

PRESS RELEASE
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**CAFC Affirms ITC Decision Involving Six Patents
Prepared and Prosecuted By Moser IP Law Group Member**

WASHINGTON – On April 12, 2010, the Court of Appeals for the Federal Circuit (CAFC) in *SiRF Technology Corp. et al., v. International Trade Commission* (2009-1262) held six patents (USP 6,417,801; 6,606,346; 6,651,000; 6,704,651; 6,937,187; 7,158,080) valid, enforceable and infringed by affirming a determination of the International Trade Commission (ITC) (*In re Certain GPS Devices & Prods. Containing Same*, Inv. No. 337-TA-602, Int'l Trade Comm'n Jan. 15, 2009). The six patents involved in the appeal were prepared and prosecuted by Raymond R. Moser Jr., Managing Member of Moser IP Law Group. The patents were prepared for Global Locate Inc., which, in 2007, was purchased by Broadcom Corporation. All of the patents involve “assisted GPS” technology that improves signal reception and position calculation speed.

The appeal focused upon patent ownership and standing, patentable subject matter, and divided infringement. The Court methodically addressed each of the appellants’ arguments.

The appellants argued that, before joining Global Locate, one of the inventors was previously an employee of Magellan Corporation and the inventor invented the invention claimed in one of the patents while an employee of Magellan. The appellants concluded that Global Locate did not own the patents and, as such, did not have standing to institute the ITC action. After applying both Federal and California law, the Court concluded that the recordation of an assignment creates a rebuttable presumption of assignment validity and the appellants did not present sufficient evidence to overcome the presumption.

The asserted claims before the ITC recited various methods of calculating position of a GPS receiver. The appellant argued that the subject matter of these claims was insufficient to pass the machine-or-transformation test of *Bilski*. See *In re Bilski*, 545 F.3d 943, 88 U.S.P.Q.2d 1385 (Fed. Cir. 2008). In *Bilski*, the Court held that the a patentable method claim must be either (a) implemented using particular machine or (b) transform an article from one state to another. The Court found the claimed methods “could not be performed without a GPS receiver.” As such, the Court deemed the claims to have met the machine-or-transformation test.

The appellant’s final argument focused on joint infringement. Some method claims recited steps of “communicating” and “transmitting” which the appellant argued required an act of an end-user and, as such, could not be infringed solely by the appellant. The appellant concluded that the requirements for joint infringement are not satisfied because the appellant does not control or direct the customers or end users as required by *Muniauction*. See *Muniauction, Inc. v. Thomson Corp.*, 532 F.3d 1318, 1329 (Fed. Cir. 2008). The Court did not agree and concluded that the steps of “communicating” and “transmitting” to an end user device do not require end-user action even though the actual method involves end-user devices receiving and utilizing the transmitted data.

In rejecting all of the appellant’s challenges to the ITC determination, the CAFC affirmed the entire determination. Mr. Moser, Managing Member of Moser IP Law Group, commented, “We are thrilled with the decision. Everyone at Moser IP Law Group is dedicated to drafting and prosecuting patents that achieve such results for our clients. Having six patents reviewed by the CAFC and found to be valid, enforceable and infringed is a significant achievement for the firm that affirms the effectiveness of our patent drafting and prosecution strategies in protecting our clients intellectual property.”

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