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Federal Circuit Patent Updates - May 2005

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In *Re Kenneth Harris and Jacqueline B. Wahl* (04-1370) (Clevenger, Friedman, Rader)

May 25, 2005 1:58 PM

(Rader) Affirming Board's finding that patent directed to nickel-based superalloy was obvious. The range of the ingredients of the claimed composition overlapped ranges disclosed in the prior art. The prior art did not teach away from the invention, nor did the "the unexpected results" show a difference in kind between the invention and the prior art.

***Imonex Services, Inc. v. W.H. Munzprufer Dietmar Trenner GMBH, et al.* (No. 04-1262, -1290) (Rader, Archer, Bryson)**

May 23, 2005 1:57 PM

(Rader) Affirming jury verdicts and judgments that patents directed to coin selectors were valid, enforceable, and willfully infringed. Also affirming district court's award of a new trial on damages based on the lack of evidentiary support for the first jury's damages award.

***Syntex (U.S.A.) LLC, et al. v. Apotex, Inc., et al.* (No. 04-1252) (Clevenger, Gajarsa, Prost)**

May 18, 2005 1:55 PM

(Gajarsa) In ANDA case, reversing judgment of non-obviousness of patent directed to drug to treat eye inflammation. The district court's conclusions were based on clear factual errors. On remand, the district court was instructed to reconsider obviousness in light of the CAFC's correction of its factual errors and reconsider the issue of commercial success in light of Merk v. Teva. Judgment of no inequitable conduct affirmed. Prost concurred but objected to opinion's instruction to district court to consider the prosecution history in its obviousness inquiry.

***Group One LTD v. Hallmark Cards, Inc.* (No. 04-1296, 1297) (Lourie, Plager, Dyk)**

May 16, 2005 1:54 PM

(Dyk) With respect to a ribbon curling patent, reversing JMOL for obviousness because there was a jury issue about motivation to combine but affirming district court's refusal to correct printing error in claims because the error was not clear on the face of the patent. With respect to a second patent, affirming (i) judgment that patent was reinstated with payment of overdue maintenance fees (occurring after judgment but before verdict), (ii) summary judgment of non-infringement, (iii) wording of injunction, and (iv) validity of terminal disclaimer. Award of interest affirmed in part and reversed in part.

Arthrocare Corp., et al. v. Smith & Nephew **(No. 04-1323) (Mayer, Lourie, Bryson)**

May 10, 2005 1:52 PM

(Bryson) Affirming jury verdict of infringement and validity as to 2 patents, but reversing verdict of validity as to a third patent (based on anticipation). A certificate of correction of a ministerial error in a claim was valid. Also reversing dismissal of antitrust counterclaim on procedural grounds.

PC Connector Solutions LLC v. SmartDisk **(04-1180) (Michel, Lourie, Prost)**

May 6, 2005 1:50 PM

(Lourie) Affirming summary judgment of noninfringement. "A claim cannot have different meanings at different times; its meaning must be interpreted as of its effective filing date." Claim terms such as "standard", conventional", and "Normal" limited the claim limitations "to technologies existing at the time of the invention."

Clontech Laboratories, Inc. v. Invitrogen Corp. **(No. 03-1464) (Clevenger, Dyk, Prost)**

May 5, 2005 1:46 PM

(Clevenger) Affirming-. reversing-, and vacating-in-part finding of false patent marking of certain molecular biology products in violation of 35 USC 292. Extensive discussion of requirements for, and defenses to, liability under that statute.