
Federal Circuit Patent Updates - July 2009

JULY 31, 2009

[View previous month...](#)

In Re McNeil-PPC, Inc. (2008-1546) (Michel, Rader, Dyk)

July 31, 2009 10:55 AM

(Michel) Finding an appeal from a Board decision to be timely and reversing the Board's decision of anticipation. The Court found that the date of the Board's decision was the date it was mailed (June 2, 2008), not the earlier date (May 30, 2008), which was stamped on the decision, and therefore the patentee's appeal was timely. Dyk dissented and would have found the appeal untimely.

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

Wavetronix v. EIS Electronic Integrated Systems (2008-1129, -1160) (Newman, Schall, Patel [of the N.D. of California, sitting by designation])

July 29, 2009 10:50 AM

(Patel) Affirming summary judgment of non-infringement of patent related to automobile traffic sensor. Also affirming dismissal of counterclaims of invalidity and unenforceability. The Court construed a claim term even though the district court had not provided a construction. Although "we generally refuse to construe claims in the first instance," the Court so construed the claim in this case because (1) "it is apparent that the district court's views on the matter have been exhausted," (2) "both parties have agreed that we should construe the claim limitation," and (3) the record "has been sufficiently developed to enable us to construe the claim term without prejudicing either party."

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

Tafas v. Doll (2008-1352)

July 28, 2009 11:09 AM

Granting joint consent motion for a stay of en banc proceedings, staying proceedings for “60 days after the current nominee for Under Secretary of Commerce for Intellectual Property and Director of the United States Patent & Trademark Office is confirmed by the United States Senate.”

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

Blackboard, Inc. v. Desire2learn, Inc. (Bryson, Moore, Cudahy)

July 27, 2009 2:07 PM

(Bryson) Reversing failure to grant JMOL that claim to online education method was anticipated; affirming JMOL that other claims were indefinite where there was not sufficient structure disclosed corresponding to a means plus function element.

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

Univ. of Pittsburgh of the Commonwealth System of Higher Ed. v. Hedrick (Mayer, Rader, Bryson)

July 23, 2009 2:15 PM

(Mayer) Affirming judgment that named inventors to stem cell patent were misjoined where complete conception occurred before their contribution.

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

Gemtron, Corp. v. Saint-Gobain Corp. (Michel, Schall, Linn)

July 20, 2009 2:19 PM

(Linn) Affirming judgment that claims to refrigerator parts were infringed and non-obvious. Claim

requiring a "relatively resilient end edge portion" was infringed where limitation was met at time of manufacture even if not present when refrigerator was used.

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

In Re POD-NERS, L.L.C. (No. 2008-1492) (Lourie, Friedman, Prost)

July 13, 2009 1:55 PM

(Per Curiam) Affirming Board holding of obviousness of claims of plant patent in reexamination. A cultivar of beans selected for an unmeaningful range of color from plantings of prior art beans with identical genetic fingerprints was obvious and unpatentable. Prost, concurred in the result.

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

Tafas v. Doll (No. 2008-1352)

July 13, 2009 1:50 PM

(Per Curiam) Granting petition for rehearing en banc, vacating prior opinion at 559 F.3d 1345, and reinstating appeal.

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