

## Sony Can't Shake Blu-Ray Automatic Playback Patent Suit

By **Carolina Bolado**

*Law360, New York (December 03, 2012, 9:56 PM ET)* -- Sony Corp. on Monday failed in its bid to escape TV Interactive Data Corp.'s suit in California federal court accusing a host of electronics companies of making Blu-ray and DVD players that infringe four patents covering automatic playback technology.

U.S. District Judge Phyllis J. Hamilton denied Sony's motions for summary judgment claiming noninfringement and invalidity of TVI's patents, saying the electronics giant had failed to establish invalidity of the patents.

"The court finds that the motion must be denied, based on Sony's failure to establish invalidity by clear and convincing evidence," Judge Hamilton said. "In addition, it appears that as to at least some of the terms, Sony is improperly arguing for reconsideration of the prior order construing claims."

Saratoga, Calif.-based TVI filed the suit in February 2010 against a slew of companies including LG Electronics Inc., Panasonic Corp., Samsung Electronics Co. Ltd. and Sharp Corp., among others. TVI alleges that the defendants' devices infringe the patents-in-suit by automatically detecting Blu-ray discs or DVDs when turned on and by executing an application without having to reboot.

In April 2010, Panasonic became the first defendant to settle when the electronics maker agreed to license the technology for its Blu-ray and DVD players, TVI's attorney Richard Martinez of Robins Kaplan Miller & Ciresi LLP told Law360 at the time.

LG, Samsung, Sharp, Denon Electronics, D&M Holdings, Funai Corp Inc., JVC Americas Corp., Pioneer Corp., Royal Philips Electronics NV, Toshiba Corp., Victor Co. of Japan Ltd. and Zenith Electronics LLC have since followed suit. Sony and its affiliates are the final defendants left in the suit.

"We're pleased with the court's ruling and are looking forward to a trial on the merits in March," Martinez told Law360 Monday. "All of Sony's competitors have taken licenses. That's not surprising since the validity of the patents has been confirmed during reexamination by the patent office."

The patents-in-suit generally cover a remote control for an interactive media player that can include a printed publication, storage media or a data button. The U.S. Patent and Trademark Office has issued re-examination certificates for all four patents, the complaint states.

TVI initially filed suit in October 2009, but after a question arose regarding its rights to two of the patents, the company dropped its complaint “out of an abundance of caution” and to avoid the hassle and cost of motion practice challenging its standing to bring the action, according to the current complaint.

The patent holder realized that a document assigning the rights of a separate patent to ZillionTV Corp. could appear to also assign the rights to the '863 and '532 patents, the complaint says.

In late January 2010, Zillion and TVI signed a document clarifying the extent of their earlier agreement, paving the way for TVI to refile its suit against the electronics makers on Feb. 2.

Microsoft Corp. has already licensed the patents-in-suit for its Windows-based PCs and Xbox 360, according to Martinez. The two companies were embroiled in litigation over the four patents, but settled just before a trial was set to start in October 2005.

The patent holder had singled out Sony and Toshiba as having willfully infringed the disputed patents, asking for treble damages against those two defendants.

An attorney for Sony could not immediately be reached for comment Monday.

The patents-in-suit are U.S. Patent Numbers 5,597,307; 5,795,156; 6,249,863; and 6,418,532.

TVI is represented by Richard M. Martinez, Patrick M. Arenz, Sarah Hudleston and Victor C. Chan of Robins Kaplan Miller & Ciresi LLP.

Sony is represented by Gregory S. Gewirtz and Jonathan A. David of Lerner David Littenberg Krumholz & Mentlik LLP and M. Elizabeth Holt of Severson & Werson PC.

The case is TV Interactive Data Corp. v. Sony Corp. et al., case number 5:10-cv-00475, in the U.S. District Court for the Northern District of California.

--Editing by Andrew Park.

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