
Federal Circuit Patent Updates - September 2009

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***In Re Skvorecz* (Newman, Friedman, Mayer)**

September 9, 2009 3:08 PM

(Newman) Reversing rejections of reissue patent application for wire chafing stand based on anticipation, indefiniteness and written description.

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

***Martek Biosciences Corp. v. Nutrinova, Inc.* (Newman, Lourie, Rader, Gajarsa, Moore)**

September 9, 2009 3:05 PM

(Gajarsa) Affirming denial of JMOL and reversing grant of JMOL of patents directed to microorganisms useful for production of a fatty acid. An adequate written description does not necessarily require a working example. Although the claim required that the product be functionally different than another product, sufficient evidence was introduced of infringement without any testing. An abandoned patent application was not sufficient to corroborate a claim of prior inventorship. With respect to another patent, an independent claim was invalid for lack of enablement where it broadly covered many thousands of species, but dependent claims were enabled given their narrower scope, Lourie dissented on an issue of claim interpretation.

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

***Nystrom v. Trex Co., Inc.* (Michel, Rader, Prost)**

September 9, 2009 3:01 PM

(Rader) Affirming dismissal of patent infringement claim based on res judicata. For claim preclusion to operate, the accused infringer must show that the accused product is "essentially the same" as the accused product or process in the first suit. This requirement is only applicable to the pertinent claim limitations that formed the basis of the non-infringement judgment in the first suit. Rader concurred, to discuss issues relating to claim vitiation.

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