

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HTC CORPORATION AND HTC AMERICA,)
INC.,)
)
Plaintiffs,)
)
v.)
)
TECHNOLOGY PROPERTIES LIMITED,)
et al.,)
)
Defendants.)

Case No. 5:08-cv-00882-PSG

**ORDER GRANTING-IN-PART HTC'S
MOTION TO CORRECT THE
JUDGMENT**

(Re: Docket No. 674)

Both HTC and TPL agree that the court needs to modify the judgment as it currently stands to incorporate the court's prior order dismissing the '890 patent from this case.¹ Where the parties disagree is what form the modified judgment should take. TPL suggests the court hew closely to the present language of the judgment to which both parties previously agreed.² HTC believes it

¹ See Docket Nos. 674 and 690.

² See Docket No. 690 at 3 ("pursuant to the Court's Order dismissing U.S. Patent No. 5,530,890 (the "'890 patent'") entered September 19, 2013 (Dkt. No. 594), judgment with respect to the '890 patent is entered as follows:

- a) Because Defendants cannot establish entitlement to damages in the present action based on the Court's Summary Judgment Order (issued on September 17, 2013 (Dkt. No. 585)), the Court on September 19, 2013 DISMISSED the Fifth Claim for Relief in HTC's First Amended Complaint (seeking a declaration that HTC does not infringe any valid and enforceable claim of the '890 patent), and Count IV of Defendants' Answer and Counterclaim (alleging infringement of the '890 patent), subject to the conditions of the September 19, 2013 Order (Dkt. No. 594);

would be appropriate to go further by describing the dismissal of the '890 patent as entering judgment in its favor.³

The court agrees with TPL that moving well beyond the terms of the court's prior order would be unwarranted in this case. The prior order dismissed the '890 patent because HTC prevailed on its motion for partial summary judgment and was able to avoid a portion of TPL's infringement claims and the potential for money damages. But if the claim had proceeded to trial, broader relief to HTC was available. In particular, HTC may have invalidated the patent altogether. Under such circumstances, language characterizing the dismissal of the '890 patent as a complete victory in favor of HTC is not warranted.

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- b) The September 19, 2013 Order (id.) shall not affect any other claim or counterclaim asserted in the present action, and shall not impair any rights of Defendants or HTC to challenge on appeal any pretrial ruling by the Court for which an appeal is permissible including, without limitation, any challenge to the Summary Judgment Order's application of the intervening rights doctrine;
 - c) In the event the Federal Circuit reverses the Summary Judgment Order with respect to application of the intervening rights doctrine to the '890 patent, HTC's declaratory judgment claim and Defendants' counterclaim under the '890 patent will be reinstated and proceed unaffected by the dismissal provided in the September 19, 2013 Order (Dkt. No. 594).).

³ Docket No. 674 at 3 ("IT IS FURTHER ORDERED AND ADJUDGED that pursuant to the Joint Request To Dismiss All Claims Relating to U.S. Patent No. 5,530,890 Under F.R.C.P. 41(a)(2) (Dkt. No. 594), the provisions of which are incorporated herein by reference, judgment is hereby entered in favor of Plaintiffs on Defendants' claim of infringement of U.S. Patent No. 5,530,890.").

In any event, the court finds some modification of the language from the proposed order in this case is warranted. The court adopts the following language:

Pursuant to the court's order dismissing U.S. Patent No. 5,530,890 ("the '890 patent") entered September 19, 2013 (Docket No. 594), judgment with respect to the '890 patent is entered as follows:

- a) Because Defendants cannot establish entitlement to damages in the present action based on the court's summary judgment order (issued on September 17, 2013 (Docket No. 585)), the court on September 19, 2013 DISMISSED the Fifth Claim for Relief in HTC's First Amended Complaint (seeking a declaration that HTC does not infringe any valid and enforceable claim of the '890 patent), and Count IV of Defendants' Answer and Counterclaim (alleging infringement of the '890 patent), subject to the conditions of the September 19, 2013 order (Docket No. 594);
- b) The September 19, 2013 order (Docket No. 594) shall not affect any other claim or counterclaim asserted in the present action, and shall not impair any rights of Defendants or HTC to challenge on appeal any pretrial ruling by the court for which an appeal is permissible including, without limitation, any challenge to the summary judgment order's application of the intervening rights doctrine;
- c) In the event the Federal Circuit reverses the summary judgment order with respect to application of the intervening rights doctrine to the '890 patent, HTC's declaratory judgment claim and Defendants' counterclaim under the '890 patent will be reinstated and proceed unaffected by the dismissal provided in the September 19, 2013 order (Docket No. 594).

A revised judgment consistent with this order will issue.

IT IS SO ORDERED.

Dated: January 21, 2014


PAUL S. GREWAL
United States Magistrate Judge