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Justin, Britney Win \$755K Atty Fees In Big Screen Patent Suit

By **Kelly Knaub**

Law360, New York (August 20, 2015, 4:32 PM ET) -- In a rare patent case with celebrity star power, a California federal judge on Tuesday granted a bid by Justin Timberlake and Britney Spears for attorneys' fees under Octane Fitness after Large Audience Display Systems LLC sued them for infringing its patents for jumbo screen technology by using them at concerts.

U.S. District Judge Manuel L. Real of California's Central District granted the pop singers \$733,414.34 in attorneys' fees and \$22,511.52 in costs and expenses, for a total of \$755,925.86, saying the case is "sufficiently extraordinary" to warrant the award and that the amount was reasonable in light of the "voracious and frivolous" litigation of the case.

"Plaintiff, an apparent shell corporation, seems to have been formed with the sole intent to create jurisdiction in another district," the judge wrote. "In light of the terms' use in the patent itself, the definitions Plaintiff proffered to the United States Patent & Trademark Office seem disingenuous at the very least."

The suit was dismissed with prejudice when all the patents were invalidated in reexamination, and the pop stars sought attorneys fees in a colorful motion that called the plaintiff "atrocious" and "ridiculous," and the suit a "clear attempt at a shakedown."

Judge Real agreed, saying the plaintiff's litigation tactics have cost both defendants and the court to expend time and resources regarding the resolution of what appears to have been a frivolous claim.

"Clearly, Judge Real carefully considered the defendants' motion, LADS's opposition to the motion and the defendants' reply, with all exhibits, and agreed with defendants that the conduct by LADS was egregious and the continuation of the frivolous case warranted attorneys' fees and costs," Andrew Langsam, an attorney for Timberlake and Spears, told Law360 on Thursday.

He said there were many reasons supporting the court's decision, from LADS' "manufacture" of a claim for venue to gain access to the Eastern District of Texas, to its conduct in the reexamination and its seeking to reopen the case after all asserted claims were declared invalid in the reexamination, to the attempted use by LADS of a clearly privileged attorney-client strategy document by defendants' counsel to "support" its claim that the case was not

frivolous.

"Justice was served and defendants are grateful that the court saw through the gamesmanship of LADS and its counsel," Langsam said.

LADS **initially filed the suit** in Texas' Eastern District in 2009 against Timberlake, Spears, the Pussycat Dolls and the Los Angeles Lakers, accusing them of infringing a patent related to jumbo screens by using the technology at concerts and sporting events without obtaining a license.

The judge granted the defendants' bid to move the case to California in March 2011.

The patent generally relates to a screen that provides a 360-degree field of view and where images can be seen from both sides of the screen. Content displayed on the screen could be pre-recorded images or be from a live broadcast, according to the patent.

According to the federal court docket, the judge granted a notice of voluntary dismissal regarding claims against the Pussycat Dolls in March 2010. Claims against the Lakers were dismissed with prejudice in August 2012, the docket shows.

The patent-in-suit is U.S. Patent Number 6,669,346.

An attorney for LADS did not immediately return a request for comment on Thursday.

The defendants are represented by Michael J. Niborski and Andrew S. Langsam of Pryor Cashman LLP.

LADS is represented by Michael G. Burk and Colten W. Smith of The Burk Law Firm PC, Eric B. Meyertons and Ryan T. Beard of Meyertons Hood Kivlin Kowert & Goetzel PC, and Christopher Q. Pham of Johnson and Pham LLP.

The case is Large Audience Display Systems LLC v. Tennman Productions LLC et al., case number 09-356, in the U.S. District Court for the Eastern District of Texas.

-- Additional reporting by Mike Cherney. Editing by Ben Guilfoy.
