

Nintendo Wins Patent Fight Over Console Screens

By **Kat Greene**

Law360, Los Angeles (August 8, 2016, 6:19 PM ET) -- The Federal Circuit on Monday refused to revive a nonpracticing entity's appeal of a finding that Nintendo didn't infringe a patent for display screens, shutting down the patent holder's contention that the district court had added its own limitations to the patent.

Secure Access LLC had battled on appeal to reverse the trial court's finding that the limitations in the claims for the patent assertion company's U.S. Patent Number 6,522,309 don't line up with the features in Nintendo of America Inc.'s DS system, saying U.S. District Judge Rodney Gilstrap had incorrectly interpreted the claimed elements of the patent, court records show.

Nintendo pushed back, telling the Federal Circuit at oral argument on Aug. 1 that Judge Gilstrap's interpretation of the patent's "translative video adapter," in which he found it was a detachable module, should control the fate of the case.

The appeals court affirmed the trial court's ruling without comment in a one-line order on Monday.

Secure Access filed suit in January 2013 against Nintendo and retailers such as Best Buy Stores LP, KMart Corp. and Target Corp. in the Eastern District of Texas. It alleges that the Nintendo DS handheld game system infringes the '309 patent, which is titled "multiscreen personal computer display method and apparatus."

In June 2014, the Federal Circuit granted Nintendo's petition for a writ of mandamus and ordered U.S. District Judge J. Rodney Gilstrap to sever the claims, to transfer the case against the gaming company to the Western District of Washington and to stay the case against the retailers, deeming Nintendo to be the "true defendant."

Secure Access argued that Judge Gilstrap added limitations to its patent that do not appear in the actual claim language and that are not compelled by anything else in U.S. Patent Number 6,522,309. Instead, the judge simply followed Nintendo's arguments rather than trying to figure out for himself what the patent invented, according to Secure Access' brief.

The patent's TVA works by intercepting data from a computer that otherwise would shoot onto a monitor before converting it into data that can be displayed on multiple screens, explained Secure Access. That could include a wide variety of data and did not require the functionality be separate, the company said.

Philip P. Mann of Mann Law Group, representing Secure Axxess, told Law360 on Monday the court likely won't provide further reasoning on its decision to affirm the trial court's ruling, calling it "unfortunate."

"Not only are my clients deprived of any reason to believe they had a fair day in court, but a very real 'two-tiered' system is evolving wherein the court publicly announces one legal standard for public consumption, while quietly applying a very different standard to many of those who actually appear before it," Mann said. "This, far more than 'patent trolls,' threatens the legitimacy and credibility of the court and patent system."

A representative for Nintendo didn't immediately respond to a request for comment on Monday.

The Nintendo DS is a handheld game console with two screens that was first released in November 2004. It's the second-highest selling video game console of all time, right behind Sony's PlayStation 2.

Federal Circuit Judges Alan D. Lourie, Kathleen M. O'Malley and Richard G. Taranto sat on the panel that reached Monday's decision.

The patent-in-suit is U.S. Patent Number 6,522,309.

Secure Axxess is represented by Philip P. Mann and Timothy J. Billick of the Mann Law Group.

Nintendo is represented by Stephen R. Smith, Phillip E. Morton and Rose S. Whelan of Cooley LLP.

The case is Secure Axxess LLC v. Nintendo of America Inc., case number 15-1971, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Michael Macagnone, Ryan Davis and Kevin Penton. Editing by Emily Kokoll.