

Jury Sides with Forgent in Patent Royalties Case

By Robert Elder
Austin American-Statesman – May 10, 2005

After a two-week trial, Forgent Networks Inc. had to wait just two hours for a Travis County jury to hand it a victory in a case that could have cost the small Austin company tens of millions of dollars. Late Friday, a jury in 345th state District Court unanimously rejected claims by Monika Matthews, widow of legendary inventor Gordon Matthews, that his estate deserved hefty royalty payments for patent work he did for Forgent.

Monika Matthews acknowledged that she had little evidence Gordon Matthews should receive more money than Forgent already had paid him. He had no written contract or agreement other than an hourly consulting fee.

Matthews, one of the inventors of voice mail, was part of a team of company officials and outside lawyers that examined Forgent's store of patents to see whether any could bring in revenue. One patent, related to JPEG, the standard for digital images, has been a gold mine for Forgent, which has extracted more than \$100 million in licensing revenue from Sony Corp., Adobe Systems Inc. and other technology giants.

Lawyers for the Matthews estate said the inventor deserved anywhere from 5 percent to 25 percent of that revenue.

But Forgent maintained that Matthews was just one player, and not even the most important one, in a broad effort to mine the company's patents for revenue.

Forgent's only agreement with Matthews was to pay him \$200 an hour for consulting, which eventually totaled about \$235,000. Matthews also was a director of the company from 1998 until his sudden death three years ago.

"This case is about one thing: A deal is a deal," Karen Burgess, one of Forgent's lawyers, told the jury in opening statements.

A 12-member jury said the consulting contract between Forgent and Matthews covered all the JPEG patent work the inventor did for the company. The jury also awarded Forgent \$400,000 for lawyers' fees, to be paid by the Matthews estate.

Judge Stephen Yelenosky will consider the fees when he enters a judgment in the case. He can award all or part of the fees the jury agreed on.

The estate also owes Forgent about \$70,000 for loans it made to Matthews so he could buy stock in Forgent. The total includes interest. The Matthews estate had not repaid the loans, hoping the amount would be more than offset by a favorable jury verdict.

Forgent shares were up 14 percent Monday to close at \$1.68. That price is down 44 percent from three years ago, when the company was gearing up its patent strategy.

Gary Davis of Austin, the lawyer with Clark, Thomas & Winters who represented the estate, said he plans to file a motion seeking a new trial. He wouldn't specify the grounds.

Monika Matthews' case largely centered on her late husband's diaries and notes to himself, as well as conversations he had with friends.

"We showed we had an agreement that covered all of his services," Forgent CEO Dick Snyder said Saturday of Gordon Matthews' work for the company. "Yet there was always this contention (by Monika Matthews) that there was some other agreement."

Under Snyder, Forgent has moved from a videoconferencing company to one whose business is almost entirely dependent on licensing revenue from patents.

"It's good to get the company fully functional again," Snyder said. "We've got our (intellectual property) business to run, and we're anxious to get back to that."

Forgent has federal cases pending against Microsoft Corp., Dell Inc. and about 40 other technology companies, all for allegedly infringing on the JPEG patent.

A trial in federal court in Northern California could start late this year between Forgent and most of the defendants.

The controversy over U.S. Patent No. 4,698,672

Oct. 6, 1997: San Jose, Calif.-based Compression Labs Inc. is awarded a patent for a technology that simplifies coding for digital images.

1997: Forgent Networks Inc. (then called VTEL Corp.) acquires Compression Labs, Inc.

April 2001: Gordon Matthews, a VTEL director, is part of a team that reviews the company's patent portfolio.

Feb. 23, 2002: Matthews dies.

June 5, 2002: Forgent announces first major licensing deal for the JPEG patent, \$15 million from an unnamed Japanese digital camera maker.

February 2003: Monika Matthews notifies Forgent that her husband's estate expects more money for his work on the JPEG patent. Forgent sues the estate, seeking a ruling that it doesn't owe any more money.

Monday: Jury finds for Forgent.

Sources: Forgent Networks; Securities and Exchange Commission filings; *Forgent v. Matthews*, No. GN-300580, Travis County district court.