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Caltech sues 6 electronics giants in patent dispute

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PASADENA - Caltech is suing six electronic retail giants it says are illegally profiting off the school's patented **technology** used in today's digital cameras.

The complaint, filed Oct. 15 in federal court in Tyler, Texas, accuses Canon USA, Sony Corp., Nikon Inc., Olympus America, Panasonic Corp. and Samsung Electronics Co. of infringing on Caltech **patents** "... by making, using, selling ... without authority, products that fall within the scope of the claims of the Caltech patents. ..."

Caltech also alleges that the companies knew of the patents, but "has nonetheless engaged in the infringing conduct" which lawyers say was willful.

Representatives from most of the companies named in the lawsuit could not be reached for comment. Panasonic corporate communications representative Chris De Maria said the company does not comment on existing litigation.

In a statement, Caltech said it "is committed to guarding its intellectual property and is hopeful that the defendants will work with Caltech to promptly reach an agreement respecting Caltech's intellectual property rights."

The suit alleges that the companies are infringing on six patents issued by the U.S. **Patent** Office between November 1999 and June 2004.

They established active-pixel technology as "Caltech patents," according to the complaint. The technology, developed in part by Eric R. Fossum when he was at Caltech, used image sensors on a chip that reduced "noise," resulting in clearer images.

"What we developed at JPL has become very useful technology for consumer applications, including **cell phones**," he said.

According to the Web site, EricFossum.com, that technology is now used in camera phones, digital SLR cameras, web cameras and high-speed motion capture cameras.

Fossum managed Caltech's image sensor and focal-plane research development, where he developed the "camera-on-chip" technology and its transfer into the marketplace.

After leaving Caltech, he continued to develop the technology in private industry, and is currently a consultant to Samsung, one of the companies Caltech sued.

"It's pretty clear Caltech owns certain intellectual property that was developed at JPL," he said. "But any other arrangements are up to JPL."

Caltech manages JPL.

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To win its case, Caltech would have to show that the companies copied the technology and willfully infringed the patents. If they did, the Pasadena campus could win triple the damages, said Jennifer Urban, a professor of intellectual property USC's Gould School of Law.

"If a university has some patents that cover the foundations ... for a business sector, than they have the opportunity to get a significant royalty stream from that," she said.

In most cases, she said, the patent is in the name of the inventor, but the university owns it and assumes the costs of the patents. In some cases, there is a royalty sharing agreement, she said. The period of exclusivity - the time when the patent owners own such rights - is 20 years, she said.

The system was set up to encourage innovation, and to give a holder of a patent the right to demand royalties, Urban said.

"Why should the inventor not get the benefit of that?" she said.

The vast majority of patents are not worth a lot of money, Urban said. But in some cases, historically, academic institutions have successfully sued to protect intellectual property developed by their researchers, Urban said.

"There have been extremely high damage awards for patent infringements," she said.

UC San Francisco and Stanford University

recovered several hundred million dollars over patents related to recombinant DNA technology, Urban said. The UC system settled a 2004 lawsuit against Monsanto, a biotechnology company, which two years ago agreed to pay \$100 million to the university after officials claimed it had infringed on a patent related to a hormone that makes cows produce more milk.

The Caltech lawsuit alleges that the technology is included in nearly 70 commercial products, including cameras such as the Canon EOS Digital Rebel XT; the Nikon D300; Olympus E-3; Panasonic Lumix DMC-L10; and the Sony DSLR-A700.

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