

Judge Won't Overrule Jury In ZTE Infringement Verdict

By **Adam Sege**

Law360, Washington (March 18, 2016, 7:22 PM ET) -- A Delaware federal judge has declined to overrule a jury's verdict in a wireless technology patent case, saying the jury reviewed "substantial evidence" before determining that Chinese mobile device company ZTE Corp. infringed InterDigital Communications Inc. patents for wireless technology.

Rejecting a request by ZTE for judgment as a matter of law or a new trial on InterDigital's infringement claims for two patents, U.S. District Judge Richard G. Andrews said he believed the evidence presented by InterDigital was sufficient to support the jury's finding.

"The jury is presumed to have considered all of the evidence, assessed the credibility of the competing experts, and given the evidence whatever weight the jury felt appropriate," the judge wrote. "The jury had substantial evidence that it found credible, and I will not disrupt its findings."

Judge Andrews' decision follows a 2014 verdict in which a jury decided that ZTE's products infringed two patents that are essential to 3G wireless technology and a patent involving the dual use of 3G and Wi-Fi that was not standard-essential.

The latter patent was invalidated by the U.S. Patent Trial and Appeal Board in a ruling that InterDigital has appealed to the Federal Circuit. In his ruling Friday, Judge Andrews postponed a decision on whether to overrule the jury's verdict related to that patent, pending the outcome of the Federal Circuit case.

For the other two patents, the judge sided with InterDigital, rejecting ZTE's arguments for judgment as a matter of law or a new trial. Among other arguments, ZTE had challenged an impeachment "scorecard" used by InterDigital during closing arguments, saying certain witness statements that InterDigital claimed were not true were indeed factual.

ZTE's assertions about the scorecard did not show a new trial was necessary, the judge wrote.

"The jury was instructed that it was the sole judge of credibility and that arguments made by attorneys were not evidence," he wrote. "The jury was entitled to determine for itself whether the alleged impeachments showed inconsistent testimony. I do not think it is reasonably probable that InterDigital's demonstrative improperly influenced the jury's verdict."

The 2014 jury verdict marked the first time InterDigital had brought a case to trial before a jury in nearly a decade. It came after a series of setbacks in similar cases it brought against ZTE at the U.S. International Trade Commission.

Attorneys for both sides did not immediately respond to requests for comment late Friday.

InterDigital is represented by Neal C. Belgam and Clarissa R. Chenoweth of Smith, Katzenstein, & Jenkins LLP, Ron E. Shulman, Maximilian A. Grant, Bert C. Reiser, Jonathan D. Link, and Julie M. Holloway of Latham & Watkins LLP, David S. Steuer, Michael B. Levin, and Maura L. Rees of Wilson Sonsini Goodrich & Rosati.

ZTE is represented by Kelly E. Farnan and Travis S. Hunter of Richards, Layton & Finger PA, and Ralph J. Gabric, Charles M. McMahon, Mircea A. Tipescu, Brian A. Jones, Jay H. Reiziss, and Hersh H. Mehta of Brinks Gilson & Lione.

The case is InterDigital Communications Inc. et al. v. ZTE Corp. et al., case number 1:13-cv-00009, in the U.S. District Court for the District of Delaware.

— Additional reporting by Ryan Davis. Editing by Ben Guilfoy.

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