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Judge Backs Nistica's Win In Finisar Network Patent Trial

By **Ryan Davis**

Law360, New York (January 23, 2017, 4:39 PM EST) -- A California federal judge refused Friday to disturb a jury verdict that Nistica Inc. did not infringe rival Finisar Corp.'s patents on optical network technology, sealing what Nistica's Dentons attorneys called a "resounding victory" for the company.

U.S. District Judge Beth Labson Freeman denied Finisar's motions for judgment as a matter of law or a new trial, leaving intact jury verdicts favoring Nistica in two separate trials held in May and June. The judge's decision was filed under seal, but Robert F. Kramer of Dentons confirmed the contents of the order.

"Nistica won a resounding victory in two back-to-back major jury trials, and the judge's decision upheld Nistica's complete victory," Kramer said.

Silicon Valley-based Finisar and Bridgewater, New Jersey-based Nistica are competitors in the market for components of network technology known as wavelength selective switches. The two supply the switches to the companies that provide major cellphone carriers with optical network equipment that allows for high-speed data transmission.

Finisar, the more established company, had initially accused newer market entrant Nistica's products of infringing six patents, but four were dropped from the case before trial. In the first trial, in May, **jurors found** that Nistica did not infringe one patent but deadlocked 7-1 in favor of Nistica on the second.

That led to trial in June on the second patent, in which a new jury unanimously found that Nistica **did not infringe**. Together the two trials ran a total of 19 days.

The judge rejected the arguments in Finisar's **post-trial motion** that there was insufficient evidence to support the jury verdicts and that the judge's claim construction order failed to resolve a dispute about a key term.

Kramer said that the case was critical to removing unnecessary barriers to Nistica's business and to protecting the company's ability to bring important innovations to market.

A representative of Finisar could not immediately be reached for comment Monday.

The patents-in-suit are U.S. Patent Numbers 7,397,980 and 7,092,599.

Finisar is represented by Christopher J. Cox of Weil Gotshal & Manges LLP and David C. Radulescu, Tigran Vardanian, Etai Lahav, Robin M. Davis and Daniel Kesack of Radulescu LLP.

Nistica is represented by Robert F. Kramer, Jennifer D. Bennett, Russell S. Tonkovich, Lora A. Brzezynski, Heather Khassian, Patrick Doll, Meagan Dyer Self and Andrew Azarmi of Dentons.

The case is Finisar Corp. v. Nistica Inc., case number 5:13-cv-03345, in the U.S. District Court for the Northern District of California.

--Editing by Edrienne Su.

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