

COURTHOUSE NEWS

A Summary of Topical Highlights from decisions of the
U.S. District Court for the District of Oregon
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BREACH OF CONTRACT

In a breach of contract action between two corporate entities, each alleging the other's breach of the same technology purchase agreement, Judge Papak granted the plaintiff's motion for summary judgment and denied the defendant's cross-motion for summary judgment. Although the defendant conceded that it had failed to comply with its payment obligations under the agreement, it argued that its nonperformance was justified by the plaintiff's alleged breach of a contractual noncompetition provision. Specifically, the plaintiff reported discovering on the internet a website in the plaintiff's name containing marketing materials for a product competitive with the technology that was the subject of the purchase agreement. Because the server hosting the website had at all material times been within the exclusive control of the defendant and/or the defendant's predecessor in interest, rather than under the control of the plaintiff, and because the website had been

made available on the internet by the defendant's predecessor in interest, rather than by the plaintiff, for the purpose of facilitating the sale of the predecessor's assets, ultimately to the defendant, Judge Papak held that the plaintiff had not breached its contractual obligations and that the defendant's conceded breach was unjustified as a matter of law.

S-Tronix v. Submedia, LLC

CV 08-272-PK

(Opinion, 01/15/09)

Plaintiff's Counsel: Todd S. Baran

Defense Counsel: Michael G.

Hanlon

Patent Infringement

In their Complaint, plaintiffs alleged several of defendant's saw-chain products infringed plaintiffs' patent for a saw chain. Plaintiffs moved for summary judgment contending that defendant's products infringed plaintiffs' patent literally and under the doctrine of equivalents as well as indirectly.

Judge Brown denied plaintiffs' Motion because a genuine issue of material fact exists as to whether the tangs of the allegedly infringing saw chain are "adapted to

contact the gullet formation substantially along the rounded bottom region of the gullet to transmit operational forces to the bottom of the gullet" or to accomplish that end in substantially the same way. The case is now scheduled for trial.

Blount Inc. v. TriLink Saw Chain LLC.

CV 06-767-BR

(Opinion, December 31, 2008)

Plaintiffs' Counsel: Christopher

Lewis

Defense Counsel: Susan

Pitchford

Subject Matter Jurisdiction

Plaintiffs, an Oregon church and members of that church, practice a religion with origins in Brazil that blends Christian and Amazonian tribal beliefs. Plaintiffs seek declaratory and injunctive relief under the Religious Freedom Restoration Act regarding their ceremonial use of "Daime Tea," also known as ayahuasca, which contains the controlled substance DMT. The court denied defendants' motion to dismiss for lack of subject matter

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jurisdiction under Fed. R. Civ. P. 12(b)(1), concluding that plaintiffs had shown an injury in fact based on a credible threat of federal criminal prosecution for engaging in a ceremony central to their religion. The court also concluded that plaintiffs' claims are ripe, and that they were not required to exhaust administrative remedies.

Church of the Holy Light of the Queen v. Mukasey
CV 08-3095-PA
(Opinion, Dec. 19, 2008)
Plaintiff's Counsel: Gilbert Paul Carrasco
Defense Counsel: Eric Joseph Beane

Patent Infringement

Plaintiffs brought an action in which they alleged defendant made, used, and/or offered for sale products that infringed plaintiffs' patent. In their Answer, defendant denied infringing plaintiffs' patent and asserted a number of affirmative defenses including invalidity and unenforceability of the patent, estoppel, and laches. Defendant also asserted Counterclaims that included false marking. The parties filed Cross-Motions for Summary Judgment on the majority of the issues. Judge Brown granted plaintiffs' Motions on the issues of patent infringement, estoppel, and false marking concluding plaintiffs

established defendant's products infringed plaintiffs' patent, defendant was not entitled to estoppel, and plaintiffs did not falsely mark their products. Judge Brown also denied defendant's motion as to noninfringement and invalidity concluding as to invalidity that (1) defendant did not establish the '994 Patent fails to satisfy the requirements of § 112 and, therefore, did not establish the patent was invalid for indefiniteness; and (2) defendant did not establish by clear and convincing evidence that the patent was obvious and, therefore, invalid. The case will now proceed to trial on the remaining issues.

Vanguard Products Group v. Merchandising Technologies, Inc.
CV 07-1405-BR
(Opinion, January 16, 2009)
Plaintiffs' Counsel: Robert A. Shlachter, Timothy S. DeJong, Alan T. McCollom, Hillary A. Brooks, David Joseph Marr
Defense Counsel: Bruce A. Kaser, James L. Phillips, Kieran J. Curley, Nancie K. Potter, Paul B. George, Lara V. Hirshfeld, Robert Edward Browne, Thomas C. McDonough

Of Interest:

Judge Haggerty ends his service as Chief Judge for the District of Oregon on January 31, 2009. Effective February 1, 2009, Judge Ann Aiken will

become the first female Chief Judge for the District of Oregon.

Judge Aiken will speak at the Federal Bar Association's monthly lunch scheduled on February 19, 2009. She will introduce herself to the Bar and speak about her vision for her tenure as Chief Judge. Registration/RSVP to Ann Fallihee, afallihee@barran.com

The Constitutionality of FISA will be reviewed by the Ninth Circuit Court of Appeals. On September 26, 2007, Judge Aiken declared FISA unconstitutional. The government promptly appealed that ruling. A hearing on the appeal has now been scheduled for February 5, 2009 by a three judge Ninth Circuit Court of Appeals panel in Portland, Oregon.