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Amazon Settles Patent Suit For \$40M

By **Marius Meland**

Law360, New York (August 11, 2005, 12:00 AM ET) -- Online retailer Amazon.com agreed to a \$40 million mediated settlement Wednesday, settling patent litigation over basic functions of its popular website.

The e-commerce giant was sued by Chicago-based software developer Soverain LLC in January 2004 and again in December 2004. In complaints filed in U.S. District Court for the Eastern District of Texas, Soverain asserted a total of five patents related to e-commerce functions.

Gap, Inc., also named in the complaints, settled with Soverain out of court earlier this year.

The patents cover common features of e-commerce, such as the "shopping cart," which allows customers to tag and collect items before checkout. In addition, they relate to credit card transaction procedures, integrated advertising and the overall sales procedure.

They were issued between 1993 and 1995 to MIT Professor David Gifford, who founded e-commerce technology company Open Market, Inc. The company used Gifford's technology to create e-commerce software, known as Trasact, when the now-ubiquitous industry was in its infancy.

Open Market merged with another software firm, Divine Inc., which went bankrupt in 2003 amid scandal with the Securities and Exchange Commission. Much of Divine's intellectual property, including the valuable e-commerce patents, was purchased by Soverain at auction.

"Soverain purchased the patents to make a good investment," commented Soverain attorney Kenneth Adamo of Jones Day.

Since then, Soverain has grown its business globally around the purchase and intends to continue asserting the patents where necessary. Several patents have been sent to the new reexamination office at the United States Patent and Trademark Office.

Amazon.com has faced similar patent suits surrounding technology driving its website. Travel-services company Cendant Inc. sued Amazon.com in November 2004 over a website feature that offered shoppers product suggestions based on their purchases. The company countersued in July, over a patent covering network transmissions of credit card information. Both cases are still pending.

Representatives from Amazon.com had no comment.

The disputed patents in the suits are U.S. Patent Numbers: 5,708,780; 5,715,314; 5,909,492; 6,195,649 and 6,205,437.

The case is Soverain Software v. Amazon.com, et al. Soverain was represented by Kenneth Adamo of Jones Day. Amazon.com was represented by Susman Godfrey, LLP.

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