

Verizon Hit With \$115M Verdict In Video Patent Row

By **Richard Vanderford**

Law360, New York (August 2, 2011) -- A federal jury in Virginia said Tuesday that Verizon Communications Inc. should pay \$115 million for infringing on-demand video patents held by ActiveVideo Networks Inc.

Following a three-week trial, the jury found that Verizon infringed, though not willfully, four ActiveVideo patents that cover streaming video technology used in set-top boxes.

The verdict is the single-largest decision ever in a patent case in the Eastern District of Virginia, according to ActiveVideo's lawyers at Morgan Lewis & Bockius LLP.

"My client was ecstatic," Morgan Lewis' Daniel Johnson told Law360.

"A finding by the jury that Verizon infringed each and every one of our patents was quite gratifying," he said.

Johnson said ActiveVideo will move for an injunction "as soon as we can get the papers put together," but he added that he hoped a deal could be worked out before an injunction fight or appeal became necessary.

Ruling on counterclaims put forward by Verizon, the jury found that ActiveVideo indirectly infringed two Verizon patents, but awarded the communications giant only \$16,000.

"Verizon disagrees with the verdict and is confident that the court of appeals will agree," said Robert Varettoni, a Verizon spokesman.

"The company will not be paying any damages while the appeal is under way," he said.

Apart from its dollar value, the outcome of the case helps ActiveVideo customer Cablevision Systems Corp. in its ongoing fight with Verizon before the U.S. International Trade Commission, as well, Johnson said.

Verizon sued Cablevision, which uses ActiveVideo's technology in its set-top boxes, for allegedly infringing several of its patents. That move prompted ActiveVideo to retaliate with the Virginia suit on Cablevision's behalf, Johnson said.

An ITC judge found in May that Cablevision infringed Verizon's U.S. Patent Number 6,381,748, but U.S. District Judge Raymond A. Jackson ruled in the current case that the '748 patent was invalid.

ActiveVideo sued Verizon in May 2010, alleging that the company's FiOS cable system infringed five ActiveVideo patents on interactive TV technology. It later dropped one patent from the suit.

The technology allows TV viewers to use their set-top boxes to queue up video-on-demand, play games and use so-called widgets, according to Johnson.

Verizon responded to the suit by claiming ActiveVideo infringed several of its patents. Claims related to two of those patents survived to be considered by jury.

The ActiveVideo patents-in-suit are U.S. Patent Numbers 6,034,678; 5,550,578; 6,100,883; and 6,205,582. The Verizon patents-in-suit are U.S. Patent Numbers 6,169,542 and 7,561,241.

Verizon is represented by Hunton & Williams LLP, Simpson Thacher & Bartlett LLP and Kellogg Huber Hansen Todd Evans & Figel PLLC.

ActiveVideo is represented by Kaufman & Canoles PC and Morgan Lewis & Bockius LLP.

The case is ActiveVideo Networks Inc. v. Verizon Communications Inc. et al., case number 2:10-cv-00248, in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Ryan Davis. Editing by Chris Giganti.

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