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Casio, Others Escape Traffic Ticket System Patent Suit

By **Allison Grande**

Law360, New York (March 25, 2011) -- A Texas federal judge ruled Wednesday that hand-held electronic ticket writers made and distributed by Motorola Inc. subsidiary Symbol Technologies Inc., Casio America Inc. and others don't infringe a Raylon LLC patent for a system used for issuing traffic citations.

Judge Leonard Davis of the U.S. District Court for the Eastern District of Texas granted the defendants' motions for summary judgment of noninfringement and dismissed Raylon's three related infringement actions against the defendants, ruling that the accused devices do not literally or under the doctrine of equivalents infringe U.S. Patent Number 6,655,589 because they have rigidly mounted displays on the housing.

The ruling hinged on the construction of the term "display being pivotally mounted on said housing," which the defendants argued "would completely resolve liability in all three cases."

During a Markman hearing in which the court additionally heard summary judgment arguments, Raylon argued that the claim should be construed to mean "an electronic device attached to a housing that visually presents information and allows the display to be moved or pivoted relative to the viewer's perspective," and that the accused products infringed the '589 patent because their displays could be tilted, moved or pivoted with respect to the user's viewpoint by moving the entire device.

But Judge Davis rejected that definition, calling it "contrary to the specification and the plain meaning of the claim" because it too broadly defined "pivotally mounted" to include any embodiment that allows the user to move or adjust the screen relative to the viewer's perspective.

The judge also shot down defendant EZ Tag Corp.'s definition of the claim, ruling that it was also broader than the claim language because it reads out the "pivotal" requirement and further defined "display," which does not require an additional definition beyond its plain and ordinary meaning.

However, Judge Davis did substantively adopt defendants Casio, Complus Data Innovations and Fujitsu America Inc.'s interpretation of the claim, ultimately defining the term as "the display must be mounted on the housing so that the display and housing may pivot with respect to each other."

Under this definition, the accused devices — the Psion Workabout Pro, Fujitsu TeamPad 500, Casio IT 3000 and Casio IT 3100, which are all supplied by Complus, as well as Symbol's MC50 and MC70 — do not do not meet the function, way, result test for infringement because they

have rigidly-mounted displays, the judge concluded.

Russ Emerson of Haynes and Boone LLP, which represents Complus, called Raylon's argument that these fixedly mounted displays were really pivotally mounted displays because one could pivot the entire device in one's hand "preposterous," reiterating the judge's conclusion that each claim required a display pivotally mounted on the housing and that every accused device had a display fixedly mounted on its housing.

"Judge Davis described this position as stretching the bounds of reasonableness [and] we would respectfully submit that Raylon's arguments broke those bounds," Emerson told Law360 on Friday. "Nevertheless, Complus is gratified to get this suit behind it and turn its attention to more productive efforts."

Scott Stimpson of Sills Cummis & Gross PC, which represents Casio, said Friday that the company was also very pleased with the summary judgment decision.

"Casio respects the patent rights of others but will fight hard where it thinks the situation requires it," Stimpson said.

Patent-holding company Raylon initiated the three suits in August, accusing software developer Advanced Public Safety Inc. and several makers, distributors and users of allegedly infringing devices that contained APS' software — including Research In Motion Ltd., Zebra Technologies Corp. and Intermec Inc. — of infringing the '589 patent, titled "Identification investigating and ticketing issuing system."

Several defendants including RIM and APS executed confidential settlements and were dropped from the case, but the remaining defendants answered the complaint and Casio, which was named in all three actions, and Complus, a defendant in the first-filed action, filed separate summary judgment motions to dispose of the three cases.

Symbol also moved for judgment on the pleadings, which the court converted to a motion for summary judgment of noninfringement and granted Wednesday.

The patent-in-suit is U.S. Patent Number 6,655,589.

Raylon is represented by Hemingway & Hansen LLP.

Complus is represented by Haynes and Boone LLP and Hardy & Atherton PC. Casio is represented by Sills Cummis & Gross PC. Symbol is represented by Potter Minton PC and Sobel & Feller LLP. EZ Tag is represented by The Law Offices of Young Pickett & Lee and Cooper & Dunham LLP. Fujitsu is represented by Buether Joe & Carpenter LLC.

The cases are Raylon LLC v. Complus Data Innovations et al., case number 6:09-cv-00355; Raylon LLC v. Advanced Public Safety Inc. et al., case number 6:09-cv-00356; and Raylon LLC v. EZ Tag Corp. et al., case number 6:09-cv-00357, in the U.S. District Court for the Eastern District of Texas.

--Editing by Chris Giganti.

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