

## Qualcomm Awarded \$12.4M In Attys' Fees In Gabriel IP Suit

By **David McAfee**

*Law360, Los Angeles (February 04, 2013, 4:22 PM ET)* -- A California federal judge on Friday awarded Qualcomm Inc. \$12.4 million in attorneys' fees against Gabriel Technologies Inc., finding that Gabriel Technologies' claims against Qualcomm in a \$1 billion intellectual property dispute were objectively baseless and made in bad faith.

Friday's order granting Qualcomm nearly all requested attorneys' fees comes just four months after an October ruling in favor of Qualcomm that finally ended the 2008 dispute over allegations that SnapTrack Inc. — now part of Qualcomm and a named defendant in the suit — claimed Gabriel Technologies predecessor Locate Networks Inc.'s trade secrets as its own and improperly obtained dozens of patents relating to global positioning system technology.

U.S. District Judge Anthony J. Battaglia on Friday said there is a presumption that the inventors named on an issued patent are correct, and to prove otherwise requires clear and convincing evidence.

"The court concludes that plaintiffs' claims in this case were objectively baseless and brought in subjective bad faith," Judge Battaglia wrote in the order. "Here, plaintiffs could not have reasonably expected success on the merits of the patent claims without knowing the identity of the allegedly omitted inventors."

Steven M. Strauss of Cooley LLP, who represents the defendants, said he hopes the large award will discourage others from litigating frivolous claims against Qualcomm.

"The amount is quite large, and it represents virtually all the fees and costs that were incurred in four years of litigation to get the case finally dismissed on our last group of motions," Strauss told Law360 on Monday. "They had made a \$1 billion claim, so it was heavily litigated."

Judge Battaglia also awarded Qualcomm with more than \$64,000 in attorneys' fees against Wang Hartman Gibbs & Cauley PLC, plaintiffs' local counsel who played a relatively minor role in the litigation. In doing so, the judge accepted Qualcomm's argument that the firm didn't investigate matters, and instead assumed that the claims it was asked to make in scores of filings had some basis.

Gabriel Technologies first filed its complaint in October 2008 seeking \$1 billion in damages and alleging 11 causes of action against Qualcomm focused on ownership rights to numerous Qualcomm patents relating to GPS technologies. The companies worked together under a joint development agreement, according to the complaint.

Several of Gabriel Technologies' claims were dismissed early in the lengthy litigation, and the court granted Qualcomm summary judgment on the remaining claims in October 2012.

The court noted in its October order that it had warned Gabriel Technologies early on in the proceedings that the claims lacked merit, but Gabriel Technologies pursued the litigation for an extended period of time without being able to remedy basic deficiencies, such as the inability to name alleged inventors to support claims of inventorship or identify trade secrets to support claims of misappropriation.

On Oct. 12, Qualcomm filed a motion for attorneys' fees, nearly all of which were awarded Friday.

Alex Rogers, the senior vice president and legal counsel for Qualcomm, said he was pleased that the court ordered Gabriel Technologies to reimburse legal fees.

"When Gabriel threatened to bring this action years ago, we responded that their claims were meritless and, if necessary, we would prove it in court," Rogers said Monday. "As the court's order demonstrates, Gabriel's allegations were entirely unfounded and the fee award fully validates our position."

Judge Battaglia on Friday awarded Qualcomm and its subsidiary a total of \$12,401,014.51 in attorneys' fees against Gabriel Technologies, including an \$800,000 interest-accruing bond that was posted by the plaintiffs and will be distributed to the defendants once the order becomes final. The plaintiffs will pay the remaining amount of \$11,601,014.51 to the defendants.

Additionally, the judge awarded the defendants \$64,316.50 in attorneys' fees against plaintiffs' local counsel, Wang Hartmann Gibbs & Cauley PLC.

Representatives for Gabriel Technologies didn't immediately respond to requests for comment Monday.

Gabriel Technologies is represented by Kenneth M. Fitzgerald, Robert G. Knaier and Keith M. Cochran of Chapin Fitzgerald LLP.

The defendants are represented by Steven M. Strauss, John S. Kyle, Timothy S. Teter and Jeffrey S. Karr of Cooley LLP.

The case is Gabriel Technologies Corp. et al. v. Qualcomm Inc. et al., case number 3:08-cv-01992, in the U.S. District Court for the Southern District of California.

--Editing by Lindsay Naylor.