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## Weinstein Dropped From Video Indexing Patent Suit

By **Allison Grande**

Law360, New York (July 13, 2010) -- Independent film studio The Weinstein Co. LLC has become the latest defendant to resolve InMotion Imagery Technologies LLC's suit accusing nearly a dozen companies of infringing a video indexing patent.

Judge T. John Ward of the U.S. District Court for the Eastern District of Texas on Monday granted the parties' joint stipulated motion for dismissal with prejudice of all claims pursuant to the terms of their July 1 patent license and settlement agreement.

Each party will bear its own attorneys' fees, expenses and costs, according to Judge Ward's order.

Additional details of the parties' confidential settlement agreement were not disclosed, and representatives for InMotion and TWC could not immediately be reached for comment Tuesday.

Marshall, Texas-based InMotion initiated the suit in March, accusing TWC, New Line Home Entertainment Inc., Warner Bros. Home Entertainment Group and eight others of infringing U.S. Patent Number 6,526,219, which was issued in 2003 and covers a picture-based indexing system.

Walt Disney Co.'s home video distribution division Buena Vista Home Entertainment Inc., Anchor Bay Entertainment LLC, Penthouse Digital Media Productions Inc., Magnolia Pictures LLC, Vivid Entertainment Group, PHE Inc., Bang Productions Inc. and DNA Movies LLC were also targeted in the suit.

The '219 patent describes a method for using thumbnail images that are representative of recorded programming to assist viewers in determining the content of a video without having to view the program itself. The cataloging aid is especially handy in vast video libraries, according to InMotion.

The plaintiff has asked the court for an injunction barring the defendants from using or selling any system that infringes the patent-in-suit, as well as damages for infringement, treble damages and a judgment that "one or more of the defendants' acts of infringement be found to be willful."

Warner Bros. and its affiliate New Line became the first defendants to exit the suit on June 3 after notifying the court that they had reached a confidential patent license and settlement agreement to resolve their claims, while Judge Ward approved Buena Vista's dismissal on June 21 pursuant to the terms of a similar agreement.

Vivid Entertainment Group and PHE moved to dismiss the complaint on June 28, arguing that InMotion's

complaint “relies upon boilerplate generalities and legal conclusions.”

Magnolia and Anchor Bay have also recently responded to the plaintiff's allegations by lodging separate answers denying the allegations and raising a slew of affirmative defenses. Magnolia's answer, which was filed Friday, also seeks declaratory judgments of patent invalidity, unenforceability and noninfringement.

TWC — which was created by Miramax Films founders Harvey and Bob Weinstein in 2005 and currently has a library of more than 200 titles including “Youth in Revolt,” “Inglorious Basterds,” “Transamerica” and “Hoodwinked” — submitted three applications for extensions of time to answer the complaint before reaching the resolution approved Monday.

The patent-in-suit is U.S. Patent Number 6,526,219.

InMotion is represented by The Davis Firm PC, Heninger Garrison Davis LLC and Ward & Olivo.

TWC is represented by Paul Weiss Rifkind Wharton & Garrison LLP.

The case in InMotion Imagery Technologies LLC v. Penthouse Digital Media Productions Inc. et al., case number 10-cv-0084, in the U.S. District Court for the Eastern District of Texas.

--Additional reporting by Jesse Greenspan

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