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Amazon Cuts Deal In ContentGuard's Digital Rights IP Suit

By **Erin Coe**

Law360, San Diego (July 24, 2015, 10:26 PM EDT) -- Amazon.com Inc. has reached a settlement in ContentGuard Holdings Inc.'s case alleging the online retailer, Apple Inc., and other companies infringed digital rights management patents, according to filings in a Texas federal court Friday, weeks after the Patent Trial and Appeal Board mostly denied bids for America Invents Act reviews of three of its patents.

Amazon and ContentGuard filed a notice of settlement with the U.S. District Court for the Eastern District of Texas, noting that all matters in controversy between the parties have been resolved, in principle, and asking the court to stay all unreach deadlines for the next four weeks so that they can document the deal, according to a court filing.

Another court document says the parties on June 30 engaged in mediation proceedings, which ended up being suspended, but they continued discussions and eventually arrived at an agreement.

Attorneys representing Amazon and ContentGuard were not immediately available for comment Friday.

ContentGuard sued Amazon, Apple, Samsung, HTC Corp., Huawei Device USA Inc., Motorola Mobility LLC and Blackberry Ltd. beginning in 2013, alleging some of the companies' computer applications infringed nine ContentGuard patents. The lone exception was Amazon, which ContentGuard accused of violating seven patents. ContentGuard also sued Google Inc. separately several months later.

Each patent concerns digital rights management and related digital content distribution products and technologies. The suit claims the companies flouted the patents by developing and running apps on devices such as Apple's iPad that practice the patented technology.

Amazon and ContentGuard's settlement notice comes after the PTAB in June **shot down most of the bids** by Apple and Google to institute either an inter partes review or covered business method review of three of ContentGuard's patents, which have been asserted in the current action and in the action against Google.

The three patents at issue in the PTAB's rulings were U.S. Patent Numbers 8,001,053; 7,774,280; and 8,393,007. Apple and Google had argued that the patents were either anticipated or obvious over the prior art.

In each of the denials, the PTAB said the petitioners failed to show there was a reasonable likelihood that they would prevail with respect to at least one of the challenged claims.

The PTAB, however, did grant Google's petition to institute a CBM review only as to claims 1, 5 and 11 of the '280 patent. In that decision, the PTAB said Google proved it was likely that the three challenged claims were unpatentable under sections 102 and 103 of the Patent Act.

The patents-in-suit are 8,001,053; 7,774,280; 8,393,007; 6,963,859; 7,523,072; 7,269,576;

8,370,956; 7,225,160; and 8,583,556.

ContentGuard is represented by Samuel Baxter, Holly Engelmann, Seth Hasenour, Robert Cote, Radu Lelutiu and David Dehoney of McKool Smith PC.

Amazon is represented by Jennifer Doan and Joshua Thane of Haltom & Doan and Glen Summers, John Hughes and Katherine Hacker of Bartlit Beck Herman Palenchar & Scott LLP.

The case is ContentGuard Holdings Inc. v. Amazon.com Inc. et al., case number 2:13-cv-01112, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Vin Gurrieri. Editing by Chris Yates.

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