

Sale Offer Should Doom Jetaire IP Suit, Judge Says

By Adam Lidgett

Law360 (April 18, 2024, 6:42 PM EDT) -- A Florida federal magistrate judge has said aviation company AerSale should get a win on arguments that not only did it not infringe a trio of Jetaire patents, but also that the patents are invalid.

Magistrate Judge Edwin G. Torres on Wednesday recommended that AerSale's bid for summary judgment on six of its counterclaims be given the go-ahead from the court.

AerSale had asked for summary judgment for declaratory judgment that it didn't infringe the patents and also for declaratory judgment that the patents shouldn't have been issued in the first place, according to court documents.

The judge specifically referenced the so-called on-sale bar, which prohibits patents for inventions that were on sale more than a year before the patent application was filed.

That critical date for the purposes of the lawsuit was Sept. 11, 2014, according to the judge. If, on or before that date, "Jetaire offered its Invicta product for commercial sale, and ... Jetaire's Invicta product was ready for patenting, the asserted patents are invalid and summary judgment is proper," the judge wrote.

And "plainly," the judge wrote, "on Dec. 8, 2013, Jetaire offered to Xtra Airways a commercial sale of its Invicta product (i.e., a product which featured the Asserted Patents). Jetaire's 'detailed [letter] — providing essential price, delivery, and payment terms — contained all the required elements to qualify as a commercial offer for sale.'"

"Accordingly, drawing all reasonable inferences in favor of Jetaire, a commercial offer for sale was made and no reasonable juror could conclude otherwise," the judge wrote.

The patents that are at issue in the suit cover "fuel tank ignition mitigation technology," according to the suit, which was filed by Jetaire in 2020, according to court records.

Jetaire declined to comment to Law360 on Thursday.

Counsel for AerSale did not immediately respond to requests for comment on Thursday.

The patents-in-suit are U.S. Patent Nos. 9,849,998; 10,633,109; and 10,800,541.

Jetaire is represented by Marcos Daniel Jiménez and Sofia Manzo of León Cosgrove Jiménez LLP and James F. McDonough III, Jonathan R. Miller, Travis E. Lynch, Jonathan L. Hardt, C. Matthew Rozier and Kristin M. Whidby of Rozier Hardt McDonough PLLC.

AerSale is represented by Amelia Toy Rudolph, Shawn Rafferty, Valerie S. Sanders, Scott A. Penner and Regis C. Worley Jr. of Eversheds Sutherland.

The case is Jetaire Aerospace LLC v. AerSale Inc., case number 1:20-cv-25144, in the U.S. District Court for the Southern District of Florida.

--Editing by Rich Mills.

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