

Cardiac Monitoring Patent Invalid Under Alice, Judge Rules

By Ryan Davis

Law360 (October 16, 2018, 7:39 PM EDT) -- A Massachusetts federal judge on Tuesday ruled that a CardioNet LLC cardiac monitor patent asserted against rival InfoBionic Inc. is invalid under the U.S. Supreme Court's Alice decision because it claims only the abstract idea of identifying heart arrhythmia by analyzing heartbeats.

Judge Indira Talwani granted InfoBionic's motion to dismiss the suit, which was filed in March 2017, finding that the CardioNet's patent covers patent-ineligible subject matter. CardioNet also accused InfoBionics of infringing six other other patents in a separate suit, five of which have been invalidated.

Tuesday's ruling involved a CardioNet patent that covers techniques of monitoring electrical activity in the heart to identify two types of arrhythmia: atrial fibrillation and atrial flutter, known collectively as AF, which cause irregular heartbeats.

Judge Talwani concluded that the patent covers only the abstract idea of identifying AF by looking at the variability in time between heartbeats. She agreed with InfoBionic's argument that doctors have long used that method to diagnose the conditions and CardioNet's patent did not add anything inventive.

"The innovation of the ... patent may be to use computer equipment and logic to monitor the variability of beats, but nothing in these claims places any limitation on that abstract idea," the judge said.

CardioNet sells a product called Mobile Cardiac Outpatient Telemetry, which includes a small sensor used by patients to monitor their heartbeat 24 hours a day, with the data sent to CardioNet's monitoring center for analysis and response. It claims InfoBionics' MoMe Kardia System infringes its patents.

Although CardioNet said its patent is directed to "a concrete improvement in the signal processing and analysis capabilities of cardiac monitoring devices" through the use of "determination logic" coupled with a heartbeat detector to achieve more accurate AF detection, the judge was not persuaded.

"The idea of using a machine to monitor and analyze heart beat variability and interfering beats so as to alert the user of potential AF events may well improve the field of cardiac telemetry, but plaintiffs do not identify improvements to any particular computerized technology," the judge said.

The "determination logic" cited by CardioNet is "undefined and unspecified," Judge Talwani said, and the technique described by the patent can be performed using off-the-shelf cardiac monitoring

equipment.

"The asserted claims of the ... patent are broadly described, with no meaningful limitation, so as to preempt other technological systems directed to the abstract idea" of monitoring the heartbeat to identify AF events, Judge Talwani concluded.

Charles Sanders of Latham & Watkins LLP, an attorney for InfoBionic, told Law360 on Tuesday that the method claimed in CardioNet's patent can be performed by anyone using their mind while a patient is hooked up to an electrocardiogram.

"It's one of these patents where you look at the claims and scratch your head and say, what did they really claim here? It uses squirrely, broad language," Sanders said.

His colleague Max Grant added that the method claimed in the patent is "what doctors do when they're looking at a chart and making a diagnosis."

"This is one of these competitor cases where you have an existing incumbent company with a broad patent portfolio that feels threatened by a newer market entrant with new innovations, and their solution is to pull patents off the shelf and litigate them to death," Grant said.

Judge Talwani ruled in April that two other CardioNet patents InfoBionic is accused of infringing are invalid under Alice for claiming the abstract idea of correlating sets of data about atrial fibrillation events.

InfoBionic has also challenged CardioNet's patents at the Patent Trial and Appeal Board, which found three of them invalid as obvious, most recently in July. There is one patent remaining in the dispute.

CardioNet's parent BioTelemetry Inc. previously accused a company called Mednet of infringing its patents and MedNet ultimately entered into a consent judgment that it infringed. Immediately after the judgment was entered in 2014, BioTelemetry acquired MedNet for \$16 million.

An attorney for CardioNet could not immediately be reached for comment Tuesday.

The patent-in-suit is U.S. Patent Number 7,941,207.

CardioNet is represented by Bradford J. Badke, Ching-Lee Fukuda, Todd Simpson, Thomas Broughan III, Caroline Bercier and Jack Pirozzolo of Sidley Austin LLP.

InfoBionic is represented by Charles Sanders, Maximilian Grant, Gabriel Bell and Abigail Amato Rives of Latham & Watkins LLP.

The case is CardioNet LLC et al. v InfoBionic Inc., case number 1:17-cv-10445, in the U.S. District Court for the District of Massachusetts.

--Editing by Stephen Berg.
