

CardioNet's Heart Monitor Patents Get Trimmed Under Alice

By **Dani Kass**

Law360 (April 5, 2018, 5:20 PM EDT) -- A Massachusetts federal judge has hacked away at two of CardioNet LLC's patents for identifying and treating heart arrhythmias, finding that claims she already invalidated under the U.S. Supreme Court's Alice ruling are representative of other claims at issue in the litigation.

U.S. District Judge Indira Talwani had found in May that one claim from each of U.S. Patent Numbers 7,212,850 and 7,907,996 were invalid because they covered an abstract idea: correlating sets of data about atrial fibrillation events identified by humans and by machines. Following extra briefing, she ruled on March 29 that another nine claims in the '850 patent and one claim in the '996 patent are invalid for the same reasons.

Judge Talwani found that the claims she originally invalidated under the Alice ruling, which held that abstract computer ideas are unpatentable absent an inventive concept, were representative of the other asserted claims in the suit. In order for these claims to have survived, the judge said, CardioNet would have had to prove that it would transform the abstract idea into something patent-eligible, not "merely recite well-known, routine, and conventional activities previously known in the industry," she wrote.

CardioNet failed to prove as much, with some of the claims just providing more information to physicians, and setting out presentation and data processing requirements, she said.

The judge also refused to reconsider her May order, shooting down a request from CardioNet.

The invalidations are a defense that startup InfoBionic Inc. is using as CardioNet sues it for infringement of the heart monitor technology. CardioNet filed its suit in May 2015 alleging InfoBionic's MoMe Kardia System infringes patents covering CardioNet's Mobile Cardiac Outpatient Telemetry.

In May, Judge Talwani allowed infringement claims tied to U.S. Patent Number 7,099,715 to move forward, finding they beat the Alice test.

CardioNet had also alleged infringement of U.S. Patent Numbers 6,225,901 and 6,940,403, but those were largely invalidated by the Patent Trial and Appeal Board. Of the asserted claims for the pair, the board upheld just one from the '403 patent. CardioNet has appealed that ruling to the Federal Circuit, an appeal set for a hearing on May 1.

The PTAB is also reviewing the final patent involved in the suit, U.S. Patent Number RE43,767. Hearings on that patent are set for May 3.

Finally, the suit also claims former CardioNet employee Ravi Kuppuraj stole trade secrets when he co-founded InfoBionic, but those claims were sent to arbitration in March 2017.

“We’re very pleased that the court found that the claims of the ’850 and ’996 patents that the court had previously found patent-ineligible to be representative of all claims that were asserted from those two patents,” said InfoBionic’s attorney, Charles Sanders of Latham & Watkins LLP.

Counsel for CardioNet didn’t immediately respond to requests for comment late Wednesday.

The patents-in-suit are U.S. Patent Numbers 7,212,850; 7,907,996; 7,099,715; 6,225,901; 6,940,403; and RE43,767.

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

InfoBionic is represented by Charles Sanders, Max Grant, Gabriel Bell, Jonathan Strang, Kris Davis, Anant Saraswat, Brian Lewis, Nate McPherson, Abby Rives and Chumma Tum of Latham & Watkins LLP.

The case is CardioNet, LLC et al. v. InfoBionic, Inc., case number 1:15-cv-11803, in the U.S. District Court for the District of Massachusetts.

--Editing by Jack Karp.