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## Patent Litigation Weekly: Ex-Fish Lawyer Turns "Troll," Taps Former Firm for Suits

By Joe Mullin

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For Fish & Richardson, the Scott Harris saga is a dark chapter in firm history. Harris, readers of this column will recall, is the former Fish principal fired by the firm when it was revealed that his patents were being asserted against some big companies. In the ensuing litigation, Fish accused Harris of committing a “stunning betrayal”: hatching plans to sue technology companies—some of them Fish clients—while he was still employed by the firm.

Compare the strong response to Harris’s transgressions with the firm’s reaction to the activities of Choongsoo Park, a former associate in Fish’s Washington, D.C. office who departed last year.

While still a Fish employee, Park acquired rights to several patents that he claims cover CDMA2000, a widely used for standard for cell phones, and 802.11, the protocol used for wireless Internet connections. He also created a holding company, SPH America, to assert those patents.



After Park’s departure, his former colleagues quickly took him on as a client, helping him enforce his patents by representing SPH America in two district court lawsuits, as well as high-stakes litigation before the International Trade Commission. (Documents from the SPH America ITC complaint available at Oblon, Spivak’s ITC Blog.)

In one case, Fish lawyers represented SPH in an infringement suit filed against HTC Corp., Kyocera Corp., and Sony Ericsson. Fish lawyers also represented SPH when Kyocera filed a declaratory judgment suit in California seeking to invalidate Park’s patents. All told, six Fish lawyers worked on Park’s suits.

The two district court cases were settled on July 1. SPH America’s complaint at the International Trade Commission—in which Park asked the government to ban the importation of certain cell phones made by Kyocera, MetroPCS, Sprint Nextel, and Virgin Wireless—was withdrawn around the same time. The Fish lawyers were joined on the SPH cases by Park’s attorneys at the newly formed Echelon Law Group: Tae Kim, a former Townsend and Townsend and Crew associate, and Andrew Chuong, a former Sidley Austin associate. Park’s legal team also includes former Quinn Emanuel lawyer Adrian Pruetz, now of The Pruetz Law Group.

A Fish spokesman confirmed that Park—who, in addition to SPH America, owns at least two other patent-holding companies, WIAV Solutions, and WIAV Networks—is a former associate and a current client, but declined to elaborate.

In a statement, the firm said it never put itself in a "conflict position" while representing SPH America, and added: "In any event, our representation of SPH America is coming to a conclusion."

Fish has good reason to want to be rid of Park. He's made a habit of suing some of their biggest clients; in September, his WIAV Solutions sued Apple and Research in Motion.

This week, the ex-associate's patent-enforcement campaign reached new heights when he filed lawsuits in Virginia and Texas against 58 technology companies demanding royalties on a vast array of wireless communication devices. And while Fish doesn't represent Park in either of those suits, the long list of new defendants again includes some of the firm's marquee clients, among them Apple and Nokia.

The patents at issue in one of the suits originated with the Electronics and Telecommunications Research Institute (ETRI), a non-profit government-funded Korean research organization. Park, a former examiner in the South Korean patent office, obtained exclusive licenses to the patents from ETRI.

SPH America is using the patents—including the four asserted in the most recent lawsuit, 5,960,029, 7,443,906, RE 40,385, and RE 40,253—to demand royalties on the WCDMA and CDMA2000 standards, which cover a wide array of WiFi-capable smartphones.

In his other big lawsuit, filed by WIAV Networks, Park is asserting ownership rights to the 802.11 wireless Internet standard, based on two patents that originated with Ricochet, a tech company that went bankrupt during the dot-com bust. The patents are 5,400,338 and 6,480,497. Ricochet sold the patents to a company called Terabeam, and Securities and Exchange Commission documents show that Park bought those patents for \$2.5 million in 2007.

Park seems to especially have it in for Kyocera, which filed the DJ suit against SPH America in California. In June, Kyocera got hit with an extra lawsuit in Virginia with an additional set of patents, 6,212,408 and 6,278,887.

Echelon Law Group's Chuong declined to comment on Park's lawsuits. Park did not return phone calls or e-mails seeking comment.

Fish & Richardson isn't the only big firm moving to distance itself from Park. Like Fish, Sidley Austin has been helping Park litigate since he started his campaign a year ago; after reaching settlements on an earlier WIAV case, against mostly small players, court filings indicate Sidley lawyers have terminated their relationship with Park.

Park isn't the first to say he should be paid for patents that allegedly cover the 802.11 wireless standard—nor is he the first to rely on East Texas courts to help him collect those payments.

WiLan, a Canadian patent-holding company, went to the Eastern District of Texas to sue a big swath of tech companies over 802.11 technology in 2007.

And CSIRO, an Australian government research organization, sued dozens of technology companies in 2006 over patent claims to 802.11 standards; the final defendants reached confidential settlements in April, midway through a trial in East Texas.

The CSIRO lawsuits may have opened the door to new patent claims over 802.11 standards, says Rich Vasquez, whose Bay Area IP boutique, [Vasquez Benisek & Lindgren LLP](#), represented several defendants in those suits. Among those new claims: the July 7 suit filed by Park's WIAV Networks holding company against 3Com Corporation and computer parts manufacturers including Dell, Toshiba, Belkin, H-P, Motorola, and many other defendants—22 in total.

The WIAV Networks lawsuit, Vasquez says, "appears to be one more attempt to burden WiFi manufacturers' products with an unreasonable royalty. This demonstrates the problem of [royalty stacking](#). The 802.11 protocols are supposed to be open standards."

In this instance, it seems more like open season on those standards.

The suits filed this week are:

- *SPH America, LLC v. Acer, Inc. et al*, 08-cv-00702, E.D. Virginia, filed 7/6/09
- *WIAV Networks, LLC v. 3Com Corporation et al.*, 09-cv-00101, E.D. Texas (Texarkana), filed 7/7/09

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