

PTAB Nixes CardioNet Unit's Heart Monitor Patent

By **Dani Kass**

Law360 (July 30, 2018, 8:26 PM EDT) -- Heart monitor maker InfoBionic Inc. has knocked down yet another CardioNet LLC patent that it was accused of infringing, with the Patent Trial and Appeal Board holding Friday that the data transmission technology the patent covered was obvious.

The PTAB said the 25 claims in U.S. Patent Number RE43,767, owned by CardioNet unit Braemar Manufacturing LLC, were invalid, largely based on a combination of two pieces of prior art. The remaining claim had already been cancelled, the PTAB wrote.

The board's final written decision marks the fifth CardioNet patent InfoBionic has taken out, in part or whole. The companies are still battling over two additional patents.

Overall, the board described the patent as technology to remotely monitor a patient's condition, which improved on other patents covering a relationship between a remote monitoring unit worn by the patient and a central monitoring unit. The '767 patent claimed to "conserve battery power, reduce cellular data transfer and its associated charges, and reduce inefficient usage of medical personnel," the PTAB said.

However, the board said it would have made sense to combine existing prior art to improve patient care, rendering the patent invalid as obvious.

CardioNet filed suit in May 2015, alleging InfoBionic's MoMe Kardia System infringes patents covering CardioNet's Mobile Cardiac Outpatient Telemetry.

The board later invalidated the bulk of the relevant claims in U.S. Patent Numbers 6,225,901 and 6,940,403 after CardioNet alleged that InfoBionic infringed them. Of the asserted claims for the pair, the board upheld just one from the '403 patent.

U.S. District Judge Indira Talwani then invalidated claims from U.S. Patent Numbers 7,212,850 and 7,907,996 in May 2017, saying they covered an abstract idea. However, the Massachusetts federal judge allowed infringement claims tied to U.S. Patent Number 7,099,715 to move forward.

In April, Judge Talwani extended the abstract ruling to more claims in the '850 and '996 patents which were dependent on the invalidated ones.

InfoBionic is also trying to get the related U.S. Patent Number 7,941,207 invalidated in Massachusetts federal court.

“In our view, the patent did not apply on to our product, but we’re nonetheless gratified that the patent office reached a correct opinion, invalidating the claims it never should have issued in the first place,” InfoBionic’s attorney, Max Grant of Latham & Watkins LLP, told Law360.

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

The patent-in-suit is U.S. Patent Number RE43,767.

InfoBionic is represented by Charles Sanders, Max Grant, Jon Strang and Kristopher Davis of Latham & Watkins LLP.

Braemar is represented by Ching-Lee Fukuda and Thomas Broughan of Sidley Austin LLP.

The case is InfoBionic Inc. v. Braemar Manufacturing LLC, case number IPR2017-00796, before the Patent Trial and Appeal Board.

--Editing by Alyssa Miller.