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COVER STORY

Apple hit with $145M jury verdict

San Diego jury finds company infringed four 4G patents

By Andy Serbe
Daily Journal Staff Writer

A Canadian company has won a $145 million verdict against Apple Inc. after a federal jury in San Diego found Apple infringed patents concerning 4G communications technology.

Following just one hour of deliberation, the jurors unanimously found that Apple infringed and awarded Ottawa-based Wi-LAN Inc. the full monetary relief requested. Wi-LAN is the parent company of San Diego- based Cygnus Broadband.

"The main thing about the verdict was that the jury gave us every penny we asked for," said Mike McKool of McKool Smith, who represented Wi-LAN. "Most of them were Apple iPhone users. They gave us everything, and they came back finding infringement on all four patent claims in an hour. I think that suggests a certain degree of unanimity among the jurors."

A representative for Apple declined to comment on the verdict, but confirmed the Cupertino-based company's intention to appeal. The trial was overseen by U.S. District Judge Dana M. Sabraw of the Southern District of California.

In 2014, Wi-LAN, a technology licensing company, informed Apple that it was infringing four patents having to do with cellular 4G technology. The most prominent and profitable of those allows voice communication over the network.

Wi-LAN contended that former Cygnus CEO and co-founder Ken Stanwood, now chief technology officer of Wi-LAN, invented components that Apple mobile devices such as the iPhone 7 and iPhone 7 Plus rely on, and Apple needed to seek a license for those components' use.

In response, Apple filed suit requesting declaratory relief it did not infringe, and Wi-LAN countersued. *Apple Inc. v. Wi-LAN Inc.*, 14-CV02235 (S.D. Cal., filed Oct. 14, 2014).

In pretrial documents, Apple argued it did not infringe any patents, and said Wi-LAN is a company that does not sell products and has a history of litigating infringement claims, including four prior ones against Apple.

According to McKool, a challenge faced by both sides at trial was one common to patent litigation: relating complex technology to a jury.

"Every patent case has that element to it. It's one of the things you spend a lot of time and energy on, figuring out a way to translate the technology, which in the case of cell phones is complex, and the terminology is not in the common parlance," he said.

"You have to make it understandable without oversimplifying it too much and making it meaningless," he added.

McKool disputed the Apple claim that Wi-LAN does not sell products, pointing to its licensing services, product sale wings, and Stanwood's work helping universities commercialize inventions.

He added that Stanwood's testimony was a turning point in the trial, leading to the verdict in favor of his client.

"He was credible, he was obviously extremely gifted, and he was a very humble person," McKool said. "I think that his testimony being so believable was really the biggest asset that we had in the case. He was able to explain his inventions, and I think it was clear that the jury trusted his explanations."

Apple's trial team was led by John Allcock of DLA Piper, who did not respond to phone or email requests for comment.