Apple Shareholder Drops Lawsuit On Preferred Stock

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SAN FRANCISCO (AP) — A disgruntled shareholder pressing Apple to create a new class of preferred stock has dropped a lawsuit that became a moot point after the iPhone and iPad maker changed the agenda at its annual meeting earlier this week.

Lawyers for hedge fund manager David Einhorn of Greenlight Capital notified U.S. District Judge Richard Sullivan in a letter sent Thursday that they no longer plan to pursue the lawsuit. Sullivan closed the case, which began three weeks ago in New York.

Einhorn had already achieved his goal last week when Sullivan issued a preliminary ruling blocking an Apple Inc. proposal that would have required shareholder approval before preferred stock could be issued. Apple withdrew the proposal from the agenda at its annual meeting held Wednesday.

Two shareholders who attended the annual meeting said they were disappointed that they weren't able to vote in favor of a proposal, which they described as an example of sound corporate governance.

Shareholders had reason to be even more discouraged Friday as Apple's stock touched a new 52-week low, deepening a roughly six-month slide that has wiped out nearly $260 billion of the company's market value.

In another setback Friday, a federal judge in San Jose erased nearly half of the $1 billion in damages that a jury had awarded Apple last year in a patent infringement case against rival smartphone and tablet computer maker Samsung Electronics Co. The ruling lowered Samsung's bill to $599 million.

Apple might be able to ease the pain of the recent 39 percent drop in its stock price by doling out some of its $137 billion cash hoard to shareholders instead of letting the money idle at a time when interest rates at near record lows.

Einhorn, whose fund owns 1.3 million Apple shares, filed his lawsuit to preserve Apple's ability to issue dividend-paying preferred stock without having to take the extra step of gaining shareholder approval. He is pushing Apple to issue preferred stock that would guarantee a 4 percent dividend.

Apple CEO Tim Cook dismissed Einhorn's lawsuit as a "silly sideshow" at an investment conference a few weeks ago and again Wednesday at the company's annual meeting. During a question-and-answer session with shareholders Wednesday, Cook said Apple's board is in "very, very active discussions" about what do with all its cash.

Apple, which is based in Cupertino, California, also has said it is considering whether to introduce another proposal that would require a shareholder vote on preferred stock. If another proposal is submitted, it probably wouldn't happen until Apple holds another annual meeting next year.

The company last year instituted a quarterly dividend of $2.65 per share on its common stock in a move that returns about $10 billion annually to shareholders. Apple's cash stash has grown by about $39 billion during the past year as customers bought its products in record numbers.

Despite Apple's success, investors are worried that the company's growth will soon taper off as it contends with fiercer competition in the smartphone and tablet computer market. The company also hasn't introduced a breakthrough product since the October 2011 death of Steve Jobs, Apple's charismatic co-founder and Cook's predecessor as CEO. It's most recent creation, the iPad, came out three years ago, raising concerns that Apple's well of innovation has run dry.

Cook sought to reassure shareholders that Wednesday's annual meeting, telling them that Apple is working on some "great stuff," including some products outside its core line-up of iPods, iPhones, iPads and Mac computers.

That vague promise hasn't excited Wall Street.

Apple's slumping stock fell to a new 52-week low of $429.98 on Friday before rebounding slightly to close at $430.47, down $10.93, or 2.5 percent. The shares hit a record high of $705.07 in September when the iPhone 5 went on sale.

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