



Federal Circuit Affirms Summary Judgment of NonInfringement for Particle Detector Patents

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TSI distinguished the accused products by asserting that claim six requires a system that converts a light detector's output into a digital voltage signal without comparing the light detector's output to a predetermined reference voltage. While claim six of the originally issued patent did not recite any language or negative limitations regarding a reference voltage, the patent was subject to a reexamination proceeding where claim six was modified to include the limitation: "without using a reference voltage to convert each voltage value signals." That limitation is echoed by the patent's specification, which distinguishes the technique of using a reference voltage as a problematic prior art method—since it results in an insufficient signalto noise ratio, thereby limiting the device's sensitivity—that the patent was meant to overcome. Because the court found that TSI's accused devices utilize a reference voltage in converting the light signals into a digital voltage signal, it affirmed the district court's grant of summary judgment of noninfringement.

Notably, last year the CAFC affirmed a district court ruling that Lockheed Martin did not infringe the same patent asserted here against TSI. Also, remarkably, the CAFC's opinion here cited to *Cybor Corp. v. FAS Techs., Inc.*, 138 F.3d 1448, 1456 (Fed. Cir. 1998) (*en banc*) for the proposition that claim construction is a question of law that reviewed de novo – even though *Cybor* was overturned just last week by the United States Supreme Court in *Teva v. Sandoz*, No. 13854, slip op. (U.S. Jan. 20, 2015), which holds that factual conclusions that underpin claim construction rulings are no longer reviewed de novo but rather for clear error (i.e., claim constructions are now to be given deference on appeal).

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