

## MVS Filewrapper® Blog: New and Useful - March 15, 2013

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Related Categories: Patents, Federal Circuit cases, Literal infringement, Inducing and contributory infringement

- In *Brilliant Instruments, Inc. v. GuideTech, LLC*, the Federal Circuit reversed a district court's order granting summary judgment of non-infringement of three related patents. The three asserted patents relate to circuits that measure the timing errors of digital signals in high-speed microprocessors. The inventor of the three patents left employment with the plaintiff, GuideTech, and founded the defendant Brilliant Instruments. Plaintiff alleged that two of Brilliant's products infringed its patents. The district court granted summary judgment of non-infringement. GuideTech argued that the district court erred in concluding no genuine issue of material fact existed with respect to infringement of the three patents, particularly in light of GuideTech's expert reports describing the defendant's products and delineating a theory of literal infringement and infringement under the doctrine of equivalents. Ultimately, the Federal Circuit concluded that the evidence, particularly the expert reports, provided a sufficient basis for a genuine issue of material fact.
- In *Move, Inc. v. Real Estate Alliance, Ltd.*, the Federal Circuit vacated the district court's grant of summary judgment of non-infringement. Plaintiff owns a patent directed to methods for locating available real estate properties using a zoom-enabled map on a computer. Defendant operates and maintains multiple interactive real estate websites. In granting summary judgment of non-infringement the district court held that the "search by map" and "search by zip code" functions on the defendant's websites did not meet the "selecting" steps required by the asserted claim. The Federal Circuit agreed that there was no genuine issue of material fact regarding literal infringement; however, the Court faulted the district court for not analyzing induced infringement under 35 U.S.C. § 271(b). The Federal Circuit highlighted its precedent in *Akamai* noting that a lone defendant can still be liable for induced infringement.
- In *Radio Sys. Corp. v. Lalor*, the Federal Circuit

affirmed in-part and reversed in-part a district court's order granting summary judgment of non-infringement. The plaintiff is the owner of two patents directed to improvements on electronic animal collars—the '014 patent and '082 patent.

Based on the claim construction, the district court awarded summary judgment of non-infringement of the '014 patent. The Federal Circuit agreed with the claim construction and affirmed the non-infringement based on the claim construction.

The Federal Circuit also affirmed the district court's holding that the plaintiff was equitably estopped from asserting '014 patent, due to the fact that the plaintiff had previously sent the defendant a cease and desist letter based on the '014 patent and then remained silent for some years. The Federal Circuit, however, disagreed with the district court's finding that the plaintiff was equitably estopped from asserting the '082 patent, which had not issued at the time the first cease and desist letter was sent. Thus, the Federal Circuit held that the elements of equitable estoppel had not been met with respect to the '082 patent