



# SHIMOKAJI & ASSOCIATES, P.C.

Intellectual Property Lawyers  
[www.shimokaji.com](http://www.shimokaji.com)

## NEWSLETTER

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We specialize in the litigation and registration of patent, trademark, and copyright matters. The clients we serve range from start-ups to Fortune 500 companies, government entities, and universities. Though located in the US, our expertise and representation has an emphasis in Asia.

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### *USPTO Extends First Action Interview Program*

Under the Enhanced First Action Interview Pilot Program, applicants in certain arts could receive an examiner interview based on an examiner prior art search and before a first office action. The program is now expanded to all arts and will continue to May 2012.

More information can be obtained at [info@shimokaji.com](mailto:info@shimokaji.com)



## *Good News for Patent Infringers - US Supreme Court Defines Induced Infringement*

The US patent laws provide that "whoever actively induces infringement of a patent shall be liable as an infringer."

In *Global-Tech v. SEB*, the defendant invented a deep fryer and obtained a US patent. Pentalpha then designed a deep fryer by copying the SEB product, and subsequently sold its product to Sunbeam. Pentalpha obtained a right-to-use opinion without disclosing to its attorney that Pentalpha had copied the SEB design. SEB then sued Sunbeam for patent infringement, and next Pentalpha for inducing the infringement. Global-Tech is the parent company of Pentalpha.

The Federal Circuit stated that induced infringement requires that the infringer knew or should have known that his actions would induce actual infringement.

The US Supreme held that induced infringement requires knowledge that the induced acts constitute patent infringement. Deliberate indifference to a known risk that a patent exists does not satisfy the knowledge required for induced infringement, according to the Supreme Court. Willful blindness, however, may satisfy the knowledge requirement. The two elements of willful blindness are 1) the defendant subjectively believes that there is a high probability that a fact exists and 2) the defendant takes deliberate actions to avoid learning of that fact.

