



# SHIMOKAJI & ASSOCIATES, P.C.

Intellectual Property Lawyers  
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## 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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— LATEST NEWS & EVENTS —

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### *Pegatron and Asustek of Taiwan Successfully Defeat Jurisdiction in the US*

In two related cases, the Federal Circuit agreed that, under the stream-of-commerce theory, neither Pegatron nor Asustek could be brought into court in the State of Wyoming. Both defendants sold their products to companies who in turn sold them to Wyoming consumers, or drop-shipped products to Wyoming consumers at the direction of the other companies.

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



## *Federal Circuit Considers Fairness in Scope of Privilege Waiver*

In *Wi-LAN v. LG Electronics*, prior to commencement of the lawsuit, Wi-LAN's counsel sent LG a letter describing the basis of LG's infringement. After the lawsuit was filed, LG subpoenaed documents from Wi-LAN's counsel that related to the subject of the pre-lawsuit letter. Wi-LAN's counsel sought to quash the subpoena and argued that even if there was a privilege waiver, it was limited to the letter itself.

The district court ruled that a broad subject matter waiver occurred and that Wi-LAN's counsel had to produce the underlying materials that supported the pre-lawsuit letter. When Wi-LAN's counsel refused to comply, the district court held Wi-LAN's counsel in contempt.

The Federal Circuit held that considerations of fairness should be considered in determining whether LG would be unfairly prejudiced if the scope of the waiver was limited to the contents of the pre-lawsuit letter. The Federal Circuit vacated the contempt sanctions but explained that Wi-LAN's counsel could have sought certification of an interlocutory appeal or sought mandamus review from the Federal Circuit, rather than be found in contempt for refusal to comply with a discovery order.

### **PRACTICE POINT:**

**Seek immediate appellate review of discovery orders to produce privileged materials,**

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