Judge mulls request to cut damages in Samsung case

PAUL ELIAS - Associated Press - Associated Press

It's a billion-dollar intellectual property question that has yet to be answered: Will a $1.05 billion damage award against Samsung Electronics Inc. remain intact?

After losing a major copyright case to Apple Inc. over smartphone technology, Samsung asked U.S. District Judge Lucy Koh to reduce the award by as much as $600 million. But Koh was mostly silent on the request in a series of orders issued late Tuesday.

The only mention came in a footnote to her order denying Samsung's request for a new trial. The company's argument for the decrease will be addressed in a separate order to be issued later, she said.

The four orders issued throughout the night dealt with Apple's claims that Samsung infringed some of its technology. Koh largely upheld the jury's finding in favor of Apple — with one distinct exception.

She disagreed with the jury's conclusion that Samsung's patent infringements were willful, a finding that stalled Apple's bid for a tripling of the damages.

She otherwise ruled that the jury got the verdict right and denied both companies' demands for a new trial.

Some legal experts and analysts predicted Koh might trim a few million dollars here or $10 million there while leaving the bulk of the award undisturbed.

"It seems pretty clear that Judge Koh largely supported the jury verdict and isn't planning to second-guess the validity and infringement issues," Stanford University law professor Mark Lemley said. "It also seems clear she thinks $1.05 billion is plenty of money."

He said the damage award could get trimmed a bit in the final order but added that he would be surprised if Koh ordered a new trial or cut the figure dramatically.

Others, however, said Koh's order overturning the jury decision of "willful" infringement suggested she could be ready to depart significantly from its damage award.

Jurors previously filled out a verdict form listing each of the 26 Samsung products found to be infringing Apple technology. Next to each item, the jurors scribbled a dollar figure representing the amount of damages they thought Apple deserved.

Samsung argues that many of the calculations were erroneous.

At a hearing in December, Koh agreed that at least a few line items were miscalculated, and she said she was prepared to rework some of the figures. She didn't disclose an amount, but some analysts suspect it could mean a significant reduction.

"I would be shocked if the damages award wasn't substantially reduced," said Santa Clara University law school professor Brian Love said. "The outstanding question right now is by how much."

Apple and Samsung representatives declined comment.

Both companies are expected to appeal after the judge issues her final order on damages. It's the last outstanding issue left undecided after the three-week trial in August. Apple thinks it is entitled to more damages.

The Cupertino-based company is already appealing Koh's refusal to remove the infringing products from U.S. stores. Koh said Apple failed to prove that its features such as pinch-to-zoom were what drove consumer demand for Samsung products.

Samsung, meanwhile, argues that it didn't get a fair trial in a courtroom less than 20 miles (32 kilometers) from Apple headquarters. It also argues that the patents at issue should never have been awarded to Apple in the first place.

The legal battle in California is just one of about dozen courtroom skirmishes involving the two competitors vying for supremacy of the $346 billion global smartphone market.

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