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## Patent Suit Expands to Include Fish & Richardson as Defendant

By Joe Mullin

Daily Journal Staff Writer

SAN FRANCISCO - A patent lawsuit against Google has broadened to encompass a major law firm, as well.

Fish & Richardson, a venerable name in patent litigation, was named as a defendant in an amended complaint filed Friday by patent-holding company Illinois Computer Research.

The Chicago-based company said Fish & Richardson tried to intimidate a key witness: Scott Harris, the former Fish partner who was ousted in September after one of his patents was used to attack Google.

Lawyers with Chicago firm Niro, Scavone, Heller & Niro, which represents ICR, wrote in court papers that Fish employees tried to "pressure, punish, and intimidate" Harris on Google's orders, telling Harris that he "would face inequitable conduct claims and his life could be made 'miserable'" if litigation against the search giant moved forward.

"The firm considers these allegations to be baseless, will defend itself vigorously, and is confident that it will prevail," a Fish & Richardson representative said in a statement Tuesday.

The firm declined to comment on specific allegations in the complaint, saying only that Harris, a 14-year partner in the firm's San Diego office, "was involved in outside business ventures ... that were not authorized by the firm and appear to have violated his agreement with the firm."

Shortly after returning Tuesday from a trip to Brazil, Harris declined to comment on the lawsuit, which he said he had not had a chance to read.

Harris said he doesn't know the exact ownership structure of the holding companies using his patents, but he emphasized that he no longer owns them.

In interviews in September, Harris denied he was behind the recent lawsuits in which his patents have been asserted against FedEx, Google, Honda, Motorola and other companies.

The Niro firm, led by senior counsel Raymond P. Niro, represents three recently created patent-holding companies that have used Harris' patents in lawsuits filed in the past few months. Harris also worked with Niro lawyers to sell several of his patents over the past several months, and in two other another patent-infringement lawsuits filed within the last year (see timeline).

The 25-lawyer Chicago firm often files lawsuits on behalf of the type of small patent-holding companies some critics deride as "patent trolls."

Niro said that Illinois Computer Research is owned by J. Beauregard Parker, a Florida attorney and investor, which "acquires, licenses, and enforces patents."

Niro declined to comment on the ownership of BarTex Research and Mind Control Enterprises, two other companies asserting Harris' patents.

Beginning in May, Harris began to distance himself from some of his patents. On Aug. 2, he sold U.S. Patent No. 7,111,252, titled "Enhancing Touch And Feel On The Internet," to ICR.

On Sept. 10, the company sued Google, saying the company's Book Search project infringed on the '252 patent, which describes a method of displaying three-dimensional objects online.

Now, ICR has accused Fish of tortious interference, saying the law firm tried to squelch the Google lawsuit and undermine the ICR's negotiating position. Harris' agreement with ICR requires him to cooperate and testify in any litigation related to his patent.

"It's ironic that Fish & Richardson, that touts itself as a protector of inventors and inventions, would treat one of their own inventors this way," said Niro.

According to the complaint, Fish has demanded that Harris "renegotiate" his contract with ICR and claimed that it owns the patents in question, and its clients are entitled to "paid-up licenses."

The complaint also alleges Fish made comments suggesting the firm had snooped in Harris' personal email to find communication between Harris and his lawyers at the Niro firm.

John Steele, Fish, ethics and conflicts director for Fish, led an investigation after an earlier complaint from Dell Computer, according to the Niro firm. The firm concluded that Harris had done nothing unethical or inappropriate but later demanded he sell his patents and leave the firm, according to the complaint.

### **Patent Properties**

Scott Harris' patents have been used heavily in litigation. But after one was used against Google, Harris split with his firm, Fish & Richardson.

Dec. 23, 2003 Harris is issued '373 patent, related to bar codes

March 9, 2004 Harris is issued '791 patent, related to 3-D pictures online

Sept. 19, 2006 Harris is issued '252 patent, "Enhancing Touch and Feel on the Internet," also related to three-dimensional pictures online

Dec. 20, 2006 Harris and Memory Control Enterprises MCE), a patent-holding company, sues Kodak, Cars.com and Move.com, accusing them of infringing on the '791 patent

March 12, 2007 Harris and MCE file another lawsuit, claiming General Motors, Dell Computer, and Panasonic violated the same patent

March or April 2007 Dell complains to Fish that the lawsuit is connected to Harris, a firm partner\*

April 2007 After an investigation, Fish informs Harris he has done "nothing unethical or inappropriate"\*

May 2007 Fish demands Harris sell the '252 patents and some others in order to stay at the firm\*

May 4, 2007 Harris sells the '791 patent to holding company MCE, which continues to battle Dell, GM, Panasonic, Kodak, Cars.com and Move.com

Aug. 2, 2007 Harris sells the '252 "Touch and Feel" patent to ICR, a holding company

Aug. 2, 2007 Harris sells the '377 patent, related to bar codes, to BarTex Research LLC, a new holding company

Aug. 16, 2007 BarTex Research uses the '377 patent to sue FedEx in East Texas

Aug. 29, 2007 ICR accuses Google of infringing the '252 patent in a letter. Google immediately complains to Fish & Richardson\*

Aug. 30, 2007 Holding company MCE uses Harris patent to sue Honda, LG, Motorola, US Cellular.

Sept. 10, 2007 ICR files a lawsuit accusing Google of infringing the '252 patent.

Sept. 11, 2007 Final settlements are reached in the earlier lawsuits against Dell, GM, and others in which Harris was a named plaintiff

Sept. 12, 2007 Fish Managing Partner Peter Devlin demands Harris resign within 24 hours. Harris complies\*

Sept. 13, 2007 Fish's ethics director demands that Harris "get these patents back" from ICR and says his life could be made "miserable"\*

Sept. 14, 2007 Scott Harris forced out at Fish

Sept. 21, 2007 Daily Journal reports Harris' departure October 2007 Fish & Richardson says it owns the '252 patent and demands the lawsuit against Google be dropped\*

Oct. 5, 2007 Niro firm adds Fish & Richardson to their Google lawsuit, claiming Fish tried to intimidate Harris, a key witness

Sources: Information marked (\*) from ICR amended complaint. Other entries are from court records and the U.S. Patent and Trademark Office.

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