

Reinventing Patent Law

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The America Invents Act

Highlights, lowlights, no lights

AIA provisions effective now: The “big” four

- False marking
- Virtual marking
- Good faith prior use defense
- Best mode

Crystal ball for AIA's greatest hits

- New prior art definitions in 102
- First to file
- New review proceedings
 - Inter Partes review
 - Post-Grant review
 - Supplemental examinations

Some lost opportunities?

- PTO funding/fee diversion
- Damages reform
 - Apportionment
 - NPE limits
- Further business method reform
 - Define “process”
 - Clarification of Bilski

The least significant provisions, to most of us

- Joinder of defendants limited
- Tax strategy patents vanish into prior art
- Special treatment of “covered business methods”
- ATM venue provision

Global-Tech v. SEB



So long, struthio

Global Tech facts

- SEB s.a. patents “cool” deep fryer
- GT asks US lawyer for “right to use” study, fails to mention GT copied the SEB fryer
- SEB sues GT, customers
- Jury awards 4.7 MM, mostly for induced infringement

SCT clarifies intent

- Intent is required: knowledge that the induced acts constitute infringement
- Deliberate indifference not enough:
 - (1) defendant must subjectively believe there is a high probability that a fact exists, and
 - (2) defendant must take deliberate actions to avoid learning of that fact



Advances in legal epidemiology

Therasense

***Uniloc* and the 25% rule**

Making at least one thing perfectly clear

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