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## Federal Circuit Patent Updates - May 2011

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***Tivo Inc. V. Echostar Corp. [ORDER] (2009 1374)***

May 16, 2011 10:40 AM

Refusing to dismiss appeal based on settlement reached after opinion was issued but before mandate issued.

A full version of the text is available [here](#).

***Hynix Semiconductor Inc. V. Rambus Inc. (2009 1299,1347) (Newman, Lourie, Bryson, Gajarsa, Linn)***

May 13, 2011 9:41 AM

(Linn) This case is a companion case to the Micron case above coming out of a district court which did not find spoliation and ruled on the merits. All of the merits rulings were affirmed, but the case was remanded to reconsider spoliation in light of the Micron decision. On the merits, the Court affirmed a finding that Rambus's claims were not barred based on waiver or estoppel based on its conduct in a standard setting organization; affirmed the district court's claim construction; affirmed the denial of JMOL that the claims were invalid under the written description requirement; affirmed a finding of non-obviousness and affirmed a summary judgment of non-infringement of some claims. Gajarsa and Newman would have affirmed the district court's finding of no-spoliation.

A full version of the text is available [here](#).

***Micron Technology, Inc. V. Rambus, Inc. (2009 1263) (Newman, Lourie, Bryson, Gajarsa, Linn)***

May 13, 2011 9:30 AM

(Linn) Affirming district court's finding of spoliation of evidence based on a document destruction policy, but reversing sanction holding patents thereby unenforceable for lack of fact finding on bad faith. The Court also affirmed a piercing of the attorney client privilege based on the crime fraud exception and affirmed the denial of a motion to transfer the case. Gajarsa would have affirmed in

full.

A full version of the text is available [here](#).

***In Re Huai-Hung Kao (2010 1307, 1308, 1309) (Rader, Linn, Moore)***

May 13, 2011 8:43 AM

(Linn) Affirming Board decision of obviousness with respect to two patents and reversing decision with respect to a third, all directed to controlled release drug formulations. With respect to the reversal, the Board's decision lacked substantial evidence that the allegedly obvious substitution would produce a compound having the claimed dissolution profile. With respect to the affirmance, there is no nexus to unexpected results unless the results are "from something other than what is both claimed and novel in the claim." The Court further rejected evidence of commercial success as lacking a nexus to the claimed invention. Method of treatment claim that included the step of "providing information" was also rejected: "informing someone of a correlation cannot confer patentability absent a functional relationship between the informing and administering steps."

A full version of the text is available [here](#).

***In Re Mostafazadeh (2010 1260) (Dyk, Friedman, Prost)***

May 3, 2011 10:02 AM

(Dyk) Affirming Board's rejection of reissue claims based on recapture rule where the broadened claims covered subject matter surrendered during prosecution.

A full version of the text is available [here](#).