

Google Wins PTAB Challenge To Communications Patent

By **Matthew Bultman**

Law360 (December 3, 2019, 7:29 PM EST) -- The Patent Trial and Appeal Board invalidated large chunks of an AGIS Software Development patent related to communications networks on Monday, finding that Google had shown a number of the patent's claims were obvious.

The decision is the final chapter at the PTAB in a series of inter partes reviews that Google requested in 2018, challenging various AGIS patents, after its Android operating system was implicated in infringement lawsuits filed against smartphone makers.

In the end, the PTAB found that the challenged claims in two AGIS patents were invalid. The board declined Google's invitation to review two other patents.

Vincent Rubino of Brown Rudnick LLP, an attorney for AGIS, said the company disagrees with the board's decision Monday and is evaluating its options. He noted the board's previous decisions denying review and that Google's successful challenges did not target every one of the patents' claims.

"From that perspective, AGIS still has claims surviving," he said.

Attorneys for Google declined to comment Tuesday.

AGIS, founded by a former U.S. Marine, created software it says is used by the military and first responders to establish secure digital networks. The company owns a portfolio of patents related to that technology.

In 2017, AGIS filed lawsuits against various companies whose smartphones utilize the Android operating system, including ZTE, Huawei and HTC. Those cases have each been resolved, according to court documents.

Last month, AGIS brought an infringement lawsuit against Google in the Eastern District of Texas. That case is still pending, along with recently filed cases against Samsung and Waze Mobile, a GPS navigation app that Google acquired in 2013.

The patent in front of the PTAB on Monday generally describes a system for quickly establishing communications between mobile devices.

Google in its petition for review said the challenged claims cover a well-known idea that would have been obvious based on a combination of earlier inventions. Analyzing the claims in a decision that spanned more than 100 pages on Monday, the PTAB said it agreed.

"[W]e determine that petitioner has demonstrated by a preponderance of the evidence that [the challenged claims] are unpatentable," the board wrote.

The patent at issue is U.S. Patent No. 9,408,055.

Google is represented by Jonathan Tuminaro, Robert Sokohl and Dohm Chankong of Sterne Kessler Goldstein & Fox PLLC, and Michael Berta of Arnold & Porter Kaye Scholer LLP.

AGIS is represented by Vincent Rubino, Alfred Fabricant, Peter Lambrianakos and Enrique Iturralde of Brown Rudnick LLP.

The case is Google LLC v. AGIS Software Development LLC, case number IPR2018-01080, at the Patent Trial and Appeal Board.

--Editing by Stephen Berg.