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Microsoft Faces Claims From Lucent of Patent Infringement

By Don Clark
Staff Reporter of The Wall Street Journal

SAN FRANCISCO -- A complex patent battle is brewing between Microsoft Corp. (MSFT) and Lucent Technologies Inc. (LU), which has already sued two of Microsoft's biggest customers and privately warned Microsoft that it may be infringing Lucent patents.

Lucent, which holds patents spawned by research at Bell Laboratories, filed little-noticed patent-infringement charges against Gateway Inc. (GTW) last year and Dell Computer Corp. (DELL) in February. Dell and Gateway, in turn, have asked Microsoft to indemnify them on grounds the suits appear to be targeted at technologies that come from Microsoft.

In the latest salvo, Microsoft Tuesday filed a suit in federal court in San Diego seeking to invalidate 13 Lucent patents at issue in the prior suits, which address technologies that include audio and video coding, video displays and a touch-screen system for filling out forms.

An intellectual-property licensing firm representing Lucent had sent Microsoft a letter in January listing 16 patents and seeking to persuade Microsoft to enter discussions about licensing them. The firm, called ThinkFire, wrote the patents are crucial to current and planned Microsoft products and "impact approximately \$9 billion of current Microsoft annual sales."

Microsoft met with ThinkFire, but concluded it shouldn't have to license Lucent's patents.

"We believe that there has been no infringement and Lucent's claims are unfounded," said Jim Desler, a Microsoft spokesman. He added the company filed suit to protect the two personal-computer makers and "get some clarity from the courts to prevent Lucent from continued threats on this matter."

Alan Fisch, an attorney and partner with Howrey Simon Arnold & White in Washington, who is also involved in another patent case against Microsoft, predicted that Lucent will almost certainly respond by filing counterclaims for patent infringement. "Microsoft decided to strike first," he said.

Mary Lou Ambrus, a Lucent spokeswoman, wouldn't speculate on that possibility.

"Since the beginning of Lucent, we have always had active efforts to maximize the value of our intellectual property through ongoing licensing agreements to a wide variety of companies and industries," she said. "In our patent-licensing discussions with Microsoft, we are asking for fair and reasonable compensation for the use of our intellectual property. Each year we invest billions in research and development and we seek a fair return on that investment."

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