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Deal Ends Google Patent Case Soon After Start Of $22.5M Trial

By **Ryan Davis**

Law360 (November 12, 2024, 11:16 PM EST) -- A patent trial in New York federal court ended with a settlement Tuesday, shortly after counsel for Kewazinga Corp. told jurors that the Street View feature in Google Maps infringes its patents on navigating through images, and that Google owes $22.5 million in damages.

During opening arguments in Manhattan, Google's counsel denied that the company infringed the two patents, saying that Kewazinga's "telepresence" technology aims to use images to make viewers feel that they are at a sporting event or a concert and operates in a fundamentally different way than Street View.

U.S. District Judge Lorna G. Schofield of the Southern District of New York dismissed the jury for lunch after both sides delivered their statements. The parties reached a settlement during the break, bringing the dispute to a close.

An attorney for Kewazinga said that the company declined to comment on the settlement. A representative of Google could not immediately be reached for comment Tuesday.

Kewazinga attorney Ian DiBernardo of Brown Rudnick LLP told the 10-member jury that in the late 1990s, the company figured out how to "harness the power of the then-new internet" with a telepresence system that allowed users to "explore remote places as if they were there, through images."

DiBernardo said that Kewazinga told Google about its inventions in the early 2000s, then met with company representatives about them prior to the launch of Street View, the Google Maps feature that lets users click to move around images of a location corresponding to a point on a map. According to DiBernardo, Kewazinga later found that Street View included features of its technology.

"Street View was successful, and now we're here to enforce the law and seek a reasonable royalty to compensate for Google's infringement," DiBernardo said.

He stated that Kewazinga's damages expert had calculated that amount to be $22.5 million, noting that Street View is one of Google's most-used products and has been described in company communications as a "priceless Google ambassador."

Google's attorney John Desmarais of Desmarais LLP began his presentation by emphatically telling the

jury that "Google does not infringe these patents." He argued that the Street View system is far removed from Kewazinga's patents, which he noted have both expired.

The images in Street View are created by cameras mounted atop moving vehicles that take countless pictures of locations across the globe, Desmarais said. In contrast, Kewazinga's system involves a line of stationary cameras attached to a rail that creates images of an event from different angles so that users can choose from among the various views, he said.

"You can read their patents all day long, and what you will not find in there is how to put a camera on top of a car and drive it around the world," Desmarais said. "They didn't invent that."

He noted that Kewazinga filed the lawsuit in 2020, long after Street View was launched in 2007, even though Kewazinga alleged that it told Google about its technology before Street View was added to Google Maps.

"If Google actually infringed, do you think Kewazinga would have waited 13 years to file a lawsuit?" Desmarais said. "This is a desperate attempt by this company to make money on expired patents. There's no infringement here."

DiBernardo told the jury that Kewazinga's technology creates images taken from multiple cameras and stitches them together using animated transitions, which he said was a key feature that Google wanted to include when developing Street View.

He read from internal messages from Google officials stating that animated transitions from one image to another was "imperative" so that Street View users would not get disoriented navigating among images, and that the release of the product might be delayed if the feature could not be developed.

Displaying Street View images of Manhattan, DiBernardo told jurors that navigating down a street using the feature gives the illusion of seamless motion and "almost pulls you into the next image," which he said is described in Kewazinga's patents.

Street View did not include animated transitions when Kewazinga met with Google about its technology, DiBernardo told the jury, and "Kewazinga never gave Google reason to think that it could use its technology for free."

In response, Desmarais contended that Kewazinga's patented technology involving an array of immovable cameras pointed at an athlete like a golfer or a performer at a concert is "the opposite of Street View," which is based on cameras that move around on a vehicle.

Desmarais told the jury that Google co-founder Larry Page came up with the idea of creating images of city blocks by driving around with a camcorder in 2001. The project that became Street View launched soon after, before Kewazinga's earlier patent was issued in 2003, he said.

The Google engineers who worked on Street View were assigned to figure out how to map the entire world with cameras mounted on moving cars, Desmarais said, describing the task as "mind-bending."

He said that if he had been given such a project, "I would have turned around and walked out. That's so colossal, it's nuts." Yet the Street View engineers figured out how to do it, and "what these guys did is amazing, and it has nothing to do with Kewazinga's invention," Desmarais said.

He added that Kewazinga's patents make a point of specifically distinguishing the company's invention from earlier telepresence systems using cameras on moving vehicles, the way Street View operates. The patents note that vehicle-mounted systems have "several drawbacks," such as providing a view from only a single location.

In addition, Desmarais argued that the animated transitions Kewazinga said are so important to Street View are not found in the company's patents, and that "no one uses Kewazinga's invention, not even Kewazinga." After demonstrating a prototype version of the technology, the company put it in storage in 2003, Desmarais said.

Google also contended at the trial that that patents are invalid based on earlier inventions that created panoramic images, including one developed by Apple prior to Kewazinga's inventions.

In September, Judge Schofield denied Kewazinga's request to block Google from making invalidity arguments related to a 1994 "Star Trek: The Next Generation" computer program in which users could explore the "USS Enterprise," and a visual effects program used to make the 1999 film "The Matrix." The judge found that both were relevant to Google's theories.

After Kewazinga filed suit, Google challenged both patents at the Patent Trial and Appeal Board, which declined to review them in 2021.

The PTAB used its discretion to deny review of one patent, saying the earlier inventions Google said rendered it invalid had already been considered by the patent office before the patent was issued. The board said Google was not reasonably likely to show that the other patent is invalid.

The patents-in-suit are U.S. Patent Nos. 6,522,325 and 9,055,234.

Kewazinga is represented by Ian G. DiBernardo, Jason M. Sobel, Harold S. Laidlaw, Merri Moken, Anthony J. Boccamazzo and Rebecca M. Lecaroz of Brown Rudnick LLP.

Google is represented by John M. Desmarais, Karim Z. Oussayef, Steven M. Balcof, Leslie M.F. Spencer, Lee Matalon, Deborah Mariottini, Caitrianne Feddeler, Allan E. Carlsen, Tuhin Ganguly, Rebecca Lindhorst and Anthony Pericolo of Desmarais LLP and Andrew V. Trask of Williams & Connolly LLP.

The case is Kewazinga Corp. v. Google LLC, case number 1:20-cv-01106, in the U.S. District Court for the Southern District of New York.

--Editing by Dave Trumbore.
