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Federal Circuit Patent Updates - October 2014

OCTOBER 28, 2014

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Halo Electronics, Inc. v. Pulse Electronics, Inc. **(No. 2013-1472, -1656, 10/22/14) (Lourie, O'Malley, Hughes)**

October 22, 2014 6:20 PM

Lourie, J. Affirming summary judgment that products made outside the United States were not sold within the United States, affirming summary judgment of non-willfulness, affirming claim construction rulings of district court and affirming judgment that claims were not invalid for obviousness. Evidence of pricing negotiations and marketing activities in the United States were insufficient to constitute a "sale" within the United States. Further, "[a]n offer to sell, in order to be an infringement, must be an offer contemplating sale in the United States."

A full version of the text is available in PDF form.

Iris Corporation v. Japan Airlines Corporation **(No. 2010-1051, 10/21/14) (Prost, Newman, Hughes)**

October 21, 2014 12:15 PM

Hughes, J. Affirming district court's dismissal of complaint because the allegedly infringing acts were carried out "for the United States" under 28 U.S.C. 1498(a).

A full version of the text is available in PDF form.

World Class Technology Corp v. Ormco Corporation **(No. 2013-1679, 2014-1692, 10/20/14) (Prost, Taranto, Hughes)**

October 20, 2014 3:10 PM

Taranto, J. Affirming district court's claim construction and grant of summary judgment of non-infringement. The specification resolved any ambiguity in the claim language, and claim differentiation was insufficient to support a different construction.

A full version of the text is available in PDF form.

Anticancer, Inc. v. Pfizer, Inc. **(No. 2013-1056, 10/20/14) (Newman, Reyna, Taranto)**

October 20, 2014 10:15 AM

Newman, J. Reversing summary judgment of non-infringement entered after plaintiff objected to fee-shifting condition for amending infringement contentions imposed by patent local rules of Southern District of California. The court held that the fee shifting order was a sanction and that "applying the law of the Ninth Circuit concerning the standards for fee-shifting, the district court exceeded its discretionary authority in imposing a fee-shifting sanction as a condition of proceeding with the litigation."

A full version of the text is available in PDF form.

Bristol-Myers Squibb Company v. Teva Pharmaceuticals USA, Inc. **(No. 2013-1306, 10/20/14) (Dyk, O'Malley, Newman, Taranto, Lourie, Reyna)**

October 20, 2014 1:40 PM

Denying petition for rehearing and petition for rearing en banc from panel opinion affirming judgment that patent was invalid as obvious. Dyk, J., joined by Wallach, J. and O'Malley, J., wrote opinions concurring in the denial. Newman, J., joined by Lourie, J. and Reyna, J., and Taranto, J., joined by Lourie, J. and Reyna, J., wrote opinions dissenting from the denial of the petition for rehearing en banc.

WilmerHale represents the Appellant Bristol-Myers Squibb.

A full version of the text is available in PDF form.

CardSoft, LLC v. VeriFone, Inc. **(No. 2014-1135, 10/17/14) (Prost, Taranto, Hughes)**

October 17, 2014 9:30 AM

Hughes, J. Reversing summary judgment of infringement based on faulty claim construction. Because the patentee did not argue for infringement under any claim construction other than the one adopted by the district court, the court granted judgment as a matter of law.

A full version of the text is available in PDF form.

Robert Bosch, LLC v. Snap-On Incorporated **(No. 2014-1040, 10/14/14) (Prost, Taranto, Hughes)**

October 14, 2014 2:44 PM

Prost, C. J. Affirming judgment that claims were indefinite and invalid. "[B]oth 'program recognition device' and 'program loading device' are means-plus-function terms and … the specification does not disclose the requisite corresponding structures…." However, claim language "by means of" did not trigger a presumption that the claim was subject to 35 U.S.C. § 112, ¶ 6 (2010).

A full version of the text is available in PDF form.

SSL Services, LLC v. Citrix Systems, Inc. **(No. 2013-1419, 10/14/14) (Lourie, Linn, O'Malley)**

October 14, 2014 10:20 AM

O'Malley, J. Affirming jury verdict of willful infringement of one patent and noninfringement of another patent, denial of a new trial, and award of prejudgment interest, but vacating the district court's denial of "prevailing party" status to the patentee and remanding.

Under the general verdict rule, if the jury returned a general verdict of noninfringement where there were several arguments of noninfringement, and there was no good faith argument that one limitation properly construed was met, "even if the district court erred in its construction of the other challenged limitations, the result the jury reached—the finding of non-infringement—would not change." However, "[w]e specifically conclude that Verizon does not … stand for the proposition that a general verdict of non-infringement may be affirmed upon a decision that the district court's challenged construction of even one claim term relating to a single claim limitation is correct. That is so only, where, as here, there is no argument and no evidence that substantial evidence might have supported a finding of non-infringement under the first challenged construction which we consider."

Regarding willfulness, exclusion from evidence of the testimony of the defendant's Chief Engineer that the defendant believed in good faith that its products were non-infringing and had obtained reexamination from the PTO was not error. "As for [his] personal beliefs regarding non-infringement, the fact that they were beliefs formed by a lay person without the benefit of the court's claim construction determinations rendered them of little probative value and potentially prejudicial."

Where the patentee obtained a judgment of willful infringement of one patent and an award of damages, the patentee was the "prevailing party" even though it also lost on its infringement claim under another patent; however, that "does not automatically entitle it to any particular level of fees.".

A full version of the text is available in PDF form.