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## Federal Circuit Patent Updates - April 2006

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***Parental Guide of Texas, Inc. v. Thomson, Inc.* (05-1493)(Rader, Clevenger, Dyk)**

April 21, 2006 10:33 AM

(Clevenger) Affirming summary judgment of no breach of a settlement agreement. An agreed judgment of a royalty was not a "determination" of a reasonable royalty by the district court.

***Mark Bruckelmyer v. Ground Heaters* (No. 05-1412)(Michel, Lourie, Linn)**

April 20, 2006 10:31 AM

(Lourie) Affirming summary judgment of invalidity. The figures in a Canadian patent application that were cancelled during prosecution (and thus did not appear in the published patent) were nonetheless a "printed publication" under 35 USC 102(b) because they were in the prosecution file of the issued patent. Linn dissents.

***Lava Trading v. Sonic Trading Management, et al.* (No. 05-1177)(Mayer, Rader, Linn)**

April 19, 2006 10:25 AM

(Rader) Vacating stipulated judgments of noninfringement because of erroneous claim construction. The CAFC still had jurisdiction even though the invalidity counterclaims below had not been resolved and the record on appeal had no meaningful comparison between the claims and the accused devices. The losing party in a *Markman* hearing was not precluded from changing its position on claim construction in a motion for reconsideration and on appeal. Mayer dissents, saying there was no jurisdiction to decide the appeal.

***Glenayre Electronics, Inc. v. Jackson, et al.* (No. 04-1568)(Newman, Bryson, Prost)**

April 11, 2006 10:16 AM

(Prost) Affirming denial of motion to set trial on issue of indirect infringement. A patentee who was fully compensated from a manufacturer for the sale of infringing products and the use of those

products by the manufacturer's customers could not then sue the manufacturer under a theory of inducement of infringement by the customers to try to recover more damages. "[I]n most cases damages assessed for indirect infringement will be equal to damages assessed for the underlying direct infringement." Newman dissents.

***Breckenridge Pharmaceutical, Inc. v. Metabolite Laboratories, Inc. et al. (No. 05-1221)***(Michel, Friedman, Linn)

April 7, 2006 12:56 PM

(Michel) Reversing dismissal for lack of personal jurisdiction and grant of summary judgment that state law claims were preempted. Extensive discussion of the the law of personal jurisdiction over patentees sued for a declaratory judgment of noninfringement or invalidity.

***Semitool, Inc. v. Dynamic Micro Systems Semiconductory Equipment GMBH (No. 05-1299)***  
(Linn, Dyk, Prost)

April 6, 2006 12:54 PM

(Prost) Affirming summary judgment of noninfringement.