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CWC Wins \$11.6M Payout In Hyundai Patent Suit

By **Megan Stride**

Law360, New York (June 20, 2011) -- Patent-holding company Clear With Computers LLC scored an \$11.6 million jury verdict Friday in its Texas suit accusing Hyundai Motor America Inc. of infringing a patent for an electronic proposal preparation system.

A jury in Texas federal court found that CWC had proved that Hyundai infringed the four asserted claims of U.S. Patent Number 7,606,739, and that Hyundai had failed to prove that any one of those four claims is invalid.

Hyundai has faced CWC's allegations that it infringes the '739 patent, titled "Electronic proposal preparation system," since October 2009, when CWC launched the immediate action and a nearly identical one targeting more than 30 other companies on the same day the patent was issued.

CWC alleged in both complaints that the defendants infringed the '739 patent through "methods practiced on various websites, making and using supply chain methods, sales methods, sales systems, marketing methods, marketing systems and inventory systems" covered by one or more of the patent's claims, to CWC's injury.

On Friday, the jury found that the royalty base at issue totaled about \$20.7 million, which when multiplied by a 56 cent royalty rate yielded total damages of roughly \$11.6 million.

Attorneys for Hyundai and CWC did not immediately respond to requests for comment Monday.

Many defendants in the other patent infringement suit CWC lodged the same day it targeted Hyundai have struck settlement deals to escape the allegations.

In August, a Texas federal judge signed off on the stipulated dismissal, pursuant to a settlement agreement, of all claims against defendants Epson America Inc., United Technologies Corp., Carrier Corp., Otis Elevator Co., Sikorsky Aircraft Corp., Pratt & Whitney Power Systems Inc., UTC Power Corp. and several of those companies' affiliates.

The dismissal orders cited patent licensing and settlement agreements with CWC, but did not provide any further details.

Later that month, Broyhill Furniture Industries Inc., SubZero Inc. and Wolf Appliance Inc. entered similar deals, and in September Dacor Holdings Inc. also settled out of the suit.

In January 2010, QVC Inc., Pitney Bowes Inc., eBay Inc., the Boeing Co. and Halliburton Co. also settled. The most recent settlement to come out of that action came in May, when GSI Commerce Inc., Kate Spade LLC, Polo Ralph Lauren Corp. and Ralph Lauren Media LLC all dropped out pursuant to a deal with undisclosed terms.

CWC and Hyundai have previously battled over infringement allegations regarding a different patent.

In May 2010, the Federal Circuit threw out a patent infringement judgment in favor of CWC that would have put Hyundai on the hook for \$34 million, ruling that the customized product proposal system patent at issue was anticipated by prior art.

In 2007, the jury in that case found that Hyundai willfully infringed the patent-in-suit — U.S. Patent Number 5,367,627 — but the appeals court found that there was insufficient evidence to support the verdict of no anticipation, and the district court's denial of judgment as a matter of law on validity was reversed.

The patent-in-suit in the current matter is U.S. Patent Number 7,606,739.

CWC is represented by Andrew W. Spangler of Spangler Law PC, Elizabeth A. Wiley of the Wiley Firm PC and Marc A. Fenster, Alexander C. Giza, Adam Hoffman, Stanley H. Thompson Jr., Jules L. Kabat, Benjamin T. Wang and Michael S. Brophy of Russ August & Kabat.

Hyundai is represented by Douglas R. McSwane Jr. of Potter Minton PC and Peter C McCabe III, Gene C. Schaerr, John W. Moss and Geoffrey P. Eaton of Winston & Strawn LLP.

The case is Clear With Computers LLC v. Hyundai Motor America Inc., case number 6:09-cv-00479, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Christopher Norton. Editing by John Quinn.

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