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WDTX Judge Albright Touts Revamped Courtroom Tech

By Katie Buehler

Law360 (February 26, 2021, 9:27 PM EST) -- Western District of Texas Judge Alan D. Albright says he made huge upgrades to technology in his Waco courtroom ahead of the trial he's currently presiding over, a computer chip patent dispute between patent holder VLSI Technology LLC and Intel Corp.

The trial, which **began Feb. 22** and is expected to wrap up early next week, is only Judge Albright's second in-person patent jury trial since his assignment to the federal bench in September 2018. His first such trial, held in October, resulted in **a take-nothing verdict** in favor of Roku Inc., which had been accused of copying screen-mirroring and screen-casting technology owned by MV3 Partners LLC.

Judge Albright not only **ramped up COVID-19 safety protocols** between the two trials to include daily rapid tests for all participants, he also "completely tore out what we had" as far as courtroom technology and replaced it. Now he can simulcast the VLSI-Intel trial by audio, similar to how the U.S. Supreme Court simulcasts its oral arguments, he said.

"That means fewer people in the courtroom — everyone feels better about that," he said while speaking Friday at a Q&A webcast sponsored by Munck Wilson Mandala LLP and Caldwell Cassady & Curry.

The hourlong webcast, pitched as a discussion of current trends and developments in patent litigation, began with fellow panel members — Caldwell Cassady & Curry principal Brad Caldwell, Munck Wilson Mandala senior partner Michael C. Wilson and Toyota Motor North America Inc. in-house counsel Kelly Chen — asking Judge Albright about holding trials during the coronavirus pandemic.

"Every time you do it, you do it better than the time before," Judge Albright said.

During the Roku-MV3 trial, jurors, attorneys and attendees were **asked to wear face masks** except when speaking, multiple hand sanitizer bottles were made available throughout the courtroom, an air purifier was placed near the jury box, and the witness stand was surrounded with plexiglass and cleaned between witnesses. As the trial progressed, the judge also had court staff block off parts of the benches in the gallery with blue tape, measuring out 6 feet between available seats.

While he kept most of the precautions in place heading into the VLSI-Intel trial, Judge Albright also ramped up precautions. For example, in October observers sometimes moved the blue tape to create seats on the bench. For his current trial, the judge limited the number of attorneys and support staff each side can have present in the courtroom to six, set aside an overflow room for additional attorneys and staff, and granted the public and others remote access to the trial's audio.

Judge Albright said Friday that he checks in frequently with the jurors, and they tell him they feel well taken care of.

"People feel like we're doing everything we can to make them feel safe," he said.

The tech upgrades also help outside of the trial setting, according to Judge Albright, who said he has noticed more clients are attending his pretrial hearings with the help of Zoom. The videoconference platform has also opened the door for younger associates and attorneys to practice arguing in his court, especially at claim-construction hearings. Judge Albright said he encourages attorneys to have their younger associates appear by Zoom to argue claims that might not have been argued in front of him, for the sake of practice.

"It's a real upside of what Zoom has done," he said.

Friday's discussion also touched on hot topics, such as Judge Albright's opinion on multipatent cases and

motions to transfer.

Before the VLSI-Intel trial began, Intel fought Judge Albright's decision to transfer the case from the Western District of Texas' Austin division, where the courthouse is currently closed due to COVID-19 restrictions, to the Waco division for trial. The judge didn't discuss the Intel venue fight during the webcast, but did say he wants more guidance from the Federal Circuit and Supreme Court when it comes to deciding venue fights.

Most motions to change venue filed in his court are filed for convenience rather than jurisdiction, he said. But he believes the judiciary needs to update what it considers when deciding convenience issues in light of changes in technology and how companies function.

"For someone to come in now and say all of the information is located in X, well if you're a high-tech company, it's really wherever a person with a laptop is sitting," Judge Albright said. "It would help if the circuit could update and say take these into consideration because we've changed over the last 10, 20 years."

"It would help district judges a lot if we could modernize what's really considered for motions based on convenience," he added.

Judge Albright also reiterated his thoughts on multipatent trials that he expressed during a **December 2020 panel discussion**.

Chen asked the judge at what number of patents he would consider bifurcating trials, and the judge said five patents seemed like a good cutoff. While it would differ on a case-by-case basis, the judge said trying five patents at once was "really pushing the outer limit of how many patents I would want to take to trial."

But, he added, if both sides agreed to try a case with more than five patents all at once, he would defer to their decision.

"If both lawyers thought that would be the best way to do it, I would probably do it," he said.

--Editing by Breda Lund.

Update: This story has been updated to include additional sponsors of the webcast.

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