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Microsoft Ruling May Hurt Techs

By AP/JESSICA MINTZ

A federal jury's ruling that Microsoft infringed on two MP3 patents and must pay \$1.52 billion in damages could turn into a major sour note for other technology companies in the digital music business.

The victory for France's Alcatel-Lucent SA could embolden the telecommunications equipment maker to pursue claims — or seek royalties — from other companies that it believes infringe on the technology, experts said Friday. The two patents in question in Thursday's decision cover the encoding and decoding of audio into the digital MP3 format — a popular way to convert music from a CD into a lightweight file on a personal computer and vice versa.

Microsoft said it paid for the technology from Germany-based Fraunhofer Institute, which licenses it to hundreds of companies, including Apple Inc. and RealNetworks Inc. "The whole industry understood that that was where you went," said Tom Burt, a deputy general counsel for Microsoft.

When the software maker decided to add MP3 decoding and encoding capabilities to its Windows Media Player, it paid Fraunhofer \$16 million for the relevant intellectual property licenses and source code.

Burt said the size of the damages imposed by the jury Thursday is "absurd."

Other companies that license the Fraunhofer MP3 technology should be very concerned by the outcome, he said.

Apple and RealNetworks declined to comment on the verdict, but some intellectual property lawyers think the trouble could extend well beyond Microsoft.

Other companies "have been relying on the fact that they thought they had critical licenses necessary to practice the technology," said Michael Dever, a chair of the intellectual property group at Buchanan Ingersoll & Rooney, a Pittsburgh law firm.

Alcatel-Lucent declined to comment on future litigation, but said it would continue to take measures to protect its intellectual property. The company also declined to identify companies that license the patents disputed in the Microsoft case.

The massive award may also draw other patent holders out of the woodwork, said Tom Engellenner, co-chair of the intellectual property group at Nutter McClennen & Fish, a Boston law firm. Microsoft said it plans to appeal the decision to the U.S. Court of Appeals for the Federal Circuit in Washington — a process that could take several years.

Thursday's jury decision was the first of six cases that will be heard in the U.S. District Court in San Diego. All stem from claims made in 2003 by Lucent Technologies against PC makers Gateway Inc. and Dell Inc. for technology developed by Bell Labs, its research arm.

In April 2003, Microsoft added itself to the list of defendants, saying the patents were closely tied to its Windows operating system. The PC makers are still defendants. France's Alcatel bought Lucent last year.

The next case, which relates to speech coding, is set to go to trial in March or April. Other areas in dispute include video coding on Microsoft's Xbox game console and Windows user interface.

Shares of Microsoft slipped 43 cents to \$28.96 on the Nasdaq Stock Market. Alcatel-Lucent's stock added 21 cents to \$13.35 on the New York Stock Exchange.

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