

UTC Engine Doesn't Infringe Rolls-Royce Patent: Judge

By **Abigail Rubenstein**

Law360, New York (May 23, 2011) -- A Virginia federal judge ruled Friday that United Technologies Corp.'s jet engines do not infringe Rolls-Royce PLC's patent, finding the patent disclosed a fan blade that has only three sweep regions to UTC's four.

U.S. District Judge Leonie M. Brinkema granted in part UTC's motion for summary judgment, finding that the fan blades the company manufactures for the GP7200 engine did not infringe Rolls-Royce's patent for jet engine technology under the claims construction adopted by the court.

The rival jet engine makers have been locked in a series of heated disputes over which of them has the right to the technology that will power the next generation of airliners.

Rolls-Royce launched the current suit claiming UTC infringed U.S. Patent Number 6,071,077 in May 2010, shortly after the Federal Circuit upheld a lower court's ruling in a separate case that the patent was not rendered obvious by a UTC patent application.

"The GP7200 fan blade does not literally infringe claims 1 and 8 [of the '077 patent], which are limited to having three sweep regions: forward, rearward and forward," Judge Brinkema ruled. "Because the GP7200 fan blade does not infringe the only two independent claims in the '077 patent, it also does not literally infringe the dependent claims at issue in this litigation."

The technology at issue in the suit relates to the design of fans in turbine engines aimed at preventing pressure from building up in the fan and slowing down the speed of air flowing through the engine, according to the ruling.

Rolls-Royce had argued that the patent's claims were not limited to a fan blade with just three sweep regions, but the court rejected the company's proposed claimed construction.

The lawsuit further alleged the fan blades in UTC's GTF engine series infringed the '077 patent, and Judge Brinkema's ruling also resolved those claims.

Judge Brinkema granted summary judgment to UTC for some of the engine lines included in the GTF series, but said that for the PW100G, PW1400G and PW1500G series — for which Rolls-Royce sought only injunctive relief for alleged infringement — UTC had agreed to consent to an injunction, with no award of damages.

As such, the court found there would be no need for a trial on those claims, and directed the parties to draft an injunction that prevents UTC from producing fan blades for those series that infringe the patent until it expires.

The court also ordered UTC to advise it as to whether the company wished to continue to pursue its counterclaims, now the only claims left in the suit.

"Rolls-Royce takes protection of its technology and intellectual property very seriously," a Rolls-Royce spokeswoman told Law360 Monday. "We are disappointed by today's ruling and will carefully consider our options."

A representative for UTC's Pratt & Whitney division, which sells the engines, did not immediately respond to a request for comment.

The patent-in-suit is U.S. Patent Number 6,071,077.

Rolls-Royce is represented by Scott G. Lindvall of Kaye Scholer LLP, and James A. Oliff, William P. Berridge, Richard E. Rice and John W. O'Meara of Oliff & Berridge PLC.

UTC is represented by Donald R. Dunner, Allen M. Sokal, Don O. Burley, Gerald F. Ivey, M. Andrew Holtman, C. Brandon Rash and Robert L. Burns of Finnegan Henderson Farabow Garrett & Dunner LLP, and Philip S. Beck, Jason L. Peltz, Chris Lind, Michael J. Valaik, Hamilton H. Hill, Paul J. Skiermont and Andrew C. MacNally of Bartlit Beck Herman Palenchar & Scott LLP.

The case is Rolls-Royce PLC v. United Technologies Corp., case number 1:10-cv-00457, in the U.S. District Court for the Eastern District of Virginia.

--Additional reporting by Samuel Howard. Editing by Greg Ryan and John Williams.

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