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CLOSING STATEMENT

SECURING THE RESULT

SheppardMullin's Graveline helps obtain more than \$133 million from U.S. government for airport security technology patent holder

By John McNally

Bradley Graveline probably will never look at a TSA checkpoint the same again.

That's because the partner in SheppardMullin's intellectual property practice helped lead the firm's team to secure an award of more than \$100 million for SecurityPoint Holdings in a patent trademark infringement case against the U.S. government. Graveline's argument to the U.S. Court of Federal Claims in Washington D.C. was the government wasn't authorized to use SecurityPoint's patent technology of moving and processing trays at all Cat X and Cat I airports throughout the country.

In late October, Judge Eric G. Bruggink ruled the plaintiff was entitled to delay damages and additional damages for the government's continued use of the patent after the close of discovery. Graveline and government agreed to more than \$30 million in damages, running the total award to more than \$133 million.

POINT OF CONTENTION

SecurityPoint initially worked with the government, implementing its patented '460 tech in pilot programs at airports. The patent is held by Joe Ambrefe, CEO of SecurityPoint Holdings, and it allows for a "system of recycling trays through security screening checkpoints by use of movable carts," according to the opinion. After the success shown in the pilot programs, SecurityPoint expected to the TSA to approve a business proposal, but that didn't happen.

According to Bruggink's opinion, the government started using SecurityPoint's '460 method patent in its own equipment on Sept. 1, 2005, at Dulles International Airport in Washington D.C. Then in January 2007, the TSA hosted an Industry Day event and "solicited proposals from prospective vendors to furnish equipment, trays, and carts to TSA at security checkpoints."

When the TSA started utilizing carts, trays and scanning devices at checkpoints, Graveline argued, it led to more "roadblocks" in SecurityPoint's work in marketing the '460 method to airport operators.

For trial, Graveline lined up industrial engineering experts and former Transportation Security Administration employees as witnesses. They looked at the prior art and testified that the patent was not invalid "due to obviousness." Graveline, who started as a commercial litigator at Winston & Strawn, felt confident about getting this victory coming out of arguments.

"I thought we presented a very good trial and felt good coming out of it,"



Graveline said. "Very grateful to get this result for our client."

SecurityPoint initially filed its suit in 2011 and retained SheppardMullin's services from the start. Graveline took over the case about four years into the process. Graveline noted how the case was bifurcated — with a 2016 validity trial and then a damages trial in 2020 — which caused a lengthy timeline to this major award for SecurityPoint. The award can't be confirmed as the highest for a patent infringement case against the U.S. government, but Graveline believes it might embolden other IP holders to fight against the institution.

"It could encourage patent owners who have seen the government taking their IP to go after the government in patent infringement cases," he said.

DETAIL-ORIENTED

Patent cases are continuing to keep Graveline active and he appreciates the work that allows him to focus on the preciseness of technologies.

"It typically involves interesting scientific issues as well as interesting legal issues," he said. "This particular case, from the moment I got on it, was a very interesting case. The patent seems somewhat simple on its face. However, it provided a really elegant solution to what was a complex problem."

He's also noticed an uptick in patent litigation on the federal district level. Graveline says the pandemic-caused "economic uncertainty" has made companies get creative on how to make money off of their IP assets. Also, there's been an increase in denials of institutions at the Patent Trial and Appeal Board stage, Graveline noted.

"Damages awards rose in 2020," he said. "I think it was one of the highest years for patent damages."

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