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9th Co. Exits Finoc Broadband Data Patent Suit

By **Melissa Lipman**

Law360, New York (June 10, 2009) -- Finoc Design Consulting Oy has settled claims that SMC Networks Inc. infringed a patent for broadband data transmission technology, leaving the suit with only six of the 15 companies the Finnish electronics firm originally sued.

Judge Leonard Davis of the U.S. District Court for the Eastern District of Texas signed off on the bid to dismiss SMC from the suit with prejudice on Tuesday after the two sides told the court they had settled the entire dispute between them.

Both sides are to pay their own costs and attorneys' fees. The terms of the settlement remain confidential, according to SMC attorney Richard Vasquez, who said his client was happy with the settlement.

SMC opted to settle the matter based on the "terms relative to the cost of litigation and the terms relative to what [other patent holders] are seeking these days on similar technology" involving broadband transmission, Vasquez said.

An attorney for Finoc was not immediately available for comment Wednesday.

Finoc had accused the company of infringing a patent titled "Data transmission method, terminal equipment and data transmission system," which relates to a type of technology used in digital communications called xDSL, according to the complaint.

The patent — based on a March 2000 application with the Finnish Patent Office — issued in 2005 to Hannu Heusala, a professor and the CEO of Finoc Design Consulting, according to court documents and the company.

According to the complaint, the patent comes out of Heusala's "extensive research in the field of xDSL data transmission." It covers an improved method for transmitting digital data over existing telephone lines and reformatting xDSL-formatted data at customer sites.

Finoc seeks declaratory relief as well as an injunction against future infringement and compensatory

damages from the remaining defendants — including Motorola Inc. — which all sell or provide services for wireless broadband communications devices, such as routers or switches.

SMC is the ninth defendant to exit Finoc's suit and the eighth to settle the dispute.

Shortly after filing its complaint, Finoc voluntarily dismissed Diamond Multimedia Inc. without prejudice in late February.

Then in early May, Judge Davis signed off on joint motions to dismiss Cisco Systems Inc., 3Com Corp., D-Link Systems Inc., Strowger Inc. and Zyxel Communications Inc. and approved consent motions to drop Trendnet System Inc. and Netgear Inc. on June 2.

Finoc dropped all eight of those defendants with prejudice through motions nearly identical to Monday's request to dismiss SMC.

The consulting firm's case continues against Motorola and its subsidiary Netopia Inc., Westell Technologies Inc., Zoom Technologies Inc., 2Wire Inc. and Actiontec Electronics Inc.

Motorola and Actiontec have both lodged counterclaims arguing that Finoc's patent is invalid and that they have not infringed it, according to court documents. Actiontec has also taken issue with Finoc's decision to bring the suit in the Eastern District of Texas.

SMC attorney Vasquez noted that had his client remained in the litigation it likely would have moved to transfer the dispute to California. He said he "wouldn't be surprised" if one of the remaining defendants ended up seeking such a transfer.

Based in Oulu, Finland, Finoc Design Consulting has offered services to telecommunications companies since 1985, originally under the names Hantro LP, Hantro Ltd. and DSLB it Hantro Ltd., according to the company.

Currently, Finoc's main focus is asserting intellectual property rights for patents developed from research conducted by Heusala, it said.

Finoc is represented by Spangler Law PC and Vanek Vickers & Masini PC.

SMC Networks is represented by Wilson Robertson & Cornelius PC and Vasquez Benisek & Lindgren LLP.

2Wire is represented by Findlay Craft LLP. Actiontec Electronics is represented by Jones Day. Motorola and Netopia are represented by Howrey PC and Potter Minton PC. Westell Technologies is represented by McDonnell Boehnen Hulbert & Berghoff LLP and Herbert A. Yarbrough III. Zoom Technologies is represented by Whitaker Chalk Swindle & Sawyer LLP.

The patent-at-issue is U.S. Patent Number 6,850,560.

The case is Finoc Design Consulting Oy v. 2Wire Inc. et al., case number 6:09-cv-00045-LED, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Christie Smythe and Leigh Kamping-Carder

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