

Motorola, Software Co. Settle Trade Secrets Row

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Law360, New York (January 31, 2012, 1:03 PM ET) -- Motorola Mobility Holdings Inc. and communications software company Lemko Corp. on Tuesday settled their trade secrets battle, resolving claims lodged in Illinois federal and state courts that ex-Lemko engineers used proprietary information to develop cellphone network software for Motorola.

Cook County Circuit Court Judge Sanjay T. Taylor approved a joint motion to dismiss the state court complaint after the two companies informed the court that a settlement had been reached.

A spokesperson for Motorola said in a statement that the parties had amicably resolved their differences. The settlement resolves all claims and counterclaims in the two lawsuits pending in federal and state court, according to the cellphone maker.

Raymond P. Niro Jr., an attorney for Lemko, said he believed a motion dismissing the federal case would be filed later Tuesday. Niro called the settlement "a rare type of agreement," saying all the parties were pleased with the outcome. He added that per the deal, Lemko would maintain ownership of its patents, but entered an agreement not to sue Motorola.

No further details on the settlement were available.

"We are pleased, with the resolution of these cases, that Lemko can now focus all of our energies to growing our business by providing our customers with innovative communications solutions," Lemko CEO Nicholas Labun said in a statement.

The trade secrets dispute between Motorola and Lemko began when former Motorola software engineer Hanjuan Jin was indicted for criminal trade secrets theft and economic espionage in April 2008.

Jin, a naturalized U.S. citizen born in China, is facing three counts each of trade secrets theft and economic espionage after she was stopped in February 2007 on her way to a Beijing-bound flight by U.S. customs officials performing a random check at a Chicago airport. A verdict in the case is set to be read Feb. 8.

After Jin's indictment, Motorola filed a civil suit in Illinois federal court in September 2008, accusing a dozen former employees — including Jin and Xiaohong Sheng — and Lemko of stealing its proprietary communications technologies.

Employees secretly worked for Lemko, conspiring to smuggle out Motorola's trade secrets and other proprietary information pertaining to its communications technology, according to the federal complaint.

Motorola also claimed to have found Lemko's proprietary information on Sheng's Motorola-issued laptop in July 2008 and fired her shortly thereafter for violations of company policy and a confidentiality agreement.

But Lemko's suit against Motorola, filed in November in Cook County Circuit Court, painted a different

picture.

Lemko accused Motorola of actively recruiting Sheng in order to gain access to Lemko's source code for its software-based position determining entity system, which uses satellite signals to calculate the location of a cellphone in the event of an emergency call.

Sheng, who worked at Lemko from February 2005 until she quit in October 2006, helped to develop Lemko's PDE algorithms, software and source code, according to the suit. In April 2007, she was tasked with developing PDE source code for Motorola and given one month to complete what had taken her 1 1/2 years at Lemko, according to the complaint.

Lemko called Motorola's federal trade secrets complaint a "witch hunt" and said that after three years of litigation, Motorola still had not identified any trade secrets or proprietary information that Lemko received from any of the targeted ex-employees.

Lemko claimed Motorola had specifically targeted Sheng because of her access to Lemko information and, having gotten that from her laptop, summarily terminated her.

The real purpose of Motorola's suit, Lemko alleged, was to drive the Illinois-based company out of business.

Tuesday's dismissal closed the cases. Judge Taylor also ruled that Lemko and Motorola would each bear their own costs and attorney's fees.

Lemko is represented by Raymond P. Niro, Raymond P. Niro Jr., Robert A. Conley, Joseph A. Culich and Christopher W. Niro of Niro Haller & Niro Ltd.

Motorola is represented by Winston & Strawn LLP and Nixon Peabody LLP.

The state court complaint is Lemko Corp. v. Motorola Mobility Holdings Inc., case number 2011-012432, in the Circuit Court of Cook County in Illinois.

The federal lawsuit is Motorola Inc. v. Lemko Corp. et al., case number 08-cv-05427, in the U.S. District Court for the Northern District of Illinois. The criminal case is U.S. v. Jin, case number 1:08-cr-00192, in the same court.

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