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Heller Settles Fee Dispute With Former IP Client Katz

By **Abigail Rubenstein**

Law360, New York (July 19, 2011) -- Former Heller Ehrman LLP client Ronald A. Katz Technology Licensing LP has agreed to pay \$4 million and drop a \$50 million claim that the law firm breached an agreement to represent it in numerous patent suits, Heller told a California bankruptcy court Monday.

The settlement resolves Heller's claims against the patent-holding company for contingency fees that the defunct firm estimated at \$10 million, as well as the company's \$50 million counterclaim, which alleged that the firm ran afoul of an agreement to represent it by shutting down and forcing it to seek out more expensive counsel, according to a motion urging the court to approve the deal.

Heller malpractice insurance carriers Lexington Insurance Co. and MPC Insurance Ltd. will pay Katz \$2 million when the settlement goes into effect, part of which will be credited to equity the insurers owe the debtor, the motion says. The defunct firm's bankruptcy plan caps payments for malpractice claims at \$2 million, it says.

"Both sides are pleased," Michael Kogan of Ervin Cohen & Jessup LLP, who represents Katz, told Law360. "This was a hard-fought deal ... and it resolves some very significant disputes on both sides."

The patent-holding company manages the portfolio of inventor Ronald Katz, which includes dozens of patents for automated call processing that have been licensed to more than 275 companies, according to court documents. Katz's patents are related to such common services as toll-free numbers, automated attendants, speech recognition and other phone technology, they say.

In 2006, Heller and Katz reached an agreement for the firm to represent it in a large group of lawsuits against 48 different companies, according to court papers. Under the arrangement, Katz agreed to pay the firm for its services through a series of fixed payments and a single contingency-fee payment.

After filing for bankruptcy in December 2008, Heller launched an adversary proceeding claiming that Katz owed it fees under the agreement.

Katz, however, claimed that the firm had breached the agreement when it shut down operations and could no longer represent the company in the ongoing suits.

"The settlement was a good faith effort on everyone's part to deliver value to the creditors," Christopher Sullivan of Trepel Greenfield Sullivan & Draa LLP, who serves as special litigation counsel to Heller, said in Monday's motion.

The settlement is the first of two settlements resolving the same adversary proceeding, according to the motion. The two settlements will net the law firm \$8.5 million, it says.

The second settlement with defendants from Covington & Burling LLP, which picked up some of the Heller attorneys involved in Katz's cases when the firm went under, will result in a payment of about \$5 million to Heller, the motion says.

"The Covington & Burling firm and the individual shareholders took a very responsible approach to the settlement," Sullivan said.

Katz is represented by Michael Kogan and Peter Jazayeri of Ervin Cohen & Jessup LLP.

Heller is represented by Christopher Sullivan and Matthew Schultz of Trepel Greenfield Sullivan & Draa LLP, Jeffery Makoff, Ellen Fenichel and Heather Landis of Valle Makoff LLP, and Gregory Nuti, Kevin Coleman and Natalie Bush-Lents of Schnader Harrison Segal & Lewis LLP.

The case is In re: Heller Ehrman LLP, case number 08-32514, in the U.S. Bankruptcy Court for the Northern District of California.

--Additional reporting by Ryan Davis. Editing by Chris Giganti.

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