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Jury Clears Reflectix In Thermal Insulation Patent Dispute

By **Matthew Bultman**

Law360, New York (November 2, 2015, 6:04 PM EST) -- Reflectix Inc. did not infringe four Promethean Insulation Technology LLC patents directed to thermal insulation technology, a Texas federal jury has ruled, finding claims in each of the patents invalid as well.

Promethean, a Plano, Texas, subsidiary of patent holding company Acacia Research Corp., had sued Reflectix in December 2013 in the Eastern District of Texas, claiming Reflectix sold reflective insulation that infringed its patents and seeking \$4.4 million in damages.

After a four-day trial, jurors deliberated for about three hours before delivering their verdict Thursday, Reflectix attorneys said.

"This confirms Reflectix's position since the beginning," Brett C. Govett of Norton Rose Fulbright, who led Reflectix's trial team, said Monday.

An attorney for Promethean did not immediately respond to a request for comment.

The lawsuit was one of several Promethean filed in late 2013 and early 2014 over the patents, which related to a method of thermally insulating certain objects. Each was filed in the Eastern District of Texas, often the go-to jurisdiction for patent enforcement entities.

The cases were consolidated for discovery. One company, Pregis Corp., settled the infringement claims, and some others were dismissed. Three related matters, including one involving the patents tried in the Reflectix case, are still pending.

Promethean's complaint against Indiana-based Reflectix, a subsidiary of Sealed Air Corp. that makes reflective insulation and radiant barriers, also named Home Depot Inc., where Reflectix sold its products. Claims against Home Depot were dismissed without prejudice in April, court records show.

Reflectix, meanwhile, challenged each of the patents at issue at the Patent Trial and Appeal Board, asking the board to scrutinize them in an America Invents Act review.

But the board refused, saying Reflectix had not listed all the real-parties-in-interest. Specifically, it said Reflectix should have listed Sealed Air as an interested party in the proceedings. Reflectix has since asked for a rehearing.

Back in district court, Reflectix pushed ahead to trial, challenging the assertion that it had willfully induced infringement of the patents. It also said various claims in each were invalid because they were anticipated or made obvious by prior art.

Jurors sided with Reflectix, finding it had not infringed the disputed claims and had proven they were invalid, according to a verdict sheet.

"We are extremely pleased with the jury's decision," said Jennifer Truelove of McKool Smith PC, who helped represent Reflectix during jury selection.

The patents-in-suit are U.S. Patent Nos. 7,935,410; 7,935,411; 8,221,871; and 8,327,601.

Promethean is represented by Danny L. Williams, Brian K. Buss, Matthew R. Rodgers, Christopher N. Cravey, David K. Wooten, Drew Kim and Leisa Talbert Peschel of Williams Morgan PC.

Reflectix is represented by Brett C. Govett, Jon Skidmore, Warren Huang, Marwan Elrakabawy, James Leito, Nick Hendrix and Nathan Rees of Norton Rose Fulbright; and Jennifer Truelove of McKool Smith PC.

The case is Promethean Insulation Technology LLC v. Sealed Air Corporation et al., case number 2:13-cv-01113, in the United States District Court for the Eastern District of Texas.

--Editing by Brian Baresch.