



ADLI LAW GROUP P.C.

JULY 2011 NEWSLETTER



GLOBAL EXPERTISE



CUTTING EDGE APPROACH TO INTELLECTUAL PROPERTY AND BUSINESS MATTERS

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Dr. Adli is resuming his weekly program on Persian language radio KIRN-670 AM

Dr. Adli is resuming his weekly program on Persian language TV on ITN channel --satellite TV

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Andrew Shupe Joins Adli Law Group, P.C.

David Tseng Joins Adli Law Group, P.C.

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Nikki Hachem-Sawaya is Promoted to Director of Operations

PRESS RELEASE:



Adli Law Group Files ITC Action on Behalf of Kaneka Corporation for Infringement of Coenzyme Q10 Patent

Ali Shalchi



ADLI LAW GROUP P.C.

Adli Law Group, PC, an intellectual property boutique firm based in Los Angeles, announced today that it has filed a complaint with the U.S. International Trade Commission (ITC) on behalf of Kaneka Corporation (“Kaneka”) against Zhejiang Medicine Co. Ltd., ZMC-USA, LLC, Xiamen Kingdomway Group Company, Pacific Rainbow International, Inc, Mitsubishi Chemical Gas Company, Inc., Maypro Industries, Inc., and Shenzou Biology & Technology Co., Ltd. (collectively “Defendants”), for infringement of Kaneka’s U.S. Patent No. 7,910,340 (the “Kaneka Patent”). The complaint alleges that Defendants have engaged in unfair trade practices by the importation and sale of Coenzyme Q10 products that infringe the Kaneka Patent.

Kaneka, a Japanese based corporation, is the largest manufacturer of coenzyme Q₁₀ in the world.

According to Dr. Dariush Adli, the President and founder of Adli Law Group, PC, “This lawsuit should not come as a surprise to the industry, which is very familiar with Kaneka’s well-earned

reputation for protecting its intellectual property rights.”

The ITC is a quasi-judicial Federal agency that offers an alternative, fast-tracked forum for foreign and domestic owners of U.S. intellectual property rights to seek to block infringing products from the U.S. market.

As explained by Dr. Adli, “Kaneka’s complaint requests that the ITC commence an investigation into Defendants’ unauthorized use of the Kaneka Patent.” According to Dr. Adli, Kaneka is requesting that “the Court issue an Exclusion Order barring the importation of infringing products, prohibiting further sales of infringing products that have already been imported, and halting the marketing, advertising, demonstration and warehousing of inventory for distribution and use of such imported products in the United States.”

“We expect that ITC investigation will be instituted in three weeks and that a trial will conclude by May 2012.” Dr. Adli added.



**Adli Law Group P.C. Has Recently
Prevailed on Claim Construction Ruling**

Louise Lu



ADLI LAW GROUP P.C.

Adli Law Group P.C. (“Adli Law”) and the joint defense group have recently prevailed in claim construction ruling in *e.Digital v. Pentax of America, Inc., et al.*, Civil Action No. 09-CV-02578. The claim construction rendered by the Court, in effect agreeing to the defendants’ position, would likely be case-dispositive, according to Judge Kreiger.

On November 2, 2009, Plaintiff e.Digital Corporation (“e.Digital”) filed this lawsuit for patent infringement against twenty nine companies including Imation Corporation (which Adli Law represents), HTC Corporation, Canon, Inc., Nokia, Inc., etc. Plaintiff e.Digital alleges that the defendants’ digital camera devices infringe certain claims of its U.S. Patent No. 5,491,774 (“the ’774 Patent”) and 5,742,737 (“the ’737 Patent”).

This claim construction dispute centered on a single claim construction issue, *i.e.*, whether the term “flash memory” recited in the asserted claims means the “sole memory of the received processed sound electrical signals.” Defendants contended that since all the accused devices used both random-access memory (“RAM”) and flash memory for the received processed sound, rather than flash as the sole memory, none of the accused products is covered by the asserted claims. In light of the Court’s decision, defendants expect that the case will be dismissed by stipulation or through summary judgment.

ARTICLES:



Review of Supreme Court's Decision in *Global-Tech Appliances, Inc. v. SEB S.A.*, No. 10-6 (2011)

Majority: Alito (author), Roberts, C.J., Scalia, Thomas, Ginsburg, Breyer, Sotomayor, Kagan. Dissent: Kennedy.

Rasheed McWilliams



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On May 31, 2011, the Supreme Court issued its opinion in *Global-Tech Appliances, Inc. v. SEB S.A.*, No. 10-6, holding that liability for induced patent infringement under 35 U.S.C. § 271(b) requires knowledge that the induced acts constitute patent infringement. At issue in this case was the requisite knowledge required to be liable for induced infringement.

In its opinion, the Court first held that inducement of infringement, like contributory infringement, requires that the accused inducer *know* that the third party's conduct *constitutes an infringement*. The Court then discussed the ambiguity in 35 U. S. C. § 271(b) as to what intention was required for infringement and reviewed its own precedents to determine the appropriate standard. In *Aro Mfg. Co. v. Convertible Top Replacement Co.*, 377 U. S. 476 (1964) (*Aro II*), the Court held that knowledge was required for liability in cases of contributory infringement. The Court reasoned that inducement has common legal roots with contributory infringement, so § 271(b) should require knowledge as does § 271(c). The Court also referenced its opinion in *Grokster*, an induced copyright infringement case, where it held that liability for inducement is premised “on purposeful, culpable expression and conduct.” *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U. S. 913, 937 (2005). Based on the reasoning that inducement of infringement and contributory infringement have the same roots, the Court expressly rejected the “deliberate indifference” standard utilized by the Federal

Circuit and instead adopted the “willful blindness” standard from criminal law. Under this standard, a defendant is considered willfully blind if he or she “subjectively believe[s] there is a high probability that a fact exists” and “take[s] deliberate actions to avoid learning of that fact.”

The Court affirmed the Federal Circuit’s conclusion that petitioner Pentalpha Enterprises, Ltd. induced others to infringe on SEB’s patent on deep-fryer technology. Pentalpha purchased a fryer containing SEB’s technology in Hong Kong (which did not have U.S. patent markings), copied all but the cosmetic details, and retained a patent attorney to conduct a right-to-use study without disclosing that it had copied its design. Pentalpha then sold these deep fryers to Sunbeam Products, Inc., Fingerhut Corp., and Montgomery Ward & Co., who then redistributed the fryers in the U.S. under their respective trademarks. Applying the willful blindness standard, the Court held that the evidence was sufficient to determine that Pentalpha induced infringement under the appropriate standard of review.

This case clarifies the legal standard for proving knowledge of the third party's infringement in cases claiming induced infringement under 35 U. S. C. § 271(b). By adopting the two-part willful blindness standard, the Court raised the burden on plaintiffs because willful blindness is a heightened standard compared to the deliberate indifference previously applied by the Federal Circuit.



U.S. House of Representatives Approves Leahy-Smith America Invents Act

David Tseng



ADLI LAW GROUP P.C.

On June 23, 2011, as part of a bipartisan effort, the U.S. House of Representatives passed H.R. 1249, otherwise known as the *Leahy-Smith America Invents Act*, which follows the passing on March 8, 2011 by the U.S. Senate of its own version of the bill. The passage of these patent reform bills by both the House of Representatives and the Senate will introduce a radical change to the United States Patent filing system, specifically changing the priority of a patent grant from a first-to-invent system to a first-to-file system. These reforms repudiate a system that is over 200 years old. This means that the original inventor on an invention must also be the first person to file an application with the U.S. Patent and Trademark Office to get a patent on that invention.



This change harmonizes the patent grant priority system within the United States with international norms. These reforms would also allow the U.S. Patent and Trademark Office to retain the fees collected from filings. This measure is targeted to reduce the backlog of hundreds of thousands of patent applications awaiting approval. Further, the change to a first-to-file system is also aimed at improving judicial economy, as the determination of inventorship based on priority is frequently challenged in the courts.

Congress will now work to integrate the two versions of the bill before taking a final vote.

EVENTS:



Dr. Dariush Adli, Ph.D., Esq., is the founder and Managing Partner of Adli Law Group P.C. His practice is primarily focused on patent litigation, representing high technology companies in the electrical and mechanical arts, including semiconductor, integrated circuit, computer hardware, architecture, software, digital processing, and communications industries.



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Dr. Dariush Adli recently attended the **INPEX** convention at them Monroeville Convention Center on **June 15-17, 2011**. Each year, the world's pre-eminent Invention & New Product Exposition is held in Pittsburg, Pennsylvania. INPEX provides a forum for inventors from around the world to exhibit their inventions in an effort to add credibility to their inventions as well as provide an opportunity for media coverage.

Dr. Adli spoke to the inventors/exhibitors at the Inventors University on **June 14th**. His presentation was entitled "*What You Need to Know about Licensing Your Invention*". This very valuable class provided an overview of patent technology licensing, including considerations that every inventor should be aware of such as basic patent law, key license provisions, royalties and potential pitfalls. Dr. Adli also addressed the INPEX Open Innovation on **June 15th** with a presentation entitled "*The Tension Between the Open Innovation Model and Protection of IP rights.*"

Additionally, INPEX hosts an awards program which is the highlight of the convention and very important to the exhibitors in attendance promoting the credibility to their inventions as well as provide an opportunity for media coverage. Dr. Adli served as a judge on the INPEX International Jury for the program which included more than 40 categories.



Dr. Adli is on the mike!



In response to requests from many listeners, Dr. Adli is resuming his weekly program on Persian language radio **KIRN-670 AM**. For the month of **July**, Dr. Adli's program will run live on **Thursdays** from **5:00 to 5:30 p.m.** The program format includes discussion of topics of interest and listener call-ins."

Also, in response to requests from many viewers, Dr. Adli is resuming his weekly program on Persian language TV. For the month of **July**, Dr. Adli's program will run live from **7:00 to 7:30 p.m** on **ITN channel --satellite TV**, which can be viewed in North America. The program format includes discussion of topics of interest and viewer call-ins."

Dr. Adli is scheduled to speak at the Iranian Chamber of Commerce on **August 2nd** at **6:00 p.m.** The event will be held at the **Olympic Collection Banquet Hall & Conference Center** located at **11301 W. Olympic Blvd, Los Angeles, CA 90064**.



NEW ADDITIONS:



Dr. Dariush Adli, founder and President of Adli Law Group P.C., is excited to announce that **Andrew Shupe** has joined the Adli Law Group P.C. as a new associate.

Prior to joining Adli Law Group, Mr. Shupe practiced in the areas of business litigation, intellectual property litigation, and entertainment litigation, representing clients in both Federal and California State courts, as well as before the U.S. Trademark Trial and Appeal Board.

Mr. Shupe obtained his law degree from the UCLA School of Law in 2005, where he was a member of the Moot Court Honors Program, and he graduated magna cum laude with a B.F.A. degree from the University of Southern California School of Cinema-Television in 1998. Mr. Shupe is a member of the Los Angeles County Bar Association and the Beverly Hills Bar Association.

Mr. Shupe said in a statement: "I look forward to further developing my practice in business and intellectual property litigation, with the added international dimension due to Adli Law Group's clients in Japan, Taiwan, and other countries. In joining the firm, I believe that it is the perfect platform for me to tackle a new set of challenges in my career."



Dr. Dariush Adli, founder and President of Adli Law Group P.C., is excited to announce that **David Tseng** has joined the Adli Law Group P.C. as a new associate.

Mr. Tseng's practice is primarily focused on patent litigation. Prior to joining Adli Law, Mr. Tseng worked at Paul Hastings, a large international IP firm, where he represented clients in both patent litigation and prosecution. Mr. Tseng has represented clients in Intellectual Property litigation before federal courts, including the U.S. District Court for the Eastern District of Texas and District of Delaware, on a variety of technologies, such as plastic molding techniques, internet lead generation, audio/video encoding circuits, flash memory devices, web-based gaming, telecommunications as well as mobile handsets and handset operations. In addition, Mr. Tseng was previously a consultant for a Chicago-based entity specializing in patent counseling and strategic intellectual property planning.

Mr. Tseng received his B.S.E. in computer engineering from the University of Michigan and his J.D. from Rutgers University, where he was selected as a Marshall Brennan Fellow. He is a member of the State Bar of California and is admitted to practice before the U.S. Patent and Trademark Office.

Mr. Tseng said in a statement: "I decided to join Adli Law for an opportunity to litigate sophisticated patent cases for international clients with a collegial group of attorneys."

SPECIAL ANNOUNCEMENTS:



Mrs. Hachem-Sawaya is Co-Founder and Director of Operations of Adli Law Group P.C. She is responsible for overseeing operations for all the firm's offices in London, Los Angeles, Tokyo and Taiwan. Her responsibilities include monitoring the daily operations of the office, human resources/personnel, fiscal activities of the firm and overseeing all legal matters from beginning to end. Mrs. Hachem-Sawaya is also in charge of establishing and implementing attorney assignments, policies and schedules. She is also the firm's liaison to assist clients with billing issues.

Dr. Dariush Adli, founder and President of Adli Law Group P.C., is pleased to announce that

Nicollete Hachem Sawaya

*has been promoted to
Director of Operations of
Adli Law Group, P.C.*

Dr. Adli believes that through her continuous efforts, leadership and dedication, Mrs. Sawaya has greatly assisted the firm in becoming one of the preeminent international law firms in the world specializing in the fields of intellectual property and business law.

*On behalf of Adli Law Group, P.C.,
thank you Nikki and*

Congratulations!!!!





ADLI LAW GROUP P.C.

PLEASE TAKE NOTICE

AS OF JULY 15, 2011, ADLI LAW GROUP P.C. WILL BE RELOCATING TO THE 69th FLOOR.
OUR MAIN ADDRESS AND PHONE NUMBERS WILL REMAIN THE SAME:

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