

Apple Doesn't Infringe Digital Identity Patents, Jury Finds

By **Andrew Karpan**

Law360 (October 7, 2024, 6:56 PM EDT) -- A federal jury in Austin, Texas, has rejected a \$361 million patent case from a longtime ExxonMobil employee who had targeted in-house cybersecurity hardware used in Apple iPhones.

Following an afternoon of deliberations on Friday, six jurors — down from an initial seven after one fell ill — cleared Apple of allegations it infringed patents covering digital identity and microprocessor identity devices in a case brought by Identity Security LLC, a litigation outfit operated by Aureliano Tan Jr., at one point employed as a procurement specialist at ExxonMobil.

In between jobs, while spending a year laid off around the turn of the millennium, he also started filing a handful of patents, four of which ended up in front of a jury last week. Jurors found that Apple's "Secure Enclave" brand of iPhone hardware didn't infringe language in any of those patents, per a verdict form made public Monday.

Apple uses the Enclave brand hardware to "keep sensitive user data secure," according to its website. Apple also had presented arguments to jurors showing why Tan's patents were invalid, saying they were already covered by various publications in the computing world dating to the 1990s. But jurors rejected those arguments, according to the form.

"The patents claimed a specific way to encrypt data using the microprocessor identity from the serial number on the microprocessor. And Apple doesn't do that," lead Apple lawyer John Desmarais of Desmarais LLP told Law360 in an interview.

Lawyers for Identity Security did not return a request for comment.

Tan, at one point a physics instructor at the University of the Philippines, Diliman, had largely worked in the oil industry after moving to the U.S., working various jobs as a research geophysicist, a computer systems administrator, and a licensing specialist for various Texas companies. He landed at ExxonMobil in 2000, according to his college website, though his current employment information wasn't publicly available.

"Apple asked every witness almost: You ever heard of this guy? You ever heard of Mr. Tan? Seized on the fact that he never made a product, couldn't license his patents. They tried to belittle Mr. Tan's inventions, arguing they're just combinations of known stuff," Identity Security lawyer John Lahad of Susman Godfrey LLP told jurors on Friday during closing arguments, per a transcript. To jurors, Lahad

described Tan as "a computer guy."

Tan himself testified during the trial and had been named Identity Security's top witness, according to the filings.

"The answer's \$361 million," Lahad told jurors about the value of Tan's patents, which Lahad acknowledged was "definitely a lot of money," but was "nothing compared to what this technology protects."

Shortly before the jurors dispatched for deliberations, Apple lawyers asked U.S. District Judge Alan Albright — who normally sits in Waco, where the lawsuit was initially filed, though he stayed with the case when it moved to nearby Austin — to throw out the patents as obvious because the Identity Security lawyers decided not to respond to the invalidity case Apple presented.

"Identity Security chose not to present any rebuttal on invalidity — including no evidence or opinion on secondary considerations — leaving Apple's expert testimony and the prior-art references the only evidence before the jury," according to Apple's argument. Judge Albright turned the argument down.

"We're happy with the noninfringement verdict," Desmarais told Law360.

The patents-at-issue are U.S. Patent Nos. 7,493,497, 8,020,008; 8,489,895; and 9,507,948.

Identity Security is represented by John P. Lahad, Brian D. Melton, Meng Xi, Taylor Hoogendoorn and Thomas V. DelRosario of Susman Godfrey LLP.

Apple is represented by John M. Desmarais, Cosmin Maier, Leslie M. Spencer, Kerri-Ann Limbeek, Michael Wueste, Jun Tong, William Vieth, Asim Zaidi and Gillian Moore of Desmarais LLP, Brian C. Nash and Regan J. Rundio of Morrison & Foerster LLP, and Elizabeth R. Moulton and Jeffrey T. Quilici of Orrick Herrington & Sutcliffe LLP.

The case is Identity Security LLC v. Apple Inc., case number 1:22-cv-00058, in the U.S. District Court for the Western District of Texas.

--Editing by Michael Watanabe.