

Federal Circuit Patent Updates - March 2006

MARCH 31, 2006

[View previous month...](#)

***On Demand Machine Corp. v. Ingram Industries, Inc., et al.* (No. 05-1074) (Newman, Mayer, Bryson)**

March 31, 2006 11:03 AM

(Newman) Reversing jury verdict of infringement of patent directed to method of making a book based on partially incorrect claim construction. Claim terms such as "sales information," "customer" and "paper pages" interpreted narrowly under Phillips. The Court endorsed a jury instruction defining joint infringement of method claims where the claim is infringed as "the result of the participation and combined action(s) of one or more persons or entities;" however, this theory was not available where "practice of the combination is essential to the infringement."

***Zoltek Corp. v. U.S.* (No. 04-5100)(Gajarsa, Plager, Dyk)**

March 31, 2006 10:03 AM

(Per Curiam). Affirming dismissal of infringement claims against the United States under 28 U.S.C. 1498 and reversing assertion of jurisdiction over patent claims under the takings clause of the Fifth Amendment. "[T]he United States is liable for the use of a method patent only when it practices every step of the claimed method in the United States." Gajarsa concurs. Dyk concurs separately. Plager dissents.

***Wilson Sporting Goods Company v. Hillerich & Bradsby Co.* (No. 05-1103) (Lourie, Rader, Bryson)**

March 23, 2006 11:00 AM

(Rader) Vacating dismissal of infringement claims pursuant to stipulated judgment of noninfringement because of erroneous claim construction. "While a trial court should certainly not prejudge the ultimate infringement analysis by construing claims with an aim to include or exclude an accused product or process, knowledge of that product or process provides meaningful context for the first step of the infringement analysis, claim construction." "[N]either the trial court nor the

parties supplied this court with any information about the accused products. ...[W]ithout a record of the accused products, this appeal assumes many attributes of a proceeding seeking an advisory opinion on the scope of the ... patent."

Atofina v. Great Lakes Chemical Corporation (No. 05-1359) (Lourie, Rader, Dyk)

March 22, 2006 10:58 AM

(Lourie) Affirming judgment of noninfringement but reversing judgment of invalidity and inequitable conduct. "It is well established that the disclosure in the prior art of a genus is not necessarily a disclosure of every species that is a member of that genus. ... There may be many species encompassed within a genus that are not disclosed by the mere disclosure of the genus. On the other hand, a very small genus can be a disclosure of each species within the genus." Dyk, J., concurs in part but dissents on the inequitable conduct issue.

In re Leonard R. Kahn (No. 04-1616) (Michel, Linn, Prost)

March 22, 2006 10:56 AM

(Linn) Affirming rejection for obviousness. Extensive discussion of the doctrine of obviousness.

Exigent Technology, Inc. v. Atrana Solutions, Inc. (No. 05-1338) (Gajarsa, Dyk, Prost)

March 22, 2006 10:55 AM

(Dyk) Affirming summary judgment of noninfringement and denial of Fed.R.Civ.P. 56(f) motion but reversing denial of motion to vacate summary judgment and enforce a settlement agreement. "[W]e conclude that nothing more is required [to show the absence of a genuine issue of material fact] than the filing of a summary judgment motion stating that the patentee had no evidence of infringement and pointing to the specific ways in which accused systems did not meet the claim limitations."

Kao Corporation, et al. v. Unilever United States, Inc., et al. (No. 05-1038) (Newman, Mayer, Gajarsa)

March 21, 2006 10:52 AM

(Gajarsa) Affirming judgment of validity and enforceability but no infringement. Rejecting written description, obviousness, and inequitable conduct defenses. Newman concurs in part but dissents on the infringement issue. Mayer concurs in part but dissents on the obviousness issue.

Bicon, Inc, et al. v. The Straumann Company, et al. (05-1168) (Michel, Bryson, Gajarsa)

March 20, 2006 10:51 AM

(Bryson) Affirming summary judgment of noninfringement and dismissal of nonexclusive licensee as plaintiff for a lack of standing. "Allowing a patentee to argue that physical structures and characteristics specifically described in a claim are merely superfluous would render the scope of the patent ambiguous For this reason, claims are interpreted with an eye toward giving effect to

all terms in the claim." "A claim that contains a detailed recitation of structure is properly accorded correspondingly limited recourse to the doctrine of equivalents."

Schoenhaus v. Genesco (No. 05-1278) (Michel, Gajarsa, Linn)

March 15, 2006 10:48 AM

(Michel) Affirming summary judgment of noninfringement of a patent on an orthotic device.

Microchip Technology v. The Chamberlain Group (No. 05-1339) (Lourie, Rader, Linn)

March 15, 2006 10:44 AM

(Lourie) Vacating summary judgment of invalidity, noninfringement, and license because of lack of declaratory judgment jurisdiction. The apprehension by the plaintiff that its customers (but not itself) might be sued for infringement did not create a "reasonable apprehension of suit" sufficient to support declaratory judgment jurisdiction where there was no "adverse legal interest" between the plaintiff and defendant.

Amini Innovation Corp. v. Anthony California, Inc., et al. (No. 05-1159) (Mayer, Rader, Dyk)

March 3, 2006 10:41 AM

(Rader) Reversing summary judgment of noninfringement of design patent and copyrights. In determining infringement of a design patent, "[t]he trial court is correct to factor out the functional aspects of various design elements, but that discounting of functional elements must not convert the overall infringement test to an element-by-element comparison."

Bonzel v. Pfizer, Inc., et al. (No. 05-1114) (Newman, Lourie, Rader)

March 2, 2006 12:56 PM

(Newman) Affirming finding of lack of federal jurisdiction and dismissal based on forum non conveniens. Claim that licensee breached license by failing to give licensor notice that patent was being infringed did not "arise under" the patent laws.

In Illinois Tool Works Inc. v. Independent Ink, Inc. (No. 04-1329)

March 1, 2006 1:03 PM

The Supreme Court held that there is no presumption a patent confers market power upon the patentee, and that in all cases involving a tying arrangement, the plaintiff must prove that the defendant has market power in the tying product.