

Our Latest Industry Insights

IP File

June 10, 2015

No Suit For You! Changes to Patent Pleading Standard Issued By the U.S. Supreme Court Require More Than Bare Bones Pleading

In late April, the U.S. Supreme Court adopted changes to the Federal Rules of Civil Procedure which have significant implications for patent plaintiffs. In an April 29, 2015 order, the high court approved, without comment, changes initially approved by the Judicial Conference of the U.S. in September 2014. While these changes impact several different areas of civil litigation, they specifically impact patent litigation: unlike the previous edition of the Federal Rules, which allowed patent plaintiffs to "file bare-bone complaints," patent plaintiffs will soon be subject to the same heightened pleading standards required of plaintiffs in other types of civil litigation.

TAGS: ashcroft v iqbal, bell atl corp v twombly, federal court, form 18, frcp, intellectual property, model forms, model patent complaint, patent infringement, patent litigation, rule 84, us supreme court

IP File

January 14, 2015

Low Octane Levels? Octane Fitness' Impact in the Trademark and Trade Secret Realms

We have previously addressed the Supreme Court's decision in Octane Fitness, LLC v. Icon Health & Fitness, Inc., 12-1184, Slip Op. at 7 (2014), which relaxed the standard for awarding attorney's fees under Section 285 of the Patent Act ("§285") and ruled that decisions on §285 are entitled to deference on appeal. In the patent litigation realm, the Octane Fitness decision does not seem to have led to an overwhelming trend toward awarding fees. It does, however, beg the question: how has this impacted the standard for awarding attorney's fees in other types of intellectual property cases, such as trademarks and trade secrets?

TAGS: apple inc. v. samsung elecs. co., bmw of north america v. cudahar, fair wind sailing v. dempster, intellectual property, lanham act, monster daddy v. monster cable products, ninth circuit, octane fitness, octane fitness llc v. icon health & fitness inc., patent act, patent infringement, patent litigation, patent litigation, premium balloon accessories v. creative ballon mfg., sixth circuit, supreme court, third circuit court of appeals, tivo research, tns, tns media research v. tivo research, trade secret & unfair competition, trade secret statutes, trade secrets, trademark & trade dress, trademark attorney fees, trademarks, uniform trade secrets act, utsa

IP File

December 23, 2014

Federal Circuit Reverses Judgment for Willful Infringement

By: Rex Hwang

Through its recent decision in *Stryker Corp. v. Zimmer, Inc.*, the Federal Circuit gave Zimmer an early Christmas gift worth approximately \$140 million by reversing a district court's determination of willfulness and vacating a corresponding award of trebled damages against Zimmer. The reversal was based on the Federal Circuit's finding that the noninfringement and invalidity defenses raised by Zimmer were "not objectively unreasonable."

TAGS: Federal Circuit, noninfringement and invalidity defenses, not objectively unreasonable, orthopedic procedures, patent infringement, Patent Litigation, pressurized irrigation for certain medical therapies, *Stryker Corp v Zimmer Inc*, willfulness