

Samsung Springs Toshiba Out Of LCD Screen IP Suit

By **RJ Vogt**

Law360, Los Angeles (October 25, 2017, 8:08 PM EDT) -- Toshiba escaped an infringement suit over LCD screen components on Tuesday after a Delaware federal judge granted a motion filed by a Samsung unit that intervened in the case to contend that the patent owner couldn't prove the accused electronics infringed the patents' claims.

In a pair of suits, MiiCs & Partners America Inc. had alleged products made by Toshiba Corp. and Funai Electric Co. Ltd. infringed three of its patents. But Samsung Display Co. Ltd. — which is not named in either suit — stepped in to argue that the asserted claims should be thrown out, contending MiiCs didn't prove the patents it holds cover the same function or configuration as Toshiba and Funai television and tablet screens.

U.S. District Judge Richard G. Andrews found in a trio of opinions Tuesday that two of the patents describe thin film transistor components that are located in different places within a screen than where those parts are located in Toshiba and Funai products, ruling that MiiCs hadn't shown literal infringement, according to the decision.

"Plaintiffs have presented no evidence to raise a genuine issue of material fact that the accused products infringe the asserted claims," Judge Andrews wrote in his order.

The rulings found Toshiba and Funai hadn't infringed claims in those patents, U.S. Patent Numbers 7,460,190 and 5,966,589, but refused to free Funai from infringement accusations over a third patent, U.S. Patent Number 6,734,927.

Tuesday's filings closed one of two remaining suits that MiiCs brought against companies that make electronic screens in June 2014. The company, which identifies itself as an "IP monetization management consulting firm," originally accused Toshiba, Funai and Mitsubishi Electric Corp. of infringing as many as nine separate patents.

In July 2015, Judge Andrews dismissed the case against Mitsubishi. Samsung intervened on behalf of Toshiba and Funai in the remaining two cases in March 2016, stating that, because nine of the 18 accused products in the suits included Samsung components, the Korean company has an interest as a manufacturer.

In May, Samsung moved for partial summary judgment on claims in three of the asserted patents,

arguing that MiiCs did not demonstrate its patents actually described aspects in the products it accused of infringement.

In challenging the '190 patent's claims, which described the construction of thin film transistors as having a groove in two separate semiconductor layers, the manufacturer argued that its customers' products placed the groove in only one of the layers.

At least one element of the argument hinged on the meaning of the patent's use of the word "in." MiiCs had argued that the Funai and Toshiba screens buried the groove "in" both layers because one layer wrapped around another, but Judge Andrews in Tuesday's rulings granted Samsung's motion on the grounds that the patent did not use the word "in" to refer to anything other than physical location.

Samsung's challenge of the '589 patent's claims, which described the location of thin film transistors within an LCD screen, relied similarly on the specific meaning of a word: The manufacturer claimed that the accused products did not place semiconductors "where" two other components overlapped, as MiiCs' '589 patent describes.

In one of Tuesday's opinions, Judge Andrews ruled that MiiCs had admitted that none of the accused products had a thin film transistor "where" the patented invention did and said it amounted to "an admission of no literal infringement."

But the judge did not grant Samsung's challenge of the '927 patent's claims, in which the manufacturer had argued that a prior patent's use of the word "hole" anticipated the '927 patent's use of the word "depression" and should render it invalid. Finding that nothing in the '927 patent suggests "depression" and "hole" are used interchangeably, Judge Andrews denied Samsung's motion and left the '927 patent as the only one remaining in the case against Funai.

In the case against Toshiba, MiiCs withdrew with prejudice the asserted '927 claims in a document filed Oct. 23 but dated Oct. 24. Because MiiCs had already withdrawn the other remaining patents in the Toshiba dispute, Judge Andrews' decision to grant Samsung's challenges against the '190 and '589 patents terminated that case.

Representatives for the parties did not immediately respond to requests for comment on Wednesday.

The patents-in-suit are U.S. Patent Nos. 7,460,190, 5,966,589 and 6,734,927.

MiiCs & Partners America Inc. and Gold Charm Ltd. are represented by Dennis J. Butler, Stephen E. Murray, Keith A. Jones and John D. Simmons of Panitch Schwarze Belisario & Nadel LLP, and Frederick A. Tecce, Bryon T. Wasserman, Aaron R. Ettelman and Anthony Nimmo of Ice Miller LLP.

Samsung Display Co. Ltd. is represented by Adam W. Poff and Pilar G. Kraman of Young Conaway Stargatt & Taylor LLP, and Bob Haslam, Jeff Lerner, David Garr, Chang Sik Kim and Jared Frisch of Covington & Burling LLP.

Funai Electric Co. Ltd. is represented by Benjamin J. Schladweiler and Nicholas D. Mozal of Ross Aronstam & Moritz LLP, J.C. Rozendaal, Michael E. Joffre and Daniel J. Bernard of Sterne Kessler Goldstein & Fox PLLC, and Jean Paul Y. Nagashima of Nagashima Hashimoto & Yasukuni.

Toshiba Corp. is represented by Clinton L. Conner, David Tseng, Paul T Meiklejohn and Robert W.

Mallard of Dorsey & Whitney LLP.

The cases are MiiCs & Partners America Inc. et al. v. Funai Electric Co. Ltd. et al., case number 1:14-cv-00804, and MiiCs & Partners America Inc. et al. v. Toshiba Corp. et al., case number 1:14-cv-00803, in the U.S. District Court for the District of Delaware.

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