

## Knowles Wins ITC Suit Over Microphone Patents

By **Michael Lipkin**

*Law360, San Diego (October 16, 2014, 10:04 PM ET)* -- GoerTek Inc. silicon microphone parts used in headsets and earphones infringe three patents owned by rival acoustic components makers Knowles Electronic LLC, a U.S. International Trade Commission judge has ruled, recommending the GoerTek imports be banned.

In an Aug. 29 decision that was publicly released on Wednesday, Administrative Law Judge E. James Gildea sided with Knowles, who filed an ITC complaint against GoerTek last year. Judge Gildea's initial determination said GoerTek directly infringed all three of Knowles' asserted patents and further induced and contributed to infringement in one of the patents.

The judge also found that none of the patents were invalid as obvious, anticipated or indefinite.

Judge Gildea recommended the full ITC issue an exclusion order, barring importation of infringing GoerTek-branded microphone packages, along with infringing products GoerTek manufactures and imports on behalf of others.

The ITC launched the investigation last July after Knowles, a division of Dover Corp., claimed several GoerTek products offered in the U.S. violate its patent-protected process for high-volume manufacturing of microphone packages. The products include earphones, earbuds, headsets and headphones.

GoerTek had argued that a previous ITC investigation invalidated two related Knowles patents and that Knowles should not be allowed to relitigate the earlier investigation's findings. An ITC judge in that case, instigated by Knowles against Analog Devices Inc., ruled Knowles' patents were anticipated by prior art, according to GoerTek.

Judge Gildea, however, ruled the previous judge had only invalidated some claims in the two patents but not the patents themselves. GoerTek has not shown those invalidated claims were identical to the asserted claims in the current investigation, he wrote.

"Even a superficial review of the asserted patent claims in [both investigations] shows that, while they concern the same general subject matter, they are not close in inventive content, let alone covering 'substantially the same invention,'" Judge Gildea wrote, allowing Knowles to counter GoerTek's invalidity arguments.

Attorneys for both parties didn't immediately respond to requests for comment Thursday.

Rapid expansion of the microelectromechanical system, or MEMS, microphone package market has coincided with the feverish appeal of smartphones and tablet computers. Knowles has suggested GoerTek copied its method for mass-producing microphone packages.

Knowles has been the dominant player in the MEMS microphone market for years due to the success of its line of SiSonic microphone products. SiSonic products are incorporated in consumer devices sold by some of the largest electronics manufacturers, including Apple Inc., Samsung Electronics Co. Ltd. and Sony Corp.

Knowles has also filed a parallel patent-infringement lawsuit in Illinois federal court. That case has been stayed pending the ITC's final decision, which is expected by March 2015.

The patents-in-suit are U.S. Patent Numbers 7,439,616, 8,018,049 and 8,121,331.

Knowles is represented by Sturgis M. Sobin, Alexander D. Chinoy, Brian G. Bieluch, Jeffrey H. Lerner, David A. Garr, Jay Alexander and Robert T. Haslam of Covington & Burling LLP.

GoerTek is represented by Steven M. Bauer and Gourdin W. Sirles of Proskauer Rose LLP and Jordan L. Coyle of Orrick Herrington & Sutcliffe LLP.

The ITC case is In the Matter of Certain Silicon Microphone Packages and Products Containing Same, investigation number 337-TA-888, at the U.S. International Trade Commission.

The Illinois case is Knowles Electronics LLC v. GoerTek Inc. et al., case number 1:13-cv-04586, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Kurt Orzeck and Jonathan Randles. Editing by Brian Baresch.