

## Apple Can't Escape \$85M WiLAN Patent Verdict

By **Lauren Berg**

*Law360 (June 15, 2020, 9:14 PM EDT)* -- Apple can't scrap an \$85 million jury verdict issued against it for infringing WiLAN's wireless patents or get a new trial, a California federal judge ruled on Monday, saying the jury had a sufficient evidentiary basis for the verdict.

U.S. District Judge Dana M. Sabraw denied Apple's post-trial motion, saying he has already addressed the issues "numerous times" in the case and refused to "rehash the parties' arguments or its own analysis."

In its motion filed in April, Apple had argued that the \$85 million jury verdict wasn't supported by evidence for the same reasons the judge tossed a previous verdict of \$145 million.

Apple said the most recent verdict was still too high and asked Judge Sabraw to either wipe it out or lower it to \$10 million, which is the highest possible amount that Apple's damages expert argued it could owe WiLAN Inc. for the infringement. Alternatively, Apple asked that the judge order a new trial.

Monday's order is the latest in a hotly contested, yearslong legal fight over the Ontario, Canada-based licensing firm's patents for voiceover LTE wireless communications technology.

Apple sued WiLAN in 2014, asking the court to declare that its iPhones and other products don't infringe WiLAN's patents, prompting the licensing company to lob counterclaims against the tech giant alleging infringement.

In 2018, a jury found that Apple infringed WiLAN's intellectual property and awarded WiLAN \$145 million in damages. But last year, Judge Sabraw doubted WiLAN's methodology for calculating damages and ruled that the award should either be slashed to \$10 million or a new trial on damages should be held.

WiLAN opted for a new damages trial, which culminated in an \$85 million verdict in January.

In his order on Monday, Judge Sabraw also granted WiLAN's motion for 7% prejudgment interest, plus post-judgment interest, with the interest collecting from when WiLAN first filed counterclaims against Apple in September 2014.

Apple did not oppose the request concerning post-judgment interest, but the judge rejected Apple's

argument that WiLAN shouldn't get pre-judgment interest for the time between the first jury verdict and the judgment.

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

The patents-in-suit are U.S. Patent Nos. 8,457,145 and 8,537,757.

Apple is represented by Sean C. Cunningham, Erin Gibson, Robert Williams, Tiffany Miller, Peter Maggiore and Robert Buergi of DLA Piper.

WiLAN is represented by James R. Patterson and Jennifer M. French of the Patterson Law Group APC and Mike McKool, Ashley N. Moore, Warren Lipschitz, Brett E. Cooper, Jonathan Yim, Drew B. Hollander, Scott Cole and Seth Hasenour of McKool Smith PC.

The case is Apple Inc. v. Wi-LAN Inc., case number 3:14-cv-02235, in the U.S. District Court for the Southern District of California.

--Additional reporting by Dorothy Atkins, Dani Kass and Mike LaSusa. Editing by Nicole Bleier.