
Federal Circuit Patent Updates - March 2017

MARCH 2017

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***In Re: Steven C. Chudik* (No. 2016-1817,3/27/17) (Dyk, Reyna, Stoll)**

March 27, 2017 12:41 PM

Reyna, J. Reversing Board determination of anticipation of claims to surgical devices as unsupported by substantial evidence.

A full version of the text is [available in PDF form](#).

***University of Utah v. Max-Planck-Gesellschaft* (No. 2016-1336,3/23/17) (O'Malley, Reyna, Wallach)**

March 23, 2017 5:08 PM

Reyna, J. Affirming district court decision that case was not exceptional and denying attorneys fees.

A full version of the text is [available in PDF form](#).

***TVIIM, LLC v. McAfee, Inc.* (No. 2016-1562,3/21/17) (Prost, Clevenger, Reyna)**

March 21, 2017 1:54 PM

Reyna, J. Affirming jury verdicts of non-infringement and invalidity of patent directed to computer security. The jury's verdicts did not depend on an inconsistent interpretation of the claims.

WilmerHale represented the defendant-appellee.

A full version of the text is [available in PDF form](#).

***Bayer Cropscience AG v. Dow Agrosciences LLC* (No. 2015-1854, 3/17/17) (Newman, Chen, Stoll)**

March 17, 2017 4:50 PM

Stoll, J. Affirming district court's judgment that case was exceptional and awarding attorneys fees.

A full version of the text is [available in PDF form](#).

***Mentor Graphics Corporation v. Eve-USA, Inc.* (No. 2015-1470, -1554, -1556, 3/16/17) (Lourie, Moore, Chen)**

March 16, 2017 10:40 AM

Moore, J. Addressing numerous issues, the Court (1) found substantial evidence to support the jury's infringement verdict (2) affirmed damages award (3) affirmed summary judgment that assignor estoppel bars validity challenge (4) reversed summary judgment that claims were indefinite (5) affirmed summary judgment that claims lacked patent-eligible subject matter (6) vacated motion in limine precluding plaintiff from presenting evidence of willful infringement (7) reversed summary judgment that claims lacked written description support and (8) reversed summary judgment that infringement allegations were barred by claim preclusion. As to damages, "we agree with Synopsys that apportionment is an important component of damages law generally, and we believe it is necessary in both reasonable royalty and lost profits analysis. . . . In this case, apportionment was properly incorporated into the lost profits analysis and in particular through the Panduit factors. Panduit's requirement that patentees prove demand for the product as a whole and the absence of non-infringing alternatives ties lost profit damages to specific claim limitations and ensures that damages are commensurate with the value of the patented features. We leave for another day whether a different theory of "but for" damages adequately incorporates apportionment principles." As to indefiniteness, claims were invalid because they covered carrier waves, in part. Claim for willfulness was not barred just because patentee only relied on post-suit conduct and did not file for preliminary injunction. The written description judgment was reversed because challenged claims were part of original application. Neither claim preclusion nor the *Kessler* doctrine barred claims for infringement of products that has been previously licensed during prior action.

A full version of the text is [available in PDF form](#).

***NIDEC Motor Corporation v. Zhongshan Broad Ocean Motor* (No. 2016-1900, 3/14/17) (Lourie, Moore, Taranto)**

March 14, 2017 2:19 PM

Moore, J. In IPR, reversing anticipation judgment as not supported by substantial evidence. Anticipation is not shown not just because a skilled artisan viewing a reference would "at once envisage" a missing limitation.

A full version of the text is [available in PDF form](#).

***Thales Visionix Inc. v. US* (No. 2015-5150, 3/8/17) (Moore, Wallach, Stoll)**

March 8, 2017 10:40 AM

Moore, J. Reversing decision that claims related to an inertial tracking system were invalid under § 101 and remanding. "That a mathematical equation is required to complete the claimed method

and system does not doom the claims to abstraction... The claims specify a particular configuration of inertial sensors and a particular method of using the raw data from the sensors in order to more accurately calculate the position and orientation of an object on a moving platform. The mathematical equations are a consequence of the arrangement of the sensors and the unconventional choice of reference frame in order to calculate position and orientation. Far from claiming the equations themselves, the claims seek to protect only the application of physics to the unconventional configuration of sensors as disclosed. As such, these claims are not directed to an abstract idea and thus the claims survive *Alice* step one.”

A full version of the text is [available in PDF form](#).

***Comcast IP Holdings I LLC v. Sprint Communications Company* (No. 2015-1992, 3/7/17)
(O'Malley, Reyna, Chen)**

March 7, 2017 4:08 PM

Chen, J. Affirming verdict of infringement and damages award for patents related to using computer networks to facilitate telephone calls. The Court rejected defendant's claim construction positions because they had not been pursued at the district court.

A full version of the text is [available in PDF form](#).

***Intellectual Ventures I LLC v. Erie Indemnity Company* (No. 2016-1128, -1132, 3/7/17) (Prost, Wallach, Chen)**

March 7, 2017 1:22 PM

Prost, J. Affirming decision finding one patent related to accessing data across computing devices and another patent related to creating and searching databases using a hierarchy of XML “tags” invalid under § 101. Also affirming dismissal of one patent due to lack of standing. An assignment of multiple patents, including the parent of the asserted patent, which did not identify the asserted patent failed to transfer rights in the asserted patent to the plaintiff. Also, due to lack of standing, vacating decision that the dismissed patent was invalid under § 101.

A full version of the text is [available in PDF form](#).

***Intellectual Ventures I LLC v. Capital One Financial Corp.* (No. 2016-1077, 3/7/17) (Prost, Wallach, Chen)**

March 7, 2017 12:40 PM

Prost, J. Affirming decision that collateral estoppel barred plaintiff from pursuing one patent. Also, affirming decision finding other patents related to managing XML data and accessing data across computing devices invalid under § 101. The Court rejected plaintiff's argument that the district court erred by providing a “two-sentence Rule 54(b) certification statement.” The district court “set forth its reasoning for certification in two separate, independent orders... Although the district court's initial ruling did not set forth a lengthy analysis in support of certification, it expressly determined that there

was no just reason for delay. (citation omitted) Beyond this, the district court subsequently explained why judicial economy supports its initial determination.” Also, partial summary judgment in a prior case “met the finality prong” of the collateral estoppel analysis.

A full version of the text is [available in PDF form](#).

***Meiresonne v. Google, Inc.* (No. 2016-1755, 3/7/17) (Prost, Lourie, Moore)**

March 7, 2017 10:17 AM

Moore, J. Affirming Board decision of obviousness in IPR for claims related to locating goods and services on the Internet. That a reference “describes descriptive text as '[o]ften[] ... cursory, if not cryptic' does not automatically convert the reference to one that teaches away... [The reference] does not say or imply that text descriptions are 'unreliable,' 'misleading,' 'wrong,' or 'inaccurate,' which might lead one of ordinary skill in the art to discard text descriptions completely. The word 'cursory' implies that the information is accurate but could use supplementation—it does not demand replacement.”

A full version of the text is [available in PDF form](#).

***Prism Technologies LLC v. Sprint Spectrum LP* (No. 2016-1456, -1457, 3/6/17) (Taranto, Linn, Chen)**

March 6, 2017 5:30 PM

Taranto, J. Affirming verdict of infringement and damages award. The district court did not abuse its discretion by admitting a prior settlement agreement into evidence. Also affirming decision to admit evidence regarding costs avoided by defendant by infringing the patent. Also, the district court “did not abuse its discretion in finding that the jury's award included compensation for 'future' and 'ongoing' infringement and that [plaintiff] was therefore not entitled to the additional monetary relief it sought.”

A full version of the text is [available in PDF form](#).

***Technology Properties Limited v. Huawei Technologies Co., Ltd.* (No. 2016-1306, -1307, -1309, -1310, -1311, 3/3/17) (Moore, Wallach, Chen)**

March 3, 2017 2:20 PM

Moore, J. Vacating and remanding due to erroneous claim construction of “entire oscillator.” The district court correctly limited, due to patentee's disclaimer during prosecution, “entire oscillator” to a variable frequency oscillator that does not require an external crystal of frequency generator.

However, it was improper to find that the patentee also disclaimed any use of a command signal by the entire oscillator. “[T]he scope of surrender is not limited to what is absolutely necessary to avoid a prior art reference; patentees may surrender more than necessary.”

A full version of the text is [available in PDF form](#).

***Smartflash LLC v. Apple Inc.* (No. 2016-1059, 3/1/17) (Prost, Newman, Lourie)**

March 1, 2017 4:50 PM

Prost, J. Reversing denial of JMOL and finding claims invalid under § 101.

A full version of the text is [available in PDF form](#).

***Bayer Cropscience AG v. Dow Agrosciences LLC* (No. 2016-1530, -1623, 3/1/17) (Moore, Taranto, Chen)**

March 1, 2017 3:10 PM

Taranto, J. Affirming judgment confirming arbitration award and modifying the post-judgment interest portion of the judgment.

A full version of the text is [available in PDF form](#).