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Jaguar Wins \$2 Million in ‘Exceptional Case’ Fees

Tom McParland

A Delaware federal judge has signed off on automaker Jaguar Land Rover North America’s request for more than \$2 million in “exceptional case” attorney fees and expenses over a patent infringement case that was deemed “objectively baseless.”

The award covers work Jaguar outside counsel Latham & Watkins and Shaw Keller put in to defend their client since October 2013, when plaintiff Vehicle Interface Technologies (VIT) knew that its case could not succeed. VIT, a subsidiary of patent holding company Empire IP, had sued the luxury carmaker in 2012, claiming infringement of a patent for dashboard displays.

U.S. District Judge Richard G. Andrews of the District of Delaware invalidated the patent in early 2015, finding that it was anticipated by a previous product. Later that year, he gave Jaguar the go-ahead to seek attorneys fees, given the “exceptional” nature of the case.

Andrews said VIT had waited until two hours before the close of fact discovery to add seven Jaguar vehicles to its infringement contentions. When Andrews blocked that move, VIT filed a new suit targeting the seven vehicles. Meanwhile, part of its claim construction was “not even close” to being proper, the judge ruled.

Jaguar had initially asked for \$2.8 million, but that number was scaled back after Andrews knocked out expert witness fees. Jaguar, he said, could collect fees for the 228 hours its attorneys spent preparing briefing and oral arguments

on the company’s successful motion for summary judgment.

Jaguar was also entitled to fees stemming from VIT’s Federal Circuit appeal because the plaintiff “relied on the same arguments on appeal that I have found so lacking in merit.”

Aug. 8’s award is the second exceptional case finding Empire has been hit with in this litigation campaign. Andrews declared a similar suit against Ford Motor Co. and Mitsubishi Motors North America Inc. exceptional last year. The parties settled the amount of fees.

Matthew Moore, the Latham & Watkins attorney who led Jaguar’s team, has criticized VIT’s handling of the case. In December, he told Law.com affiliate The Recorder that the plaintiff knew its patent would likely be invalidated, and simply wanted to leverage the nuisance value of its suit against Jaguar.

Moore did not immediately respond to calls seeking comment on Andrews’ order, which was dated Aug. 1 but posted to the court’s public docket Aug. 8.

A representative from Shaw Keller, which served as Jaguar’s local counsel, did not return a call on Monday.

Latham’s team for Jaguar also included partners Clement Naples and Lisa Nguyen, counsel Gabriel Bell and associates James Bender and Michelle



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Woodhouse. John W. Shaw and David M. Fry, both of Shaw Keller, acted as Delaware counsel.

VIT was represented by Robert E. Freitas and Daniel J. Weinberg of the Silicon Valley firm Freitas Angell & Weinberg. Its Delaware team consisted of Richard D. Kirk, Stephen B. Brauerman, Vanessa R. Tiradentes and Sara E. Bussiere of Bayard in Wilmington.

The case is captioned *Vehicle Interface Technologies v. Jaguar Land Rover North America*.

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