



Arbiter Says Kodak Didn't Infringe Apple Patents

The U.S. arbiter for trade disputes has spurned Apple Inc.'s digital-camera patent claims against Eastman Kodak Co., a 131-year-old photography pioneer caught in a perilous race to redefine itself in the cutthroat digital-imaging arena.

Kodak's stock, nonetheless, fell 21 cents, or 8.5 percent, to \$2.30 in afternoon trading Tuesday — its lowest level since March 2009 — amid signs of rising investor concern over its ability to fund a long and painful turnaround.

In a ruling late Monday, the U.S. International Trade Commission's six-judge panel affirmed a preliminary decision in May that Kodak's technology doesn't infringe on Apple's patent rights and that one of the two patents in dispute is invalid.

The decision comes weeks after the commission kept open Kodak's high-stakes case against iPhone behemoth Apple and Research In Motion Ltd., maker of BlackBerry smartphones.

The commission's chief administrative law judge, Paul Luckern, had ruled in January that the iPhone and the BlackBerry do not violate Kodak's patent. On appeal, the commission asked Luckern in late June to take another look. Yet Kodak's failure to score an outright victory heightened worries on Wall Street about whether the maker of cameras, film and printers will be able to cross back quickly enough into a reliably profitable company.

"Kodak can't speak for investors or their reaction" to the commission's decision in June, spokesman David Lanzillo said Tuesday. "As we have said since January, we are confident that Kodak will ultimately prevail in this case."

Kodak, which popularized photography beginning with the Brownie box camera in 1900, had \$1.3 billion in cash at the end of March. It needs to pay back \$50 million in debt this year, another \$50 million in 2012 and \$300 million in 2013.

"We have the resources to fully pay our obligations, and we are confident that will continue to be the case," Lanzillo said.

Investors are demanding higher compensation for the risk of insuring Kodak debt "because the company has continued to burn cash at a pretty substantial rate," said analyst Shannon Cross of Cross Research in Livingston, N.J.

"Whether or not Kodak is ultimately somewhat successful in the ITC, the timeline has been pushed out probably by almost a year," she added. "Every quarter you get closer to the debt that comes due, the more concerns people will have about the liquidity position that Kodak's in."

Mining its rich array of inventions has become indispensable in Kodak's push to reverse four years of losses and return to profitability in 2012. Kodak has a promising array of new inkjet printing, packaging and software businesses, but it needs to tap other sources of revenue before investments in those areas have time to pay off.

Kodak has amassed more than 1,000 digital-imaging patents, and almost all of today's digital cameras rely on that technology.

After failed negotiations, Kodak filed a complaint with the commission in January 2010 against Apple, of Cupertino, Calif., and RIM, of Waterloo, Canada. It also filed two lawsuits against Apple in U.S. District



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Court in Rochester, but it has not specified the damages it is seeking. Both lawsuits are still pending.

In a counterclaim three months later, Apple argued that some Kodak still and video camera products violate two of Apple's patents. One invention relates to a camera's ability to process several images at the same time; the other enables a camera to simultaneously handle adjustments in color, sharpness and other processes.

Kodak's victory in that case represents old technology triumphing over new and "Apple being on the losing side — a rarity indeed," said Anthony Michael Sabino, a business law professor at St. John's University in New York.

Phone and email messages to Apple were not immediately returned Tuesday.

Patent cases can take years to resolve, and agreements over licensing and royalty payments often emerge. The trade commission in Washington, D.C., which can order Customs to block imports of products made with contested technology, is seen as a fast-track mediator that typically resolves disputes in 12 to 18 months.



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