
Federal Circuit Patent Updates - September 2010

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***Computer Cache Coherency v. Intel* (2010-1040, -1041, 9/22/10) (Rader, Lourie, Bryson)**

September 22, 2010 1:20 PM

(Rader) Affirming claim construction and summary judgment of non-infringement, holding that accused chipsets do not infringe a patent relating to an interface circuit used for maintaining coherency between memories in a computer system.

WilmerHale represented the defendant-appellee, Intel Corporation.

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

***Laryngeal Mask Company v. Ambu* (2010-1028, -1062, 9/21/10) (Rader, Lourie, Moore)**

September 21, 2010 12:10 PM

(Moore) Vacating summary judgment of non-infringement of patent relating to a laryngeal mask airway device. The district court's grant of summary judgment of non-infringement was based on an erroneous claim construction. "We will not adopt a categorical rule that absence of a dictionary definition means that the applicant must be held to have acted as his own lexicographer and is therefore constrained to the preferred embodiment." Also vacating summary judgment of invalidity for lack of written description.

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

***Fujitsu v. Netgear* (2010-1045, 9/20/10) (Lourie, Friedman, Moore)**

September 20, 2010 12:05 PM

(Moore) Affirming summary judgment of non-infringement for some products, reversing summary judgment of non-infringement for other products, and remanding. The Court addressed the use of industry standards for establishing infringement of standard-compliant products explaining that in some circumstances it is sufficient to compare the patent claims to the industry standard. "We hold

that a district court may rely on an industry standard in analyzing infringement. If a district court construes the claims and finds that the reach of the claims includes any device that practices a standard, then this can be sufficient for a finding of infringement... Public policy weighs in favor of this approach. If a court determines that all implementations of a standard infringe the claims of a patent, then it would be a waste of judicial resources to separately analyze every accused product that undisputedly practices the standard." The Court also explained that in other circumstances, establishing infringement requires comparing the patent claims to the accused products. "We acknowledge, however, that in many instances, an industry standard does not provide the level of specificity required to establish that practicing that standard would always result in infringement... In these instances, it is not sufficient for the patent owner to establish infringement by arguing that the product admittedly practices the standard, therefore it infringes. In these cases, the patent owner must compare the claims to the accused products or, if appropriate, prove that the accused products implement any relevant optional sections of the standard. This should alleviate any concern about the use of standard compliance in assessing patent infringement. Only in the situation where a patent covers every possible implementation of a standard will it be enough to prove infringement by showing standard compliance."

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

***American Medical Systems, Inc. v. Biolitec, Inc.* (No. 2009-1323, 9/13/10)(Bryson, Dyk, Prost)**

September 13, 2010 10:18 AM

(Bryson) Reversing summary judgment of noninfringement. A preamble term did not limit the asserted claims but was "merely a label for the invention as a whole." Dyk, dissented.

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

***Tri-Star Electronics International, Inc. v. Preci-dip Durtal Sa* (No. 2009-1337, 9/9/10)(Newman, Bryson, Dyk)**

September 9, 2010 10:10 AM

(Newman) Affirming denial of motion to dismiss on grounds of lack of standing. The inventor's assignment was effective to transfer ownership to the plaintiff.

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

***Spine Solutions, Inc. v. Medtronic Sofamor Danek USA, Inc.* (No. 2009-1538, 9/9/10)(Dyk, Friedman, Moore)**

September 9, 2010 10:06 AM

(Moore) Reversing: a) judgment of infringement as to certain devices because of a "clear disclaimer of claim scope"; b) order allowing amendment of the complaint to add practicing co-plaintiffs who did not have adequate rights to have standing to assert the patent; c) award of lost profits because the remaining plaintiff who owned the patent did not practice it and was not entitled to lost profits; the case is remanded for determination of a reasonable royalty; d) judgment of

willfulness and award of enhanced damages and attorney fees; and e) injunction against sale of accused devices already outside of the United States. Also affirming judgment of nonobviousness and compliance with written description requirement.

WilmerHale represented the defendants-appellants.

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

***Daiichi Sankyo Co., Ltd. v. Matrix Laboratories, Ltd.* (No. 2009-1511, 9/9/10)(Lourie, Friedman, Linn)**

September 9, 2010 9:59 AM

(Lourie) Affirming judgment of nonobviousness. In the obviousness analysis of a claim to a chemical compound, "proving a reason to select a [prior art] compound as a lead compound depends on more than just structural similarity, but also knowledge in the art of the functional properties and limitations of the prior art compounds. ... Potent and promising activity in the prior art trumps mere structural relationships."

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

***Baseload Energy, Inc. v. Roberts* (No. 2010-1053, 9/9/10)(Lourie, Linn, Dyk)**

September 9, 2010 9:49 AM

(Dyk) Reversing summary judgment that patent defenses were barred by a prior settlement agreement. General release language in the settlement agreement did not bar the defenses of invalidity and unenforceability in a subsequent declaratory judgment action.

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

***Goeddel v. Sugano* (No. 2009-1156, 9/7/10)(Newman, Lourie, Bryson)**

September 7, 2010 9:44 AM

(Newman) reversing award of priority in an interference, because a foreign priority application did not describe and establish a constructive reduction to practice of the counts. "The Board erred in ruling that priority is established if a person of skill in the art could 'envision' the invention of the counts."

WilmerHale represented the appellees.

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

***Green Edge Enterprises, LLC v. Rubber Mulch etc., LLC* (No. 2009-1455, 9/7/10)(Rader, Lourie, Bryson)**

September 7, 2010 9:40 AM

(Lourie) Reversing summary judgment of invalidity based upon violation of the best mode requirement (as well as dismissal of trademark and Lanham Act claims). There was a genuine issue of fact whether the disclosure of a trade name in the specification sufficiently disclosed the best mode.

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

Funai Electric Co., Ltd. v. Daewoo Electronics Co., Ltd. (No. 2009-1225, 9/1/10)(Newman, Lourie, Linn)

September 1, 2010 9:37 AM

(Newman) Affirming judgment of infringement, definiteness, damages, and refusal to enhance damages but reversing judgment of no successor liability. There was no prosecution history estoppel where a claim cancellation was "merely tangential" to the claim limitation at issue. "An ungainly claim is not thereby indefinite, when its meaning can be understood by a person experienced in the field of the invention, on review of the patent documents." Regarding notice of infringement letters: "The letter must communicate a charge of infringement of specific patents by a specific product or group of products. ...However, when the threshold specificity is met, the ensuing discovery of other models and related products may bring those products within the scope of the notice." Affirming denial of enhanced damages even though the defendant was found to be a willful infringer and to have engaged in litigation misconduct. Linn, concurred.

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

Eli Lilly and Co. v. Teva Pharmaceuticals USA, Inc. (No.2010-1005, 9/1/10)(Rader, Linn, Prost)

September 1, 2010 9:33 AM

(Rader) Affirming judgment of nonobviousness, enablement, and/or infringement of certain patents but invalidity for lack of written description of other patents.

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