

Christmas Tree Lights Co. Lands \$42M Patent Verdict In Minn.

By **Andrew Karpan**

Law360 (January 19, 2024, 6:15 PM EST) -- Lawyers for Taiwanese Christmas lights company Willis Electric say they've scored the largest patent verdict in the history of a Minnesota federal court against a rival in Hong Kong that touts itself as the world's largest maker of artificial Christmas trees.

After an eight-day trial, a dozen jurors in Minneapolis took about five hours on Wednesday to decide that related companies behind the Polygroup brand owe about \$42.5 million to Willis Electric, a company across the South China Sea. Willis claims to have invented something called the One Plug Tree, which Willis' website calls "one of the most energy saving LED trees in the world."

Jurors ended up also agreeing with Willis' case that the infringement was done willfully, which could set the company up to request that U.S. District Judge Joan N. Ericksen, who oversaw the jury trial, as much as triple that verdict.

The lawsuit had targeted over 10 million fake Christmas trees sold by various Polygroup companies. Online, Polygroup calls itself "the biggest global manufacturer of artificial Christmas trees in the world." By the time the case against Polygroup reached jurors, Willis Electric's lawyers had limited themselves to arguing those trees infringed a single claim in a single patent issued to Johnny Chen, who runs the lighting company his father started in 1969 in Taipei.

The case ended up in Minneapolis, among the many U.S. cities where both companies sell their trees at various retail stores. As it happens, the lawyer who prosecuted Chen's patents, John Fonder of Christensen Fonder Dardi & Herbert PLLC, is based in the nearby suburb of Maple Grove. While not directly involved in the case, Fonder had been called to testify during the trial.

Jurors ended up deciding that the patent claim was worth \$4 for each one of the targeted Christmas tree sales — more than \$10 million less than the \$5-per-tree and \$53.1 million that Willis Electric lawyer Patrick Arenz of Robins Kaplan LLP had asked at closing arguments.

It was more, however, than the 10 cents per tree that Polygroup's lawyers had told jurors the patent claim was worth.

"This is believed to be the largest patent verdict in the District of Minnesota history," Robins Kaplan announced in a press release the day after the verdict came down. In 2003, the law firm had been behind a \$30 million patent verdict on behalf of Honeywell against JVC America, a previous benchmark in the federal court.

Polygroup also tried and failed to convince jurors that Chen's patent should not have been issued by the U.S. Patent and Trademark Office, an issue that ended up confusing the foreperson who had accidentally agreed with this idea, before scratching that response off and selecting, "No."

Midway Wednesday afternoon, jurors also requested "to go take a look at the trees" before turning the verdict in, according to a note they sent the judge.

Arenz told Law360 in an email that he looks forward "to pursuing enhanced damages, prejudgment interest and an award of attorneys' fees."

Representatives for Polygroup did not respond to a request for comment.

During closing arguments, Arenz told jurors how much money Polygroup had spent to defend against the case, which had moved through no fewer than 16 inter partes review petitions at the Patent Trial and Appeal Board and had circled around panels of Federal Circuit judges at least twice.

"Do you think Polygroup spent over a million dollars on experts alone to bring you the truth or to distort the truth?" Arenz asked jurors during closing arguments Wednesday morning, according to a transcript.

"Do you really think Polygroup would spend upwards of \$10 million, [\$11 million], if you add in experts, if they thought the invention was worth a dime, if they were selling you something that was true?" the transcript said.

Arenz also took issue with Polygroup's decision to bring in a former Walmart executive named Charles Ritter, once a vice president of "seasonal and celebrations" at the retailer, who told jurors that customers generally take "five seconds" to decide whether they want to buy one fake Christmas tree or another and are generally not swayed by how easy it is to plug them in.

But it turned out that Polygroup was paying Ritter to say this, something Arenz raised before jurors.

"He was a Polygroup consultant. They're not bringing you the truth. They're not bringing you the genuine folks," Arenz said.

The patent-in-suit is U.S. Patent No. 8,454,186.

Willis Electric is represented by Patrick M. Arenz, Emily E. Niles, Jessica Lee Gutierrez and Prateek Neil Viswanathan of Robins Kaplan LLP.

Polygroup is represented by Rachel Zimmerman Scobie, Elisabeth Muirhead, Gabrielle Kiefer and John T. Winemiller of Merchant & Gould PC, and in-house by Eric Szweda.

The case is Willis Electric Co. Ltd. v. Polygroup Trading Ltd. et al., case number 0:15-cv-03443, in the U.S. District Court for the District of Minnesota.

--Editing by Dave Trumbore.