Judge Andrews had misinterpreted the meaning of the word "in" and used that misinterpretation to limit the location of the thin film transistor.

While U.S. Circuit Judge Raymond Chen had expressed doubt as to whether the word "in" could refer to more than one specific place at the time, Frederick Tecce of Ice Miller LLP, representing MiiCs, responded that it is a locational preposition, meaning it could be two places at once.

"If I say you are in the reflecting pool in D.C.," Tecce said. "I know you are immersed in the water of the pool but you're in the town of D.C."

U.S. Circuit Judge Richard Taranto appeared favorable to MiiCs' argument, however, asking Toshiba attorney Robert Haslam of Covington & Burling LLP, if it was his position that the claim construction of the '190 patent was nonsensical.

Haslam responded that the word "in" meant physically located in a spot.

"The specification says that it is in the semiconductor channel," Haslam said. "Not anywhere else."

The panel was ultimately unpersuaded by MiiC's contentions, leaving in place Judge Andrews' earlier ruling.

In a pair of June 2014 suits, MiiCs alleged that Toshiba and Funai infringed three of its patents, U.S. Patent Nos. 7,460,190, 5,966,589 and 6,734,927.

In March 2016, Samsung Display Co. Ltd. — which is not named in either suit — stepped in to argue the claims should be thrown out. It argued that because many of the accused products included Samsung components, it had an interest as a manufacturer.

Samsung's challenge of the '589 patent's claims, which describes the location of thin film transistors within an LCD screen, relied similarly on the specific meaning of a word: The manufacturer claimed that the accused products did not place semiconductors "where" two other components overlapped, the '589 patent describes.

With regard to the '190 patent's claims, which describe the construction of thin film transistors as having a groove in two separate semiconductor layers, Samsung argued its customers' products placed the groove in only one of the layers.

MiiCs had claimed that the Funai and Toshiba screens buried the groove "in" both layers because one layer wrapped around another.

However, in October 2017, Judge Andrews granted Samsung's motion for partial summary judgment on the grounds that the patent did not use the word "in" to refer to anything other than a physical location.

U.S. Circuit Judges Richard Taranto, Pauline Newman and Raymond Chen sat on the panel.

The patents-in-suit are U.S. Patent Numbers 7,460,190, 5,966,589 and 6,734,927.

Counsel for the parties did not immediately respond to requests for comment Tuesday.

MiiCs & Partners America is represented by Frederick Tecce, Aaron Ettelman and Bryon Wasserman of Ice Miller LLP.

Toshiba is represented by Paul Meiklejohn, Clinton Conner and David Tseng of Dorsey & Whitney LLP.

Samsung is represented by Robert Haslam, Chang Sik Kim, Jeffrey Lerner and Scott Schrader of Covington & Burling LLP.

Funai is represented by John Rozendaal, Michael Joffre, William Milliken, Stephanie Nguyen and Jonathan Tuminaro of Sterne Kessler Goldstein & Fox PLLC.

The case is MiiCs & Partners America Inc et al. v. Toshiba Corp. et al., case number 18-1217, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Matt Bernardini and RJ Vogt. Editing by John Campbell.