

Qualcomm Wins \$1.8M Fees In Shipping Logistics IP Case

By **Dave Simpson**

Law360, New York (July 12, 2017, 6:22 PM EDT) -- An Ohio federal judge has awarded Qualcomm Inc. more than \$1.8 million in attorneys' fees after the tech company successfully beat an infringement suit by R&L Carriers Inc. over a patent covering a method for streamlining shipping logistics, saying the case was "exceptional" under the high court's Octane Fitness ruling.

U.S. District Sandra S. Beckwith on Monday awarded Qualcomm most of the fees it had requested, reducing the total request by \$182,000, with most of the reduction coming as a result of "excessive conferencing."

In September, Judge Beckwith slammed R&L's suit accusing four shipping companies of infringement, which also accused Qualcomm of contributory infringement, as a total failure. The judge said Qualcomm should have been dropped from the case once R&L realized the contributory infringement claims were flawed.

In determining the case was "exceptional" under the standard set by the U.S. Supreme Court's 2014 ruling in *Octane Fitness LLC v. Icon Health & Fitness Inc.*, which lowered the bar for approval of attorneys' fees in baseless patent cases, Judge Beckwith said in September that the lopsided result weighed in favor of a fee award of approximately \$2 million. Qualcomm requested just over \$2 million.

R&L had argued its third-party discovery abuses do not justify awarding attorneys' fees from the start of litigation.

"R&L's third-party discovery abuses, however, are a significant part of the totality of its behaviors in this litigation," Judge Beckwith wrote. "Additionally, R&L has repeatedly taken positions on factual and legal issues that were either baseless or exceptionally weak, and it has misquoted the court and taken quotes out of context, thus demonstrating unacceptable conduct in litigating this case."

She also rejected R&L's argument that Qualcomm improperly sought fees related to other defendants in the case.

"R&L pins its hopes on this point to Qualcomm's counsel Douglas Williams's involvement in coordinating the defendants' joint strategies and defense," Judge Beckwith wrote. "The court notes that Mr. Williams was formally appointed by the court as lead and liaison counsel for the defendants. ... His work served to eliminate duplication of effort and redundancy. Thus, the case moved forward efficiently and with a minimum of wasted pleadings."

She found unpersuasive R&L's argument that unnecessary fees were spent when Qualcomm rejected a proposed stay on claim construction pending re-examination of fees.

"It served Qualcomm's and the other defendants' interests to press forward," the judge said. "The court notes that the case was already four years old at the time Qualcomm took the strategic position that matters had been delayed long enough. Only hindsight suggests that forging ahead on claim construction was ultimately unnecessary."

Judge Beckwith rejected R&L's claims that Qualcomm's billing statements contain excessive redactions, calling this argument "entirely without merit."

In August, Judge Beckwith tossed the MDL after determining that R&L's patent was ineligible for protection under the U.S. Supreme Court's Alice decision, which held that abstract ideas implemented using a computer are not patent-eligible.

The long-running MDL began in 2009 when R&L first brought infringement claims against the four companies and two others — Affiliated Computer Services Inc. and Qualcomm. The litigation led to a significant Federal Circuit ruling that revived the case and established pleading standards for patent cases, which have since become obsolete due to new federal rules.

The company's patent describes a method of streamlining shipping operations by transmitting each package's shipping information to a central terminal before the package arrives, so shipping clerks can plan the shipment of the package in advance.

R&L accused the companies of indirectly infringing its patent by providing similar logistics methods to their customers. R&L alleged its patented system allows for a shorter turnaround time between the time the package arrives at the terminal and the time it is shipped and ensures fewer delivery trucks depart the terminal with partial loads.

The patent-in-suit is U.S. Patent Number 6,401,078.

R&L Carriers is represented by Stephen J. Butler, Arthur P. Licygiewicz, Anthony C. White, Philip B. Sineneng and Stephanie M. Chmiel of Thompson Hine LLP.

Qualcomm is represented by Richard S. Zembek of Norton Rose Fulbright, Douglas J. Williams of Carlson Caspers Vandenburg Lindquist & Schuman PA, and James E. Burke of Keating Muething & Klekamp PLL.

The case is R&L Carriers Inc. v. Qualcomm Inc., case number 1:09-cv-00445, in the U.S. District Court for the Southern District of Ohio. The MDL is In Re: Bill of Lading Transmission and Processing System Patent Litigation, case number 1:09-md-02050, in the U.S. District Court for the Southern District of Ohio.

--Editing by Philip Shea.