

Apple Scores PTAB Victory, Nixes Claims In DSS Tech. Patent

By **Matthew Bultman**

Law360, New York (June 20, 2016, 4:15 PM ET) -- The Patent Trial and Appeal Board invalidated claims in a patent directed to wireless data communications, handing a win to Apple Inc., which had been accused of infringing with Bluetooth capable devices.

In two final written decisions, the board said Apple had shown various claims in the patent, which is owned by DSS Technology Management Inc., would have been obvious in view of earlier patents.

“We have considered the evidence in the petition and are persuaded, for the reasons presented by Apple, that Apple has shown by a preponderance of the evidence that [the challenged claims] would have been obvious,” the board wrote in one decision.

The invention in DSS Technology’s patent was meant to, among other things, provide a data network that was relatively simple and cheap to build, while requiring low power consumption and avoiding interference from other systems nearby, according to the PTAB.

It is at the heart of a lawsuit DSS Technology filed in late 2013 against Apple, alleging infringement with products that have Bluetooth capabilities. This included iPhones, iPads and the iPod touch. DSS Technologies was seeking damages and a permanent injunction.

The patent was also included in a second lawsuit that DSS Technology filed in the Eastern District of Texas against Lenovo. It alleged Lenovo stepped on its invention with computers that provide wireless Bluetooth connections to devices like a keyboard and a mouse.

The Lenovo case was dismissed, without prejudice, last summer at the request of both sides. The Apple case has been put on hold pending the PTAB proceedings.

In December 2014, when Apple asked the PTAB to review the asserted claims in inter partes reviews, it argued parts of the patent were invalid because they would have been obvious to a person who was familiar with the technology.

Apple's petitions focused on two earlier patents, one of which was issued in 1993 and credited to inventor Kadathur Natarajan. The patent dealt with power conservation in wireless communication. The other patent covered a communications system invented by a man named Brian Neve, among others.

DSS Technology argued, in part, that Natarajan’s patent didn’t teach a key part of its claimed invention,

namely the way in which the server communicates with devices. And it said Neve's patent didn't cure these deficiencies.

Ruling on Friday, the PTAB sided with Apple and said the combination of the two patents teaches each limitation in the relevant claims. And it concluded a person skilled in the field would have had reasons to combine the references to arrive at the claimed invention.

"We have considered DSS's arguments to the contrary and find them unpersuasive," the board wrote.

The lawsuits against Apple and Lenovo were part of a string of infringement suits that DSS Technology filed against major companies over various patents. In February 2015, for example, it **filed suit** against the likes of Intel Corp., Wal-Mart Stores Inc. and Dell Inc. over patented microprocessor production technology.

Representatives for Apple and DSS Technology could not immediately be reached for comment Monday.

The patent at issue is U.S. Patent No. 6,128,290.

Apple is represented by David K.S. Cornwell, Jason A. Fitzsimmons, Mark W. Rygiel, and Robert Greene Sterne of Sterne Kessler Goldstein & Fox PLLC.

DSS Technology is represented by Andriy Lytvyn, Anton J. Hopen and Nicholas Pfeifer of Smith Hopen PA.

The cases are Apple Inc. v. DSS Technology Management Inc., case numbers IPR2015-00369 and IPR2015-00373, before the Patent Trial and Appeal Board.

--Editing by Kelly Duncan.

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