

Minn. Jury Finds CellTrust Text-Tracking Patents Are Obvious

By **Dani Kass**

Law360 (May 5, 2023, 4:37 PM EDT) -- A Minnesota federal jury has found that CellTrust Corp. patents directed to text-message tracking are invalid as obvious, and that ionLake LLC and its executives didn't infringe them.

After a trial before U.S. District Judge Wilhelmina Wright, the jury on Thursday ruled entirely in favor of ionLake, saying none of CellTrust's infringement allegations were proven on any claim, and that each challenged claim was invalid. CellTrust had been hoping to win more than \$2 million from the jury.

The suit dates back to November 2019, when CellTrust sued ionLake, claiming its MyRepChat platform infringes patents used in its own SL2 platform. CellTrust amended the suit about a year later, adding ionLake top brass Derrick Girard and his uncle Wade Girard.

Both platforms allow for text messages to be tracked and transmitted. IonLake told the court that it created its platform in an attempt to allow financial advisers to text clients, while still remaining in compliance with Financial Industry Regulatory Authority requirements to keep copies of those communications.

For trial, ionLake had to fight claims that it directly and indirectly infringed both patents, while Derrick Girard was facing indirect infringement of both patents. Wade Girard was accused of indirectly infringing one patent, as the second was issued after he left the company.

Before his departure, the uncle's roles included helping found the company, helping develop and sell MyRepChat, and serving as chief technology officer. His nephew likewise helped create the platform and is now CEO of the company.

In its trial brief, CellTrust had said ionLake "cannot seriously dispute infringement," claiming it had "admitted that nearly every element of the asserted claims is present in MyRepChat." The jury disagreed and sided with ionLake, which had argued that differences in the configurations of the platforms would show the lack of infringement.

CellTrust had also doubted that ionLake would be able to prove obviousness, noting before trial that the invalidity arguments had been whittled down during the litigation.

"IonLake is grateful for the jury's thoughtful attention to this case," Patrick Arenz of Robins Kaplan LLC, representing ionLake, said in an email Thursday. "The verdict fully vindicates what ionLake has

maintained throughout the litigation: CellTrust's patents are invalid and ionLake doesn't infringe them either."

On Friday, Arenz added, "We were retained less than two months before trial. It was an honor to represent ionLake and its founders, and to deliver this well-deserved result for them."

Counsel for CellTrust didn't immediately respond to requests for comment.

The patents-in-suit are U.S. Patent Nos. 9,775,012 and 10,778,837.

CellTrust is represented by Loren L. Hansen and Lee B. Bennin of Lathrop GPM LLP and Christopher D. Bright of Snell & Wilmer LLP.

IonLake is represented by Patrick M. Arenz, Emily E. Niles and Austin B. Miller of Robins Kaplan LLP.

The case is CellTrust Corp. v. ionLake, LLC, case number 0:19-cv-02855, in the U.S. District Court for the District of Minnesota.

--Editing by Adam LoBelia.