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Vringo's petition to the U.S. Supreme Court on review of adverse Federal Circuit ruling said to be sound, though still a long shot

Vringo Inc. (VRNG), the patent licensing company run by CEO Andrew Perlman, made a sound and reasonable argument in its petition to the U.S. Supreme Court to overturn an appellate court's ruling throwing out a $30 million award and running royalty and invalidating patents at issue in an infringement action against **Google Inc.** (GOOG), though success remains doubtful, attorneys say.

New York-based Vringo on Thursday filed a petition for writ of certiorari with the Supreme Court asking the high court to review and overturn the divided opinion of the U.S. Court of Appeals for the Federal Circuit. The original verdict came in a trial before the U.S. District Court for the Eastern District of Virginia.

David Boies, chairman of **Boies Schiller & Flexner LLP**, filed the petition on behalf of I/P Engine. Boies and Vringo officials declined to comment.

The petition calls for the Supreme Court to reverse the Federal Circuit and articulate a clear standard of review that would prevent the Federal Circuit from substituting its own factual findings for that of the jury.

According to the petition, the Supreme Court should intervene to ensure that patent litigation does not continue to be at risk of arbitrary re-litigation years after a patent has been issued by appellate judges who did not witness the trial and have only the cold record to review.

I/P Engine's petition asks the Supreme Court to reverse the Federal Circuit's decision finding the patents-in-suit invalid as obvious, which gave no weight to the jury's explicit factual findings to the contrary, and to clarify the standard of review which the Federal Circuit must apply when reviewing a jury's explicit findings.

The petition argues that the Federal Circuit substituted its own opinion for that of the judge and jury, who after a twelve-day trial in the Eastern District of Virginia found the patents valid and infringed.

Vringo's petition says the jury's finding was consistent with the Patent and Trademark office, where eight different patent examiners found I/P Engine's patents valid.

Absent a grant of certiorari, I/P Engine asks the Supreme Court to vacate the decision below and direct the Federal Circuit to reconsider its decision in light of the Supreme Court's recent decision in Teva Pharmaceuticals USA Inc. v. Sandoz, which emphasized the need for the Federal Circuit to review the factual findings of the trial court deferentially.

Shares of Vringo lost two thirds of their value after the Federal Circuit's decision August 15. Today, the shares fell 0.96 cents to 66 cents in trading. They've traded between 46 cents and $3.69 over the past year.

"In looking through Vringo's petition, it looks to me like the argument that is being made is sound and consistent to the Court's recent decision in Teva v. Sandoz," said Chandran Iyer, a partner with Sughrue Mion PLLC in Washington, D.C. in an email.

In January, the Supreme Court ruled in Teva that factual conclusions made by the trial court in its claim construction decision must be given great deference on appeal. As a result, the Supreme Court held that the claim construction ruling must be reviewed for "clear error," instead of using a de novo review.

"The argument made in Vringo's petition is consistent with this test and I figured such motions were coming in light of the Teva decision," Iyer said.

The question is "should all factual determinations made by the lower court in a patent case be reviewed for clear error?," he said. "I can see, based on the Teva decision, the Supreme Court going there pretty easily and, in my opinion, that is probably the correct approach."

"While I'm not sure if Vringo's patent is valid or invalid, the argument that the correct standard of review must be used to determine validity is one that is correct and should resonate with the Supreme Court."

Another patent attorney, who spoke on condition of anonymity because he didn't want his words used against him in another matter, echoed Iyer's remarks, saying the concern is whether the Federal Circuit improperly invaded the domain of the fact finder in reviewing the jury's obviousness determinations.

In this case, the Federal Circuit didn't have the advantage of the Supreme Court's Teva v. Sandoz decision concerning claim construction when it decided this case. Indeed, the Federal Circuit denied Vringo's en banc appeal in December and the Supreme Court didn't issue its ruling in Teva until January.

"The Teva ruling provides Vringo with the argument that the Federal Circuit should have given deference to the jury with respect to factual determinations. A litigant could analogize between claim construction deference as to the district court's factual determinations, and similarly advocate for deference to the jury's factual determinations regarding obviousness. So the Supreme Court may be tempted to vacate the ruling and send it back to the Federal Circuit to consider the implications of Teva."

Robert Taylor, the owner and founder of RPT Strategies in San Francisco, said the Supreme Court typically has shown an unwillingness to undo the validity determinations made by the Federal Circuit, making it challenging for Vringo to do so here.

“A cert petition is by definition a long shot,” said Mark Lemley, the William H. Neukom professor at Stanford Law School in an email. “And this one on a fact-specific issue is even more of a long shot.”

If the petition catches the high court’s interest, it may be on the question of what the proper role of the jury is in deciding validity, Lemley said.

“But Vringo might not like the answer the court gives if it does address that issue.”
Critics of abusive patent monetization firms were much less optimistic about Vringo’s chances as might be expected.

“Vringo is desperately fighting for its miserable, advantage taking existence,” said Lee Cheng, the general counsel for Newegg Ltd., the Los Angeles-based online retailer of computer equipment.

“And in these United States, they will not find any shortage of high priced legal mercenaries willing to take their money to allow them to continue to extract extortionate tolls from honest businesses and ultimately, every American.

Cheng said he hoped “Boies soaked them hard on fees–millions and millions.”

Soverain Software “did the same thing when the CAFC invalidated the infamous shopping cart patents asserted against Newegg,” he said. “They hired Seth Waxman of the Wilmer Hale firm to try to convince the Supreme Court to grant a rehearing and spent millions on that pathetic effort. FAIL. This will fail too.”

Marathon posts wider loss on higher expenses for patent amortization and litigation, acquires portfolio of 43 patents related to tire pressure monitoring systems

Marathon Patent Group (MARA), the patent licensing company run by CEO Doug Croxall, posted a much wider net loss of $4.78 million in the first quarter as expenses for amortization of patents and other items outstripped lower than expected revenue.

Los Angeles-based Marathon’s loss per share of 34 cents was double the 17 cents expected by analysts, and compared with a net loss of $281,606, or 3 cents a year ago.

Expenses for patent amortization and the website totaled $2.6 million, up from $453,647, a year ago. Compensation expenses doubled to $1.58 million from $729,987. Consulting fees also doubled to $869,543 from $428,107. Professional fees tripled to $769,615 from $256,855.

Marathon CFO Frank Knuettel said on a conference call with investors that the increase in costs was linked to a flurry of activity to close discovery in a number of cases and preparations for new ones.

He said the company expects to recover the expenses when it reaches future settlements.

Revenue from settlements totaled $4.1 million, which also was less than consensus revenue estimate for the quarter of $6.35 million, versus $2.78 million, a year ago.

Marathon said licensing revenue came from 13 agreements across 25 licensees. That means on average Marathon earned only $315,384 per agreement.

The revenue figure isn't a big surprise because "no one really knows what to expect," James McIlree, an analyst at Chardan Capital Markets, said in a phone interview.

"The thing that strikes me about this company is how it's been changing over the past 12 months," McIlree said. In the past, Marathon was known for producing "home runs and singles and doubles."
Today, Marathon is "relying much more on home runs than in the past and that's risky. As we've seen this past year, the bigger the settlement, the more the defendant fights it."

In a note to investors before the earnings were released, McIlree said that over the past six quarters Marathon's average settlement has been about $1 million.

During the quarter, Marathon announced six settlements including two by TLI Communications with Photobucket and SmugMug, two by Vantage Point with SugarSync and 14 other defendants, and one each by Selene with Alert Logic and by Signal IP with Volvo Cars of North America.

Croxall said in a statement that the first quarter revenue "represented our second best quarter to date."

"Since the beginning of the 2015, we have already had four Markman hearings covering 31 defendants. Throughout the remainder of 2015, our subsidiaries have an additional six Markman hearings covering 14 defendants, along with three US trials covering four defendants and nine German trials covering 12 defendants. We believe the current Markman and trial schedule for 2015 and 2016 have the potential to trigger significant revenue events."

Marathon said its cash and cash equivalents at the end of the quarter was $9.5 million, versus $5.1 million at the end of 2014.

"It took a lot of debt to get there," McIlree said in the interview.

In February, Marathon announced that it received $15 million in secured debt financing from **Fortress Investment Group** and an option for up to $35 million more for use in patent monetization activities.

Shares of Marathon gained 24 cents or 4.62% to $5.44 in trading Thursday.

McIlree said in his note that the TLI settlements with SmugMug and Photobucket were fortunate since U.S. District Court Judge T.S. Ellis in early February granted a consolidated motion by 20 defendants to dismiss because the image recording patent in dispute was invalid for lack of patentable subject matter. Marathon is appealing the decision.

The Selene settlement with Alert Logic was the fifth for the Marathon unit and means only 6 of the original 27 defendants are still in litigation. Three defendants are left for Vantage Point down from 37.
Volvo marked the first settlement for Signal IP, which originally was seeking some $1.4 billion to $1.6 billion against 15 car makers. The Marathon unit had sought between $13 million and $14 million from Volvo in the suit.

McIlree said the Signal IP case remains an important source of potential revenue because of the size of the remaining defendants.

The remaining defendants and amount Signal IP was originally seeking in the complaint were: American Honda Motor Co.($201 million to $223 million), Kia Motors America ($133 million to $148 million), Mazda ($63 million to $70 million), Mitsubishi Motors North America Inc. ($6 million to $7 million), Nissan North America ($151 million to $167 million), Subaru of America ($28 million to $31 million), Chrysler Group LLC ($154 million to $170 million), Ford Motor Co. ($304 million to $336 million), Jaguar Land Rover North America LLC ($20 million to $22 million), Mercedes-Benz USA LLC ($120 million to $133 million), BMW of North America ($104 million to $115 million), Volkswagen Group of America ($132 million to $146 million) and Porsche Cars North America ($23 million to $25 million).

The patents at issue in the Signal IP case cover blind spot monitoring using radar, seat weight sensors used in airbag deployment methods, object sensing in adaptive cruise control, occupant detection for air bag deployment, tire pressure monitoring and keyless entry control.

In other news, Marathon said its wholly-owned subsidiary IP Liquidity Ventures LLC agreed to purchase 43 patents related to tire pressure monitoring systems from an undisclosed buyer for an undisclosed amount.

The company said among the patents acquired is the German part of European patent number EP1309460 (DE 60142907.9) which is currently being asserted in a pending lawsuit in Germany against Schrader-Bridgeport International, Inc.; Schrader International, Inc.; Schrader Electronics Ltd.; Schrader Electronics Inc.

According to the application for EP1309460, the applicant for the patent was Bridgestone Americas Tire Operations LLC.

Marathon said a final judgment of infringement of EP ‘460 Patent and an injunction was entered on June 12, 2014 by the Munich District Court against Schrader.

Marathon said as part of the acquisition, it will have the right to enforce the injunction against Schrader in Germany, which would prevent Schrader from making, selling using, or offering for sale any tire pressure monitoring systems that have been found to infringe the EP ‘460 patent.

“The Munich District Court’s Judgment of infringement of EP ‘460 Patent includes injunctive relief and damages, as well as the additional grant of claims for destruction of the infringing products and information on the distribution chain,” Croxall said in a statement. “It is our intention to take all necessary measures to start enforcement of the injunction against Schrader in Germany.”

Croxall also said the acquisition demonstrates that diversification within the patent asset class can also be measured by the stage of enforcement at which Marathon acquires the patent asset.

“The ability to enforce an injunction in Germany against Schrader, reduces risk, eliminates up-front expenses, and reduces the time to possible revenue,” he said.

He said Marathon expects the acquired patents have “the potential to contribute meaningfully to Marathon’s revenues, earnings and continuing goal of creating shareholder value.”

Croxall said the patent is scheduled to go to trial in a first case next month and a second one in September.

He said Marathon will have the ability to expand its infringement campaign to other defendants.

“In theory the tire pressure monitor patent would bolster what they have already,” Chardan’s McIlree said. It sounds like “a very interesting patent in a very large market,” he added.

Celgene’s Revlimid patents may face broader challenge after European patent is revoked

The European Patent Office’s decision on May 7 revoking one of **Celgene Corp.**’s (CELG) patents on Revlimid, a derivative of thalidomide, may lead to a broader challenge to related patents that could seriously curtail some $5 billion of Celgene’s $7.5 billion in annual revenue.

That’s the assessment of analysts at **M-CAM**, the intellectual property asset management advisory firm run by David Martin and David Pratt and based in Charlottesville, Virginia. M-CAM wouldn’t identify the client who paid for the report.

Shares of Celgene fell 48 cents to $113.10 in afternoon trading. The company has said it would appeal the decision.

The revocation may mean generic drug companies will be able to produce their versions of the drug before Celgene's current exclusivity runs out in 2024.

The appeal could take as long as 5 years.

Officials for Celgene couldn't be reached for comment.

"A systematic and rigorous review of the available precedent information provides a sound basis for the invalidation of many other Revlimid® patents, including those currently listed in the FDA's Orange Book, on the grounds that they are based on an older drug and that the use of the drug in the treatment of cancer was obvious," the executive summary of the M-CAM analysis says.

If the invalidation of the entire Revlimid portfolio were systematically pursued by a third party, such as Kyle Bass's **Hayman Capital**, it could "materially and adversely impact Celgene," the M-CAM analysis asserts.

Officials for Hayman Capital also couldn't be reached for comment.

The core Revlimid compound patent "is and has always been based on an old drug (thalidomide) and the 'innovations' on which Revlimid is based, going back to its priority date in 1996, are obvious in light of precedent innovation and hence not entitled to patent protection in the United States or any of the nearly 70 countries where Revlimid® is approved," the analysis says.

Because the base patent of the Revlimid families of patents is not valid, then all of the Revlimid patents are subject to validity or commercial relevance challenges.

To be sure, many of the Revlimid patents have to do with testing for contraindications and not just the compound.

Thalidomide has been on the market since 1957 and was originally used as a sedative until it was found to cause birth defects in women who took the drug.

In the 1960s, thalidomide was found to help in the treatment of disease by inducing, enhancing, or suppressing an immune response.

A 1970 scientific study found thalidomide derivatives to have the same immunomodulatory properties as thalidomide.

In 1991, another study established the clinical action of thalidomide in inhibiting tumor necrosis factor α (TNFα).

"In light of these precedents, examiners of Celgene's '517 patent should have found it obvious that a closely-related chemical analog like lenalidomide would reasonably exhibit similar properties and therefore should not have issued this core Revlimid® patent upon which all of the Revlimid® patents are based.

The challenge of Revlimid before the EPO was brought by Teva Pharmaceuticals and Mylan N.V.

Revlimid is approved by the U.S. Food and Drug Administration for the treatment of cancer and other autoimmune diseases such as multiple myeloma,
mantle cell lymphoma, and myelodysplastic syndrome.

While M-CAM noted that some commentators have expressed opinions as to whether the revocation of the patent in the EPO proceeding will invite additional scrutiny of Celgene's U.S. polymorph patents, those may not be the most at risk.

"We see much more comprehensive challenges to Revlimid® that strike at the entire suite of patents given exclusivity in the Orange Book.

"While the market has been primarily focused on the EPO opposition proceeding, Celgene's case against Natco Pharma, and, most recently, Hayman Capital's filing of inter partes review (IPR) petitions, the focus should be much more broadly applied.

M-CAM asserted that Hayman's petitions "are well argued and aimed at the core" Revlimid compound patent and Revlimid patents on methods of drug distribution.

"The patents covering methods of avoiding fetal exposure to teratogenic drugs are the easiest to attack on grounds of obviousness," M-CAM said.

The full report can be found at https://www.hvst.com/posts/42015-celgene-revlimid-validity-review.

WordLogic shares surge as licensing company hints at new direction, possible takeover

Shares of **WordLogic Corp.** (WLGC), the predictive texting technology licensing company run by self-described venture capitalist and CEO Frank Evanshen, jumped 25% on Tuesday, May 12 as investors bet the company was about to embark on a new direction that could make it a takeover target.

To be sure, the 25% increase was only 2 cents as WordLogic shares closed at 10 cents on Tuesday giving the penny stock company a market value of just $10.9 million.

The jump in the stock was justified by "numbers that are truly scary in a good way," Evanshen said in a phone interview, referring to a licensing agreement reached with undisclosed private backers who are setting up an operating company assisted by **Nirvana Canada**, a software development and marketing firm founded by former Microsoft program manager Sandeep Mittal.

WordLogic's products include the IKnowU and REACH patented technologies, which try to predict texting word choices and automatically connect the user to commercial websites, respectively. They're used on Android-type phones.

"We've turned the keyboard into a search engine," Evanshen, 66, said. "It reads the ecosystem of the phone. It's browserless and supersedes Google. You don't have to go to search engines anymore."

All of which sounds great until you realize that WordLogic has cash and equivalents of just $76,351 and posted a net loss of $2.95 million or 3 cents a share in 2014, compared with a loss of $4.77 million or 6 cents a share, a year ago.

Moreover, the Vancouver-based company is the product of a reverse merger and trades over-the-counter. Even Evanshen admits WordLogic would probably be out of business if it wasn't for a $5 million licensing agreement from **RPX Corp.** (RPXC) in 2012.

All those issues have made it difficult for WordLogic to succeed as a going concern despite what he says is $40 million spent on its technologies and patents. Of that $40 million, Evanshen says $6 million came from him and his family. He has a 20% stake in WordLogic.

"RPX made hundreds of millions of dollars from that deal," Evanshen asserted. "They wouldn't verify that but it's something we heard from someone who used to work there." He said WordLogic's licenses enabled RPX to bring in many new subscribers to its services.

Of course, RPX's retained earnings since inception including from its recent purchase of the Rockstar patents amount to $200 million from $1.8 billion spent on acquiring patents. That's a margin of roughly 11%, which would suggest RPX earned closer to $556,000 from the WordLogic patent.

Officials from San Francisco-based RPX declined to comment.

Shares of WordLogic gained another 10%, or 1 cent, to 11 cents on Wednesday before giving back a penny Thursday. They've traded between 2 cents and 18 cents over the past year.
The impact of the new licensing agreement seems dubious because Evanshen and WordLogic have given no details on their partner and few details on the terms.

WordLogic said the terms of agreement called for a one-time $250,000 cash payment where all revenue will be split 40% to WordLogic and 60% to the venture fund after commissions.

"If they are able to tie up one major app it could mean $1 per month per user for WordLogic," he said. "You're talking a lot of money."

WordLogic has produced few tangible results from previous announcements including an agreement for exclusive rights to monetize specific patented intellectual property in **General Electric Co**.'s portfolio.

"GE approached us," Evanshen said. "They said: 'GE has some patents in your space and we see you're the market leader.'"

Evanshen said GE told him it would like to do a joint venture whereby WordLogic could potentially help monetize GE's patents.

WordLogic is dealing with the healthcare division of GE on the agreement and has worked with Raymond Millien, the senior IP counsel for GE's healthcare division.

The agreement has yielded no results for WordLogic because GE is in the process of reorganizing and spinning off its financial services business.

Evanshen said General Electric approached WordLogic because of its leadership in predictive technologies and foundational patent portfolio.

GE's Millien couldn't be reached for comment.

In August 2014, WordLogic said it agreed to sell the non-exclusive rights to its legal enterprise solutions for North America to several Virginia-based shareholders.

The agreement called for a one-time payment of $1 million, plus a 10% royalty on all sales and a 15% annual software maintenance fee on all sales.

To date, the shareholders have paid WordLogic only $50,000.

WordLogic also is involved in patent infringement litigation against a British company called SwiftKey, which Evanshen says copied its predictive keyboard technology and is now on the verge of a $2 billion IPO.

"We create the technology and we're worth $10 million and they copy it and are worth $2 billion? That's ridiculous."

Evanshen declined to comment on the status of the case, saying it was "very delicate. I have to refrain from commenting. Something very important is happening. I'm not at liberty to say."

WordLogic was originally incorporated in Nevada as TheAmericanWest.com Inc. in March 1999. The company's primary business was the development and commercialization of data entry software for handheld computing devices.

In March 2003, AmericanWest reverse merged with WordLogic Corp., a private British Columbia-based corporation and adopted its name and ticker symbol.

Evanshen has been accused of abusing his power as CEO by a former officer and director named Paul Silverstein, who served briefly as CEO and COO before being suspended and resigning.

Silverstein had threatened to bring a whistle blower claim against the company after he uncovered evidence that Evanshen was abusing his corporate credit card.

Evanshen said Silverstein didn't understand the context of the credit card spending, which was used to compensate his brother for bringing the RPX licensing deal to the company instead of paying him a finder's fee.

In December 2013, WordLogic agreed to issue stock and warrants to Silverstein as part of a settlement of a lawsuit filed in U.S. District Court in the Southern District of New York. WordLogic recorded a loss of $773,644 on the stock and warrants.

Inventergy is short on cash again after $6.3M first quarter loss

Inventergy Global Inc. (INVT), the patent licensing company run by CEO Joe Beyers, said it has less than five months of cash left and will need to raise capital again after posting a net loss of $6.3 million in the first quarter of 2015.

Campbell, Calif.-based Inventergy's net loss per share of 25 cents, compared with a net loss of $5.43 million, or 43 cents a year ago.

Revenue was $166,912 compared with no revenue a year ago. Patent amortization expenses increased to $387,585 from $292,815. General and administrative expenses decreased to $2.83 million from $3.04 million, reflecting cost cutting efforts.

At March 31, Inventergy had an accumulated deficit since inception of $49.7 million and had a negative working capital of $5.35 million. As of May 4, it had remaining cash of $2.3 million, which includes $1 million of minimum cash reserves intended to serve as additional collateral pursuant to the terms of a revenue share and note purchase agreement, as amended and restated with **Fortress Investment Group**.

“These factors raise substantial doubt about our ability to continue as a going concern,” the company said in a filing with the Securities and Exchange Commission.

While Inventergy entered into its first license agreement in February and received an additional drawdown from the Fortress agreement of $1,199,500 as a result of entering into the license agreement, its continuation as a going concern is dependent both on achieving additional licensing revenue from its patent portfolios and/or obtaining additional financing on acceptable terms.

The company said it will seek to continue its operations primarily with income received through licensing revenues, though it may need to seek additional financing capital through loans, subject to the restrictions of the Fortress agreement, and/or the sale of securities.

“If we are required to raise additional financing capital, we cannot assure you that we will be able to obtain additional such capital on terms acceptable to us or at all. Additionally, if we raise capital through the issuance of equity, our current stockholders will experience dilution.”
Shares of Inventory fell 0.96 cents to 37 cents in late morning trading. They've traded between 28 cents and $9.90 over the past year.

Inventergy said it believes its working capital expenses will be approximately $6.8 million for the next twelve months.

Those expenses will consist of about $2.5 million in employee related costs, which reflects a 30% decrease from its previous forecast, $1.3 million in patent maintenance and prosecution fees, $2 million in other operational costs and $1 million of payments relating to the acquisition of our patent portfolios.

The company also expects $1.6 million in debt servicing fees payable to Fortress during the year.

ParkerVision posts loss in first quarter on higher litigation costs, plays down criticism of attorneys at Federal Circuit hearing

ParkerVision Inc. (PRKR), the patent licensing company run by CEO Jeffrey Parker, said its net loss was little changed at $5.8 million on higher than expected litigation costs related to its appeal of a district court ruling throwing out a $173 million verdict it won in 2013 against **Qualcomm**.

The Jacksonville, Florida-based company's net loss of 6 cents a share, compared with $5.8 million, or 6 cents a share, a year earlier.

Litigation expenses increased $1.6 million on a year over year basis.

Research and development expenses declined to $1.8 million from $2.26 million. Marketing and selling expenses decreased to $485,797 from $656,991.

General and administrative expenses increased to $3.54 million from $2.87 million, a year ago.

ParkerVision had cash and available for sale securities of $8.2 million as of March 31, 2014, down from $11.2 million at year end 2014.

Unless ParkerVision starts producing some licensing revenue soon, investors "may start to lose patience with the company," said Dex Wheeler, the chief analyst at **M-CAM**, a financial institution that advises on the underwriting of intellectual property based in Charlottesville, Virginia.

"Qualcomm seems to have been pretty successful in arguing for non-infringement," Wheeler said. "To have a judge throw out your case for non-infringement is not not good."

In the meantime, "the Qualcomm case is really the only thing they have going for them" that could mean revenue in the short run, Wheeler said.

Another case filed against Qualcomm in the Middle District of Florida involving 7 patents related to RF transmitters is in the early stages and has yet to go through claims construction, he said. An outcome is still years away.

"ParkerVision has talked about some new IP in its portfolio, but we haven't seen any evidence of it working," he said.

Parker said in a statement that ParkerVision continues “to actively pursue commercialization opportunities for our technologies as well as additional funding commitments for our current and future enforcement actions.”

Shares of ParkerVision plunged 40% on Friday after a hearing before the Court of Appeals for the Federal Circuit on the appeal of a federal district court ruling throwing out the Qualcomm verdict.

Indeed, ParkerVision shares plunged 27 cents to 39 cents Friday in trading. The shares gained 0.0064 cents, or 1.62%, to 40.05 cents today. They’ve traded between 33 cents and $5.32 cents over the past year.

The attorneys for ParkerVision “did not handle the technical questions of the court well” and that’s why the stock was down, said Greg Lewin, who manages money for **Lewin Capital Partners** in Stamford, Conn. on Friday “It’s terribly disappointing. Certainly not a good day.”

The poor performance of ParkerVision’s attorneys “may not be fatal” for the licensing company because hearings typically last only about an hour and the great majority of decisions by the Federal Circuit are based on legal briefs, Lewin said.

During a conference call today with investors, Parker played down the importance of the hearing and emphasized that the case the company made in its briefs was far more important and compelling.

Lewin is still holding on to his investment in ParkerVision because it has many other potentially valuable infringement claims. He said he doesn’t stand to lose much more if it goes to zero, and, if ParkerVision gets lucky in its other cases, it could soar to $7.

As of December 31, 2014, ParkerVision had 179 U.S. and 88 foreign patents related to RF technologies, and approximately 45 U.S. and foreign patent applications pending.

The plunge in ParkerVision’s stock price comes two weeks after the company said it was facing delisting from the Nasdaq because its stock price was below the minimum requirements. The latest plunge will make it even more challenging for the company to avoid being delisted.

VirnetX posts narrower first quarter loss on higher revenue and lower expenses

VirnetX Holding Corp. (VHC), the patent licensing company run by CEO Kendall Larsen, posted a narrower first quarter net loss of $5.86 million on higher revenue and lower expenses.

The Zephyr Cove, Nevada-based company’s first quarter net loss of 11 cents a share compared with a net loss of $6.09 million, or 13 cents a share.

Revenue increased to $392,000 from $250,000. Selling, general and administrative expenses decreased to $5.74 million from $6.86 million, a year ago.

VirnetX had cash and cash equivalent of $13.29 million compared with $18.66 million as of year-end 2014.

The company is currently involved in infringement actions against **Apple Corp., Cisco Systems**, **Aastra** and **NEC** in the U.S. District Court in Tyler, Texas.

A $368 million verdict VirnetX won against Apple was later overturned by the Court of Appeals for the Federal Circuit, though the patents were declared valid.

The appellate court has remanded the case back to the district court, which has now consolidated the case with another case against Apple in the same court.

VirnetX said in a securities filing that the jury trial in this case is scheduled for October 13.

In other news, VirnetX said today that it has hired **IPVALUE Management Inc.** to assist it in commercializing its portfolio of patents on securing real-time communications over the Internet.

The increased revenue and the hiring of IPVALUE reflects a growing realization among patent monetization companies that they need to re-emphasize their ability to commercialize their patents rather than just be seen as so-called patent trolls.

“There’s social pressure from so much bad press over abusive monetizers,” said Dex Wheeler, chief analyst for **M-CAM**, the intellectual property advisory firm in Charlottesville, Virginia.

“For companies like VirnetX there’s a lot of pressure to not be seen as a malicious entity.”

The American Invents Act of 2011 has really limited the business model, he said.

In addition, “the legal system — even the Eastern District of Texas — seems fed up.”

“The pressure is on — to if not commercialize your patents — to at least pursue more well thought out infringement actions or cases with higher values to make them worthwhile. There’s no more the scattershot approach.”

Under the multi-year agreement, IPVALUE will originate and assist VirnetX with negotiating transactions related to patent licensing worldwide with respect to agreed third parties.

“The technology innovations giving rise to the VirnetX patent portfolio have tremendous value as secure communications are the fundamental building blocks of today’s mobile, internet connected devices and services,” said Murali Dharan, IPVALUE CEO in a statement.

Dharan said VirnetX’s intellectual property portfolio includes patents that have been declared essential to 3GPP mobile standards and we look forward to opening discussions with companies that need this technology to be compliant.

“IPVALUE has a proven track record of applying a professional, business resolution oriented approach to licensing marquee intellectual properties like VirnetX’s IP,” Dharan said.

Larsen said in the statement that VirnetX was “excited about our relationship with IPVALUE” and believe that working with the IPVALUE team will provide us with the resources to fully commercialize our patent portfolio and maximize the revenue potential of our intellectual property.”

VirnetX’s patent portfolio includes over 107 U.S. and foreign patents with over 75 pending applications. Its portfolio has been licensed by a number of leading technology companies including a recent licensing agreement with Microsoft. VirnetX has submitted a declaration with the 3rd Generation Partnership Project (3GPP) identifying a group of its patents and patent applications that it believes are essential to 19 specifications in the 3GPP LTE, SAE project.

The company emphasizes that its patents are developed in house by a team led by VirnetX Chief Technical Officer and Chief Scientist, Dr. Robert Dunham Short III.

Netlist posts wider net loss in first quarter on a more than tripling of patent litigation costs

Netlist Inc. (NLST), the patent monetization company run by CEO C.K. Hong, posted a much wider net loss of $6.46 million in the first quarter on higher litigation expenses.

The company’s net loss of 14 cents a share compared wit5h a net loss of $2.02 million or 5 cents a share a year ago.

The company’s net sales plummeted to $2.1 million from $7 million, which the company attributed to the transition from its base memory solution products to the next generation technology.

The company said its intellectual property legal expenses more than tripled to $3.5 million from $1.1 million .

Selling, general and administrative costs were $1.76 million versus $1.61 million. Research and development also increased to $1.38 million from $878,000.

Shares of Netlist gained 3.77 cents, or 6.8%, to 59 cents today in trading. They’ve traded between 50 cents and $2.09 over the past year.

“First quarter results reflect ongoing investments in R&D for HyperVault and the transition of our base products business to next generation technology, as well as legal expenses associated with current litigation,” Hong said in a statement.

Hong said the company’s EXPRESSvault3 (EV3) product line which accelerates Big Data applications has garnered significant interest from major customers and should begin to produce revenue in the near future.

“We anticipate this interest will be converted into commercial shipments in the second half of the year.”

Hong also noted that the company signed a letter of intent with LG Electronics to apply technology underlying its HyperVault product into smart phones.

Patent Properties posts narrower loss in first quarter on lower litigation expenses

Patent Properties Inc. (PPRO), the patent monetization company run by Executive Chairman and founder Jay Walker, posted a narrower net loss of $4 million in the first quarter on higher revenue and lower expenses.

The Stamford, Connecticut-based company said its first quarter net loss per share of 19 cents compared with a net loss of $6 million or 30 cents a shares a year ago.

The company produced revenue of just $12,000 versus no revenue a year ago. The revenue figure includes $5,000 from the company's new Patent Utility venture, which allows users to list underutilized patents for no cost or pay to receive information, licenses, expert assistance and legal fee discounts.

The company said it filed only one patent infringement counterclaim in the first quarter and didn't elaborate.

Total operating expenses including litigation costs fell to $3.6 million from $6 million a year ago. Selling, general and administration costs rose to $323,000 from $259,000.

As of March 31, Patent Properties had cash and cash equivalents of $11.6 million and no outstanding debt.

The company said it recently signed up **Reinsurance Group of America** (RGA), a life and health reinsurance company, and **Sapient (m) Phasize**, a cross media analysts company, as its newest subscribers to The Patent Utility, though it didn't say how much revenue that will generate.

"The first quarter of 2015 saw us obtain our first subscribers and generate our first dollars for the Patent Utility," said Jonathan Ellenthal, Vice Chairman and CEO of Patent Properties in a statement. "We are currently serving companies of all sizes in various and diverse industries such as software, consumer products, electronics and insurance, to name a few.

Ellenthal said that less than four months after launch, Patent Properties believes The Patent Utility offers "significant and untapped potential to considerably expand the depth of our market opportunity from small and mid-size businesses to include large and mega-cap companies, as evidenced by Microsoft and now RGA, among our subscribers."

In April, Intellectual Ventures agreed to list several thousand of its patents with The U.S. Patent Utility, joining paid subscribers such as **Microsoft Corp., Harman International Industries Inc., Goodway Technologies Corp., Edison Nation LLC, H.H. Brown Shoe Co. Inc.** and **AT Cross Co.**

The Patent Utility is aimed at the large number of small to medium sized companies with at least 10 employees and annual revenue between $5 million and $1 billion and have filed only a few patents.

These companies typically are relatively unsophisticated about intellectual property and may have the most to gain from a subscription service that helps them efficiently manage and license their patents.

With the Patent Utility, Patent Properties is targeting about 90,000 companies in high risk industries such as consumer products, biotechnology and pharmaceuticals, industrial and construction, computer hardware, medial devices, software, business and consumer services, telecommunications, automotive and transportation and chemicals and synthetics.

In addition, Patent Properties has identified another 140,000 companies that have not filed patents but otherwise have the same demographics.

The annual subscription fee is expected to be $14,400 or $1,200 a month. Based on those numbers Patent Properties sees the Patent Utility generating potential revenue of up to $3.3 billion.

Shares of Patent Properties gained 10 cents, or 5.6%, to $1.90 today in trading. They've traded between $1.20 and $3.99 over the past year.

ZTE says invalidation of 13th Vringo patent by Chinese authorities shows weakness of Vringo's patents

ZTE Corp., the Chinese telecommunication giant locked in a multi jurisdictional patent infringement war with **Vringo Inc.** (VRNG) fired another shot across the bow of the patent licensing company, saying Chinese patent authorities had invalidated a thirteenth Vringo patent raising "serious concerns" about the quality of Vringo's patents.

Shenzhen, China-based ZTE said in a statement that the Patent Re-examination Board of the State Intellectual Property Office of the People's Republic of China invalidated a Vringo patent on mobile devices technology due to lack of invention.

ZTE said the board invalidated patent number 200580044792.1, which related to the transmission and rendering of information to mobile devices. The patent is equivalent to U.S. patents US20060095515A1 and US8150920B2, as well as European patents EP1810445A1 and EP1810445A4.

Since September 2014, the board has ruled 13 Vringo patents completely or partially invalid. ZTE conceded, however, that the board's decisions were subject to appeal by Vringo.

"The high percentage of Vringo patents invalidated by the Patent Re-examination Board raises serious concerns on the quality of intellectual property assets held by Vringo," said Shen Jianfeng, chief intellectual property officer of ZTE in a statement. "We remain committed to licensing intellectual property of proven technological merit based on FRAND principles."

The decisions in China follow Vringo's efforts to license a broad patent portfolio to ZTE, including patents that have since then been invalidated by the board, while at the same time relying on the threat of litigation and injunctions to bring pressure to bear on the counter-party. ZTE believes such tactics to be stifling to innovation and anti-competitive.

On June 1, the Shenzhen Intermediate People's Court will hold a private hearing into ZTE's anti-monopoly litigation case against Vringo.

ZTE has filed applications for more than 60,000 patents, with over 17,000 granted.

Andrew Perlman, the CEO of New York-based Vringo, said in an email, that "even in its home jurisdiction, ZTE has not found much success in attacking Vringo's Chinese patents."

Out of more than 30 re-examinations of Vringo's Chinese patents, initiated by ZTE, more than half have been maintained valid in whole or in part. For those patents which have been invalidated, Vringo retains the right to appeal such invalidation decisions.

"Nevertheless, ZTE is quick to issue press releases regarding any Chinese reexamination that results in the invalidation of a Vringo patent."

Shares of Vringo are currently trading at 67 cents a share and have traded between 46 cents and $3.69 over the past year.

Crossroads Systems plans to raise up to $6M in rights offering

Crossroads Systems Inc. (CRDS), the patent monetization company run by CEO Richard Coleman Jr., said it plans to raise up to $6 million from a rights offering.

The Austin, Texas-based company said it plans to make the rights offering through the distribution to its common and preferred stock holders to purchase shares of the company's common stock at a subscription price to be determined and subject to certain protection mechanics in place to preserve the company's ability to utilize its net operating loss (NOL) carryforwards.

Currently, Crossroads has approximately $128.7 million in federal NOLs. A change in ownership could reduce the availability of net operating losses for federal and state income tax purposes. A change in ownership could result from the purchase of common stock by an existing or new 5% stockholder including as a result of the rights offering.

Shares of Crossroads gained 2 cents to $2.41 today in trading. They've traded between $1.80 and $3.71 over the past year.

Crossroads said it expects to use proceeds of the rights offering to continue to fund efforts related to the monetization of its intellectual property portfolio, including the costs of ongoing litigation and other proceedings, repayment of indebtedness, and for working capital purposes.

Lone Star Value Investors GP LLC, the general partner of **Lone Star Value Investors LP**, which is run by Jeffrey Eberwein, who also is chairman of Crossroads, has indicated it intends to exercise all of its basic subscription rights, subject to the limitations to comply with Crossroads' NOL forward rights plan, though no formal commitment has been made.

Crossroads was down to cash and cash equivalent of $8.17 million as of January 31, after posting a net loss of $2.3 million, or 15 cents a share that quarter.

Spherix needs $6M in new capital to redeem preferred shares due June 30 and Dec. 31

Spherix Inc. (SPEX), the patent monetization company run by CEO Anthony Hayes, is going to have to raise about $6 million to redeem Series I preferred shares due June 30 and Dec. 31 after a first quarter net loss of $4.09 million left it with cash and cash equivalents of only $111,000.

"Pursuant to the terms of our Series I Preferred Stock, we are obligated to redeem 5,601 shares of our outstanding Series I preferred stock on June 30, 2015 at an aggregate redemption price of $935,367, and to redeem the remaining 29,940 shares of our outstanding Series I preferred stock on December 31, 2015 at an aggregate redemption price of $4,999,980," the company said in its most recent 10Q filing.

"We currently do not have sufficient cash or working capital to make these payments. The company's failure to generate or raise sufficient cash and working capital to meet these obligations may result in our default under these obligations, which would have a material and adverse impact on our results of operations and may require the company to suspend or discontinue its business activities."

Hayes didn't return a telephone call seeking additional comment.

Shares of Spherix fell 2 cents, or 2.9%, to 70 cents in midday trading.

The company's options are somewhat limited. It may have to turn to **Fortress Investment Group** or to previous or existing shareholders such as **Iroquois Capital** and **Hudson Bay Capital Management**.

New York-based Iroquois Capital just provided $12.5 million in convertible debt financing to Vringo Inc. (VRNG).

Officials from Fortress, Iroquois and Hudson Bay couldn't be reached for comment. Fortress and Hudson Bay are both also based in New York.

Spherix on May 8 posted a narrower net loss of $4.09 million in the first quarter of 2015 on lower expenses especially related to stock based compensation.

The net loss per share of 14 cents compared with a net loss of $7.96 million, or $1.66 a share, a year earlier.

The company's costs included $2.42 million in amortization of patents, versus $2.43 million a year ago.

Compensation expenses fell by two thirds to $719,000 from $3.53 million. Professional fees including legal also fell to $729,000 from $1.15 million.

Selling,general and administrative costs also fell to $226,000 from $836,000.

The company reported revenue of just $2,000 versus $4,000, a year ago.

The company had cash and cash equivalents of only $111,000 at the end of the quarter.

The company also is facing delisting from the Nasdaq, because its stock price has fallen below minimum listing requirements.

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