

DECISIONS & SETTLEMENTS

Perkins Coie's Patent Litigation Group wins \$29M judgment in football helmet patent infringement suit on behalf of Riddell Sports

Riddell Sports filed its three-count patent infringement complaint in the Western District of Wisconsin in December of 2008 against **Schutt Sports**, contending that Schutt had infringed Riddell's patented concussion reduction technologies featured on the Riddell Revolution family of football helmets and faceguards.

Riddell is the leading manufacturer of football helmets and a division of Easton-Bell Sports. Schutt, Riddell's main competitor in the market, fiercely defended against the complaint and filed a counter-claim seeking \$40M in damages for allegations of false advertising and unfair competition under the Lanham Act.

Two weeks prior to trial, Riddell was granted summary judgment on the Lanham Act claims, and the trial team went on to win a verdict of patent infringement on all remaining claims, with the jury awarding over \$29M (\$24M in lost profits and over \$5M in reasonable royalties).

"This is a significant case for many reasons," said Mike Warnecke, the lead trial lawyer and co-chair of Perkins Coie's Patent Litigation practice. "The patents related to reducing concussions in football, and this area has been a topic of concern for players, parents and coaches at all levels of play. The damage award in this case was the largest award in a patent case in Madison, Wisconsin, which is a jurisdiction where patent cases are regularly tried."

The trial team included Mike Warnecke (Chicago), Chris Hanewicz (Madison), and Gabrielle Bina (Madison), assisted by Rodger Carreyn (Los Angeles) and Doug Sawyer (Denver). The pre-trial team also included Debra Bernard (Chicago), leading the counter-claim defense, Brandy McMillion (Chicago), and Jeremy Buxbaum (Chicago).

Firm Wins Key Patent Assertions for Lectrolarm in Final Appeal

Dickstein Shapiro LLP is pleased to announce that the U.S. Patent and Trademark Office (USPTO) Board of Patent Appeals and Interferences recently found in favor of firm client, **Lectrolarm Custom Systems, Inc.**

(Lectrolarm), on certain key claims to its patent for security camera control systems. In the decision, the board reversed a USPTO examiner's earlier finding that six claims of the Lectrolarm patent were invalid.

Dickstein Shapiro has represented Lectrolarm in enforcing its patent since 2001, leading to licenses with more than 10 security camera manufacturers. Four defendants remain in a patent infringement action filed in 2003, and stayed since 2006. With the Board of Patent Appeals' August 16, 2010 decision, patent litigation in the U.S. District Court for the Western District of Tennessee will be reopened and a trial date likely set for next year.

The Dickstein Shapiro team includes Gary M. Hoffman, Kenneth W. Brothers, Gianni Minutoli, and Dipu Doshi.

TruePosition Damages Award Affirmed in Patent Infringement Case Against Andrew Corporation

The U.S. Court of Appeals for the Federal Circuit has affirmed a \$43 million judgment and permanent injunction awarded against **Andrew Corporation** in a long-running patent infringement battle between **TruePosition, Inc.** and Andrew Corporation.

The appeal was from *TruePosition, Inc. v. Andrew Corporation* (No. 2009-1389; Fed. Cir. August 12, 2010). TruePosition was represented by Paul Milcetic (now of Barrow Topaz Kessler Meltzer Check LLP) and a Woodcock Washburn team that included Gary Levin, Michael Stein, Lynn Morreale, Dan Goettle, and Jeremy Dukmen.

The appeal arose from TruePosition's action against Andrew for infringing a patent directed to use of technology known as Uplink Time Difference of Arrival (U-TDOA) to determine the location of wireless phones on the wireless system's control channel, which allows the location of phones to be tracked even when they are not in use. Known as the "144" or "control channel" patent, it is particularly important for safety and security applications.

In September of 2007, a Delaware District Court jury determined that Andrew willfully infringed the patent. Specifically, the jury found willful infringement with respect to sales by Andrew of its Geometrix® wireless location system to the Saudi Telephone Company (STC). Following post-trial proceedings, the district court awarded

TruePosition \$23.25 million in compensatory and punitive damages. Andrew continued to ship products during these post-trial proceedings, and TruePosition re-opened the judgment for further proceedings against Andrew, leading the district court to award TruePosition an additional \$10.1 million in compensatory damages, \$9.6 million punitive damages, applicable pre-judgment and post-judgment interest, as well as costs and attorneys' fees related to the pursuit of the second phase of infringement. The Court also issued a permanent injunction that prohibits Andrew Corporation from making, using, selling, or offering to sell the various infringing Geometrix® products.

TruePosition, of Berwyn, Pa., a subsidiary of Liberty Media Corporation, is a leading provider of wireless location technologies and solutions.

NEW LAWSUIT

Intel Named in Lawsuit Over Trademark Infringement and Unfair Competition

In a digital-age "David and Goliath" scenario, **The Creatives Project** (www.thecreativesproject.org), an Atlanta-based nonprofit organization dedicated to supporting artists throughout the country and the communities they serve, is suing computer chip giant **Intel** over trademark infringement. The nonprofit's executive director, New York/Atlanta photographer Neda Abghari, began The Creatives Project in 2008.

In May of 2010, Intel partnered with Vice Magazine and launched The Creators Project, primarily a series of international art and entertainment events. The similar name, concept and almost identical logo have triggered this trademark infringement and unfair competition case.

"It's ironic that a company like Intel, which was built on intellectual property, would use a trademark so remarkably similar to someone else's," said intellectual property attorney David Lilienfeld of Atlanta-based Lilienfeld PC. Lilienfeld filed this lawsuit on August 18 on behalf of The Creatives Project after Intel refused to stop using The Creators Project mark. He is asking that Intel cease using the name and logo and pay his client's damages. 