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Calif. Jury Hits Kingston With \$7.5M Verdict In USB IP Case

By **Britain Eakin**

Law360 (March 17, 2020, 2:47 PM EDT) -- Kingston Technology Company Inc. is on the hook for \$7.5 million in damages after a California federal jury found its popular USB flash memory device with a "swiveling" cover infringed a patent owned by South Korean company Pavo Solutions LLC.

The jury handed down its verdict March 12, determining that Kingston had willfully infringed all three asserted claims of Pavo's patent but only awarding Pavo half of the \$15 million in damages it originally sought.

Dongsuk Bae, senior managing director of Pavo's parent company, Intellectual Discovery, said in a statement that he is "very pleased with the verdict, and the jury's determination of willfulness."

Bae said the verdict "would bolster confidence in the U.S. patent and jury systems by inventors who have earned U.S. patents," and that the company will "increase investments in U.S. patents, technology ventures, and startups."

Representatives for Fountain Valley, California-based Kingston, which makes computer-related memory products, did not immediately respond to a request for comment.

Pavo argued during the five-day trial, which **kicked off** March 4, that Kingston's alleged infringement was willful because it plowed ahead with sales of its USB device even though the patent's previous owner, South Korean-based CATR Co. Ltd., had put Kingston on notice of infringement in 2012 and filed suit in 2014.

After CATR sued, Kingston challenged the patent at the Patent Trial and Appeal Board. The district court paused the case pending the outcome of the PTAB proceedings, with the board ultimately upholding several claims while invalidating several others as being obvious. The Federal Circuit **largely upheld** the ruling in early November 2017, with the district court lifting the stay later that month.

The jury ultimately found that Kingston infringed three claims that survived the PTAB's review.

Pavo, which bought the patent in 2015, told the jury during trial that its patent covers a USB flash drive with an attached cover that rotates, allowing the cover to be flipped open or closed, which solved the problem of unattached USB covers falling off and getting lost.

Meanwhile, Kingston had argued during trial that its device doesn't infringe because Pavo's patent calls for a closed rear end to the cover, while Kingston's has an opening to attach a lanyard and openings on the sides.

Pavo said the U.S. Patent and Trademark Office approved its patent in 2005 while Kingston started selling an infringing product in 2010 that quickly became a bestseller, logging \$233 million in sales over seven years and \$93 million in profits.

The patent-in-suit is U.S. Patent Number 6,926,544.

Pavo is represented by Benjamin T. Wang , Minna Y. Chan, Andrew D. Weiss, Jacob R. Buczko and Adam Hoffman of Russ August & Kabat.

Kingston is represented by David Hoffman, Juanita Brooks, David Morris, Nicole Williams, Brianna Chamberlin and Christine Yang of Fish & Richardson PC.

The case is Pavo Solutions LLC v. Kingston Technology Company Inc., case number 8:14-cv-01352, in the U.S. District Court for the Central District of California.

--Additional reporting by Craig Clough. Editing by Abbie Sarfo.

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