

## Fed. Circ. Backs Jaguar's \$2M Atty Fee Award In Patent Case

By **Kevin Penton**

*Law360, New York (June 13, 2017, 3:46 PM EDT)* -- The Federal Circuit on Tuesday affirmed a Delaware federal judge's awarding of \$2 million in attorneys' fees and costs to Jaguar following the "exceptional" conduct of a technology company in a case where it asserted that the automaker had infringed its patent covering vehicle computing systems.

The appellate court panel did not expand in its one-sentence order on its rationale for affirming U.S. District Judge Richard G. Andrews' December 2015 determination that Vehicle Interface Technologies LLC should pay the fees to Jaguar Land Rover North America LLC after the automaker established that the suit and other related cases initiated by VIT were "objectively unreasonable" and at times "improperly motivated," according to court documents.

Counsel for the parties could not be reached for comment Tuesday.

The dispute dates to 2012, when VIT launched lawsuits against Jaguar and three other automakers for allegedly ripping off its patented touch-screen console display technology. VIT filed a second suit against Jaguar in March 2014, alleging that seven vehicle models infringed the same patent.

Judge Andrews consolidated the cases in September 2014 and granted summary judgment to Jaguar in January 2015, finding that the asserted claims were anticipated by the art in a 2001 Mercedes-Benz vehicle. The Federal Circuit affirmed that ruling in May 2016.

During oral arguments last week before the Federal Circuit on whether VIT should pay the fees, the company argued that because Judge Andrews had described whether fees were warranted as a "fairly close" matter that was "in the middle" of cases he'd handled where they were sought, the appellate court should err on the side of not awarding them to Jaguar.

"A case in the middle does not stand out," Robert E. Freitas, an attorney with Freitas Angell & Weinberg LLP, told the panel.

Gabriel Bell, a Latham & Watkins LLP attorney representing Jaguar, countered that VIT pressed forward with a baseless claim — tying in the description of a full-screen image coupled with formatting, when they should have been kept separate — long after being put "on notice."

The patent-in-suit is U.S. Patent Number 6,842,677.

U.S. Circuit Judges Sharon Prost, Richard G. Taranto and Todd M. Hughes sat on the panel for the Federal Circuit.

VIT is represented by Robert E. Freitas, Daniel J. Weinberg and Joshua Young of Freitas Angell & Weinberg LLP.

Jaguar is represented by Gabriel Bell, Matthew J. Moore, James Bender, Clement J. Naples and Lisa K. Nguyen of Latham & Watkins LLP.

The case is Vehicle Interface Technologies LLC v. Jaguar Land Rover North America LLC, case numbers 16-2537 and 16-2538, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Bryan Koenig and Matthew Guarnaccia. Editing by Sara Ziegler.

*Update: This story has been updated to identify the attorney representing Jaguar during oral arguments.*