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3Com, CSIRO Reach Settlement In Wi-Fi Patent Suit

By Julie Zeveloff

Law360, New York (July 07, 2009) -- Networking solutions provider 3Com Corp. has become the latest defendant to settle with Australia's national research agency, the Commonwealth Scientific and Industrial Research Organization, in a suit over a wireless local area network patent.

Judge Leonard Davis of the U.S. District Court for the Eastern District of Texas on Monday signed off on an agreed motion to dismiss all claims between 3Com and CSIRO with prejudice. The court will retain jurisdiction over the case to enforce the terms of settlement, which were not disclosed.

Each side will also pay its own attorneys' fees and other legal expenses incurred in more than two years of litigation, according to the order.

Monday's order follows an April ruling that dismissed without prejudice all claims made by CSIRO against 3Com.

A representative for 3Com said he could not answer questions on the matter, and a representative for CSIRO did not immediately respond to a request for comment on the settlement Tuesday.

CSIRO, one of the largest scientific research institutions in the world, has long been embroiled in litigation over its patent relating to the 802.11 networking standard, commonly known as Wi-Fi.

The organization sued 3Com and several other technology companies in December 2006, alleging they infringed a U.S. patent on technology for wireless networks, including Wi-Fi, a standard feature of notebook computers and other devices.

In its response to the suit, 3Com contended that CSIRO's patent was invalid because the Australian inventors allegedly withheld vital prior art from the U.S. Patent and Trademark Office.

The inventors allegedly authored a paper predating the patent application by more than a year — titled "Pervical Paper" — that disclosed most of the elements of the patent's claims, the response said.

Belkin Corp. was dismissed from the case in May after finalizing a settlement with CSIRO, announced in court on April 13, the first day of trial in the case. At the time, Belkin and CSIRO said they had settled most issues except one definition of "licensed products."

Only Nintendo of America Inc. and D-Link Systems Inc. need to finalize agreements with CSIRO. The two companies have already reached settlements in principle with the plaintiff, also announced April 13.

Other defendants — including Toshiba America Information Systems Inc., Fujitsu Computer Systems Corp. and Asus Computer International Inc. — were dismissed in April.

The patent-in-suit covers the implementation of integral parts of the 802.11a and 802.11g wireless standards developed by CSIRO.

Several other companies have settled separate suits against CSIRO. Microsoft Corp., Hewlett-Packard Co., Netgear Inc. and Apple Inc. all settled in a lawsuit they first filed against CSIRO in the Northern District of California.

That suit, in which the technology companies sought to invalidate CSIRO's patent, was later moved to the Eastern District of Texas. Dell and Intel, which filed a suit to invalidate the patent, have also settled.

The patent-in-suit in the current matter is U.S. Patent Number 5,487,069.

CSIRO is represented by Townsend and Townsend and Crew LLP and Capshaw DeRieux LLP.

3Com is represented by Wilson Sheehy Knowles Robertson & Cornelius PC and Vasquez Benisek & Lindgren LLP.

The case is Commonwealth Scientific and Industrial Research Organization v. Toshiba America Information Systems Inc. et al., case number 06-cv-00550, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Richard Vanderford, Samuel Howard and Tina Peng

Correction: A previously published version of this article incorrectly identified Morgan Miller Blair as co-counsel for 3Com. The error has been corrected.