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## Roku Can't Delay Streaming-Tech Patent Trial Amid COVID-19

By **Jack Queen**

Law360 (April 9, 2020, 4:27 PM EDT) -- U.S. District Judge Alan D. Albright has denied Roku's request to postpone an upcoming patent infringement trial over media streaming technology, saying it would be premature to reschedule the June 1 start date despite health and logistical concerns amid the COVID-19 pandemic.

The Texas federal judge said he was for now rejecting Roku Inc.'s request in a one-line order Wednesday. The company **had asked for a postponement** because its attorneys in Maryland and Virginia are under stay-at-home orders and might not be able to travel to Texas to litigate the streaming company's dispute with MV3 Partners LLC.

Judge Albright, who **touts his court** as a place to get patent cases to trial quickly, followed up with a standing order Thursday. He acknowledged that patent trial preparation is "an arduous task in the best of times" but even more difficult amid the COVID-19 crisis.

"The court is willing to consider all reasonable adjustments to the current scheduling orders to allow the parties to complete discovery, and have adequate time to complete expert reports, take expert depositions, and file appropriate motions," Judge Albright said.

Parties should confer prior to contacting the court, Judge Albright said, adding he would give "great deference" to proposals filed jointly. The order applies to all cases past the claim construction phase, when parties in patent litigation debate the meaning of key words.

Roku made its opposed request for rescheduling on April 2, saying its attorneys were being prevented from preparing for the trial owing to lockdowns as states across the country seek to tame the novel coronavirus. The company said travel restrictions have few exceptions and will be in place until June 10.

"In recognition of these unique risks and the unprecedented circumstances associated with the Covid-19 pandemic, courts have granted continuances, including trials scheduled later than the June 1 date in this case," Roku argued.

MV3 opposed Roku's motion but did not file a response. The company's counsel told Law360 in a statement Thursday that Judge Albright was correct to deem the request premature, saying there was still plenty of time to reschedule if need be.

"We are diligently and effectively preparing for trial remotely, and frankly don't understand why Roku, a prominent technology company, and its lawyers can't also do so," Kasowitz Benson Torres LLP partner Jonathan K. Waldrop said. "We are sure that Judge Albright will decide at the appropriate time whether the June trial needs to be postponed."

Florida-based MV3 **filed its suit** in October 2018, alleging Roku infringed its U.S. Patent No. 8,863,223, which describes a system that streams media content from a mobile phone to larger displays such as televisions.

Roku had argued in an **unsuccessful motion to dismiss** that MV3 failed to put forth a detailed enough explanation of its theory that the accused products — including the Roku TV, Roku Streaming Stick, Roku Ultra and Roku Express — infringe the patent.

Roku also moved in February 2019 to transfer the case to California, arguing the suit revolves around its witnesses and documents located primarily in the Golden State. Judge Albright **rejected the request** in June of that year, finding the company hadn't shown that California would be more convenient.

Counsel for Roku did not immediately respond to a request for comment Thursday.

MV3 is represented by J. Mark Mann, G. Blake Thompson and Andy Tindel of Mann Tindel & Thompson; Craig D. Cherry of Haley & Olson PC; and Jonathan K. Waldrop, Darcy L. Jones, Marcus A. Barber, John W. Downing, Heather S. Kim, Jack Shaw, ThucMinh Nguyen, Daniel C. Miller, Paul G. Williams and Rodney R. Miller of Kasowitz Benson Torres LLP.

Roku is represented by Alexander J. Hadjis, Lisa M. Mandrusiak and Michael D. West of Oblon McClelland Maier & Neustadt LLP; Richard D. Milvenan of McGinnis Lochridge LLP; and David N. Deaconson of Pakis Giotes Page & Burleson PC.

The case is MV3 Partners LLC v. Roku Inc., case number 6:18-cv-00308, in the U.S. District Court for the Western District of Texas.

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