
Federal Circuit Patent Updates - July 2008

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Yingbin-Nature Wood Ind. Co. v. International Trade Commission (No. 2007-1311)(Michel, Schall, Dyk)

July 31, 2008 2:36 PM

(Schall) Affirming violation of section 337. A portion of the appeal was held moot where the products at issue were the subject of a general exclusion order from which no appeal was taken. "When a Court of Appeals decides a case without reaching a particular issue, the resolution of that issue by the trial court does not give rise to collateral estoppel." Patent claims did not violate the written description requirement.

A full version of the opinion is available [here](#).

Novo Nordisk A/S v. Sanofi-Aventis U.S. LLC (No. 2008-1225)(Lourie, Bryson, Prost)

July 30, 2008 2:52 PM

(Prost) Affirming denial of preliminary injunction where there was a substantial question of claim construction.

A full version of the opinion is available [here](#).

Board of Regents of the Univ. of Texas System v. BENQ America Corp. (2007-1388) (Dyk, Prost, Hochberg [of the District of New Jersey, sitting by designation])

July 24, 2008 2:24 PM

(Prost) Affirming judgment of non-infringement of patent directed to entry of words "using a standard, touch-tone telephone." The "claim phrase 'each pre-programmed code being representative of a syllabic element' means that the vocabulary only includes syllabic elements." Products in which the vocabulary was not limited to only syllabic elements did not infringe.

A full version of the decision is available [here](#).

***Eisai Co. Ltd. v. Dr. Reddy's Laboratories, Inc.* (2007-1397, -1398) (Rader, Linn, Prost)**

July 21, 2008 2:21 PM

(Rader) Affirming summary judgment of non-obviousness. "In other words, post-KSR, a prima facie case of obviousness for a chemical compound still, in general, begins with the reasoned identification of a lead compound." Also affirming judgment of no inequitable conduct. The patentee's "failure to disclose its co-pending [] application along with the rejections issued in its prosecution, while not completely forthcoming, did not rise to the level of inequitable conduct."

A full version of the opinion is available [here](#).

***Serdarevic v. Advanced Medical Optics, Inc.* (2008-1075) (Michel, Linn, Zagel [of the N.D. of Illinois, sitting by designation])**

July 16, 2008 2:16 PM

(Linn) Affirming summary judgment that inventorship claim was barred by laches and that state-law claims were barred by statutes of limitations. Plaintiff argued that the presumption of laches should not apply because, although she brought suit more than six years after learning of the issuance of the patents-in-suit, her complaint was filed less than six years after issuance of a reexamination certificate. However, plaintiff failed to show that the reexamination proceeding changed her inventorship claim in any material way. "One thing is clear, and accordingly we so hold: there is no rule that issuance of a reexamination certificate automatically resets the six-year clock for the presumption of laches in each and every case." The Court also held "that in the context of an inventorship action, a plaintiff relying on the unclean hands doctrine to defeat a defense of laches must show not only that the defendant engaged in misconduct, but moreover that the defendant's misconduct was responsible for the plaintiff's delay in bringing suit."

A full version of the decision is available [here](#).

***Jang v. Boston Scientific Corp.* (2007-1385) (Gajarsa, Linn, Dyk)**

July 15, 2008 2:12 PM

(Dyk) Vacating consent judgment and remanding. The consent judgment was ambiguous because "it is impossible to discern from the stipulated judgment which of the district court's claim construction rulings would actually affect the issue of infringement" and because "nothing in the stipulated judgment provides any context with respect to how the disputed claim construction rulings relate to the accused products."

A full version of the opinion is available [here](#).

***Muniauction, Inc. v. Thomson Corp.* (2007-1485) (Gajarsa, Plager, Prost)**

July 14, 2008 2:03 PM

(Gajarsa) Reversing judgment of infringement and validity, finding all claims of a patent directed to "electronic methods of conducting 'original issuer auctions of financial instruments'" either not infringed or obvious, and vacating remainder of the judgment. Claims that required actions by the defendant and an independent bidder were not infringed because no single party performed every step of the claims. Other claims were obvious. Patentee's expert conceded that a prior art product performed every limitation other than use of a web browser and in 1998, when the asserted patent was filed, it would have been obvious to combine that prior art product with a web browser.

A full version of decision is available [here](#).

***Baystate Tech. Inc. v. Bowers* (No. 08-1204) (Lourie, Bryson, Prost)**

July 10, 2008 2:37 PM

(Per Curium) Remand to the district court for a balancing of the public and private interests in determining whether to grant or deny Professor's request, as an intervener, for access to documents under seal pursuant to a protective order. There is "a presumption of public access to judicial records."

A full version of the order is available [here](#).

***Roche Palo Alto LLC v. Apotex Inc.* (No. 08-1021) (Michel, Prost, Hochberg)**

July 9, 2008 1:44 PM

(Prost) Affirming judgment that formulation patent was valid and infringed. The reverse doctrine of equivalents was inapplicable where the defendant failed to show that the accused product did not practice the "principle" of the invention. Also finding that obviousness defense was barred by claim preclusion where the product in the second suit was essentially the same as the product in the first suit. There is no "change of law" (KSR) exception to claim preclusion.

A full version of the opinion is available [here](#).