

Litigators of the Week: Matthew Moore of Latham & Watkins and Robert Angle of Troutman Sanders

By Jan Wolfe

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Intellectual Ventures is among the world's largest patent-holders—maybe the biggest—and the company is very good at wringing money out of its IP. But the ever-expanding patent aggregator didn't look so intimidating on Wednesday, when Matthew Moore of Latham & Watkins and Robert Angle of Troutman Sanders derailed its litigation campaign against the banking industry.

Siding with Angle and Moore, a federal judge in Virginia dismissed what remained of an infringement case Intellectual Ventures brought against their client, Capital One Financial Corp. The ruling also augers well for a slew of other banks, including Bank of America Corp., JPMorgan Chase & Co. and PNC Financial Services Group Inc., which are also facing patent claims from IV.

The ruling may be IV's biggest litigation setback since it began filing lawsuits in its own name in 2010 (for the first decade of its existence, the patent aggregator generated billions of dollars in licensing fees without ever going to court). Joff Wild of Intellectual Asset Management, a pro-patent publication, wrote that "in losing publicly for the first time IV is going to have to cope with the fact that any aura of invincibility that it may have had previously is no more."

In the summer of 2013, IV's lawyers at Feinberg Day fired off infringement complaints against 13 banks around the country. While the cases aren't identical, they generally involve five patents that IV acquired on the secondary market. One of the patents covers the idea of letting customers set up alerts to notify them if they're exceeding their personal budget. Another patent, originally assigned to a lawyer in Philadelphia, covers the idea of customizing Web pages based on data about a particular user.

Capital One's home court in the Eastern District of Virginia is known as a "rocket docket" for a reason, and IV's case against Capital One moved quickly and became something of a bellwether. For its defense, the bank turned to Angle, one of its go-to patent litigators. But it also brought on a bicoastal Latham & Watkins team helmed by Washington-based Moore and his colleague Jeffrey Homrig in Silicon Valley.



Robert Angle



Matthew Moore

As the case progressed, IV voluntarily dropped one of the five patents in its original complaint. It dropped two more after receiving an unfavorable claim construction ruling from U.S. District Judge Anthony Trenga in Alexandria.

Trenga held an oral argument on April 2 to decide whether the remaining two patents should survive summary judgment. Moore and Angle split up the work. Moore made the case that both of IV's claimed inventions cover "abstract ideas," and therefore aren't eligible for patenting. Angle argued that one of the inventions is invalid on indefiniteness grounds.

In Wednesday's ruling, Trenga ended up adopting both arguments and knocked out the remaining two patents. Barring an appellate reversal, IV now won't be able to assert the patents against any of its other targets. IV will also have hard time asserting the patents it voluntarily dropped after claim construction, since Trenga's claim construction ruling is likely to influence other judges.

Moore and his colleagues at Latham have a knack for invalidating patents on abstractness grounds. In 2012 they secured dismissal of patent suits against Amazon Inc. and Freddie Mac on similar grounds, as we reported here.

Both Moore and Angle declined to comment.