

Fed. Circ. Backs Samsung, Apple In Interface Patent Fight

By **Dani Kass**

Law360 (May 24, 2019, 6:56 PM EDT) -- The Patent Trial and Appeal Board rightly found that claims from two Papst Licensing GMBH & Co. KG computer communications patents were invalid as obvious, the Federal Circuit has ruled, affirming wins for Apple and Samsung.

A three-judge panel on Thursday issued one precedential opinion affirming that claims from U.S. Patent No. 9,189,437 were invalid following a Samsung Electronics America Inc. challenge. It then agreed with the PTAB, Apple Inc. and Samsung that claims from U.S. Patent No. 6,470,399 don't hold up, although it ended up reversing the decision as moot in a nonprecedential opinion.

For the '437 patent, the PTAB had said more than 40 claims were invalid as obvious based on a previous patent, referred to as Aytac, combined with other pieces of prior art. The PTAB had invalidated claims from a different patent with the same specification in previous inter partes reviews, also based on Aytac, so Papst's arguments on appeal were precluded by that ruling, the Federal Circuit said.

The licensing company couldn't justify any exceptions, such as saying it had inadequate counsel or otherwise had an "impaired opportunity to litigate" in the earlier IPR, the panel wrote. Papst also didn't present a sufficient argument that the IPRs had a "legally significant disparity" to justify relitigating the claims, the judges wrote.

The panel said Samsung would have won its appeal on the merits of the case as well.

Then in the challenge brought by both Apple and Samsung, the PTAB had invalidated eight claims of the now-expired '399 patent as obvious. While the Federal Circuit on Thursday agreed the challenged claims were not patentable, it vacated the PTAB's decision to invalidate them because the PTAB had invalidated subsets of them in previous IPRs, rendering the newest decision unnecessary. The panel also dismissed Papst's appeal as moot.

The patents cover methods and systems of transferring data, in particular interface communication that takes place between a computer and another device.

An attorney for Apple declined to comment. Counsel for Papst and Samsung didn't immediately respond to requests for comment Friday.

Judges Timothy B. Dyk, Richard G. Taranto and Raymond T. Chen sat on the panel for the Federal Circuit.

The patents-in-suit are U.S. Patent Nos. 9,189,437; and 6,470,399.

Papst is represented by Gregory S. Donahue, Nicole E. Glauser and Christopher V. Goodpastor of DiNovo Price LLP.

Apple is represented by Douglas Hallward-Driemeier, James Richard Batchelder, Scott Anthony McKeown, Samuel Lawrence Brenner, Kathryn C. Thornton and Marta F. Belcher of Ropes & Gray LLP, and Tyler Dutton, Michael E. Joffe and William H. Milliken of Sterne Kessler Goldstein & Fox PLLC.

Samsung is represented by Patrick J. Kelleher, Carrie Anne Beyer and Nikola Colic of Drinker Biddle & Reath LLP.

Douglas Hallward-Driemeier of Ropes & Gray LLP had argued one of the cases for both Apple and Samsung.

The cases are Papst Licensing GmbH & Co. KG v. Samsung Electronics Co Ltd, case numbers 18-1777 and 18-1989, and Papst Licensing GmbH & Co. KG v. Apple Inc., case numbers 18-1987 and 18-1988, in the U.S. Court of Appeals for the Federal Circuit.

--Editing by Adam LoBelia.

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