Federal Circuit Patent Updates - March 2005

MARCH 31, 2005

View previous month...

Howmedica Osteonics Corporation, v. Tranquil Prospects, LTD. **(04-1302) (Rader, Dyk, Prost)**

March 28, 2005 10:11 AM

(Rader) Reversing finding of indefiniteness and claim construction of patents directed to the implantation of intramedullary prostheses.

Schreiber Foods, Inc. v. Beatrice Cheese, Inc., et al. **(04-1279, -1314) (Rader, Archer, Dyk)**

March 22, 2005 10:04 AM

(Dyk) The plaintiff had obtained a judgment that a patent was valid and infringed. However, the plaintiff had transferred the patent to a subsidiary shortly before trial, and the subsidiary was never a party to the case. After trial but before the entry of judgment, the subsidiary transferred the patent back to the plaintiff. Because the plaintiff had constitutional standing at the time the suit was commenced, the transfer back to the plaintiff cured the temporary loss of standing and the district court therefore erred in concluding that the judgment was void for lack of jurisdiction. However, the Court affirmed the district court's alternative holding vacating the judgment based on misconduct in failing to disclose the assignment to the subsidiary. WilmerHale represented the defendant on appeal.

Asyst Technologies, Inc. v. Emtrak, Inc., et al. **(04-1048, -1064) (Michel, Newman, Bryson)**

March 22, 2005 10:02 AM

(Bryson) Affirming summary judgment of non-infringement with respect to some claims but reversing with respect to others for patents related to the process of making integrated circuits. With respect to the doctrine of equivalents, the Court agreed that the claim phrase "mounted on" was binary in nature; that is, something that was "unmounted" could not be equivalent to something that was "mounted" under the all elements rule.

ASM America, Inc., et al. v. Genus, Inc. **(04-1211) (Newman, Friedman, Bryson)**

March 16, 2005 10:00 AM

(Bryson) Affirming summary judgment of non-infringement of patents directed to process of manufacturing semiconductor devices. The district court's interpretation of the claims was correct.

Medrad, Inc. v. MRI Devices Corp. **(04-1134) (Rader, Friedman, Bryson)**

March 16, 2005 9:53 AM

(Bryson) Affirming summary judgment that a patent directed to hardware used in MRI was anticipated.

MercExchange, L.L.C. v. eBay, Inc., et al. **(03-1600, -1616) (Michel, Clevenger, Bryson)**

March 16, 2005 9:51 AM

(Bryson) Affirming jury verdict of infringement and validity of one patent, reversing verdict of inducement of infringement of that patent, and holding that a second patent was invalid for anticipation. On cross-appeal, the Court reversed summary judgment that a third patent was invalid for lack of enablement and reversed the denial of a permanent injunction. All of the patents-in-suit related to e-commerce. Arguments in the trial court based on obviousness preserved issue of anticipation because anticipation is the epitome of obviousness. To demonstrate inducement of infringement, "a patentee must be able to demonstrate at least that the alleged inducer had knowledge of infringing acts in order to demonstrate either level of intent." Concern about the patentability of business method patents, the possibility of future contempt proceedings based on attempted design arounds and the prior willingness of the patentee to license its patents were insufficient reasons for denying a permanent injunction.

V-Formation, Inc. v. Benetton Group SPA, et al. (03/15/2005, 03-1408) (Mayer, Rader, Prost)

March 15, 2005 9:49 AM

(Rader) Affirming summary judgment of non-infringement of patent related to inline roller skates based on faulty claim construction. Prior art cited in a patent or during prosecution is not extrinsic evidence.

Israel Bio-Engineering Project v. Amgen, Inc., et al. **(04-1153) (Bryson, Gajarsa, Prost)**

March 15, 2005 9:47 AM

(Prost) Reversing summary judgment resolving dispute over ownership of patent where there was a genuine issue of material fact under Israeli law concerning whether an inventor was an employee of one of the parties. Also reversing district court's denial of motion to intervene where the named party could not adequately represent the interests of movant.

Pause Technology LLC v. Tivo, Inc. **(04-1263) (Newman, Lourie, Linn)**

March 14, 2005 9:45 AM

(Linn) Dismissing appeal from non-infringement judgment sua sponte for lack of jurisdiction where there was a pending counterclaim of invalidity.

Sentry Protection Products, Inc., et al. v. Eagle Manufacturing **(No. 04-1392)(Lourie, Schall, Prost)**

March 11, 2005 9:42 AM

(Prost) Affirming summary judgment of invalidity of one patent based on anticipation but vacating grant of summary judgment of noninfringement of another patent based on alleged noncompliance with the patent marking statute.

Playtex Products, Inc. v. Procter & Gamble Company, et al. **(No. 04-1200)(Lourie, Gajarsa, Linn)**

March 7, 2005 9:38 AM

(Gajarsa) Vacating summary judgment of noninfringement based on an erroneous claim construction. The district court erroneously relied on expert testimony that contradicted the intrinsic evidence to construe an unambiguous claim term and in imposing a strict numerical limitation on the claim term "substantially." The drawings and abstract of a patent can provide corresponding structure to a means-plus-function limitation.

Eolas Technologies, Inc., et al. v. Microsoft Corp. **(No. 04-1234)(Rader, Friedman, Plager)**

March 2, 2005 9:25 AM

(Rader) Vacating jury verdict of $521 million and remanding for new trial on validity and inequitable conduct issues, but affirming the district court's claim construction and inclusion of foreign sales in the damages base. The district court improperly entered JMOL against invalidity and inequitable conduct defenses based on the erroneous conclusion that a prior invention under 35 USC 102(g) had been "abandoned, suppressed, or concealed". "A public use under section 102(b) cannot be undone by subsequent actions." Software code made in the United States and exported abroad in master disks was a "component of a patented invention" under 35 USC 271(f).