

Fed. Circ. Upholds Judgment For Macy's In Patent Spat

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Wednesday, May 07, 2008 --- An appeals court on Wednesday affirmed a lower court's decision to grant summary judgment to Macy's Inc., ending a lawsuit that alleged the department store chain infringed a patent related to technology for establishing credit accounts.

Decisioning.com brought the lawsuit against Federated Department Stores, which is now Macy's, in 2003. The suit alleged the defendants were infringing a patent that covers a closed loop financial account processing system.

Judge Cameron McGowan Currie of the U.S. District Court for the District of South Carolina said in March that no infringement had occurred given the claim construction. Circuit Judges Alvin Schall and Michel Mayer of the U.S. Court of Appeals for the Federal Circuit upheld that ruling on Wednesday.

The judges said that the lower court's ruling depended on Macy's characterization of its allegedly infringing system and Decisioning's failure to convincingly dispute it.

"On appeal, Decisioning does not dispute that characterization of the Federated appellees' systems," the judges said. "Thus, we affirm the district court's grant of the Federated appellees' motion for summary judgment of noninfringement."

Under the patented method, transactions are provided from a kiosk and controlled by a computer interacting with the consumer. In the case of loans, a computer controller helps the consumer in the completion of the application, performs the underwriting and transfers funds.

The computer controller obtains the information needed to process the application, determines whether to approve the loan, effects electronic fund transfers to the applicant's deposit account and arranges for automatic withdrawals to repay the loan.

In her March decision, Judge Currie considered the claims construction interpretation given to two of the numerous terms that were in dispute: "remote interface" and "verify the applicant's identity."

The Web site conceded that the defendant's system didn't literally infringe the remote interface under the court's construction of the term. But the Web site argued that it did have sufficient evidence to present a jury with a question as to whether the limitation was satisfied under the doctrine of

equivalents. Decisioning also said there was evidence from which a jury could find literal infringement.

The district judge said that no computer equipment was supplied by Federated for consumers to use in applying for credit cards and that Federated's method of checking the identity of its credit card applicants consisted only of checking the customer's name, address, Social Security number and a third-party credit card number.

Federated's accused system is called NAPS, which stands for New Account Processing System. It allows consumers to apply for a Macy's or Bloomingdale's credit card on the companies' Web sites and checks whether the application should be approved or refers the application to a credit analyst. It also creates the credit records needed to support the application.

Applicants' access to the Federated Web sites is through consumer-owned computers, not through dedicated computer equipment or equipment supplied by Federated, the court papers said.

Decisioning's approach, Judge Currie contended, "misapprehends the essential nature of the limitation, which requires that the remote interface consist of 'dedicated computer equipment, meaning equipment supplied by the entity providing the financial account or service.'"

She went on to say that the plaintiff could not, in any event, succeed under the doctrine of equivalents because dedicated computer equipment is not the equivalent of a consumer-owned personal computer.

Judge Currie also ruled that prosecution history estoppel precluded Decisioning from relying on the doctrine of equivalents to encompass a system that uses a consumer-owned PC.

Identity verification under the court's construction required a check of information that was qualitatively different from the specifically listed items of name, address and Social Security number, the judge pointed out. But credit card information was not the type of information listed in the examples given in the court's construction.

The plaintiffs were represented in this matter by Sowell Gray Stepp & Laffitte LLC, McBride Law PC, Parsons Behle & Latimer, and Withrow & Terranova. The defendants were represented by Parker Poe Adams & Bernstein LLP and Amster Rothstein & Ebenstein LLP.

The case is Decisioning.com Inc. v. Macy's Inc. et al., case number 2007-1278, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Shannon Henson