Federal Circuit Patent Updates - March 2008

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Ortho-Mcneil Pharmaceutical Inc. v. Mylan Laboratories Inc. **(No. 2007-1223) (Michel, Rader, Linn)**

March 31, 2008 10:02 AM

(Rader) Affirming judgment against ANDA infringer and resetting of the effective date of the ANDA. "[I]n the circumstances of this case, claim 1's use of the term and means or." Claims were held not obvious.

A full version of the opinion is available **here**.

Akira Akazawa v. Link New Technology International Inc. **(No. 2007-1184) (Newman, Archer, Linn)**

March 31, 2008 9:58 AM

(Archer) Vacating summary judgment of lack of standing to resolve issues of Japanese intestacy law that would determine patent ownership.

A full version of the order is available **here**.

Aristocrat Tech. Australia PTY Limited v. International Game Tech. **(No. 2007-1419) (Lourie, Schall, Bryson)**

March 28, 2008 9:54 AM

(Bryson) Affirming judgment that means-plus-function claims were invalid for indefiniteness, because there was insufficient structure described that corresponded to the claimed function. "For a patentee to claim a means for performing a particular function and then to disclose only a general purpose computer as the structure to perform that function amounts to pure functional claiming." "[T]here was no algorithm at all disclosed in the specification", although "a listing of source code or a highly detailed description of the algorithm to be used" was not necessary.

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A full version of the opinion is available **here**.

Agrizap v. Woodstream **(No. 2007-1415) (Bryson, Moore, Wolle [of the S.D. Iowa, sitting by designation])**

March 28, 2008 9:46 AM

(Moore) Holding claims to an electronic rodent-killing device obvious. "This is a textbook case of when the asserted claims involve a combination of familiar elements according to known methods that does no more than yield predictable results."

A full version of the decision is available here.

Computer Docking Station Corp. v. Dell, Inc. **(2007-1169, -1316) (Michel, Plager, Rader)**

March 21, 2008 12:49 PM

(Rader) Affirming summary judgment of non-infringement and also affirming denial of attorney fees and costs. Patentee's statements during prosecution "disavowed an interpretation of 'portable computer' that would encompass a computer with a built-in display or keyboard."

A full version of the opinion is available **here**.

Amgen Inc. v. International Trade Comission **(2007-1014) (Newman, Lourie, Linn)**

March 19, 2008 11:26 AM

(Newman) Affirming summary determination of non-infringement. The "safe harbor provided by §271(e)(1) applies in proceedings under the Tariff Act relating to process patents as well as product patents. . ." However, that safe harbor does not exempt from infringement all importation and uses while FDA approval is pending and the Court remanded for consideration of whether all accused uses were exempt. Also reversing the Commission's dismissal on jurisdictional grounds and remanding because the "Commission erred in holding that it lacked jurisdiction under Section 337 absent actual sale or contract for sale of the imported" drug. "When it has been shown that infringing acts are reasonably likely to occur, the Commission's obligation and authority are properly invoked." Linn concurred in part and dissented in part.

A full version of the opinion is available **here**.

Pfizer, Inc. v. Teva Pharmaceuticals USA Inc. **(07-1271) (Michel, Dyk, Kennelly)**

March 7, 2008 11:23 AM

(Dyk) In Hatch-Waxman case, reversing district court and finding patents invalid for double-patenting but affirming holding of no best mode violation and no inequitable conduct. With respect to double-patenting, 35 U.S.C. 121's safe harbor provisions with respect to divisional applications is unavailable for CIP's.

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