



Delaware Court Awards \$1 Million in Fees Due to Plaintiff's "Tortuous Path to Resolution"

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In finding that the case was exceptional, the court noted that plaintiff initially accused more than 80 products that allegedly infringed, and later "changed the identity of the seven 'representative' products at least four times by July 2014 . . . and included six claims that had not been asserted before." The court also noted that during the claim construction process, "plaintiff had turned the principles of claim construction on their head, by providing definitions for certain claim language during the claim amendment process that took place in the PTO from October 2004 to September 2005. Such definitions were not included in the specification, were not the subject of any commentary by the examiner, were made years after the earliest priority date, and were added for litigation purposes."

The court rejected plaintiff's complaint that defendant's resistance to the idea of representative products was the reason for the discovery burden in the case. Specifically, the court stated that "plaintiff refused to narrow the scope of its infringement allegations for over a year and significant discovery was performed before plaintiff suggested this approach." Moreover, "[p]laintiff's claim construction positions (addressed above) and its lack of a coherent infringement theory (evidenced by its shifting infringement positions) contributed greatly to the discovery burden." The court also rejected plaintiff's argument that the area of law surrounding 35 U.S.C. § 101 was evolving, finding "[t]hat defendant's motion for invalidity was granted on the § 101 issue does not negate the 'exceptional' nature of the case, when the record indicates that plaintiff pursued litigation so inefficiently as to be objectively unreasonable and burdensome for defendant and the court."

Joao Bock Transaction Systems LLC v. Jack Henry & Associates Inc., 1-12-cv-01138 (D. Del. March 31, 2016) (Robinson).

Categories

District of Delaware

District Court

35 U.S.C. § 285

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