

LOS ANGELES & SAN FRANCISCO

Daily Journal

www.dailyjournal.com

THURSDAY, OCTOBER 12, 2017

PERSPECTIVE

Judge awards Google lawyers \$820K in fees after patent case

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A federal judge awarded more than \$820,000 in fees to attorneys who successfully represented Alphabet Inc.-owned Google and some of its subsidiaries in a patent case.

The plaintiff, Max Sound Corp., lost the case when U.S. District Judge Edward J. Davila of San Jose ruled that it didn't actually own the rights to the patent it was trying to assert. *Max Sound Corp. v. Google Inc.*, 14-CV04412 (N.D. Cal., filed Oct. 1, 2014).

The patent relates to video codecs, software that compresses and decompresses videos for online viewing. YouTube was one of the Google subsidiaries named in the case.

Max Sound entered into a licensing agreement with VSL Communications Ltd., in June 2014, to gain rights to the

patent.

But Davila later ruled that VSL didn't actually have sole ownership of the intellectual property and therefore couldn't license it for litigation purposes.

Max Sound then attempted to bring the actual owner of the patent, Vedanti Systems Ltd., into the litigation as a co-plaintiff.

It was revealed during the case that VSL owns shares in Vedanti but isn't the sole owner of the company and therefore can't transfer the litigation rights of Vedanti's patent to Max Sound, according to court papers.

Vedanti refused to join the case.

In his order, Davila granted the Google lawyers' entire fee request and chastised Max Sound for bringing frivolous litigation.

"The Court agrees with Defendants that Max Sound's litigating position was exceptionally weak," he said.

Davila added that Max Sound failed to take reasonable efforts to investigate whether it had standing to bring the case and later "unreasonably prolonged" the litigation by attempting to hide its lack of standing.

Google's legal team was led by Cooley LLP partner Heidi Keefe and Morrison & Foerster LLP partner Stefani E. Shanberg. Shanberg and the rest of her legal team were attorneys at Wilson Sonsini Goodrich & Rosati PC while working on the litigation and have since relocated to MoFo.

Max Sound's legal team was led by Eric Buether of Buether Joe & Carpenter LLC.

Buether and Keefe could not be reached for comment. Shanberg declined to comment.

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