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## Federal Circuit Patent Updates - October 2015

OCTOBER 30, 2015

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***WesternGeco LLC v. Ion Geophysical Corp.* (No. 2013-1527, 2014-1121, -1526, -1528, 10/30/15) (Prost, Newman, Lourie, Dyk, Moore, O'Malley, Reyna, Wallach, Taranto, Chen, Hughes, Stoll) HUGHES, STOLL)**

October 30, 2015 4:21 PM

Denying petition *en banc* form panel decision holding that lost profits from ex-US sales were not recoverable for acts of infringement under 35 U.S.C. §271(f). Wallach, Newman and Reyna, J. dissented.

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

***Tesco Corporation v. National Oilwell Varco, LP* (No. 2015-1041, 10/30/15) (Newman, O'Malley, Chen)**

October 30, 2015 11:10 AM

O'Malley, J. After an infringement action was dismissed with prejudice as a sanction, the matter settled. The Federal Circuit then dismissed an appeal of the district court's sanction order brought by attorneys involved in the action, holding that alleged harm to the attorneys' reputation did not confer jurisdiction. Newman, J. dissented.

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

***Atlas IP, LLC v. Medtronic, Inc.* (No. 2015-1071, -1105, 10/29/15) (Moore, Reyna, Taranto)**

October 29, 2015 3:05 PM

Taranto, J. Affirming summary judgment of non-infringement while reversing summary judgment that claims were not anticipated or obvious. The Court had jurisdiction over the appeal notwithstanding the dismissal without prejudice of claims of invalidity directed to additional claims in the same patent. The Court's merits decisions were based on claim construction.

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

***Atlas IP, LLC v. St. Jude Medical, Inc.* (No. 2015-1107, 10/29/15) (Moore, Reyna, Taranto)**

October 29, 2015 10:18 AM

Taranto, J. Reversing summary judgment of non-infringement of same patent at issue in [Atlas IP, LLC v. Medtronic, Inc. \[Opinion\]](#) based on erroneous claim construction.

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

***In re Morsa* (No. 2015-1107, 10/19/15) (Prost, Newman, O'Malley)**

October 19, 2015 12:33 PM

Prost, C. J. Affirming Board determination that an anticipatory prior art reference was enabling. The specification of the applicant's own patent "admitted ... that the system as described in the patent 'can be implemented by any programmer of ordinary skill . . . ,' thus allowing him to avoid having to teach the public this very concept. Therefore, by using Mr. Morsa's admissions, the Board simply held him to the statements he made in attempting to procure the patent." "There is a crucial difference between using the patent's specification for filling in gaps in the prior art, and using it to determine the knowledge of a person of ordinary skill in the art. Here, the Board did only the latter." Newman, J., dissented.

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

***Spectrum Pharmaceuticals, Inc. v. Sandoz Inc.* (No. 2015-1407, 10/2/15) (Lourie, Wallach, Hughes)**

October 2, 2015 3:40 PM

Lourie, J. Affirming summary judgment that some claims are not infringed by ANDA submission. The patentee argued unsuccessfully that an aggregation of smaller doses could satisfy a claim limitation requiring at least two doses of 2000 mg. Also affirming decision that other claims are invalid. "This case is unusual in involving [a question of] whether a substantially pure compound would have been obvious when both the 50/50 mixture and the pure compound were known in the art. We agree with the district court that the claimed substantially pure compound would have been obvious over both the 50/50 mixture and the pure (6S) isomer compound in the prior art."

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

***Shukh v. Seagate Technology LLC* (No. 2014-1406, 10/2/15) (Moore, Wallach, Taranto)**

October 2, 2015 10:08 AM

Moore, J. Vacating summary judgment on claim for correction of inventorship and remanding. "Today, we hold that concrete and particularized reputational injury can give rise to Article III standing... For example, if the claimed inventor can show that being named as an inventor on a patent would affect his employment, the alleged reputational injury likely has an economic

component sufficient to demonstrate Article III standing.” Also affirming dismissal of claims that employee had ownership or financial interest in patents because he had automatically assigned those inventions to employer per an employee agreement.

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

***In re Steed* (No. 2014-1458, 10/1/15) (Newman, Clevenger, Dyk)**

October 1, 2015 2:44 PM

Newman, J. Affirming obviousness rejection and affirming Board decision that the applicant failed to antedate a prior art reference.

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