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## Federal Circuit Patent Updates - September 2012

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***1ST MEDIA, LLC. V. ELECTRONIC ARTS, INC. (2010-1435, 9/28/12) (Rader, Linn, Wallach)***

September 28, 2012 3:51 PM

Linn, J. Reversing inequitable conduct ruling where there was no evidence of a deliberate decision to withhold prior art references from Patent Office.

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

***IN RE ABBOTT DIABETES CARE INC. (2011-1516,9/28/12) (Lourie, Prost, Wallach)***

September 28, 2012 3:46 PM

Prost, J. On reexamination, reversing Board finding that claims were not patentable based on erroneous claim construction.

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

***POZEN INC. V. PAR PHARMACEUTICAL, INC. (2011-1584, 9/28/12) (Newman, Clevenger, Wallach)***

September 28, 2012 3:35 PM

Wallach, J. Affirming finding of infringement and non-obviousness of claims directed to treating migraines by combination of two drugs. The district court correctly construed “substantially all” limitation to require precise numerical amounts but found infringement under the doctrine of equivalents. Clevenger, J. dissented.

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

***MATTHEWS INTERNATIONAL CORP. V. BIOSAFE ENGINEERING, LLC. (2012-1044, 9/25/12) (Rader, Mayer, Schall)***

September 25, 2012 3:48 PM

Mayer, J. Affirming district court's dismissal of declaratory judgment action for lack of jurisdiction on the grounds that claims lacked sufficient immediacy and reality. Neither defendant nor its customers had taken steps towards direct infringement of claims to method of cremation. Because of lack of jurisdiction over these claims, there was no jurisdiction over system patent issued after filing of complaint.

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

***OUTSIDE THE BOX INNOVATIONS, LLC. V. TRAVEL CADDY, INC. (2009-1171, 9/21/12)***  
**(Newman, Prost, O'Malley)**

September 21, 2012 3:49 PM

Per Curiam. Reversing inequitable conduct ruling based on failure to disclose pending litigation and representation of small entity status. Also reversing exclusion of expert testimony on the issue of obviousness on the grounds that the expert was not a lawyer and affirming summary judgment of non-infringement based on various claim construction rulings. Newman, J., concurred in part and dissented in part.

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

***IN RE DROGE (2011-1600, 9/21/12) (Newman, Moore, O'Malley)***

September 21, 2012 3:47 PM

Moore, J. Affirming Board decision holding as obvious claims directed to methods for recombining DNA.

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

***MEDTRONIC INC. V. BOSTON SCIENTIFIC CORP. (2011-1313, 9/18/12) (Lourie, Linn, Prost)***

September 18, 2012 3:50 PM

Linn, J. Burden of proving non-infringement rests on declaratory judgment plaintiff seeking declaration that products are not covered by a license. Also reversing claim construction ruling that improperly narrowed claim.

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

***K-TEC, INC. V. VITA-MIX CORP. (2011-1244, 9/6/12) (Newman, Lourie, Prost)***

September 6, 2012 3:52 PM

Lourie, J. Affirming summary judgment of infringement, notwithstanding expert declaration

asserting non-infringement. Also affirming summary judgment that certain references were not analogous prior art; affirming denial of new trial motion based on various alleged errors at trial; affirming denial of JMOL with respect to anticipation and obviousness defenses, finding of willful infringement and damages.

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

***MIRROR WORLDS, LLC. V. APPLE INC. (2011-1392, 9/4/12)(Newman, Lourie, Prost)***

September 4, 2012 3:54 PM

Lourie, J. Affirming JMOL that Apple did not infringe any of the asserted claims. A claim requiring a cursor or pointer was not infringed under the doctrine of equivalents and there was no evidence of direct infringement of a method claim or of inducement of infringement.

WilmerHale represented the defendant-appellee.

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

***SANTARUS, INC. V. PAR PHARMACEUTICAL, INC. (2010-1360, 9/4/12) (Rader, Newman, Moore)***

September 4, 2012 3:52 PM

Per Curiam. Affirming finding of no inequitable conduct based on lack of intent. Reversing finding of invalidity based on lack of written description where added negative limitation was supported by specification's description of disadvantages of excluded element. Affirming finding of obviousness of some claims and reversing finding of obviousness of other claims. Newman, J., dissented.

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