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Perricone, M.D. v. Medicis Pharmaceutical Corp. **(No. 05-1022) (Rader, Bryson, Linn)**

December 20, 2005 1:37 PM

(Rader) Affirming summary judgment that some claims were inherently anticipated while reversing summary judgment that others were not. Also affirming that some claims were invalid for obviousness-type double patenting. The invalid claims were to methods of preventing sunburn with a lotion existing in the prior art for skin treatment, while the valid claims were for methods of treating sunburn. With respect to the double patenting holding, the Court noted that a terminal disclaimer could be filed post-issuance, but did not rule on whether it would be given retroactive effect if filed after the judgment. Bryson dissented and would have found all of the claims anticipated.

Norian Corp. v. Stryker Corp. **(No. 05-1172)(Newman, Rader, Bryson)**

December 6, 2005 2:43 PM

(Bryson) Affirming summary judgment of noninfringement. The general rule that "a" in a patent claim means "one or more" "does not apply when the specification or the prosecution history shows that the term was used in in its singular sense." "[T]here is no principle of patent law that the scope of a surrender of subject matter during prosecution is limited to what is absolutely necessary to avoid a prior art reference ...."