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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Maxell Scores \$43M EDTX Jury Win In ZTE Patent Trial

By **Dorothy Atkins**

Law360 (July 2, 2018, 7:16 PM EDT) -- A unanimous federal jury in the Eastern District of Texas found Friday that electronics company ZTE USA Inc. willfully infringed seven smartphone patents owned by Japanese electronics maker Maxell Ltd. and ordered ZTE USA to pay \$43.3 million in damages.

The verdict ends a two-week trial in a lawsuit that Maxell initially filed against ZTE USA in November 2016. The patents-in-suit cover various technologies used in smartphones, including camera patents, a cellular data transmission patent, a power supply management patent, two audio decoding patents and a walking location patent.

Maxell and ZTE USA entered patent licensing negotiations in June 2013, but ZTE USA has since refused to enter into a formal agreement with its rival, according to the complaint. As a result, the suit claims that ZTE USA has knowingly infringed Maxell patents for years and used infringing technology in multiple models of its smartphones.

Shortly before trial, ZTE USA voluntarily withdrew one of the eight patents-in-suit that had expired in an effort to streamline the case. The trial then began on June 18. After two weeks, a six-member jury found on Friday that ZTE USA infringed all seven of the asserted patents and that the infringement was willful, allowing the court to triple the damages.

Maxell's attorney, Jamie Beaber of Mayer Brown LLP, told Law360 on Monday that the verdict was a big win for Maxell.

"We're very happy for our client and we think the jury got this one right," Beaber said.

Although the jury found infringement on all the claims, the panel also concluded that some claims were "routine and conventional," which is one factor in the analysis under the U.S. Supreme Court's 2014 ruling in *Alice v. CLS Bank International* in determining whether the patents cover ineligible patent material.

The judge will take up the issue in post-trial motions, according to Beaber. But he noted that Maxell had objected to presenting the jury with the question, arguing that it is too difficult for a jury to understand what the question meant as it was presented. He added that he had never seen the question put to a jury before.

Counsel and representatives for ZTE USA did not immediately respond Monday to requests for comment.

Maxell initially named as defendants Richardson, Texas-based ZTE USA and its Chinese parent company, ZTE Corp. The Shenzhen-based ZTE Corp. would not accept service, and the case was put on hold for nearly a year. In March, the district judge bifurcated the case against ZTE USA and ZTE Corp. and sent the claims against ZTE USA to a jury. The claims against ZTE Corp. are still pending.

Four months ago, Maxell also filed another patent infringement suit against ZTE USA and ZTE Corp. in the same district over 10 patents other than the ones in the current case. Those patents cover telecommunications, streaming, camera, video-phone and video calling technologies.

The patents-in-suit are U.S. Patent Nos. 6,748,317; 8,339,493; 8,736,729; 6,408,193; 6,329,794; 6,816,491 and 8,098,695.

Maxell is represented by Jamie Beaber, Alan Grimaldi, Kfir Levy, Tripp Fussell of Mayer Brown LLP and by Geoff Culbertson of Patton Tidwell & Culbertson LLP.

ZTE USA is represented by Steven A. Moore, Callie A. Bjurstrom, Nicole S. Cunningham, Sara J. O'Connell and Matthew R. Stephens of Pillsbury Winthrop Shaw Pittman LLP.

The instant suit is *Maxell v. ZTE Corp. et al.*, case number 5:16-cv-00179, in the U.S. District Court for the Eastern District of Texas. The bifurcated suit is *Maxell Ltd. v. ZTE Corp.*, case number 5:18-cv-00080, in the U.S. District Court for the Eastern District of Texas.

--Editing by Peter Rozovsky.